

1 **MEETING IS CALLED TO ORDER:**

2

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

5

6 **SALUTE TO THE FLAG**

7

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

17

18 **ROLL CALL**

19

20 MS. MOENCH: Mr. Shalika? Mr. Mantagas? Mr. Wechsler?

21

22 MR. WECHSLER: Here.

23

24 MS. MOENCH: Mr. Pochopin?

25

26 MR. POCHOPIN: Here.

27

28 MS. MOENCH: Ms. Klompus? Mr. Harrington?

29

30 MR. HARRINGTON: Here.

31

32 MS. MOENCH: Mr. Weiss? Ms. Levenson?

33

34 MS. LEVENSON: Here.

35

36 MS. MOENCH: Ms. Latilla?

37

38 MS. LATILLA: Here.

39

40 MS. MOENCH: Mr. Hughes? Chair Leviton?

41

42 MR. LEVITON: I am here. Thank you Ms. Moench. Okay, there
43 are no minutes to accept tonight and there are no resolutions to
44 memorialize. We're getting right into the public hearings, and our
45 first one is number ZBE2618, Ms. Iannacone, Iannacone, Iannacone.
46 Iannacone, I had it right the first time. Come on up. I'm butchering
47 it, forgive me. I'm going to listen to how you say it and then I'll
48 try to get it right going forward. How does one pronounce your name?

1
2 MRS. IANNACONE: Iannacone.

3
4 MR. LEVITON: Iannacone, Mr. and Mrs.?

5
6 MR. IANNACONE: Correct.

7
8 MRS. IANNACONE: Yes.

9
10 MR. LEVITON: Welcome to you both. Mr. Marmero, the Board's
11 Attorney, will swear you in and then we'll get under way.

12
13 MR. MARMERO: Yes, if you both raise your right hand, I'll
14 get you sworn in. Do you swear the testimony you provide tonight will
15 be the truth, the whole truth, and nothing but the truth?

16
17 MR. IANNACONE: I do.

18
19 MRS. IANNACONE: I do.

20
21 MR. MARMERO: Okay.

22
23 MR. LEVITON: You're here to extend your fence tonight.

24
25 MRS. IANNACONE: Correct.

26
27 MR. LEVITON: Tell the board about it.

28
29 MRS. IANNACONE: Okay. Good evening, everyone. Thank you for
30 hearing our application. We are requesting a variance to install a
31 six-foot black aluminum fence as shown in our application. A variance
32 was previously approved in 2015 for the rear portion of the fence and
33 we are now looking to close in the fence by extending it so that it
34 connects with the previously approved section. We would like the two
35 sections to connect because if they do not, they will have two
36 separate starting and end points and the fence will not align
37 properly. Connecting the fence will create a complete, cohesive, and
38 more aesthetically-pleasing appearance and will allow us to close in
39 the property as intended. We respectfully ask the board to approve our
40 variance. Thank you.

41
42 MR. LEVITON: You're welcome. Michael?

43
44 MR. WECHSLER: I have no questions.

45
46 MR. LEVITON: Dan?
47

1 MR. POCHOPIN: Thank you Mr. Chair. So this isn't, excuse
2 me, this isn't a corner lot or anything, right? I'm just looking at
3 this.

4
5 MRS. IANNACONE: We are on a corner lot.

6
7 MR. POCHOPIN: You are on a corner lot.

8
9 MR. IANNACONE: It is a corner lot, yes.

10
11 MR. POCHOPIN: So, the six foot height that you're
12 requesting, it's right on the corner there. So, you're coming out how
13 many more feet?

14
15 MRS. IANNACONE: It's an extra fifteen feet.

16
17 MR. POCHOPIN: Extra fifteen feet. Okay, no questions at
18 this time. Thank you.

19
20 MR. LEVITON: Thank you Dan. John?

21
22 MRS. IANNACONE: Thank you.

23
24 MR. HARRINGTON: I don't have any questions. You have the
25 sight triangle there.

26
27 MR. LEVITON: Thanks John. Jessica?

28
29 MS. LEVENSON: Hi.

30
31 MR. IANNACONE: Hi.

32
33 MS. LEVENSON: I just have a few quick questions. What's
34 currently there? Is it currently fenced in just further back?

35
36 MRS. IANNACONE: So, the previous owners had put a fence
37 only on the rear portion of the property. So, they had gotten I guess
38 the fifteen feet of just the rear portion, but they decided not to
39 close the rest of the fence in. So, our two, our front on Carrie Drive
40 and then the two sides are still open.

41
42 MS. LEVENSON: Thank you.

43
44 MRS. IANNACONE: If that makes sense.

45
46 MS. LEVENSON: It does. It was weird.

47
48 MRS. IANNACONE: Yeah.

1
2 MS. LEVENSON: That's what I assumed from reading your
3 paper. It just seemed weird, but it was something the prior owners
4 did.

5
6 MRS. IANNACONE: Right.

7
8 MS. LEVENSON: Is the rest of the fence around your property
9 six foot?

10
11 MRS. IANNACONE: Yes.

12
13 MR. IANNACONE: Correct.

14
15 MS. LEVENSON: So, this would match the height, and what
16 style is the fence around your property currently?

17
18 MR. IANNACONE: It's the white vinyl, but we're going to
19 close it with aluminum, black.

20
21 MS. LEVENSON: So are you going to change the rest of the
22 fence to match black?

23
24 MRS. IANNACONE: No, we're going to keep the previous fence
25 that the owners did.

26
27 MR. IANNACONE: The back portion of the property is all
28 woods so that's why they put the vinyl fence, right. So they can block
29 out all the brush so.

30
31 MS. LEVENSON: So, the black is just, you just like the way
32 that one looks? What was the reason?

33
34 MR. IANNACONE: It's more aesthetically.

35
36 MRS. IANNACONE: Yeah, it gets very dirty. We feel the white
37 fence and it blocks the view of not only the cars. I feel it just
38 doesn't look right and really the dirty aspect of it I just feel as
39 though it gets dirty over time. I feel like the black is a little bit
40 easier on the eye and I think cleaner.

41
42 MS. LEVENSON: Okay, thank you. I don't have any other
43 questions.

44
45 MRS. IANNACONE: Okay thank you.

46
47 MR. LEVITON: Temika?
48

1 MS. LATILLA: No, you covered it. Just the green portion of
2 the fence you are installing is going to match the black though,
3 right? The variance portions?

4
5 MRS. IANNACONE: Yes.

6
7 MS. LATILLA: The orange highlighted portion.

8
9 MRS. IANNACONE: Yes.

10
11 MR. IANNACONE: The height? Yeah.

12
13 MS. LATILLA: No, the same fence.

14
15 MRS. IANNACONE: Yes.

16
17 MR. LEVITON: So I also have no questions, but I do want to
18 say on the record that when I read the resolution that was included in
19 your application, my own name as an alternate member of this Board
20 popped out at me and that was although it was memorialized in 2015 the
21 hearing took place in 2014 which is almost twelve years ago and I
22 don't know when I used to say I'm here for ten years, I'm wrong. I'm
23 here longer. I've been, so it just popped into my head and I have
24 nothing further myself. Mr. Marmero, do we require anything further?

25
26 MR. MARMERO: Just open to the public and then I can sum up
27 the required relief once you do that.

28
29 MR. LEVITON: Then I will go out to the public and ask if
30 there's anyone who wants to ask Mr. or Mrs. Iannacone a question.
31 Seeing none, I'll close public. And Brian, before I go back to Albert,
32 anything from you?

33
34 MR. BOCCANFUSO: No, not really. It's a pretty
35 straightforward application. In reviewing the previous resolution, it
36 looks like the previous owner sought the relief necessary to put that
37 fence along the one property line because they were having a problem
38 with people cutting through their yard which kind of makes sense.

39
40 MR. LEVITON: Yes.

41
42 MR. BOCCANFUSO: It looks like Mr. and Mrs. Iannacone just
43 really want to enclose their rear yard for security, safety, those
44 types of things. The black aluminum isn't going to provide a whole lot
45 of privacy, but there are other ways to do that with landscaping and
46 things of that nature. As you can tell from looking at the survey mark
47 up, it's not in the sight triangle. It's not a sight obstruction and
48 with it being a corner lot, I think we have pretty much a classic

1 hardship case here. Nothing much to add from the engineering
2 standpoint, but just to ensure that the record is clear. All of the
3 proposed fencing, not just the non-compliant fencing, but all of it is
4 going to be six foot aluminum. Is that correct? All the new fencing.

5
6 MRS. IANNACONE: Yes.

7
8 MR. BOCCANFUSO: Okay.

9
10 MRS. IANNACONE: The remainder of closing in the property
11 will all be one black, six-foot black aluminum.

12
13 MR. BOCCANFUSO: Got it. So, the compliant fencing along
14 Carrie and perpendicular to Carrie that's shown in green in this neat
15 markup that you prepared that's all going to be the black aluminum?

16
17 MRS. IANNACONE: Yes.

18
19 MR. BOCCANFUSO: Great.

20
21 MRS. IANNACONE: Correct.

22
23 MR. BOCCANFUSO: Thank you, that's all.

24
25 MR. LEVITON: Thank you sir. Mr. Marmero?

26
27 MR. MARMERO: Sure, so we heard testimony this evening
28 regarding the variances that are required for this proposed fence or
29 the close in of the fence and essentially the code provision that
30 we're looking at says in residential zones fences shall not exceed
31 three feet in height in a front yard. The minimum required front
32 setback for properties in the R40/20 zone that front on a --- road is
33 seventy-five feet. Here the setback is proposed at sixty feet and the
34 fence is proposed at six feet. You heard testimony about some of the
35 aesthetic benefits and you heard testimony and also Brian kind of
36 echoed the corner lot issue as well. So those are the variances that
37 you have before you this evening.

38
39 MR. LEVITON: Thank you counselor.

40
41 MR. MARMERO: Sure.

42
43 MR. LEVITON: Well, all that remains is.

44
45 MR. WECHSLER: A motion?

46
47 MR. LEVITON: A motion.

1 MR. WECHSLER: I'll make a motion to approve the bulk
2 variance relief.

3
4 MR. LEVITON: Thank you Mr. Wechsler and will someone
5 second?

6
7 MR. POCHOPIN: I'll second.

8
9 MR. LEVITON: Thank you Mr. Pochopin for the second.

10
11 **ROLL CALL**

12
13 MS. MOENCH: Mr. Wechsler?

14
15 MR. WECHSLER: Yes.

16
17 MS. MOENCH: Mr. Pochopin?

18
19 MR. POCHOPIN: Yes.

20
21 MS. MOENCH: Mr. Harrington?

22
23 MR. HARRINGTON: Yes.

24
25 MS. MOENCH: Ms. Levenson?

26
27 MS. LEVENSON: Yes.

28
29 MS. MOENCH: Ms. Latilla?

30
31 MS. LATILLA: Yes.

32
33 MS. MOENCH: Chair Leviton?

34
35 MR. LEVITON: Yes. Congratulations to you both and your
36 resolution will be memorialized at our next regular meeting. You won't
37 need to be here. Ms. Moench will mail that out to you when the time
38 comes.

39
40 MRS. IANNACONE: Thank you so much everyone.

41
42 MR. LEVITON: You're welcome. Have a good night to both of
43 you.

44
45 MRS. IANNACONE: Thank you.

46
47 MR. LEVITON: Okay. Okay, yeah. Okay, alright our only other
48 application tonight is ZBE2616. We welcome Mr. Pospelov back and on

1 his behalf he's with counsel this evening. Mr. Ball, welcome back to
2 you as well.

3
4 MR. BALL: Thank you Mr. Chair.

5
6 MR. LEVITON: And Mr. Pospelov, how are you sir? That's a
7 question, but it's okay you don't need to answer it.

8
9 MR. BALL: Chairman, how are you tonight?

10
11 MR. LEVITON: If he's going to testify, then he should be
12 sworn in.

13
14 MR. BALL: Yes please.

15
16 MS. MOENCH: It's a new application.

17
18 MR. LEVITON: Yeah, it's a brand new application so.

19
20 MR. MARMERO: Sure.

21
22 MR. LEVITON: He's not on the.

23
24 MR. MARMERO: --- Sir if you'd raise your right hand, I'll
25 get you sworn in. Do you swear the testimony you will provide tonight
26 will be the truth, the whole truth, and nothing but the truth?

27
28 MR. POSPELOV: I do.

29
30 MR. MARMERO: Okay.

31
32 MR. LEVITON: Okay so Mr. Ball to get things rolling, can
33 you clarify on the record that the problematic paver patio which lacks
34 civil engineering and proof that drainage and/or pool sustenance would
35 be ensured is no longer within the scope of work being done and is not
36 part of the board's consideration this evening?

37
38 MR. BALL: That's correct Mr. Chairman. It's been completely
39 eliminated from these plans.

40
41 MR. LEVITON: And the patio pavers have been eliminated as
42 well?

43
44 MR. BALL: Yes, the patio pavers were associated with the
45 pool area completely eliminated. Mr. Pospelov understood the board's
46 concerns and has eliminated that proposal from the application. He's
47 only seeking relief, the variance relief, associated with the setbacks
48 for the shed and for the deck extension/addition. Those were at

1 thirteen feet to the deck, ten feet to the Bilco doors, and then the
2 shed was one foot to the side yard setback and five feet to the rear
3 yard setback. Any setback relief associated with the patio expansion
4 and the pavers is no longer an aspect of this plan.
5

6 MR. LEVITON: Okay so the deck and the shed, it's been noted
7 already that they were of reasonable use and logical extensions of
8 existing conditions. So, this should be fairly simple this evening.
9 Can you tell us about the crawl space setback? Provide testimony
10 regarding the access stairs; confirm their exact height, their
11 purpose, and that there'll be no visual impact to ensure it doesn't
12 trigger any secondary variance concerns.
13

14 MR. BALL: Of course, and we do, I believe this was
15 discussed during the second hearing of the prior application, but we
16 do have an exhibit that we can submit. Unfortunately, it is just a
17 single copy, but it is the proposed size of the Bilco doors associated
18 with that crawl space entry. If I may approach?
19

20 MR. LEVITON: You can give it to Janice. It's got to be
21 marked.
22

23 MR. MARMERO: What do you want to call this one Mr. Wall?
24

25 MR. BALL: A1 --- call it the Bilco door exhibit.
26

27 MR. MARMERO: Bilco door exhibit.
28

29 MR. BALL: And perhaps while that's being marked and
30 circulated, I'll defer to you Mr. Chairman, but Mr. Pospelov can
31 explain the purpose and the general location and use of those stairs.
32

33 MR. LEVITON: The board would appreciate that.
34

35 MR. BALL: Go ahead, explain just that to the board.
36

37 MR. POSPELOV: The stairs is just needed for access into the
38 crawl space for whatever reason like service. I don't see any
39 infrastructure underneath the extension, but for servicing for, I
40 would assume it's being required.
41

42 MR. LEVITON: Thank you Mr. Pospelov.
43

44 MR. BALL: So, I see that exhibits almost made its way
45 around. Mr. Chairman, would you like me to summarize our application
46 and the relief we're seeking?
47

48 MR. LEVITON: I would.

1
2 MR. BALL: Okay, so as it seems the board has a pretty good
3 recollection of the hearings last time at that point. As I mentioned
4 before, we had sought additional variance relief associated with the
5 patio extension which the board in its resolution recognized, had
6 concerns with, in the prior hearing. The other relief associated with
7 this shed, with the deck, it's not changing as compared to the prior
8 application. We're keeping the same exact variance figures that we
9 requested then and as yourself noted Mr. Chairman, the board
10 recognized it was reasonable in light of the unique shape of the
11 property and would constitute a reasonable use of the property as
12 reflected in a prior resolution.
13

14 MR. LEVITON: I would though like just on the record to have
15 Mr. Pospelov tell us why it needs to be in the very back corner. I
16 would like to hear that.
17

18 MR. POSPELOV: About the shed right?
19

20 MR. LEVITON: Yes.
21

22 MR. BALL: Yes.
23

24 MR. POSPELOV: So, my property is shaped like a very sharp
25 pizza pie, a pizza slice. So, if anywhere you put that shed in, it's
26 either way unless it's right in the middle of the property which in
27 that case I'm losing the whole entire backyard which is very limited
28 as it is because of the shape of the property. So that's the only way,
29 I'm still far from the corner. I'm still trying to keep twenty-five
30 feet, but even at that point I cannot really comply with the zoning
31 requirements because of the shape of the property.
32

33 MR. LEVITON: Thank you Mr. Pospelov.
34

35 MR. BALL: And I will also just note that the property is
36 fenced around the shed area as well to help eliminate any adverse
37 effects that the shed would have on the neighboring property. I do
38 also just briefly want to touch on the fact that this is obviously
39 similar in certain aspects to the prior application. There is the
40 principle of res judicata that the board would not have to hear an
41 exact duplicate of a prior application unless there's something or
42 something that's substantially similar to the prior application. Our
43 position in this case is certainly the elimination of the variance
44 relief and the elimination of the problematic pavers entirely would
45 result in a substantial change under case law and therefore the board
46 has jurisdiction to hear us tonight.
47
48

1 MR. LEVITON: And can you quantify the encroachment, the
2 tighter encroachment of the stairs from what's being asked? He wanted
3 thirteen feet I believe and.

4
5 MR. BALL: Thirteen feet is to the corner of the deck. It's
6 a ten foot setback to the stairs themselves at the closest location.

7
8 MR. LEVITON: Ten feet is what the encroachment is going to
9 be? Okay.

10
11 MR. BALL: Yes.

12
13 MR. POSPELOV: This is the smallest Bilco door I could get
14 so that's why it's a little bit going out.

15
16 MR. LEVITON: It's fine. How low to the ground is it going
17 to be?

18
19 MR. BALL: The Bilco doors?

20
21 MR. LEVITON: No, the --- Yes, the Bilco doors.

22
23 MR. POSPELOV: I think it's.

24
25 MR. BALL: Do you recall that off the top of your head?

26
27 MR. POSPELOV: Fifty-four inches wide and I think about
28 fifty inches off. It should be.

29
30 MR. BALL: How high?

31
32 MR. POSPELOV: How high? There are multiple options. I think
33 the one is one foot. The other one is two feet, two options. I think
34 two feet would probably be better for rain protection rather than just
35 going flat.

36
37 MR. LEVITON: Would you say that it lacks vertical height or
38 massing?

39
40 MR. POSPELOV: I wouldn't say so. The height off the ground
41 is going to be about four feet, like the bottom deck on one side. On
42 the other side is I would say probably less than two feet.

43
44 MR. BALL: You're referring to the doors only Mr. Chairman?

45
46 MR. LEVITON: The doors, the Bilco doors.

47

1 MR. BALL: So, you would say that that maximum of two feet
2 is not significant vertical mass?

3
4 MR. POSPELOV: No, I don't think it's significant.

5
6 MR. LEVITON: So, it's not?

7
8 MR. POSPELOV: It's going to be less than half of the entire
9 height of the foundation.

10
11 MR. LEVITON: It's not going to intrude on your neighbor's
12 lot in any way?

13
14 MR. POSPELOV: These doors come in different colors. Where
15 my thought was, I'm going to get the green one so it's going to mix in
16 with the green grass which is going to be right all the way around.
17 So, these doors I don't see is going to be noticeable a lot.

18
19 MR. BALL: And I think it's worth noting Mr. Pospelov, you
20 have discussed this application with the neighbor on that side,
21 correct?

22
23 MR. POSPELOV: Yes.

24
25 MR. BALL: And supports the application?

26
27 MR. POSPELOV: I did talk to both of the neighbors. They all
28 don't mind, and my neighbor on the right, he said he wouldn't see that
29 anyway. But the neighbor on the left, he was totally agreeing with me
30 and had no problem. He was willing to come support, but he had
31 something that came up and he couldn't come.

32
33 MR. LEVITON: Mr. Ball, can you speak to the board zoning
34 officer's report as it relates to the floor area ratio?

35
36 MR. BALL: I do not recall seeing that report.

37
38 MR. LEVITON: He notes that the, well he's sitting here.
39 I'll have him tell you.

40
41 MR. BOCCANFUSO: I don't think that was in this report Mr.
42 Chairman. That was in the previous application.

43
44 MR. LEVITON: Oh, my mistake.

45
46 MR. BOCCANFUSO: It was. I can summarize the comment. I know
47 what you're speaking about.
48

1 MR. LEVITON: Yeah, point one five.

2
3 MR. BOCCANFUSO: Sure, yeah.

4
5 MR. LEVITON: Yeah.

6
7 MR. BOCCANFUSO: So, the comment Mr. Ball that the chairman
8 is referring to is with the previous application. It was really more
9 of an FYI. The enclosure of this portion of the deck that's proposed
10 increases the floor area ratio. I did crunch some numbers. It does not
11 look like there's any non-compliance, but it brings Mr. Pospelov
12 pretty close. So, any future additions might run the risk of deviating
13 from the F.A.R. requirements, therefore requiring a D variance relief.
14 At a minimum, a future addition would require a detailed floor area
15 ratio calculation from an architect or similarly qualified
16 professional. It was really just kind of an as I said an FYI more than
17 anything else.

18
19 MR. BALL: Understood. I appreciate that and Mr. Pospelov,
20 you understand as just noted, you are close to the limit that's
21 permitted under the zoning regulations. So, any addition to the
22 property, any further enclosures, additions, anything like that that
23 adds floor area to your property, you're likely to have to come into
24 this zoning board to seek its D4, F.A.R. variance relief. You
25 understand that?

26
27 MR. POSPELOV: I understand.

28
29 MR. BALL: But you have no intention of enclosing or making
30 any other additions to the property at this time, correct?

31
32 MR. POSPELOV: No.

33
34 MR. BALL: Okay.

35
36 MR. LEVITON: Thank you Mr. Boccanfuso and Mr. Ball. Let's
37 go out to the board. Michael?

38
39 MR. WECHSLER: No questions.

40
41 MR. LEVITON: Daniel?

42
43 MR. POCHOPIN: Yes, thank you. So, I see the shed, is this
44 something that you're going to build sir? You're going to build the
45 shed or?

46
47 MR. POSPELOV: I'm probably going to build myself, but I'm
48 not sure yet. I may hire somebody, like a pre-built shed.

1
2 MR. POCHOPIN: Oh okay.
3

4 MR. POSPELOV: But I'm not sure yet, but it's the same
5 concept. I don't want to have heavy equipment on my yard. It's
6 probably going to be just pre-built panels and it's going to be
7 assembled on site.
8

9 MR. POCHOPIN: Very good and you'll have any utilities in
10 there or anything like that, anything electrical?
11

12 MR. POSPELOV: Oh no, it's just pretty much it's going to be
13 all the way in the back. There are no utilities. Even if you want to
14 bring, there's no chance, but it's only mostly for the lawnmower, like
15 yard equipment, shovels, and whatever gardening.
16

17 MR. POCHOPIN: Very good. I see it's eleven feet. Do you
18 have to go that high because I think the ordinance is nine if I'm not
19 mistaken?
20

21 MR. POSPELOV: With the roof I want to have roof about two
22 feet so the shed itself is going to be eight feet because you have to
23 have six feet, six inches, eight inches, the flooring. So then you
24 have to do eight inches the studs or --- the studs and you have to add
25 another six inches for the ceiling drawers and then the roof about two
26 feet. So, it's about between ten and eleven feet, but inside the shed
27 is going to be under eight feet.
28

29 MR. POCHOPIN: Okay so I'm pleased to hear that the
30 neighbors on each side of the proposal of the addition are all good
31 and behind you, where the shed will be, is there?
32

33 MR. POSPELOV: There's pretty much it's woods back there.
34

35 MR. POCHOPIN: Woods, right?
36

37 MR. POSPELOV: I have a couple of pictures if you want to
38 see.
39

40 MR. POCHOPIN: Yeah, no that's okay.
41

42 MR. POSPELOV: But it's woods. I have neighbors in the back,
43 but there's no fence, there's neighbors I never even, I haven't even
44 seen them at all, but they're far.
45

46 MR. POCHOPIN: Very good and just one more question. The
47 extension on the back with the proposed extension of the shed, I mean
48 the proposed deck, drainage on that side there that would be the front

1 of your house, the right side neighbors there because it's a lot
2 lower, the grading. Are you going to put those drains going out back
3 or how are you going to?

4
5 MR. POSPELOV: That's correct.

6
7 MR. POCHOPIN: Address that?

8
9 MR. POSPELOV: So, what I have now, I have now a drain pipe
10 going twenty, forty feet off the house to back of my property so it's
11 past the pool probably a good forty feet, but from each leader.

12
13 MR. POCHOPIN: Right.

14
15 MR. POSPELOV: So, I'll probably either going to add another
16 pipe or I can add into that pipe because it's four inch pipe even my
17 four inch --- is not going to be. That pipe will supply, support all
18 the water flow and it's going to be going to the back of my property.

19
20 MR. POCHOPIN: Okay because I do remember when you appeared
21 before the board that's not the issue today, but I just remember some
22 drainage issues and just by looking at the picture I see that side's a
23 little lower grading. So, if you have a plan for the drainage then
24 that answers my question. Thank you.

25
26 MR. POSPELOV: Yeah, I don't want to have wetness or any
27 damp in my basement.

28
29 MR. POCHOPIN: Yes.

30
31 MR. POSPELOV: And same for my neighbors. I want to get the
32 water as far as I could.

33
34 MR. POCHOPIN: Very good, thank you.

35
36 MR. LEVITON: Thank you Daniel. John?

37
38 MR. HARRINGTON: I think Dan just basically answered the
39 question for me through Dan. I just wanted to just clarify for myself
40 although on the crawl space that is proposed with the Bilco doors. Is
41 that currently there right now or are you?

42
43 MR. POSPELOV: Currently my deck is above the grade, just
44 the deck. I have a couple pictures if you want to see what's existing,
45 I can pass it over so you can understand. It's a wooden structure.
46 It's in so bad condition when you walk on is just goes like this with
47 you. So, it has no foundation, but the purpose of the crawl space is I
48 want to do the foundation. I want to make solid side and I'm going to

1 have a concrete slab underneath and there's chances that any animals
2 get in there if God forbid, they die and you have to have an access to
3 clean up, to service, whatever needs to be done. That's why I would
4 assume you have to have some access, and I believe it's also, Brian
5 can correct me, I think it's also required by the code.

6
7 MR. BOCCANFUSO: I don't know that it is required by the
8 code, but we do have some houses with slab foundations. I'm sure some
9 of you probably live in houses with slab foundations. With that said,
10 I don't have a major objection to it.

11
12 MR. HARRINGTON: Okay.

13
14 MR. BOCCANFUSO: I think it's good planning for access, for
15 maintenance, for the reasons that Mr. Pospelov mentioned and it's only
16 four or five feet high. So we don't have to be concerned with
17 inappropriate use of the area.

18
19 MR. HARRINGTON: It's not going to be ---

20
21 MR. BOCCANFUSO: It's really a non-issue as far as I'm
22 concerned.

23
24 MR. HARRINGTON: Okay.

25
26 MR. BOCCANFUSO: If the board's comfortable with the
27 setback, I don't think that the crawl space is a problem.

28
29 MR. HARRINGTON: Okay and like I said I think it was
30 answered pretty much with Dan. The drainage, if there is an issue with
31 from prior that you put a lot of thought into this from what I see. I
32 think you would have addressed the issue with water.

33
34 MS. POSPELOV: Thank you.

35
36 MR. HARRINGTON: Because that was a concern.

37
38 MR. LEVITON: Thank you John. Jessica?

39
40 MS. LEVENSON: Hi, I have just a few quick questions. This
41 shed, you're going to have the doors facing your house?

42
43 MS. POSPELOV: That's correct.

44
45 MS. LEVENSON: Okay great. I remember that as a discussion
46 we had last time. I just wanted to confirm.

47
48

1 MS. POSPELOV: Yeah, because if anywhere else I put the
2 doors, there's no way I can get the tractor or lawnmower in. So, I
3 have to put it on the front only and somewhere in the middle so I can
4 open the door and get the lawnmower in and close the doors.

5
6 MS. LEVENSON: Thank you. I recall that from last time, but
7 I wanted just to have that on the record because I thought that was a
8 good reason for why you put it there and why you had the doors facing
9 the house.

10
11 MR. POSPELOV: Thank you.

12
13 MS. LEVENSON: My second question is again about the crawl
14 space. What is your reason for putting it on the side of the house
15 versus towards the backyard of your house?

16
17 MR. POSPELOV: There is towards the back I'm going to have a
18 fireplace in the back. So that interferes because fireplace has to
19 have a solid foundation. So, if I put, I don't want to put on the
20 side. First of all, there's going to be if you look at the plans,
21 there's windows. So, the windows facing the pool and I think it's
22 really not going to be aesthetically looking good so and the other
23 thing is it's by the pool area. Kids always running there and it's
24 probably going to create a different hazard. Meanwhile in the back,
25 there's no traffic, there's kids not playing, and I don't have -.
26 There's much less chance of somebody get hurt tripping over the door.

27
28 MS. LEVENSON: Okay thank you.

29
30 MR. LEVITON: Thank you Jessica. Temika?

31
32 MS. LATILLA: The only question I have is about the height.
33 Brian, what's the permitted height of a shed, accessory shed? Is it
34 ten feet?

35
36 MR. BOCCANFUSO: Yes, so for, I know for smaller sheds it is
37 ten feet. For the larger sheds in excess of a hundred square feet, I'm
38 not sure. Do we have the, do you have that section of the code? Is
39 that right? Accessory structures, I know accessory structures can be
40 fifteen, but I'm not sure about, I don't have my phone.

41
42 MR. POSPELOV: I think it's fifteen feet. I did talk to
43 construction. I don't want to make a statement, but I.

44
45 MR. LEVITON: Don't.

46
47 MR. BOCCANFUSO: Yeah so, the maximum height is ten feet.
48 So, the eleven foot height would require additional relief.

1
2 MS. LATILLA: Yeah, that's my only comment is the height of
3 the fence.

4
5 MR. BALL: And we're happy to condition the approval on a
6 limitation of ten feet. We'll make it comply.

7
8 MR. LEVITON: Mr. Ball has just indicated that they're going
9 to lower the height to ten feet. Good catch Temika. Thank you.

10
11 MS. LATILLA: That's all I have.

12
13 MR. LEVITON: Okay.

14
15 MS. LATILLA: That's all I have, thank you.

16
17 MR. LEVITON: Then we'll go out to the public and ask if
18 there's anyone who wants to ask Mr. Ball or Mr. Pospelov a question
19 about the testimony entered onto the record this evening. Seeing no
20 one, we'll close public. Let's go to Brian and ask if there's anything
21 else he'd like to contribute. Sir?

22
23 MR. BOCCANFUSO: Just one other thing I'd like to get on the
24 record. I know it was addressed at the last hearing, but just this is
25 a new hearing. So, I'm going to summarize my recollection if you can
26 just confirm Mr. Pospelov or Mr. Ball if this is correct. There was
27 some questions last time about the shed. How, I think the board
28 understood why it was pushed towards the rear of the property given
29 the challenging geometry, but there were questions about why it was
30 off to the right or northerly side with a one foot setback versus a
31 five foot setback and as I recall the reasoning was so that Mr.
32 Pospelov could get around the rear of that area to maintain that back
33 corner of his yard. I pointed out at the last public hearing that the
34 biggest concern with such a small setback of one foot would be
35 drainage and runoff from the roof, but because of the way the shed is
36 designed, the ease of the roof will direct runoff to the front and
37 back. So, it would mitigate that condition. Does that pretty much sum
38 up the reason why you have the shed shifted more to the one side than
39 better centered in that rear corner of the property?

40
41 MR. POSPELOV: That is one hundred percent correct.

42
43 MR. BOCCANFUSO: Okay so I just wanted to get that on the
44 record and I feel the same way that I did the last time this came
45 around. Aside from that, nothing else to offer. I don't have any
46 objection to any of your testimony. I think a lot of these issues were
47 vetted out at the last hearing. So, I think we're pretty much good to
48 go at this point.

1
2 MR. LEVITON: Thank you sir. Mr. Marmero?

3
4 MR. MARMERO: Sure, so we heard a lot about the last
5 application and as we also heard this is actually a brand new
6 application. The applicant did bring up the res judicata issue which
7 is a Latin term meaning you can't hear the same application twice.
8 However, if some substantial change was made to the application, you
9 then have jurisdiction. Counsel covered that, and I think he's
10 accurate by eliminating that one variance. You now have in front of
11 you a substantially different application which now really just has
12 two areas of relief. We have the relief that is associated with the
13 shed which needs two separate variances. One is for the side setback
14 where fifteen feet would be required and the applicant is showing one
15 foot and one is for the rear yard setback where the applicant is
16 showing, let me see, five feet where ten feet would be required, and
17 then you have the variance relief that's associated with what we'll
18 call the deck addition. And there it's proposed setback that the
19 applicant would need to meet is fifteen feet, but he has ten feet for
20 the structure itself, and then I'm sorry, thirteen feet for the
21 structure itself. Ten feet for that staircase Bilco door structure
22 that the applicant has. There were some questions about the shed
23 height that the applicant made it clear that any type of condition of
24 approval would include stating that the height of the shed will be
25 fewer than the requirement of ten feet. That seems to be everything
26 that's on record

27
28 MR. LEVITON: Thank you counselor.

29
30 MR. MARMERO: Sure.

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

33
34 MR. HARRINGTON: I'll make a motion.

35
36 MR. LEVITON: Thank you Mr. Harrington. Will someone second
37 it?

38
39 MR. POCHOPIN: I'll second it.

40
41 MR. LEVITON: Thank you Mr. Pochopin.

42
43 **ROLL CALL**

44
45 MS. MOENCH: Mr. Wechsler?

46
47 MR. WECHSLER: Yes.

48

1 MS. MOENCH: Mr. Pochopin?

2
3 MR. POCHOPIN: Yes.

4
5 MS. MOENCH: Mr. Harrington?

6
7 MR. HARRINGTON: Yes.

8
9 MS. MOENCH: Ms. Levenson?

10
11 MS. LEVENSON: Yes.

12
13 MS. MOENCH: Ms. Latilla?

14
15 MS. LATILLA: Yes.

16
17 MS. MOENCH: Chair Leviton?

18
19 MR. LEVITON: Yes. Congratulations Mr. Pospelov and good
20 luck with the coming work.

21
22 MR. BALL: Thank you all.

23
24 MR. LEVITON: Mr. Ball, thank you sir. Okay, will someone
25 move to adjourn? Oh wait, I need to go out to the public and ask if
26 there's anyone who wants to address the board on non-agenda items.
27 Seeing none, I'll close public, and now I'll call for a motion to
28 adjourn.

29
30 MR. POCHOPIN: Motion to adjourn.

31
32 MR. LEVITON: Thank you Mr. Pochopin, and folks before we
33 leave, I want to.

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