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MEETING IS CALLED TO ORDER:

MS. MOENCH: I'm ready Steve whenever you are.

MR. LEVITON: Okay thank you Janice. I will now call this meeting to order and ask everyone to stand for the flag salute.

SALUTE TO THE FLAG:

MR. LEVITON: Welcome everyone. Alright tonight we're going to take care of our regular business and up first is the roll call.

ROLL CALL:

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. DiTota?

MR. DITOTA: Here.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Here.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Here.

MS. MOENCH: Mr. Weiss is not with us. Mr. Mantagas is not with us. Mr. Shalika is not with us. Chair Leviton?

MR. LEVITON: I am here. Okay up first tonight is accepting the minutes from August 4th oh I'm sorry ---

MR. GLASS: The open public meetings act.

MR. LEVITON: Of course thank you sir. Pursuant to section five of the Open Public Meetings Act, notice of this meeting of the Manalapan Township Zoning Board of Adjustment was sent and advertised in the Asbury Park Press. A copy of that notice was posted on the bulletin board where public notices are displayed in the municipal building. In addition a copy of this notice is and has been available to the public.

1 It is on file in the office of the municipal clerk.
2 Accordingly, this meeting is deemed in compliance with the
3 Open Public Meetings Act and before we go any further tonight
4 sitting in for our engineer Brian Boccanfuso is Jordan Rizzo
5 and sitting in for our planner Jennifer Beahm is Christine
6 Bell and Mr. Glass if you would swear them both in.

7
8 MR. GLASS: Sure. Please both raise your right hand.
9 Do you swear or affirm that the testimony you are about to
10 provide is the truth, the whole truth, and nothing but the
11 truth?

12
13 MS. BELL: I do.

14
15 MR. RIZZO: I do.

16
17 MR. GLASS: Thank you.

18
19 MR. LEVITON: Thank you both and welcome to both of
20 you. Okay up first is accepting the minutes from August 4th and
21 I'll need someone to make a motion and someone to second
22 please.

23
24 MR. SCHERTZ: So moved.

25
26 MR. GREGOWICZ: I'll second.

27
28 MR. LEVITON: Thank you David and thank you Bob.
29 Thank you Terry.

30
31 **ROLL CALL:**

32
33 MS. MOENCH: Mr. Gregowicz?

34
35 MR. GREGOWICZ: Yes.

36
37 MS. MOENCH: Mr. Rosenthal?

38
39 MR. ROSENTHAL: Yes.

40
41 MS. MOENCH: Mr. Schertz?

42
43 MR. SCHERTZ: Yes.

44
45 MS. MOENCH: Chair Leviton?

46

1 MR. LEVITON: Yes. There were three resolutions to be
2 memorialized this evening. The first one is ZBE2229,
3 counselor.

4
5 MR. GLASS: Yes thank you. This was an application
6 for bulk variance relief. In this case there were three
7 variances that were granted all of which were related to the
8 garage, a private detached garage. This rear dwelling may be
9 designed for a maximum of three vehicles and shall not exceed
10 thirty-five feet in width by twenty-four feet in depth by
11 fifteen feet in height. The proposed garage was sixty feet in
12 width by sixty feet depth, sixteen feet in height. Secondly a
13 private detached garage may have a storage area occupying a
14 maximum floor area of twelve feet in width by twenty-four feet
15 in depth. The garage exceeded those dimensions and thirdly the
16 floor area of the garage shall not be expanded beyond the
17 permitted thirty-feet in width by twenty-four feet in depth
18 and the garage exceeded that as well and those are three
19 variances granted.

20
21 MR. LEVITON: Thank you Mr. Glass. I need a motion
22 and a second please.

23
24 MR. GREGOWICZ: I'll make the motion.

25
26 MR. LEVITON: Thank you Mr. Gregowicz.

27
28 MR. SCHERTZ: Second.

29
30 MR. LEVITON: Thank you Mr. Schertz.

31
32 **ROLL CALL:**

33
34 MS. MOENCH: Mr. Gregowicz?

35
36 MR. GREGOWICZ: Yes.

37
38 MS. MOENCH: Mr. Rosenthal?

39
40 MR. ROSENTHAL: Yes.

41
42 MS. MOENCH: Mr. Schertz?

43
44 MR. SCHERTZ: Yes.

45
46 MS. MOENCH: Chair Leviton?

47
48 MR. LEVITON: Yes. Next up is ZBE2232, Mr. Glass.

1
2 MR. GLASS: Yes again an application for bulk
3 variance relief. There were four variances requested and
4 granted with this application. The first the detached
5 accessory building shall not be located in a front yard
6 whereas the existing shed is located within the front yard lot
7 line as well as the minimum front yard setback the detached
8 structure in the R20 zone is sixty feet. The existing shed is
9 fifty-two feet from their front yard lot line. The minimum
10 front yard setback in the R20 zone is sixty feet proposed six
11 foot fence look to be located forty-eight feet from the front
12 yard lot line and in residential zones fences shall not exceed
13 three feet in height and the proposed fence was six feet in
14 height.

15
16 MR. LEVITON: Thank you Mr. Glass. I need a motion.

17
18 MR. GREGOWICZ: I'll make the motion.

19
20 MR. LEVITON: Thank you Mr. Gregowicz and will
21 someone second it please?

22
23 MR. SCHERTZ: Second.

24
25 MR. LEVITON: Thank you David.

26
27 **ROLL CALL:**

28
29 MS. MOENCH: Mr. Gregowicz?

30
31 MR. GREGOWICZ: Yes.

32
33 MS. MOENCH: Mr. Rosenthal?

34
35 MR. ROSENTHAL: Yes.

36
37 MS. MOENCH: Mr. Schertz?

38
39 MR. SCHERTZ: Yes.

40
41 MS. MOENCH: Chair Leviton?

42
43 MR. LEVITON: Yes and the last application this
44 evening for memorialization 2235, Mr. Glass.

45
46 MR. GLASS: Again an application for bulk variance
47 relief except just one variance with this application. There's
48 an existing paver patio located four feet from the rear yard

1 lot line whereas it's permitted to be no closer than ten feet
2 from the rear yard setback. That variance was granted.

3

4 MR. LEVITON: Thank you sir. Okay at this time it's
5 either going to be Terry, Bob, or David needs to make a motion
6 and then one of you will need to second it.

7

8 MR. ROSENTHAL: I'll make the motion to accept.

9

10 MR. LEVITON: Thank you Mr. Rosenthal.

11

12 MR. GREGOWICZ: Second.

13

14 MR. LEVITON: Thank you Mr. Gregowicz.

15

16 **ROLL CALL:**

17

18 MS. MOENCH: Mr. Gregowicz?

19

20 MR. GREGOWICZ: Yes.

21

22 MS. MOENCH: Mr. Rosenthal?

23

24 MR. ROSENTHAL: Yes.

25

26 MS. MOENCH: Mr. Schertz?

27

28 MR. SCHERTZ: Yes.

29

30 MS. MOENCH: Chair Leviton?

31

32 MR. LEVITON: Yes. Okay tonight's first public
33 hearing is Englishtown Auction Sales and representing them is
34 from the professional corporation of Sonnenblick, Mehr &
35 Licata with the distinguished Peter Licata, welcome sir.

36

37 MR. LICATA: Thank you Mr. Chairman.

38

39 MR. LEVITON: Always a pleasure to see you Mr.
40 Licata. Do you want to present your affirmative case at this
41 time?

42

43 MR. LICATA: Yes Mr. Chairman thank you. It's good to
44 be here. Good evening everyone, Mr. Chair, board members,
45 professionals, and staff, Peter Licata of the law firm
46 Sonnenblick, Mehr & Licata on behalf of the applicant. We're
47 here tonight to propose the replacement of one of two existing
48 sign panels on a pre-existing non-conforming sign. The bottom

1 panel is effectively in two parts. It has Mainbrook Tavern
2 logo and name at the top and then it has a removable physical
3 letter slots where you can insert and take out letters. We're
4 proposing to replace that bottom part with a digital sign and
5 replace the logo with a Mainbrook Tavern sign with something
6 that's nearly identical to what is there now. I have with me
7 tonight two witnesses, Mr. John Ploskonka, the professional
8 engineer. I have Allison Coffin, our professional planner and
9 in the gallery in case his testimony is needed is Greg
10 Campbell. He's an employee of the applicant and has been
11 overseeing the project.

12

13 MR. LEVITON: Thank you sir.

14

15 MR. LICATA: Thank you. I actually would want Mr.
16 Ploskonka sworn in.

17

18 MR. GLASS: Please raise your right hand. Do you
19 swear or affirm that the testimony you're about to provide is
20 the truth, the whole truth, and nothing but the truth?

21

22 MR. PLOSKONKA: I do, John J. Ploskonka P-L-O-S-K-O-
23 N-K-A professional engineer Manalapan, New Jersey.

24

25 MR. LEVITON: Mr. Ploskonka has presented to this
26 board on numerous occasions and we accept credentials.

27

28 MR. PLOSKONKA: Thank you Mr. Chairman.

29

30 MR. LEVITON: You're welcome sir.

31

32 MR. LICATA: John in a brief narrative fashion could
33 you give the board a summary of what's proposed and then move
34 on to some of the questions that are contained in Mr.
35 Boccanfuso's report?

36

37 MR. PLOSKONKA: Sure. The sign as Peter pointed out
38 is existing. It's right near the tavern. It's been there for I
39 guess thirty, forty, fifty years and they want to upgrade that
40 sign and it's a two-part sign as Peter pointed out. The top
41 part doesn't change at all, but the section that's about
42 forty-two square feet below that has two panels. One two by
43 eight which would be sixteen square feet which will say
44 Mainbrook Tavern and one that's twenty-four square feet or
45 three by eight which is a digital sign below it. That's the
46 plan the existing sign stays at the same location. We're just
47 changing those two panels so instead of having forty-two
48 square feet we'll have forty square feet with a digital area

1 of twenty-four square feet. It's right next to the entrance to
2 the tavern. It's about a hundred feet from the intersection of
3 Sobechko Road and it's not in any sight triangle or any issue
4 with visibility in terms of traffic going by. I believe it's
5 smaller, but not much smaller so that's not an issue. There's
6 no other application being proposed in terms of any other
7 buildings or any other changes to the site that's been there I
8 guess fifty or sixty years now when I started working for
9 Steve Sobechko. God bless his soul, fifty years ago it's not
10 the same thing it is right now. So the sign on the application
11 needs improvements and there's electric sign ordinance you
12 should have in town that says you must meet all the conditions
13 of the ordinance and the applicant is saying we're going to
14 meet all those conditions which talks about message displays
15 and timing and colors, etc. So those elements of the
16 electronic sign ordinance will be complied with a hundred
17 percent.

18

19 MR. LICATA: And John in connection to that I think
20 you're referring to ordinance section 95-8.7D4.

21

22 MR. PLOSKONKA: Correct, yes.

23

24 MR. LICATA: And I believe there are about twenty-
25 four separate lettered subsections of that ordinance is that
26 right?

27

28 MR. PLOSKONKA: That's correct.

29

30 MR. LICATA: And we're seeking variance relief from I
31 believe four of them is that right?

32

33 MR. PLOSKONKA: Correct and there's four referenced
34 variances in the report by Jennifer Beahm which our planner
35 will address.

36

37 MR. LICATA: Okay and in Jennifer's report she also
38 asked for confirmation as to whether aside from those four
39 specific subsections that she listed and that Allison will
40 testify to whether the sign will be conforming in all other
41 respects. Did you have an opportunity to review each of those
42 lettered subsections with the application as well as the
43 applicant's sign designer?

44

45 MR. PLOSKONKA: Yes this morning we had a conference
46 with the sign designer to make sure that he could provide
47 software for the sign that meets all those requirements.

48

1 MR. LICATA: And as well as the integral design will
2 in terms of dimensions will also meet those requirements?

3

4 MR. PLOSKONKA: That's correct.

5

6 MR. LICATA: Mr. Chairman just for the record I can
7 stipulate that I was present during that telephone
8 conversation and can attest to and represent to this board
9 that those subsections were reviewed and we did confirm that
10 if approved the sign would meet those conditions of the
11 ordinance with the exceptions of subsections F as in Frank, K
12 as in kangaroo, M as in Mary, and X as in x-ray which are
13 noted in Beahm's report as requiring variance relief.

14

15 MR. LEVITON: Mr. Rizzo I know that they're referring
16 to Ms. Coffin to elucidate further on those subsections of the
17 ordinance, but Mr. Boccanfuso additionally referenced seven of
18 them. Do you take exception at this time or do you also want
19 to wait to question Mrs. Coffin?

20

21 MR. RIZZO: Well they agreed to comply with
22 everything else right so I don't take any exception.

23

24 MR. LEVITON: Spectacular. Continue sir.

25

26 MR. LICATA: Thank you. Gentlemen I think also in
27 Brian's report there's a question whether there was any impact
28 to any environmentally-sensitive or wetlands with this
29 application.

30

31 MR. PLOSKONKA: No this is an area right next to the
32 road, thirteen feet from the pavement that's been dry and high
33 for fifty years that I've been visiting that site.

34

35 MR. LICATA: At this point Mr. Chairman I would open
36 this witness up to further questions from the board of
37 professionals.

38

39 MR. LEVITON: Let's go out to the professionals again
40 Mr. Rizzo or Ms. Bell.

41

42 MR. RIZZO: Mr. Ploskonka can you just put on the
43 record that the sign won't impact any sight triangles or sight
44 lines?

45

46 MR. PLOSKONKA: That is correct. It will not impact
47 sight triangle.

48

1 MR. RIZZO: Okay and are you anticipating receiving
2 any other outside agency approvals or are you just seeking the
3 municipal board approval?

4
5 MR. PLOSKONKA: I think we need the board approval
6 and we have a letter from the county of no interest. I don't
7 see the reason to get any other approvals. If you think so
8 we'll get them.

9
10 MR. RIZZO: And then can you also put on the record
11 from your understanding is all other structures and uses on
12 the property that are currently there, they're all permitted
13 and compliant uses?

14
15 MR. PLOSKONKA: They've been there a long time Mr.
16 Rizzo. The only thing that's changed on that sight in the last
17 twenty years is the house that was lost during a flood that we
18 went back to DEP that the house rebuild which is to the north.
19 Other than that everything else has been there for many, many
20 years.

21
22 MR. RIZZO: Okay. So would it be fair to say to the
23 best of your knowledge the answer to that action is yes?

24
25 MR. PLOSKONKA: Correct.

26
27 MR. RIZZO: Alright thank you that's all I have Mr.
28 Chairman.

29
30 MS. BELL: And then really the only additional
31 question I have is can you just confirm that no additional
32 improvements are proposed to this site at this time?

33
34 MR. PLOSKONKA: Correct only the sign change from
35 forty-two square feet to forty square feet with the two
36 panels.

37
38 MS. BELL: Thank you.

39
40 MR. PLOSKONKA: You're welcome.

41
42 MR. LEVITON: Let's go out to the board see if there
43 are any questions. We'll start with Mr. DiTota, Rob.

44
45 MR. DITOTA: No questions.

46
47 MR. LEVITON: Mr. Schertz?

48

1 MR. SCHERTZ: No questions.
2
3 MR. LEVITON: Mr. Gregowicz?
4
5 MR. GREGOWICZ: No questions.
6
7 MR. LEVITON: Mr. Rosenthal?
8
9 MR. ROSENTHAL: I have nothing.
10
11 MR. LEVITON: Nor do I sir.
12
13 MR. LICATA: Thank you Mr. Chairman. I'd like to call
14 Allison Coffin to stand up and be sworn in.
15
16 MR. LEVITON: We welcome Ms. Coffin back. She's
17 testified before this board many times too and the board
18 recognizes her credentials.
19
20 MS. COFFIN: I still have my license.
21
22 MR. LEVITON: As well you should.
23
24 MR. GLASS: Please raise your right hand. Do you
25 swear or affirm that the testimony you're about to provide is
26 the truth, the whole truth, and nothing but the truth?
27
28 MS. COFFIN: Yes I do.
29
30 MR. GLASS: Thank you.
31
32 MS. COFFIN: Hope you all can hear me well through
33 the mask. I'm travelling next week and I really don't want to
34 get sick ahead of it so.
35
36 MR. RIZZO: I'll just bring this closer to you.
37
38 MS. COFFIN: Extra cautious.
39
40 MR. LICATA: Allison could you tell the board what
41 you reviewed in preparation for your testimony tonight and
42 what observations if any you have drawn?
43
44 MS. COFFIN: I reviewed the application materials,
45 the board of professionals' reports. I visited the site and
46 talked with the applicant, but the site that we're looking at
47 is a large parcel developed with the Englishtown Auction. The
48 area of interest for this application is just that sign in

1 front of Mainbrook Tavern. The fronts Wilson Avenue and the
2 property itself is located in the LI/light industrial zone.
3 The applicant is proposing to remove a six by seven foot
4 bottom portion of the existing sign. That's a portion that has
5 the tavern logo and a changeable message board which is
6 plastic letters and the applicant is proposing to replace it
7 with a five by eight foot panel which the top two foot is
8 static with the tavern logo and the bottom three foot is a
9 digital message board. This sign change requires variance
10 relief for the maximum sign height for an electronic sign
11 which the ordinance limits to 6.5 feet and the existing height
12 is 7.3 feet and this is an existing condition that's going to
13 continue.

14

15 MR. RIZZO: Is that seven or seventeen?

16

17 MS. COFFIN: Oh sorry 17.33 feet. There is a
18 prohibition of the addition of an electronic sign to any
19 existing non-conforming sign and the existing sign is non-
20 conforming for setback. This is a condition which is not being
21 altered. The sign setback for an electronic sign is required
22 to be fifteen feet and the sign in question has an existing
23 setback of thirteen feet. Again it's an existing condition
24 that they're not changing and an electronic sign with an area
25 greater of six feet must be set back a hundred feet from any
26 other ground sign with an area of more than six feet. The
27 proposed sign shares its structure with another existing sign
28 so the setback between them is zero and this is consistent
29 with the current conditions where there's two signs on the
30 existing structure. The variance relief the applicant's
31 requesting are C variances and there are two tests within the
32 municipal land use law for this type of variance. The first is
33 the C1 standard. It's commonly known as a hardship standard
34 and this is considered when the variance relief is due to pre-
35 existing conditions on the site that result in the situation
36 where the strict application of the ordinance results in
37 hardship. The second standard is known as the C2 standard, the
38 flexible C variance and this is justified when the purposes of
39 the municipal land use law are advanced by the variance and
40 the benefits of the deviation substantially outweigh the
41 detriments. It's my opinion that the variances for this sign
42 changes requested could be granted under both the C1 hardship
43 and the C2 flexible C standard. Looking first at the hardship
44 standard, there is hardship present in this situation in that
45 the sign proposed replaces existing signage and all of the
46 variances that the applicant's requesting are due to the
47 location, size, and height of the existing sign faces which
48 are to be replaced. The C2 standard, the proposed sign

1 advances the purposes of the municipal land use law. The
2 primary purpose of the MLUL is to promote the public health,
3 safety, morals, and general welfare. The digital sign proposed
4 advances this purpose of the MLUL by providing for clear
5 identification for the uses for this site, providing clear
6 identification for the site, the use, and information for the
7 restaurant promotes public safety by allowing drivers of
8 vehicles looking for the site to have adequate identification
9 of their destination from the adjacent roadway system and
10 allows frequent customers to see the current business
11 information displayed on that digital sign. Now the change
12 from manually changed letters to a digital sign promotes the
13 safety of the staff of this establishment responsible for
14 changing the messages, eliminating the need for frequent
15 ladder usage to change the lettering on the sign. The benefits
16 of the proposed variance outweigh the detriments in this case.
17 The primary benefit of the proposed application is the
18 adequate identification of the site and use and the change
19 from the manually changed message board to the digital board
20 enhances the safety of the staff. It's my opinion that there
21 is no detriment to the public good caused by the proposed
22 variances in this situation. Signs themselves are passive
23 structures. They have no impact regarding traffic generation,
24 noise, or odors. The only two possible detriments that could
25 result from the sign variances requested are to replace that
26 manually changed message board and logo with a digital sign
27 would be the aesthetic impact and safety through the
28 obstruction of driver sight lines or the distraction of
29 drivers on the roadway system. So looking first at aesthetics,
30 the sign proposed replaces existing signage so there's no
31 impact overall in the number of signs or the location of signs
32 on this property. The sign faces that are proposed are
33 slightly smaller in area which insures that any change in
34 impact is a slight reduction and not an increase. As far as
35 safety, the signs will not cause any visual obstruction or
36 distraction because they will comply with all of the other
37 ordinance requirements.

38

39 MR. LICATA: Scrolling.

40

41 MS. COFFIN: Scrolling text and the like. As there is
42 a benefit in safety and no detriment to the public good
43 created by the variances the benefits in this case
44 substantially outweigh the detriments. The approval of this
45 subject variances would not substantially impair the intended
46 purpose of your master plan and zoning ordinance overall.
47 Though the sign requires relief, they're appropriately scaled
48 in terms of a size and number for the sight and they don't

1 increase or change the location, size, or area of the signage
2 for the sight.

3

4 MR. LICATA: Thank you Allison. Ms. Coffin is
5 available for questions.

6

7 MR. LEVITON: Thank you Ms. Coffin, Ms. Bell.

8

9 MS. BELL: I would agree with Ms. Coffin's testimony.
10 I would just add I think that the proposed changes also create
11 a desirable visual environment another purpose of, sorry,
12 another purpose of the MLUL by point of updating the signage
13 to something more current with the time.

14

15 MR. LEVITON: So it's your recommendation that the
16 board grants the variance relief under the C2 standard?

17

18 MS. BELL: That's correct.

19

20 MR. LEVITON: Mr. Glass do you require anything
21 further before I go out to the board and to the public?

22

23 MR. GLASS: I do not. I think there's testimony as to
24 both, but I would agree with Ms. Bell that C2 might be the
25 better way to look at it, but there is testimony definitely as
26 to both.

27

28 MR. LEVITON: Do you insist on bringing forth your
29 next witness or?

30

31 MR. LICATA: I only brought Mr. Campbell along out of
32 respect to the board and in case his testimony was necessary.

33

34 MR. LEVITON: Mr. Rosenthal any questions?

35

36 MR. ROSENTHAL: Yeah I was just curious how often
37 would the message change on the sign?

38

39 MS. COFFIN: No more than once a day.

40

41 MR. LICATA: Yeah no more than once a day per one of
42 the subsections of your ordinance.

43

44 MR. ROSENTHAL: Okay and what kind of messages would
45 be on it? What, just an example?

46

1 MR. LICATA: For instance if there was a particular
2 event being held there, a St. Patty's Day event or what have
3 you.

4
5 MR. ROSENTHAL: Okay thank you.

6
7 MS. BELL: I would just like a clarification I guess
8 I should have asked when Mr. Ploskonka was up, but I believe
9 in the application it said that the static portion of the sign
10 would be lighted, will that be illuminated and if so what
11 hours will it be?

12
13 MR. LICATA: Sure we can bring Mr. Ploskonka back,
14 but my understanding is it will internally lit through LED
15 lights that have aerostat that will allow you to dim the
16 brightness and as well as to shut it off on a timer which has
17 been the practice I understand currently so that it complies
18 with restrictions that are contained in the ordinance.

19
20 MS. BELL: Okay thank you.

21
22 MR. LEVITON: That applies to the top sign?

23
24 MR. LICATA: That applies to the top sign that's
25 correct yes.

26
27 MS. BELL: And the top portion?

28
29 MR. LICATA: And the top portion of the bottom, the
30 newly proposed bottom which has the Mainbrook Tavern logo and
31 name.

32
33 MR. LEVITON: Mr. Gregowicz?

34
35 MR. GREGOWICZ: No questions.

36
37 MR. LEVITON: Mr. Schertz?

38
39 MR. SCHERTZ: No questions.

40
41 MR. LEVITON: Mr. DiTota?

42
43 MR. DITOTA: No questions.

44
45 MR. GLASS: I do have one.

46
47 MR. LEVITON: Mr. Glass.

48

1 MR. GLASS: There was one comment noted as to whether
2 it's a C1 or C2 type of sign.

3

4 MR. LICATA: That I'd have to definitely bring Mr.
5 Ploskonka back up to see if he could address it perhaps with
6 in concern with Mr. Rizzo perhaps. John you want to come on
7 up?

8

9 MR. PLOSKONKA: What was the question?

10

11 MR. RIZZO: The actual type of the existing pylon
12 sign C1 versus C2 and I know you don't have the ordinance book
13 in front of you right now to answer the question

14

15 MR. LEVITON: Its number four section B Mr. Ploskonka
16 for your quick reference.

17

18 MR. PLOSKONKA: I'd have to go back to the ordinance
19 and provide that information to you counselor. I can't tell
20 off the top of my head. The ordinance for signs in this town
21 is about fifty pages I think.

22

23 MR. GLASS: I think there was a question as to
24 whether I think the existing sign is either a C1 or a C2 type
25 of sign because that the minimum setback is either twenty feet
26 or fifteen feet. Granted you're requesting variance relief
27 either way.

28

29 MR. LICATA: Correct.

30

31 MR. PLOSKONKA: Correct.

32

33 MR. LEVITON: So it's either two foot or seven foot?

34

35 MR. GLASS: Correct.

36

37 MS. COFFIN: All I know is there's two signs. I
38 wasn't prepared for this.

39

40 MR. PLOSKONKA: The new sign is forty square feet.

41

42 MR. LICATA: I just wanted to grab that detail.

43

44 MS. DEFALCO: More than ten square feet?

45

46 MR. RIZZO: Definitely.

47

48 MR. LICATA: Yes.

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MS. DEFALCO: Okay so I would think it falls under the C1.

MR. GLASS: C1, I would agree.

MR. PLOSKONKA: So it would be a C1?

MS. DEFALCO: C1 yes.

MR. PLOSKONKA: Yes.

MR. RIZZO: Mr. Licata I actually have one more question.

MR. LICATA: Sure.

MR. RIZZO: When you began did you mention the type of application that you're actually seeking? Is it a minor site plan or did you submit for a major?

MR. PLOSKONKA: I think there's some confusion as to the word site plan because this is just for variance for the sign. There's really no site plan.

MR. LICATA: It's truly just a variance application and the pylons themselves are not changing nor is any other physical feature of the site or any improvement other than the actual box and faces of the bottom most sign.

MR. RIZZO: Okay thank you.

MR. LEVITON: The footprint doesn't change. All that's changing is you've got a spatic sign that's going to become digital and it's actually reduced in size.

MR. LICATA: Correct.

MR. LEVITON: Anything further from the board? Then at this time I'm going to go out to the public and ask is there anyone that has a question pertaining to this application.

MR. RIZZO: We're going to need the exact square footage.

MR. PLOSKONKA: I'll provide that to you. I'll provide that to you. I know it's in front of me.

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MR. LICATA: Why don't you refer to your plan? The top portion, no that's the same as that. Do you have your ruler?

MR. PLOSKONKA: I just think that the sign is at eighty square feet.

MS. BELL: So is it larger than eighty or less than eighty?

MR. PLOSKONKA: I think it's about eighty square feet from what I can tell from this point.

MR. LEVITON: Let's assume that it's greater than eighty square feet.

MS. DEFALCO: Yeah.

MR. LEVITON: Englishtown Auction Sales needs.

MS. DEFALCO: Given that they're on the scale right?

MR. PLOSKONKA: Correct.

MS. DEFALCO: I'm looking at the picture the top sign does look bigger.

MR. ROSENTHAL: It does look bigger than the forty. I'm guessing at a worst case it's about eighty may be closer to sixty.

MS. DEFALCO: I agree with the chairman. I think you should just request it and if it's less you're okay.

MR. LICATA: We are we so make that request.

MR. LEVITON: Okay so anything further from the board then? None so I'll go out to public and I'll ask if there's anyone in attendance who wants to ask Mr. Licata a question or cross-examine the testimony offered by either Ms. Coffin or Mr. Ploskonka. Seeing none I'll close public and I'll go to Mr. Glass one last time and ask our attorney if there's anything that he requires further before we call for a vote.

MR. GLASS: No just so everyone's clear then the fifth variance being requested, we're proceeding that this is

1 a G1 type of sign that exists that is being augmented in which
2 case the ordinance permits a maximum permitted area of up to
3 eighty square feet so the applicant will be requesting relief
4 from that and just to clarify what was noted in the review
5 letter as a G1 sign the applicant's requesting a seven foot
6 variance relief from the front yard setback, twenty to
7 thirteen.

8

9 MR. LEVITON: Thank you Mr. Glass. Will someone make
10 a motion?

11

12 MR. DITOTA: I'll make the motion to approve.

13

14 MR. LEVITON: Thank you Mr. DiTota.

15

16 MR. ROSENTHAL: I'll second.

17

18 MR. LEVITON: Thank you Mr. Rosenthal.

19

20 **ROLL CALL:**

21

22 MS. MOENCH: Mr. Gregowicz?

23

24 MR. GREGOWICZ: Yes.

25

26 MS. MOEMNCH: Mr. DiTota?

27

28 MR. DITOTA: Yes.

29

30 MS. MOENCH: Mr. Rosenthal?

31

32 MR. ROSENTHAL: Yes.

33

34 MS. MOENCH: Mr. Schertz?

35

36 MR. SCHERTZ: Yes.

37

38 MS. MOENCH: Chair Leviton?

39

40 MR. LEVITON: Congratulations Mr. Licata.

41

42 MR. LICATA: Thank you for your time, attention, and
43 assistance, thank you.

44

45 MR. LEVITON: Of course the board will adopt a formal
46 resolution at an upcoming meeting, our next upcoming meeting
47 which will be on the 15th. Englishtown Auction Sales won't need
48 to be here nor do they need to be represented and Ms. Moench

1 will send out confirmation of such at that time. Okay does
2 anyone need a break before we call our next application?
3 Alright then next up is number ZBE2221 RST Corporation Scalps
4 Micropigmentation and from the law firm of Heilbrunn and Pape,
5 Mr. Ken Pape returns. Hello sir.

6
7 MR. PAPE: Good evening.

8
9 MR. LEVITON: Very nice to see you.

10
11 MR. PAPE: Thank you.

12
13 MR. LEVITON: Welcome back.

14
15 MR. PAPE: You're welcome.

16
17 MR. LEVITON: You're welcome. Hello sir.

18
19 MR. ASHER: How are you?

20
21 MR. LEVITON: I'm well. Mr. Pape who have you brought
22 with you tonight?

23
24 MR. PAPE: Mr. Chairman, Alex Asher is the principal
25 of Scalps Micropigmentation and will be the first witness.
26 Michael Tarrentill who is the owner of the building is here. I
27 do not intend to call Mr. Tarrentill, but he is here and
28 there's a planner named Allison Coffin who has offered to help
29 us out with the planning testimony.

30
31 MR. LEVITON: So convenient. Welcome Mr. Asher how
32 are you sir?

33
34 MR. ASHER: Good.

35
36 MR. LEVITON: Mr. Glass our attorney will swear you
37 in.

38
39 MR. GLASS: And just before we do that, this is a use
40 application the board as you can tell a little light even
41 though it actually looks like we're full up here, but there
42 are five board members present tonight and the use application
43 requires five affirmative votes so you would need an unanimous
44 board or just that everyone is on the same page. It's my
45 understanding that the applicant understands that and is
46 willing to proceed, but I will swear the applicant in and then
47 if we could have one of you just acknowledge that on the
48 record. So please raise your right hand. Do you swear or

1 affirm that the testimony you're about to provide is the
2 truth, the whole truth, and nothing but the truth?

3

4 MR. ASHER: Yes sir.

5

6 MR. GLASS: Thank you.

7

8 MR. PAPE: Mr. Chair, board members, and board of
9 professionals Kenneth Pape from the firm Heilbrunn Pape. It is
10 my privilege and my responsibility to represent Alex Asher
11 this evening. Before we go into the substantive presentation I
12 would ask if you could confirm you've received our notices and
13 confirm that the board has taken jurisdiction.

14

15 MR. LEVITON: I will confirm that we've received your
16 notices. Mr. Glass have you reviewed the noticing?

17

18 MR. GLASS: Yes.

19

20 MR. LEVITON: Do we have Jurisdiction

21

22 MR. GLASS: The notice is proper.

23

24 MR. LEVITON: We have jurisdiction.

25

26 MR. PAPE: Thank you.

27

28 MR. LEVITON: Okay.

29

30 MR. PAPE: And I would also like to point out that we
31 have a court reporter with us this evening. We will provide a
32 transcript of this hearing to the board and to the board's
33 professionals. The purpose of having the court reporter is
34 multiple, didn't know if you were going to have five or six
35 wasn't sure. If we may Mr. Chair I'd like to make the
36 presentation to you and before we make a decision about voting
37 I would ask if we could have just a very brief recess where I
38 could consult the property owner and the applicant, an
39 acceptable procedure?

40

41 MR. LEVITON: Absolutely Mr. Pape I will go further
42 and tell you that I'll take a straw poll for you.

43

44 MR. PAPE: And that is a very nice courtesy Mr.
45 Chair.

46

47 MR. LEVITON: It's in the interest of saving time.

48

1 MR. PAPE: There's some boards that do it as a matter
2 of course and it scares me to death, but tonight a polling is
3 a very nice thing. If I may what Mr. Asher does for a living
4 is a unique and very valuable service. He provides
5 micropigmentation for medical purposes primarily to help
6 people restore their self-esteem. He has the ability to with
7 micropigmentation, insertion below the skin, similar to
8 tattooing, but different, he's able to create hairlines and
9 make it appear as if people have their hair restored. He's
10 able to disguise scars and for women who have had cancer
11 surgery he's able to restore parts of their breasts. These are
12 important services that he has been providing. He's licensed.
13 He has been so licensed for seven years. He began in Florida.
14 He came to New Jersey recently. He has been in Princeton for
15 one year and is most excited about establishing permanent,
16 long-term position in this building. I'm going to allow him to
17 describe what he does. He does it so very well and he has also
18 brought some really wonderful illustrations of his work.
19 You'll hear that his primary source of referrals are from
20 medical professionals who have found that what they're doing
21 hair transplants and the likes were not successful and they
22 sent people to him where he has been able to provide a very
23 valuable service. He's looking to rent 1,800 square feet in
24 the existing building. Mr. Tarrentill and I have the privilege
25 twenty years ago sitting right here asking this board for
26 permission to build the building. It used to be a Flower Time.
27 I don't know if anyone goes back that far, but there's a
28 Flower Time that we took down, built a two-story building. On
29 the first floor it's retail, there's three tenants there, two
30 of them have been there the whole twenty years; that's the
31 Sylvan Pool and the hair salon. There's a physical therapist
32 that's been there for about seven years. Every single tenant
33 has been fully CO'ed and upstairs we have the physical
34 therapist's office. We have three other tenants. There's a
35 jewelry designer, a vacant space that this gentleman is most
36 anxious to fill, and a lawyer. There is 76 parking stalls that
37 were approved by the board and exist and you'll hear that the
38 parking has never been an issue. In fact a very nice
39 relationship between Mr. Tarrentill and the Freeman Funeral
40 Home as he has always said if you need my extra spaces for
41 special reasons they're always yours because there's always
42 been extra spaces on the property. If I could I think that I'd
43 like to have Mr. Asher describe what he does. I'm going to
44 guide him with some questions and then ask him to --- Do you
45 have the photos?

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MR. ASHER: Yeah.

1 MR. PAPE: Alright I think that would be very
2 important.

3
4 MR. LEVITON: Mr. Asher when you bring the photos up
5 if you'll give them to the board secretary Ms. Moench she'll
6 mark them and then she'll pass them around so that we can see
7 them.

8
9 MR. PAPER: Probably we start the witness with those
10 very valuable pictures. The pictures that will be shared with
11 you show people who have had hair loss and either no success
12 or failed success at hair replacement and then with each one
13 there is a photo of what can be done using micropigmentation.
14 I think the photos are dramatic and tell the story. So we have
15 three separate patients.

16
17 MR. ASHER: Should be three I believe. ---

18
19 MR. PAPE: After they're marked off I'll retrieve
20 them briefly just so we pass them correctly. Do you think you
21 can share with the board members that you are a licensed
22 professional and that you've maintained your license in the
23 state of New Jersey.

24
25 MR. ASHER: Yes I am board certified which is
26 required for micropigmentation in the state of New Jersey.

27
28 MR. PAPE: And for how long have you been so
29 certified?

30
31 MR. ASHER: It's been one year now since it's
32 required in New Jersey, not required in the state of Florida.

33
34 MR. PAPE: Okay. I think we'll go right to A1 and A2.
35 If you could describe what's in A1 when you pass it and then
36 you'll describe your work in A2.

37
38 MR. ASHER: Sure. So A1 is a young man, 24-years-old,
39 that went through hair transplant surgery. What he was left
40 with was an unsuccessful transplant so the hair on the top did
41 not grow in and what he was left with was the scarring left
42 behind from the surgery. There is no remedy for this kind of
43 scarring. The only remedy that exists today is scalp
44 micropigmentation.

45
46 MR. PAPE: So I'll pass that one and why don't you
47 describe A2.

48

1 MR. ASHER: A2 is the after shot of what it would
2 look like for this gentleman after scalp micropigmentation is
3 done.

4
5 MR. PAPE: This is your work?

6
7 MR. ASHER: Correct.

8
9 MR. PAPE: A2 is the micropigmentation success? So
10 in A3 this one appears to have two pictures, if you could
11 describe them to the board?

12
13 MR. ASHER: So this is the same gentleman as you can
14 see the top of his hair was the failed transplant which forced
15 him to now keep the hair in his back short because you're not
16 going to have short hair on the top and then long hair. Here
17 which definitely then exposed the scarring from the hair
18 transplant. So he was left with this situation which obviously
19 puts him in a situation where self-esteem and depression kind
20 of sets in when you're a young man going through hair loss.

21
22 MR. PAPE: And I think A4 if you would with the same
23 care describe what's happening in A4.

24
25 MR. ASHER: Sure.

26
27 MR. LEVITON: Just a second Mr. Asher before we look
28 at A4 which is a different subject, would you say that the
29 pictures A1 through A3 are unaltered or digitally enhanced?

30
31 MR. ASHER: Unaltered.

32
33 MR. LEVITON: Okay, continue sir.

34
35 MR. ASHER: This lady, Melanie, suffering from
36 autoimmune disease which attacked her hair, not much she can
37 do except for hair transplant which decided not to do. So
38 again this is just a cosmetic procedure. This is not
39 implanting hair or regrowing hair, but it does help mask the
40 situation that she's in.

41
42 MR. PAPE: And is the lower picture a picture of the
43 same woman with your artwork?

44
45 MR. ASHER: Correct.

46
47 MR. PAPE: I think the question of the Chair should
48 be repeated. These are not altered in any way?

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MR. ASHER: Correct.

MR. PAPE: If you could maybe talk a little bit about what you do. How long does it take for you to service one of your clients?

MR. ASHER: It could take anywhere between three to six hours.

MR. PAPE: And the typical day for you would be how many people could you service?

MR. ASHER: Usually it would be one customer per day at max it would be two customers per day.

MR. PAPE: And currently are you the only person providing this service? In this rental property would you be the only person providing the service?

MR. ASHER: Yes.

MR. PAPE: And currently where you are in Princeton, do you have any employees?

MR. ASHER: No.

MR. PAPE: So you function without a receptionist?

MR. ASHER: Yes.

MR. PAPE: If your business were to grow and to be successful in this space do you envision that there could be some growth?

MR. ASHER: Possibly one other artist and at worst a receptionist.

MR. PAPE: So you're making a commitment to the board that if they're comfortable granting this relief it's one artist, you, and potentially a second, and one employee?

MR. ASHER: Correct.

MR. PAPE: So a maximum of three people working?

MR. ASHER: That's correct.

1 MR. PAPE: And one or two people per day?

2

3 MR. ASHER: At max, yeah.

4

5 MR. PAPE: I found it very interesting that you
6 shared with me how exhausting this work is. If you could just
7 describe to the board the nature of the work that you do, I
8 wanted to make a point that you don't jump up from one table
9 and go right to the next person. If you could just describe
10 what you described to me.

11

12 MR. ASHER: Yeah so I have to go through a lot of
13 physical therapy myself for my back. It is very tolling on the
14 body so even if time permitted I would not be able to do more
15 than two clients per day.

16

17 MR. PAPE: And if I have one person there for service
18 is there another person sitting in the waiting room waiting or
19 is it strictly by scheduled appointments?

20

21 MR. ASHER: No it would be by scheduled appointment
22 only.

23

24 MR. PAPE: The number of days in the week that you
25 intend to work?

26

27 MR. ASHER: Five days.

28

29 MR. PAPE: And your typical hours or hours that you
30 would commit for your business operation?

31

32 MR. ASHER: Typically we'll take our first client
33 11:00 o'clock and if there's a second client we'll take him at
34 4:00 o'clock.

35

36 MR. PAPE: And I think it's important to share with
37 the board that you would agree to be flexible to work with
38 clients who have time requirements?

39

40 MR. ASHER: Correct.

41

42 MR. PAPE: Are you an insured business?

43

44 MR. ASHER: Yes.

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46 MR. PAPE: So you're licensed and you're insured and
47 you currently are working. Your business is currently in
48 Princeton?

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MR. ASHER: Yes.

MR. PAPE: I made a statement on your behalf, but I ask if you could confirm it that your typical client is a referral from medical practionists whose services were not the appropriate or successful ones and they would then send them to you?

MR. ASHER: Correct the majority.

MR. PAPE: You anticipate that that would continue?

MR. ASHER: Yes.

MR. PAPE: There are materials that you use that at the end of the day would have to be disposed of. Do you follow medical waste disposal procedures?

MR. ASHER: Yeah we have a sharps container.

MR. PAPE: And you have all the materials stored properly and disposed of properly?

MR. ASHER: Correct.

MR. PAPE: That does not go into a standard trash on the property?

MR. ASHER: Correct.

MR. PAPE: How would you, I think everyone has this a matter of curiosity, how would you describe to the board the difference between what you're doing and what a tattoo artist is doing? What's the difference?

MR. ASHER: I think the majority of what we do, look at its core what we do, it's a cosmetic procedure, but the foundation of why we do it is just to restore the confidence of people. It's not for art purposes it's really look hair loss today takes a significant toll on people. In society, the way it's accepted especially when you're younger so this is not for art purposes. If you're talking about general terms, a tattoo artist obviously goes deeper into the skin for art. We aim for a much shallower place in the skin which makes it semi-permanent not permanent to allow it to fade over time, but those are really the main differences between the two.

1 MR. PAPE: If this board had a comfort level with
2 what you're asking and was looking for assurances that you
3 would not modify your business in any way to provide the
4 typical tattoo procedures or tattoo services, are you
5 comfortable accepting those restrictions?
6

7 MR. ASHER: I don't think anybody would allow me to
8 tattoo them, very different practices. Tattoo artists is
9 generally not successful at doing this and I would not be
10 successful as a tattoo artist.
11

12 MR. PAPE: I think I left out in addition to the hair
13 loss; you're also able to disguise scars. Very briefly, Alex
14 brought with him some more pictures of scars being disguised.
15 I think they were a little too harsh so we left them out of
16 the --- Are you able to disguise scars with this method?
17

18 MR. ASHER: Yes.
19

20 MR. PAPE: Okay so that Mr. Chair and board members
21 is the description of what Alex Asher is asking for permission
22 to do at the property. He's looking to do in one of the second
23 floor offices, 1,819 square feet. There's a layout that was
24 done by an architect in showing how the space would be set up
25 and we would stipulate to that being the floor plan and all of
26 the representations that he has made would all be stipulations
27 that he finds acceptable. I look to you as the proceeding; I
28 do have the necessary planning testimony from Allison
29 available when you're ready.
30

31 MR. LEVITON: Well Mr. Pape it's a use variance and I
32 think it's important that Ms. Coffin puts on the record that
33 there's no substantial harm to the master plan and also she
34 talks about suitability, site suitability. It's a use variance
35 and then Ms. Bell can have at her.
36

37 MS. BELL: Mr. Pape could I ask a question?
38

39 MR. PAPE: Surely.
40

41 MS. BELL: Just quickly. You testified that you see
42 your first client at 11:00 and if you have a potential second
43 client you would see them at 4:00. What would be your end
44 time?
45

46 MR. ASHER: Usually about 8:00 o'clock.
47

1 MS. BELL: So you would start a six hour patient at
2 4:00PM?

3
4 MR. ASHER: Right, yeah. Generally if it's just the
5 top it's about four hours. If it's combined with a scar and
6 the top it's generally about six hours.

7
8 MR. RIZZO: Mr. Asher do you expect to have the same,
9 do you call them clients or patients?

10 MR. ASHER: Yeah either is fine.

11
12
13 MR. RIZZO: Do you expect to see the same person over
14 and over? It's not permanent --- customers?

15
16 MR. ASHER: The procedure lasts about four to six
17 years so they would need to come back for a touch up every
18 four to six years.

19
20 MR. RIZZO: Okay and then do you anticipate doing any
21 training on site or another artist or anything like that?

22
23 MR. ASHER: I mean if we were to bring on another
24 artist in the future then we would be doing training for him,
25 yes.

26
27 MR. RIZZO: Okay. I think that's all I have for right
28 now thank you.

29
30 MR. LEVITON: Board members, Rob, Bob?

31
32 MR. GREGOWICZ: Yeah I have a few questions. First
33 for Nancy, this township ordinance that if I'm correct
34 prohibits tattoo parlors.

35
36 MS. DEFALCO: That's correct.

37
38 MR. GREGOWICZ: Okay.

39
40 MS. DEFALCO: In certain zones.

41
42 MR. GREGOWICZ: Just do I'm clear then what is the
43 difference between the micropigmentation and the tattoo?

44
45 MR. ASHER: The equipment is specialized. The needles
46 are different. It's just a one prong needle and we don't use
47 ink like tattoos. It's pigment which is natural to our bodies.

48

1 MR. GREGOWICZ: You also mentioned you had an artist.
2 What does the artist do?

3
4 MR. ASHER: Well we call ourselves.

5
6 MR. GREGOWICZ: In addition you had said that there
7 was an artist maybe that's why I was a little confused with
8 the artist because you didn't refer to yourself as an artist
9 at first.

10
11 MR. ASHER: Yeah so it can be practitioner, artist.

12
13 MR. GREGOWICZ: And they're licensed also just like
14 you?

15
16 MR. ASHER: I am the only artist there.

17
18 MR. PAPE: There's a potential of a second.

19
20 MR. GREGOWICZ: And they would be licensed also?

21
22 MR. ASHER: Necessarily yes.

23
24 MR. GREGOWICZ: That's all I have at this time.

25
26 MR. LEVITON: Thank you Bob, David.

27
28 MR. SCHERTZ: I haven't heard any comments or
29 testimony regarding any of the criteria for the D1 variance.

30
31 MR. LEVITON: Ms. Coffin is going to come up. There
32 are a couple of existing non-conformities she'll speak to all
33 of them and she'll put those things on the record.

34
35 MR. SCHERTZ: Okay that's it.

36
37 MR. LEVITON: Rob?

38
39 MR. DITOTA: There's other medical practices in that
40 building right?

41
42 MR. PAPE: In the building currently? The current
43 tenant base on the first floor there's a physical therapist
44 that's been there for about six or seven years. There's a hair
45 salon, it's been there since day one for approximately twenty
46 years. There's the Anthony and Sylvan pool.

47
48 MR. DITOTA: Oh okay.

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MR. PAPE: That's been there from day one. When you go upstairs there is a jewelry designer. The person designs custom jewelry. A physical therapist maintains their offices, their back room offices and there's the another one.

MR. DITOTA: So there's another medical facility in that building?

MR. PAPE: I guess, a physical therapist.

MR. DITOTA: Physical therapist yeah. I have no other questions.

MR. RIZZO: Mr. Pape you don't have to take any additional garbage other than what can fit in the existing enclosure outside correct?

MR. PAPE: Do you generate much garbage?

MR. ASHER: We generate just the normal daily trash from food, whatever we consume.

MR. RIZZO: You'll be permitted to use the same enclosure that's there that I'm sure most of the other tenants.

MR. PAPE: The dumpster on site would be used, but not the medical waste. It would be separately collected and removed.

MR. RIZZO: And are you proposing a new sign?

MR. PAPE: We don't have a new sign. We would though --- to find. The building has an identification. I believe the building has identification and his sign should be internal.

MR. RIZZO: Okay.

MR. LEVITON: Okay thank you Mr. Asher.

MR. ASHER: Thank you.

MR. PAPE: Calling Ms. Coffin.

MR. LEVITON: Ms. Coffin testified for the last applicant and she's returning. We accept her credentials, but you can swear her in.

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MR. GLASS: Yes. Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth, and nothing but the truth?

MS. COFFIN: Yes I do.

MR. GLASS: Thank you.

MR. PAPE: So Ms. Coffin the same question that Mr. Licata asked you. I think it's a very, very appropriate beginning. What did you do to be prepared this evening? What did you do so that you can present these facts and opinions to the board?

MS. COFFIN: I reviewed the application materials. I looked at the applicant's current business website for the before and after shots to see what exactly kind of work he did. I visited the site. I reviewed the professionals' reports and I discussed it with the applicant.

MR. PAPE: I'm going to ask if you would in a narrative presentation identify the facts as you know them and relied upon and take us through the proofs and share with us your opinion.

MS. COFFIN: Sure. The site that we're looking at tonight is a 1.27 acre through lot between Route 9 northbound and Franklin Lane. This site is fully developed with a multi-tenanted two story commercial building. The applicant is requesting approval to occupy a tenant space in this building with a unique use that is a medical micropigmentation facility which it does primarily work on scalps as well as some other services such as scar camouflage. The site's located in the C3 general commercial zone. This is not a permitted use in this zone so a D1 variance is being requested by the applicant. The applicant proposes no physical changes to the site so there's no bulk variance relief that's being requested with this application. It is my opinion that special reasons exist for the granting of the requested variance and the variance can be granted with no detriment to the health, safety, and general welfare of the public. The proposed use advances the municipal land use law in this instance in that this site is particularly suited to the proposed use. At this time, the ordinance in Manalapan does not address this proposed use in specific terms at all, either by permitting it in an appropriate zone or by prohibiting it. A medical and cosmetic micropigmentation is an unusual use that is not often

1 anticipated in an ordinance so it's not surprising that it's
2 not addressed here. The use operates much like a personal
3 service use. The use operates by an appointment-only schedule.
4 The hours are similar to personal service uses like a salon.
5 The parking and traffic is actually less. There's only at most
6 three employees when he grows to his maximum and at most two
7 clients present on site so five parking spaces for this
8 facility. Clients often stay for hours for their procedures so
9 there's not a lot of traffic volume coming and going
10 throughout the business hours. Therefore it's my opinion as a
11 planner that this is a use that is best located in zones which
12 were intended to accommodate personal service uses and other
13 commercial uses. The subject's site is located in such a zone.
14 It's already developed with a mixed use commercial building.
15 It's a multi-tenanted structure that is ideal for locating the
16 proposed medical micropigmentation use and the site itself can
17 accommodate the limited parking that's associated with this
18 use. It is my opinion that there is no detriment to this use
19 variance as its being proposed for the board tonight. The use
20 is an ideal tenant for a multi-tenanted commercial structure
21 on this site. The parking and traffic demand is very low so it
22 will not harm how the overall parking arrangement functions on
23 this property. The use is quiet. It does not generate a
24 significant amount of trash. The hours are consistent with
25 normal business hours for a personal service use and the use
26 requires no physical or aesthetic changes to the property
27 therefore it's my opinion that there is no detriment that
28 would result from the granting of this variance. Approval of
29 this variance would not be inconsistent with the intended
30 purpose of the master plan and zoning ordinance. The use is
31 not anticipated in the zoning ordinance and master plan, but
32 it's so similar in operations to some of the permitted uses in
33 the zone that it makes sense to allow it in this location as
34 it's similar in impact, permitted uses and it's typically
35 where it would exist in other places located in this sort of
36 retail commercial development there is no detriment that would
37 result from permitting the use at this location.

38

39 MR. PAPE: Does that conclude your presentation?

40

41 MS. COFFIN: Yes it does.

42

43 MR. PAPE: I thank you Mr. Chair that concludes that
44 applicant's direct presentation my summation will be less than
45 ninety seconds when the opportunity arises.

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47 MR. LEVITON: Thank you Mr. Pape, Ms. Bell.

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1 MS. BELL: I would agree with Ms. Coffin. I believe
2 that this application meets the criteria for a D1 use
3 variance. It is similar to other personal service uses or even
4 more similar to a medical office use than it would be to your
5 typical tattoo parlor and I think that because personal
6 service uses are permitted in this zone this seems to be a
7 good place for it. It would have no substantial detriment to
8 the zoning plan or master plan.

9

10 MR. LEVITON: Thank you Ms. Bell, Terry question.

11

12 MR. ROSENTHAL: None

13

14 MR. LEVITON: David?

15

16 MR. SCHERTZ: I'm satisfied.

17

18 MR. LEVITON: Robert.

19

20 MR. DITOTA: I'm satisfied.

21

22 MR. LEVITON: At this time I'm going to go out to the
23 public and ask if there's anyone in attendance who wants to
24 ask Ms. Coffin or Mr. Asher or Mr. Pape a question. Seeing
25 none I'll close public.

26

27 MR. GLASS: I just have one. I guess there was a
28 comment made earlier I guess. There's three variances listed
29 which I have no issue with them, but in the prior resolution
30 of approval the site would require 88 parking spaces. There
31 are currently 76 I think is the number so if we could just
32 have some testimony that that number is not changing so I'm
33 not saying you need relief, but the relief that was granted
34 before isn't changing at all. It's going to stay at 76 parking
35 spaces and then just to the extent you have discussed earlier
36 although the relationship with the funeral home is good, the
37 board cannot consider it for purpose of the parking relief
38 unless there was something formal, but it is obviously nice to
39 hear that.

40

41 MR. LEVITON: Two good catches. Mr. Glass good for
42 you.

43

44 MR. PAPE: There is no change to the site. It has 76
45 stalls. The 76 stalls will remain, 1,819 square feet is the
46 total rental area. The total building is something just north
47 of 18,000 square feet counting the vestibules and the
48 hallways. The parking ratio is for roughly a little over four

1 spaces per thousand. This business if it had three employees
2 and it had two people would use five stalls so that five
3 stalls is well within the parking it would have been allocated
4 to this space. We anticipate it would be adequate, continue to
5 be adequate and there is no change.

6

7 MR. LEVITON: Thank you Mr. Pape and you were witness
8 to the copious notes taken by our attorney. Mr. Glass will
9 include if the board grants the use variance the stipulation
10 that the business never morphs into a tattoo parlor and having
11 said that let's just see how you feel about this application
12 because we are just five numbers tonight board.

13

14 MR. GLASS: And then just was the applicant making a
15 representation that there would be no more than three
16 employees. Would that also be a condition of approval or was
17 that just a general?

18

19 MR. PAPE: No Mr. Glass we're comfortable with all of
20 these. There would be no more than three employees. There
21 would be no more than two artists and the artists would always
22 be licensed as micropigmentation artists. All of that criteria
23 is accepted.

24

25 MR. GLASS: Alright thank you.

26

27 MR. LEVITON: Thank you for your legal acumen sir and
28 your thoroughness. Mr. Rizzo is there anything further from
29 you?

30

31 MR. RIZZO: No I appreciate you answering all the
32 questions, thank you.

33

34 MR. LEVITON: And Ms. Bell?

35

36 MS. BELL: Nothing further.

37

38 MR. LEVITON: So let's just give the applicant a feel
39 for how we feel about the application. Rob?

40

41 MR. DITOTA: So you're asking for a nod yes or no?

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43 MR. LEVITON: Yeah do you have any problems with the
44 testimony?

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46 MR. DITOTA: I have no problems.

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48 MR. LEVITON: David?

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MR. SCHERTZ: All my concerns were answered.

MR. LEVITON: And Bob?

MR. GREGOWICZ: I just have concerns because the township has an ordinance that establishes in regards to tattoos and I know he explained exactly what he does, but he kept referring to the word artist, the artists and there's a reason that the township has that ordinance in place so I'm not too sure.

MR. LEVITON: So you understand, if you're not too sure he's going to ask to come back when there's a fuller board and our other members will have to listen to the testimony or read the transcript the court reporter is making and then they'll take their chances, yeah.

MR. GLASS: I would just say I don't know there were any further questions though that you feel that the applicant or the professional could answer the questions you have.

MR. GREGOWICZ: Would he testify to that would be the only type of services that would be offered? He wouldn't expand his business to tattooing.

MR. LEVITON: We're going to make a condition.

MS. BELL: I think he agreed to make those all conditions of approval that it would only be the micropigmenting. There would be no opportunity for it to morph into a tattoo parlor in the future.

MR. PAPE: The persons who provide the service must be licensed as micropigmentation professionals.

MR. GREGOWICZ: Okay.

MR. PAPE: There's no interest in that.

MR. LEVITON: The testimony included a difference in the way the service is provided. It's not ink, its natural pigmentation. It's a single needle. He said that it's not as deep as a tattoo and no ink.

MR. PAPE: No ink.

1 MR. LEVITON: No ink and he's agreed to not morph
2 into a tattoo to never give tattoos.

3
4 MR. GREGOWICZ: Can we make that a condition?

5
6 MR. LEVITON: It's definitely going to be a
7 condition.

8
9 MR. GLASS: It will be and it will be written into
10 the resolution in an appropriate way that protects the
11 township and the board to the extent that if the board grants
12 the approval.

13
14 MR. LEVITON: And Bob we don't usually take straw
15 polls, but with only five of us to get the D1 variance he
16 needs all of us to vote yes. He's not going to take a chance
17 unless you say yeah I get it and I don't think there'll be
18 tattoos there and I'm okay now.

19
20 MR. GREGOWICZ: No if that's going to be stipulated
21 that it won't go in that direction then I'll be fine.

22
23 MR. LEVITON: Terry?

24
25 MR. ROSENTHAL: I'm good.

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27 MR. LEVITON: I'm good. Mr. Pape you can summate if
28 you please.

29
30 MR. PAPE: Mr. Chairman, board members I think that
31 is one of the more unique applications that I've had the
32 opportunity to present to. I'm fascinated that this man has
33 the skill. I'm thrilled that he's looking to bring it here and
34 with all of the stipulations and representations that he's
35 made to, we ask the board to consider the D1 relief in the
36 affirmative.

37
38 MR. LEVITON: Mr. Glass do you require anything
39 further?

40
41 MR. GLASS: No I think that's sufficient.

42
43 MR. LEVITON: Then will someone make a motion?

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45 MR. ROSENTHAL: I'll make a motion to approve.

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47 MR. LEVITON: Thank you Mr. Rosenthal and will
48 someone second it?

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MR. DITOTA: I'll second it.

MR. LEVITON: Thank you Mr. DiTota.

MS. MOENCH: I'm sorry I heard Terry make the motion.

MR. LEVITON: And Rob seconded it.

MS. MOENCH: And Rob second, okay.

MR. LEVITON: Are we good ladies? Everything's good?

MS. MOENCH: Yes.

MR. LEVITON: Okay.

ROLL CALL:

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. DiTota?

MR. DITOTA: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes congratulations to you Mr. Asher, Mr. Tarrentill, Mr. Pape. Thank you Ms. Coffin.

MS. COFFIN: Thank you.

MR. PAPE: Mr. Chairman to you and to all board members thank you for the kind consideration this evening.

MR. LEVITON: You're welcome sir. We will adopt that resolution on the 15th. You won't need to be here and good luck to everyone going forward.

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MR. PAPE: Thank you.

MR. LEVITON: Okay thank you to the court reporter. Thank you to Ms. Bell and Mr. Rizzo and as always thank you to Ms. DeFalco and to Mr. Glass and to Janice Moench. Will someone move to adjourn? Always good to see you Mark, everybody wave goodbye to Mr. Lawsman and will someone move to adjourn?

MR. DITOTA: I'll make the motion.

MR. LEVITON: Thank you Rob. Janice anything else?

MS. MOENCH: Public.

MR. LEVITON: Oh I'm going to go out to the public and see if there's anyone who wants to address the board regarding non-agenda items. Seeing none I'm going to close public and we're going to accept Mr. DiTota's motion to adjourn and Mr. Gregowicz's second and we wish everyone well.

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