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MEETING IS CALLED TO ORDER:

MR. LEVITON: Alright then I will call the meeting to order and ask everyone to stand for the flag salute.

SALUTE TO THE FLAG

MR. LEVITON: Okay just we have to take care of perfunctory matters and tonight it's an honor to ask the board's attorney Mr. Glass to swear in its newest member.

MR. GLASS: If you could just do the Open Public Meetings Act notice first.

MR. LEVITON: Of course I will. 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 and is on file in the office of the municipal clerk. Accordingly this meeting is deemed in compliance with the Open Public Meetings Act, thank you counselor.

MR. GLASS: Alright. Mr. how do you pronounce your last name?

MR. POCHOPIN: Pochopin.

MR. GLASS: Pochopin, alright. Will you please raise your right hand and then repeat after me? We'll do it in kind of piecemeal fashion. I, Daniel Pochopin, do solemnly swear or affirm.

MR. POCHOPIN: I Daniel Pochopin, do solemnly swear and affirm.

MR. GLASS: That I will support the Constitution of the United States.

MR. POCHOPIN: That I will support the Constitution of the United States.

MR. GLASS: And the Constitution of the State of New Jersey.

1 MR. POCHOPIN: And the Constitution of the State of
2 New Jersey.

3
4 MR. GLASS: That I will bear true faith and
5 allegiance to the same.

6
7 MR. POCHOPIN: That I will bear true faith and
8 allegiance to the same.

9
10 MR. GLASS: And to the governments established in the
11 United States and in this state.

12
13 MR. POCHOPIN: And to the governments established in
14 the United States and in this state.

15
16 MR. GLASS: Under the authority of people.

17
18 MR. POCHOPIN: Under the authority of people.

19
20 MR. GLASS: And that I will faithfully, impartially,
21 and justly perform all the duties of the office.

22
23 MR. POCHOPIN: And that I will faithfully,
24 impartially, and justly perform all the duties of the office.

25
26 MR. GLASS: Of the Manalapan Township Zoning Board of
27 Adjustment alternate number two member.

28
29 MR. POCHOPIN: Of the Manalapan Township Zoning Board
30 of Adjustment alterate number two member.

31
32 MR. GLASS: According to the best of my ability.

33
34 MR. POCHOPIN: According to the best of my ability.

35
36 MR. GLASS: Thank you very much, congratulations.

37
38 MR. LEVITON: Congratulations Dan.

39
40 MR. POCHOPIN: Thank you.

41
42 MR. MANTAGAS: Well done Dan.

43
44 MR. LEVITON: A roll call please.

45
46 **ROLL CALL**

47

1 MS. MOENCH: Mr. Gregowicz is not with us. Mr.
2 DiTota?
3
4 MR. DITOTA: Here.
5
6 MS. MOENCH: Mr. Rosenthal?
7
8 MR. ROSENTHAL: Here.
9
10 MS. MOENCH: Mr. Schertz?
11
12 MR. SCHERTZ: Here.
13
14 MS. MOENCH: Mr. Shalikar?
15
16 MR. SHALIKAR: Here.
17
18 MS. MOENCH: Mr. Weiss?
19
20 MR. WEISS: Here.
21
22 MS. MOENCH: Mr. Mantagas?
23
24 MR. MANTAGAS: Here.
25
26 MS. MOENCH: Mr. Pochopin?
27
28 MR. POCHOPIN: Here.
29
30 MS. MOENCH: Chair Leviton?
31
32 MR. LEVITON: Here.
33
34 MS. MOENCH: And Mr. Wechler is not with us. ---
35
36 MR. LEVITON: Our first order of business this
37 evening is to accept the minutes from September 15th. Will
38 someone make a motion to do that?
39
40 MR. WEISS: So moved.
41
42 MR. LEVITON: Thank you Mr. Weiss and will someone
43 second it?
44
45 MR. SHALIKAR: Second.
46
47 MR. LEVITON: Thank you Mr. Shalikar.
48

1 **ROLL CALL**

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MS. MOENCH: Mr. Schertz?

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MR. SCHERTZ: Yes.

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MS. MOENCH: Mr. Shalika?

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MR. SHALIKAR: Yes.

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MS. MOENCH: Mr. Weiss?

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13

MR. WEISS: Yes.

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MS. MOENCH: Mr. Mantagas?

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MR. MANTAGAS: Yes.

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MS. MOENCH: Chair Leviton?

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21

MR. LEVITON: Yes. Next up there are five resolutions to be memorialized this evening. Mr. Glass can we take them in total?

22

23

24

25

MR. GLASS: Well it looks like there's some different voting so I mean just because the different voting I would say no. It looks like one of the applications, yeah.

26

27

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29

MR. LEVITON: Schertz, Schertz was here for all of them and so was Shalika.

30

31

32

MR. GLASS: I would still say to do them separately.

33

34

MR. LEVITON: Alright then up first is ZBE2233, counselor.

35

36

37

MR. GLASS: This was an application for bulk variance relief. There were four variances granted. The first one, the fences shall not be erected, altered, or reconstructed within twenty-five feet of any streetline. The existing fence was located fifteen feet from the yard lot line. Fences shall not exceed three feet in height in the front yard. The existing fence was six feet in height. Minimum set backs for decks in the R20 zone is sixty feet from the front and fifty feet from the rear yard. The existing deck was fifty-seven feet and forty-five feet respectively. No extensions of the driveway shall be within ten feet of any property line. The existing

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1 driveway is two feet from the side yard lot line as well as
2 the restriction on illumination.

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4 MR. LEVITON: Thank you sir. Motion and second
5 please?

6

7 MR. WEISS: So moved.

8

9 MR. SCHERTZ: Second.

10

11 MR. LEVITON: Thank you Mr. Weiss. Thank you Mr.
12 Schertz.

13

14 **ROLL CALL**

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16 MS. MOENCH: Mr. Schertz?

17

18 MR. SCHERTZ: Yes.

19

20 MS. MOENCH: Mr. Shalika?

21

22 MR. SHALIKAR: Yes.

23

24 MS. MOENCH: Mr. Weiss?

25

26 MR. WEISS: Yes.

27

28 MS. MOENCH: Mr. Mantagas?

29

30 MR. MANTAGAS: Yes.

31

32 MS. MOENCH: Chair Leviton?

33

34 MR. LEVITON: Yes. Up next is ZBE2218.

35

36 MR. GLASS: This was also a bulk variance relief.
37 There were three variances in essence requested first. There
38 was variance relief granted. In this one where the front yard
39 set back is seventy-five feet, the set back is seventy feet
40 was approved, but a fence was constructed with a set back of
41 fifty-five feet. There was also a deck connected to the pool
42 that was located sixty-five feet from the front yard lot line
43 and a deck that was located three feet from the rear yard lot
44 line. In addition the fence was located within the seventy-
45 five foot set back as well as the fence --- six feet in height
46 whereas they are not permitted to exceed three feet in height.
47 The deck and enclosed porch exists eighteen feet from the rear
48 yard lot line and the enclosed porch exists twenty-six feet

1 from the rear yard lot lines whereas the minimum set back is
2 fifty feet. This application did have a condition of approval
3 where the board conditioned the approval on the replacement of
4 the fence along Jamestown Road and Stratford Drive with a new
5 fence that is code compliant.

6
7 MR. LEVITON: Thank you Mr. Glass. Motion and second
8 please.

9
10 MR. MANTAGAS: Motion moved.

11
12 MR. SCHERTZ: So moved.

13
14 MR. LEVITON: Thank you Mr. Mantagas and thank you
15 Mr. Schertz.

16
17 **ROLL CALL**

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19 MS. MOENCH: Mr. Schertz?

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21 MR. SCHERTZ: Yes.

22
23 MS. MOENCH: Mr. Shalika?

24
25 MR. SHALIKAR: Yes.

26
27 MS. MOENCH: Mr. Mantagas?

28
29 MR. MANTAGAS: Yes.

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31 MS. MOENCH: Chair Leviton?

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33 MR. LEVITON: Yes. Next up is 2227.

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35 MR. GLASS: This was also an application for bulk
36 variance relief. The existing deck is located forty-eight feet
37 from the rear yard set back whereas the requirement is that it
38 be located fifty feet from the rear yard set back.

39
40 MR. LEVITON: Thank you sir. Motion and second.

41
42 MR. WEISS: So moved.

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44 MR. LEVITON: Thank you Mr. Weiss.

45
46 MR. SCHERTZ: Second.

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48 MR. LEVITON: Thank you Mr. Schertz.

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ROLL CALL

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. Next up 2231.

MR. GLASS: Thank you also an application for bulk variance relief. The applicant has an existing fence in the front yard with a set back of 20.5 feet in the front yard lot line. The minimum required set back is twenty-five feet. In addition the fence in the front yard is four feet in height whereas fences shall not exceed three feet in height.

MR. LEVITON: Terry?

MR. ROSENTHAL: I don't think I can.

MR. LEVITON: Oh no you can't.

MR. ROSENTHAL: But thanks for asking.

MR. LEVITON: Motion and second please.

MR. SHALIKAR: So moved.

MR. MANTAGAS: Second.

MR. LEVITON: Thank you Josh. Thank you Basil.

MS. MOENCH: Josh and Basil right?

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MR. LEVITON: Yes.

ROLL CALL

MS. MOENCH: Okay, Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. The last resolution for memorialization is 2234.

MR. GLASS: Thank you the last application for bulk variance relief. The applicant sought approval to construct a four foot high fence in the zone fences shall not exceed three feet in height in a front yard.

MR. LEVITON: Gentlemen?

MR. WEISS: So moved.

MR. LEVITON: Thank you Mr. Weiss.

MR. MANTAGAS: Second.

MR. LEVITON: Thank you Mr. Mantagas.

ROLL CALL

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

1 MR. SHALIKAR: Yes.
2
3 MS. MOENCH: Mr. Weiss?
4
5 MR. WEISS: Yes.
6
7 MS. MOENCH: Mr. Mantagas?
8
9 MR. MANTAGAS: Yes.
10
11 MS. MOENCH: Chair Leviton?
12
13 MR. LEVITON: Yes and now we come to the public
14 portion of our meeting. Our first hearing is 2236 Mr.
15 Goldfarb. Are you in attendance sir? Come on up, make yourself
16 comfortable, and Mr. Glass will swear you in.
17
18 MR. GLASS: Please raise your right hand and repeat
19 after me. Do you swear or affirm that the testimony you're
20 about to provide is the truth, the whole truth, and nothing
21 but the truth?
22
23 MR. GOLDFARB: Yes I do.
24
25 MR. LEVITON: Hello sir. How are you?
26
27 MR. GOLDFARB: Good.
28
29 MR. LEVITON: So we know that you're moving?
30
31 MR. GOLDFARB: Yes.
32
33 MR. LEVITON: And ---
34
35 MR. GOLDFARB: Trying to.
36
37 MR. LEVITON: You're trying to, but you want to get
38 everything, your ducks in order.
39
40 MR. GOLDFARB: Yes sir.
41
42 MR. LEVITON: And you're here to legitimize some
43 things on your property. Tell the board what it is that you
44 need and why we should grant you relief.
45
46 MR. GOLDFARB: There's a couple of issues that came
47 up with the zoning.
48

1 MR. LEVITON: And sir let me interrupt. The
2 proceedings this evening are being recorded and then they are
3 going to be transcribed and in order for them to be audible
4 you've got to bring the mic closer to your face.

5
6 MR. GOLDFARB: Okay I'm sorry.

7
8 MR. LEVITON: It's alright don't be.

9
10 MR. GOLDFARB: Sorry.

11
12 MR. LEVITON: Take your time.

13
14 MR. GOLDFARB: ---

15
16 MR. LEVITON: Don't be nervous.

17
18 MR. GOLDFARB: I need to go over the variances then
19 ask you?

20
21 MR. LEVITON: Just in general tell us what they're
22 about and ---

23
24 MR. GOLDFARB: I'm going to be specific. There's four
25 items.

26
27 MR. LEVITON: Okay.

28
29 MR. GOLDFARB: First item is the fence located within
30 the street side yard minimum set back requirements are now
31 sixty. However, pool was granted for fifty whereas forty-seven
32 exists and I have some pictures of it. I don't know if you saw
33 the zoning permit. The house, my fence starts exactly from the
34 house. It went straight. My house is fifty feet from the
35 original zoning and the zoning like a small section because I
36 have a corner lot so it actually curves. So certain section
37 came up to a couple feet over. So according to the variances
38 its three feet over in certain section. Second issue I have a
39 shed that I placed. Again I have a certain area. My property
40 is a corner. A lot of it is wooden so there's a nice section
41 that's clear. I put a, what do you call it, vinyl shed; its
42 storage my equipment for the yard. I never got a permit for
43 that. I could take it down if I have to, but there's actually
44 no other place where I can basically put it. I have third
45 issue is we had an in-ground pool that was put in. Violation
46 set back requirement sixty feet, approval granted for fifty-
47 six feet and that's also a couple of feet was over. The
48 concrete got laid a couple of feet over because there's

1 basically a space that was never --- We made it a nice little
2 area so we can put a table. We went a couple of feet over and
3 we had a fourth issue is a deck. We had a deck that was
4 originally there. It wasn't in very good condition so we
5 basically took most of the deck down and we extended it a
6 little bit. So we went a couple of feet over there. Those are
7 the four issues that I'm trying to.

8
9 MR. LEVITON: Is the deck being replaced or you just
10 need it legitimized?

11
12 MR. GOLDFARB: What?

13
14 MR. LEVITON: Is the deck being replaced?

15
16 MR. GOLDFARB: No. The deck's been there. I had the
17 original deck when we purchased the house eighteen years ago.
18 So the wood was in very bad condition so we basically replaced
19 the wood and we extended it a little bit. We never got I guess
20 a permit for that extension.

21
22 MR. LEVITON: Thank you sir. Let's go to the board
23 and see what they think, Dan.

24
25 MR. POCHOPIN: So it was an existing deck and I see
26 highlighted in the orange you just went a couple feet over?

27
28 MR. GOLDFARB: Yes sir.

29
30 MR. POCHOPIN: And it's not past the edge of the
31 home?

32
33 MR. GOLDFARB: No absolutely not everything is
34 within.

35
36 MR. POCHOPIN: And nothing blocks the corner there,
37 sight line?

38
39 MR. GOLDFARB: No sir.

40
41 MR. POCHOPIN: Or anything like that?

42
43 MR. GOLDFARB: No sir.

44
45 MR. POCHOPIN: Thank you.

46
47 MR. LEVITON: Basil?

48

1 MR. MANTAGAS: Hi Mr. Goldfarb.
2
3 MR. GOLDFARB: How are you sir?
4
5 MR. MANTAGAS: The fence was professionally
6 installed?
7
8 MR. GOLDFARB: Yes sir.
9
10 MR. MANTAGAS: And they didn't do it right the first
11 time when they put it in? How did it go two feet? What is it
12 two feet over?
13
14 MR. GOLDFARB: If I could show you on the survey.
15
16 MR. MANTAGAS: Yeah. How many feet are you over from
17 the original permit?
18
19 MR. GOLDFARB: According to the variance, fence is
20 located, there's a certain section of it, that's forty-seven
21 feet whereas fifty feet was granted because the way the
22 property is curved.
23
24 MR. MANTAGAS: So it's three feet?
25
26 MR. GOLDFARB: Yes three feet, small section of the
27 fence.
28
29 MR. MANTAGAS: One section or the whole thing?
30
31 MR. GOLDFARB: No, no it's just one section of the
32 fence. That's the fence around the pool.
33
34 MR. MANTAGAS: Okay. No more questions Mr. Chairman.
35
36 MR. LEVITON: Thank you, Joshua?
37
38 MR. SHALIKAR: Yeah when you redid the deck you said
39 you changed the wood out, did you pour new footings --- is the
40 extension just ---
41
42 MR. GOLDFARB: The extension I did a couple. I put
43 two foot, a couple extra footings just to extend.
44
45 MR. SHALIKAR: Okay so you did actually, okay and
46 that was not permanent correct?
47
48 MR. GOLDFARB: No sir.

1
2 MR. SHALIKAR: Okay and then the shed I know that
3 it's in a wooded area, correct?

4
5 MR. GOLDFARB: The whole corner lot is, if I have a -
6 --

7
8 MR. SHALIKAR: I saw so it's in a wooded area?

9
10 MR. GOLDFARB: Yes.

11
12 MR. SHALIKAR: Does that shed serve any function? Is
13 it for the pool? Is it for storage only?

14
15 MR. GOLDFARB: It's storage for lawn equipment.

16
17 MR. SHALIKAR: Okay.

18
19 MR. GOLDFARB: That's basically that's the only thing
20 I'm using it for. It's a nice size shed, but there's no other
21 place I can put it. It's a vinyl shed.

22
23 MR. SHALIKAR: What are the dimensions of the shed do
24 you know?

25
26 MR. GOLDFARB: Ten by twelve.

27
28 MR. SHALIKAR: Ten by twelve okay. No further
29 questions.

30
31 MR. LEVITON: Yeah it is wooded, but they're
32 deciduous trees.

33
34 MR. GOLDFARB: Right.

35
36 MR. LEVITON: And there's some tall grasses there. It
37 is visible from the street so I mean it's somewhat secluded,
38 but I don't know what it's going to look like in the winter
39 and it's very close to the edge of the property. I have some
40 concerns, but we'll move on, David.

41
42 MR. SCHERTZ: No questions at this time.

43
44 MR. LEVITON: Adam?

45
46 MR. WEISS: With regard to the footings that you had
47 poured, have you since had the construction department or
48 building department come out to take a look at anything?

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MR. GOLDFARB: No. This was done fifteen years ago.

MR. WEISS: Okay I don't have any further questions, thank you.

MR. LEVITON: Terry?

MR. ROSENTHAL: Just a question on the shed, I assume you didn't have a permit because you probably didn't know you needed one.

MR. GOLDFARB: Yes sir.

MR. ROSENTHAL: But my question is maybe Nancy can answer, is it compliant otherwise?

MS. DEFALCO: No, it's not compliant. He did have a permit on file for a different location and I don't believe it was this homeowner, but the previous homeowner appeared before the zoning board for a variance and was denied.

MR. ROSENTHAL: Okay.

MS. DEFALCO: I'm trying to get the computer to cooperate so I can read.

MR. ROSENTHAL: And the extension on your deck did you have a professional construction company do it, the work?

MR. GOLDFARB: This couple of feet, no.

MR. ROSENTHAL: You did the work?

MR. GOLDFARB: I'm pretty handy, yes.

MR. ROSENTHAL: Okay I was going to say they should've reminded you about the violation, but obviously you didn't use any, you didn't have one. Okay I'm good thank you.

MR. GOLDFARB: Yeah there was an existing deck there. I basically just extended a small piece.

MR. ROSENTHAL: Thank you.

MR. LEVITON: Rob?

1 MR. DITOTA: Just to compound his question, did you
2 not know that you needed zoning authorization or building
3 construction for any of this?

4
5 MR. GOLDFARB: No sir, no.

6
7 MR. DITOTA: And the one comment on the shed, is it
8 on a slab or is it on cinder blocks?

9
10 MR. GOLDFARB: It's on cinder blocks, plywood.

11
12 MR. DITOTA: So it could be moved or it could be
13 taken down?

14
15 MR. GOLDFARB: Yes, yes it's not a permanent
16 structure. It's just sitting on plywood.

17
18 MR. LEVITON: And it's not even inside of what you
19 would define as your backyard? It's outside the fence,
20 correct?

21
22 MR. GOLDFARB: It's outside the fence, yes, but it's
23 again I have a nice clear area and it's blocked in by trees on
24 the outside so.

25
26 MR. LEVITON: Nancy?

27
28 MS. DEFALCO: Yes.

29
30 MR. LEVITON: Were you able to locate the ---

31
32 MS. DEFALCO: The resolution?

33
34 MR. LEVITON: Yeah.

35
36 MS. DEFALCO: I'm not able to locate the internet.

37
38 MR. LEVITON: So you're saying that not Mr. Goldfarb,
39 but the prior owner appeared before this board seeking a
40 variance for a shed and was denied for this shed?

41
42 MR. SHALIKAR: I believe that's what Nancy was
43 saying.

44
45 MR. LEVITON: My understanding is correct?

46
47 MS. DEFALCO: Yes. Let me just ---

48

1 MR. GOLDFARB: That property is completely different
2 than it was eighteen years ago when we purchased the house.

3
4 MR. LEVITON: I understand, - not you - but the
5 homeowner prior to your residency came before this board and
6 asked may I build a shed and this board turned the previous
7 owner down. You understand that correct? And now that you're
8 here and you want to move this is a new program. The township
9 in its infinite wisdom determined about two years ago now that
10 everyone whose moving needs to be inspected and this board
11 needs to bring properties back into compliance and to me
12 that's significant that the previous homeowner asked for
13 permission, was denied permission and for me to then go ahead
14 and legitimize it would be sort of like a slap in the face.

15
16 MR. GOLDFARB: I understand.

17
18 MR. LEVITON: You understand how I feel? I don't know
19 how the rest of the board feels.

20
21 MR. GOLDFARB: Again, I don't know the situation with
22 what they're asking for.

23
24 MR. LEVITON: How does the board feel?

25
26 MR. WEISS: Well to the extent that the shed is
27 anywhere in the area where the previous application was made I
28 think that that's very clear that the prior homeowner didn't
29 care much about what this board said at the time and so to the
30 extent we can locate that prior denial I'm interested to know
31 where the application had the shed and I may have to be guided
32 by well it had already been decided by a prior board.
33 Additionally not to get off topic, but I will, Mr. Glass is it
34 possible for us to do a conditional approval contingent upon
35 inspections by the building department because I have some
36 significant concerns if Mr. Goldfarb went ahead on his own
37 without an engineer or any other professional made footings
38 and now has a deck supported at least in part by those
39 footings. I'm concerned that anybody who may go on that deck
40 may put themselves in harms way and so to that end to the
41 extent that this board was considering acting favorably on the
42 deck part of this application I would request that we consider
43 making that approval contingent upon an inspection by the
44 building or construction department.

45
46 MR. GLASS: So I don't I guess half and half yes and
47 no. So the board can require the board engineer to review
48 submissions or to make inspections in that case. I don't think

1 its appropriate to direct the township official, but the board
2 can condition the approval on some engineering review by the
3 board's engineer. Is in a form that he feels is appropriate or
4 the board narrows it down so yes and no.

5

6 MR. WEISS: Thank you I appreciate that. So to the
7 extent that the board is going to look favorably upon the deck
8 part of this application I would just ask my fellow board
9 members to consider making it contingent upon Mr. Boccanfuso's
10 review and field inspection of the deck to insure that it is
11 structurally sound with regard to those footings.

12

13 MS. DEFALCO: Mr. Weiss I believe that he will have
14 to obtain a permit so once he gets the permit for the
15 extension that will trigger the need of the building
16 department to do an inspection.

17

18 MR. WEISS: But the concern that I have is that this
19 board is being asked to legitimize something right now that we
20 don't know is in any acceptable condition.

21

22 MS. DEFALCO: Okay so let's say if the board should
23 choose to grant the variance and then the building department
24 goes out and the inspector finds that it's not adequate he'll
25 either have the choice to repair it the way the building
26 department tells him to or remove it. Right?

27

28 MR. WEISS: Correct, correct, alright.

29

30 MS. DEFALCO: Is that okay?

31

32 MR. WEISS: Thank you.

33

34 MS. DEFALCO: We're just trying to save you a couple

35 ---

36

37 MR. LEVITON: That does suffice and it won't expose
38 this board to any liability.

39

40 MR. WEISS: As long as it's looked at by somebody
41 who's competent and credentialed I don't care.

42

43 MR. LEVITON: Legitimate concern, good point. Nancy
44 you're still working on that? You can't get ---

45

46 MS. DEFALCO: So sorry.

47

48 MR. LEVITON: It's alright, its okay.

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MS. DEFALCO: It shouldn't be more than a minute.

MR. LEVITON: His property is technically on a corner. It's really on a curve. His street has no corners, but the zone ordinance stipulates that he's how far Nancy from the ---

MS. DEFALCO: --- line .5, 29 feet five inches from the front property line.

MR. GLASS: And the shed.

MR. LEVITON: So he encroaches by thirty feet-ish, is that right?

MS. DEFALCO: In today's zoning yes.

MR. LEVITON: And when it was initially built it was fifty feet. It was still a significant encroachment

MS. DEFALCO: Yes.

MR. LEVITON: Encroachment into the set back. Anybody else have any thoughts?

MR. ROSENTHAL: I just have another question on the shed. Can it be moved to somewhere on the property Nancy that's compliant?

MS. DEFALCO: Yeah of course.

MR. ROSENTHAL: Okay.

MS. DEFALCO: I don't see why not.

MR. LEVITON: Well I know there's three of us sitting here in the middle of the dais that want to see the shed brought back into compliance. How do the rest of you feel because it will matter as a resolution is formulated?

MR. MANTAGAS: I agree with that, that the shed should be moved or taken down.

MR. LEVITON: That's four and that would be enough to ---

MR. WEISS: We just got five.

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MR. LEVITON: Yeah so if someone can at this point we've had enough discussion up here. Let me go out to the public and ask if there's anyone in attendance who wants to ask Mr. Goldfarb a question or address the board regarding this matter. Seeing none I will close public. Let me ask Mr. Glass is there anything further you require before we make a resolution and take a vote?

MR. GLASS: I guess just so the board is clear, although again this is a unique property, but for the relief that the applicant's requesting I think there's testimony that the shed could be placed in a location that it could be compliant and aspects of the pool and the decking could be as well. So this is a more of a benefits versus the detriments so a C2 where the applicant has to demonstrate that the purposes of the municipal land use law will be advanced by deviating from the zoning requirements and that those benefits of deviating substantially outweigh any detriment. So the focus has to be on kind of a benefits to the community so just maybe a little testimony from Mr. Goldfarb as to how granting this approval would benefit the community as a whole.

MR. GOLDFARB: I'm in the process of selling the house. Now this is an issue as far selling.

MR. LEVITON: Mr. Goldfarb maybe I can help you a little bit. The concrete and the fence are they attractive?

MR. GOLDFARB: Yes and I have some pictures if you want so you could look.

MR. LEVITON: No I'll take your word for it. Is it your testimony that they improve the overall aesthetics in your neighborhood?

MR. GOLDFARB: Absolutely.

MR. LEVITON: And do you see in any way where the fence and/or the concrete not the shed just the fence under the concrete is a detriment to the public in any way?

MR. GOLDFARB: Absolutely not sir.

MR. LEVITON: Okay then, Nancy anything further from you?

MS. DEFALCO: No I think that's it.

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MR. LEVITON: And Mr. Glass we're good?

MR. GLASS: I think we are and I guess just so the board is clear there are four variances sought, however, all four may or may not be granted. Understandably and just so the board is aware this shed is located 29.5 feet from the street side line, the fence is located 47 feet, pool patio 47 feet, and the deck 57 feet. Again the requirements are that they be located sixty feet so those are the three variances understanding the board is considering the shed possibly not granting that.

MR. LEVITON: Okay I'm going to need someone to make a motion.

MR. GLASS: --- have to explicitly state what the motion, yeah.

MR. DITOTA: We're all looking at Adam.

MR. WEISS: I'll make a motion to approve the application as submitted.

MR. GOLDFARB: Thank you.

MR. WEISS: A motion to approve the application as submitted.

MR. LEVITON: You can call it Janice.

MS. MOENCH: We need a second.

MR. LEVITON: Will someone second that? Okay we need someone to make a second motion.

MR. WEISS: Doesn't mean you have to vote favorably.

MR. GLASS: Correct.

MR. SCHERTZ: I'll second.

MR. LEVITON: Okay you can call it.

MS. MOENCH: Mr. Schertz it was correct?

MR. LEVITON: Yes.

1 MS. MOENCH: Okay.
2
3 **ROLL CALL**
4
5 MS. MOENCH: Mr. DiTota?
6
7 MR. DITOTA: No.
8
9 MS. MOENCH: Mr. Rosenthal?
10
11 MR. ROSENTHAL: No.
12
13 MS. MOENCH: Mr. Shalika?
14
15 MR. SHALIKAR: No.
16
17 MS. MOENCH: Mr. Mantagas?
18
19 MR. MANTAGAS: No.
20
21 MS. MOENCH: Chair Leviton?
22
23 MS. MOENCH: I'm sorry do I have to ---
24
25 MR. LEVITON: Mr. Glass what happens ---
26
27 MS. MOENCH: I'm confused I'm sorry. Do I have to
28 call them even though they made the motion still have to call?
29 I'm sorry.
30
31 MR. GLASS: Yeah you still do.
32
33 MS. MOENCH: I do I apologize.
34
35 MR. WEISS: No it's all good.
36
37 MR. LEVITON: Mr. Glass what happens when this motion
38 fails?
39
40 MR. GLASS: Yeah.
41
42 MR. LEVITON: Does that mean Mr. Goldfarb is done for
43 the evening? Can we make a second?
44
45 MR. GLASS: No the application fails.
46

1 MS. MOENCH: Let me just call the roll again because
2 I didn't call. Do you want me to start over or just call the
3 two people that I didn't call?

4
5 MR. GLASS: Just continue on and just call the two
6 people.

7
8 MS. MOENCH: Okay I understand, okay.

9
10 **ROLL CALL**

11
12 MS. MOENCH: Mr. Schertz?

13
14 MR. SCHERTZ: No.

15
16 MS. MOENCH: Mr. Weiss?

17
18 MR. WEISS: No.

19
20 MS. MOENCH: Chair Leviton?

21
22 MR. LEVITON: I'm sorry Mr. Goldfarb. It's the shed
23 that tanked your application this evening.

24
25 MR. GOLDFARB: So if I remove the shed?

26
27 MR. LEVITON: If you remove the shed unfortunately
28 you still need to come back and legitimize your fence and your
29 concrete.

30
31 MR. GOLDFARB: I understand.

32
33 MR. GLASS: Wait just so the board, alright you're
34 right. There was a motion to approve so.

35
36 MR. WEISS: Correct.

37
38 MR. GLASS: So you made the motion to approve you
39 can't.

40
41 MS. DEFALCO: Deny it.

42
43 MR. GLASS: Yeah you can't vote no on it.

44
45 MR. WEISS: Really?

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47 MS. DEFALCO: You made a motion to approve the
48 application.

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MR. WEISS: But I don't have to vote in favor of it.

MR. GLASS: No you don't, you don't have to vote in favor that's correct.

MR. WEISS: And that's what I did. I did not vote in favor of the motion that I put out.

MR. GLASS: Well you voted against it though.

MR. WEISS: Correct.

MR. GLASS: However it was your motion though.

MR. WEISS: Right. If you want we can make it easier.

MR. GLASS: Yeah.

MR. WEISS: I can just withdraw the motion and I'll put it on as a motion to deny.

MS. DEFALCO: That would be ---

MR. GLASS: That would probably the more ---

MR. WEISS: That way its cleaner.

MR. GLASS: Yes that would be.

MR. LEVITON: Okay.

MR. GOLDFARB: Can I just ask a question if I promise to remove the shed, take that off the variances.

MR. LEVITON: We're passed that and we ---

MR. GLASS: The reality is there was a motion pending however I believe when the motion was made there was a little confusion as to that. So with that in mind I think it'd be appropriate for Mr. Weiss to put the, I guess the motion in the reverse however it doesn't change the fact that the motion was made by Mr. Weiss with the intention of denying the application.

MR. GOLDFARB: If Mr. Weiss withdraws the motion can someone else make a new motion?

1 MR. LEVITON: Absolutely, but that would only be
2 contingent upon no one seconding his motion.

3
4 MR. GOLDFARB: I understand.

5
6 MR. SCHERTZ: But I already seconded it.

7
8 MR. LEVITON: Mr. Glass I've never passed a bar exam,
9 is that correct?

10
11 MR. GLASS: I mean there was a second so the motion
12 has been put to vote.

13
14 MR. DITOTA: But he redid the motion.

15
16 MR. WEISS: Here's what we can do to make it easier
17 Mr. Glass I'll just abstain. I'll change my vote.

18
19 MR. GLASS: I was going to say that would actually be
20 the preferable way to do it.

21
22 MR. WEISS: I'll just abstain.

23
24 MR. GLASS: He doesn't have to vote in favor, but he
25 doesn't have to vote against.

26
27 MR. LEVITON: I would so much prefer if a new motion
28 was made and that error in protocol should nullify that vote.
29 Let's just have a new motion and a new vote please.

30
31 MR. GLASS: Alright fair.

32
33 MR. LEVITON: Thank you sir.

34
35 MR. GLASS: That's fine, but I think Mr. Weiss would
36 still make the motion in this case.

37
38 MR. LEVITON: That's fine.

39
40 MR. GLASS: Because he made it the first time so he
41 should still be on it.

42
43 MR. LEVITON: He deserves to.

44
45 MR. WEISS: I'll make a motion to deny the
46 application as submitted.

47
48 MR. LEVITON: Will someone second it please?

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MR. MANTAGAS: I'll second.

MS. MOENCH: Just to be clear I have a motion from Mr. Weiss to deny and Mr. Mantagas is seconding that motion to deny the application as is, correct?

MR. WEISS: Correct so a yes vote will mean that the motion is ---

MS. MOENCH: Yeah I just want to be clear okay.

MR. LEVITON: Hold on before.

MS. MOENCH: Oh sweet Jesus.

MR. LEVITON: Before we take that, is it possible to take this application piecemeal?

MR. GLASS: Sure.

MR. LEVITON: Mr. Glass?

MR. GLASS: I would say at this point that procedurally if the applicant is okay with it as long as it's on the record that the first motion was an error. That the board was unsure of which it appears that the way the voting occurred that there was confusion. The applicant is okay with what we determine by bifurcating the application which would be splitting off a portion of it. So either not going for one approval, going for two approvals, three approvals, or what it may be and the board can vote on that.

MR. DITOTA: Do we take the shed of the list?

MR. GLASS: The discretion for that is up to the board as a whole, but ---

MR. SCHERTZ: Point of information.

MR. LEVITON: Okay.

MR. GLASS: Yes.

MR. SCHERTZ: Does each piece have to be voted on separately?

1 MR. GLASS: No so basically the applicant would just
2 be saying in this case he's no longer seeking relief for the
3 shed or that he'll seek approval for the shed at some later
4 date and he would only like the variances for the fence, pool
5 patio, and deck. In this case that that's what it appears to
6 be.

7

8 MR. LEVITON: Mr. Goldfarb?

9

10 MR. GOLDFARB: Yes?

11

12 MR. LEVITON: Would you put on record that you're
13 okay with the bifurcation of the application so that we can
14 take each piece?

15

16 MR. GOLDFARB: Yes sir.

17

18 MR. LEVITON: Separately? Thank you sir.

19

20 MR. GLASS: The applicant would then understand that
21 if this shed since the shed's not apart of this application it
22 was identified as being not in-compliant then the shed would
23 then have to be dealt with by code which would then likely be
24 removed.

25

26 MR. LEVITON: That's the way you want to do it?

27

28 MR. GLASS: Well if it's not or they could ---

29

30 MS. DEFALCO: --- piecemeal it.

31

32 MR. GLASS: Yeah.

33

34 MR. LEVITON: Yeah either way.

35

36 MR. GLASS: So yeah correct.

37

38 MR. GOLDFARB: Removing them move to a different ---

39

40 MR. LEVITON: Yes.

41

42 MR. GOLDFARB: ---

43

44 MR. LEVITON: Yes.

45

46 MR. GOLDFARB: Move it to a different location.

47

1 MR. LEVITON: Yes either way, but I'd like to take a
2 vote on that.

3
4 MS. DEFALCO: Why don't you take a straw vote?

5
6 MR. LEVITON: Alright let's Ms. DeFalco has
7 recommended that we take a straw vote so.

8
9 MS. DEFALCO: Or discuss it with the board.

10
11 MR. GLASS: Because there's and I guess maybe I was
12 unclear it's not appropriate you can't take each variance
13 separately, but if the applicant chooses not to pursue one of
14 the variances that's his choice. So you're still voting on the
15 application as a whole. He just has the option of taking a
16 piece of the table.

17
18 MR. LEVITON: So we're going to discuss what's
19 transpired and I'm going to tell you that to me, yes.

20
21 MS. DEFALCO: Have a discussion.

22
23 MR. LEVITON: Yeah of course.

24
25 MR. GLASS: Wait are we off the record or?

26
27 MR. LEVITON: Off the record.

28
29 MR. GLASS: Then I guess it would be appropriate to
30 take a five minute recess then if we're truly going to ---

31
32 MR. LEVITON: We're going to take a five minute
33 recess, okay. I'm going to call the meeting to order once
34 again and Mr. Goldfarb before we make a motion let's just
35 insure that you understand going forward we'd like you to
36 remove the shed from consideration.

37
38 MR. GOLDFARB: Yes sir, yes.

39
40 MR. LEVITON: Okay then I'll call for a motion.

41
42 MR. GLASS: Wait and then just so then you'll be so
43 the applicant will be proceeding for three variances
44 requesting a variance for the fence, the pool patio, and the
45 deck and is not requesting a variance for the shed,
46 understanding that in accordance with the township ZCCO
47 program it would have to be brought into compliance in some
48 way whether that's removal, removing it or other.

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MR. GOLDFARB: It'll be removed.

MR. GLASS: So alright.

MR. LEVITON: Thank you Mr. Goldfarb. Thank you Mr. Glass. Mr. Weiss?

MR. WEISS: Yes I'd like to make the motion to approve the application as amended and as Mr. Glass just indicated on the record and we are not considering the shed.

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

MR. DITOTA: Second.

MR. LEVITON: Thank you Mr. DiTota.

ROLL CALL

MS. MOENCH: Mr. DiTota?

MR. DITOTA: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Congratulations sir.

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MR. GOLDFARB: Thank you, thank you.

MR. LEVITON: You're welcome have a good night. Okay up next is 2237 Mr. Davtian. Did I say that right Ms. Davtian. How are you ma'am?

MS. DAVTIAN: Good how are you?

MR. LEVITON: I'm also well thank you. Mr. Glass will you swear you in.

MR. GLASS: Please raise your right hand and repeat after me. 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. DAVTIAN: I do.

MR. GLASS: And then just spell and state your name for the record.

MS. DAVTIAN: Anush Davtian, first name A-N-U-S-H, last name D-A-V-T-I-A-N.

MR. GLASS: Thank you.

MS. DAVTIAN: Sure.

MR. LEVITON: Okay why don't you also tell the board what it is that brings you here this evening and what you need from us.

MS. DAVTIAN: Sure.

MR. LEVITON: Okay.

MS. DAVTIAN: We purchased the property about five years ago. There was an existing pool that was placed in the late '70s with permit and around the pool there is a perimeter of decking underneath of it. The decking that we purchased with is wood decking and it started to chip and tear apart so we wanted to replace that. When we took it out there's concrete underneath and we also wanted to replace the shed, it's an old wood shed. Sorry fence, it's an old wood fence that was coming apart. We have Lafayette Elementary right behind so we wanted to make sure it's safe for the kids that come out and play. Went through the process of making sure I

1 that the perimeter of the pool was too close to the fence. So
2 I'm seeking relief for the right side of the property in the
3 back. It's I think six feet from the property line and that's
4 where the decking starts for the pool and when I say decking
5 it's really a walkway, pathway around the pool and then
6 similarly to the back of the fence, the back of the property,
7 there's a fence and that's about three feet away from the
8 fence. There was also an existing shed on the property to the
9 left of the back and that is I believe five or six feet away
10 from the side whereas existing zoning is ten feet away. I
11 think that's it.

12

13 MR. LEVITON: Thank you. Dan?

14

15 MR. POCHOPIN: So I'm just looking at.

16

17 MS. DAVTIAN: Yeah.

18

19 MR. POCHOPIN: This is the first time for me too ---

20

21 MS. DAVTIAN: Sure.

22

23 MR. POCHOPIN: So the pool, I don't see quite in the
24 picture here I see where you have the notes where the fence
25 was moved. The one side of the yard is a little bit shorter
26 you just stated.

27

28 MS. DEFALCO: I think its ten feet.

29

30 MR. POCHOPIN: So the fence, the pool itself is how
31 much into the set back?

32

33 MS. DAVTIAN: The pool itself is about I believe
34 twelve feet into the set back, but there is three to four foot
35 concrete pathway that is right next to the pool so that cuts
36 the twelve feet by that three, four feet.

37

38 MR. POCHOPIN: And it's an in-ground pool?

39

40 MS. DAVTIAN: Correct and we did have, we consulted
41 with a construction company. They said they wouldn't recommend
42 touching the concrete just because it might deter the pool and
43 it might move things inside the pool so they said we wouldn't
44 recommend to try to break the concrete basically.

45

46 MR. POCHOPIN: So it's a concrete pool or?

47

48 MS. DAVTIAN: Yeah.

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MR. POCHOPIN: Or steel pool?

MS. DAVTIAN: It's a steel pool, but the side that was poured around it is concrete.

MR. POCHOPIN: Okay and the pool was put in by a professional company?

MS. DAVTIAN: In the 1970's yes.

MR. POCHOPIN: 1970's okay so you bought this home.

MS. DAVTIAN: Correct.

MR. POCHOPIN: With all this already?

MS. DAVTIAN: Correct.

MR. POCHOPIN: Okay no further questions.

MR. LEVITON: Okay, Basil? Thank you Dan.

MR. MANTAGAS: How are you? How do you pronounce your name I'm sorry?

MS. DAVTIAN: Anush.

MR. MANTAGAS: Vanush.

MS. DAVTIAN: Anush without the v.

MR. MANTAGAS: Hi Anush, the shed is the shed on a concrete pad or its?

MS. DAVTIAN: Yes.

MR. MANTAGAS: It's on a concrete pad.

MS. DAVTIAN: Yes.

MR. MANTAGAS: So it could be moved easily?

MS. DAVTIAN: I guess perhaps you can move anything but.

MR. MANTAGAS: How many feet is? How many feet is it from the fence now? Did you say six feet?

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MS. DAVTIAN: Four.

MR. MANTAGAS: What is the zoning?

MR. SHALIKAR: Ten feet.

MR. MANTAGAS: Its ten feet.

MS. DAVTIAN: Yeah.

MR. MANTAGAS: So you're four feet from the fence?

MS. DAVTIAN: Correct.

MR. MANTAGAS: And behind that fence, what's behind that fence?

MS. DAVTIAN: My neighbors.

MR. MANTAGAS: Your neighbor is there a problem with the shed?

MS. DAVTIAN: No.

MR. MANTAGAS: Say anything about the shed?

MS. DAVTIAN: No we're really great friends with them.

MR. MANTAGAS: And how about around the pool? How is the drainage around that pool?

MS. DEFALCO: I'm sorry the shed is four feet. The requirement is five.

MR. MANTAGAS: Oh the requirement is five feet, okay. So it's only a foot?

MS. DEFALCO: --- the shed less than a hundred square feet.

MR. MANTAGAS: Okay thank you Nancy.

MS. DAVTIAN: The drainage is fairly well since it is a little bit of a hill behind the house so.

1 MR. MANTAGAS: And there's no problems with anybody
2 else on the other side of you?

3
4 MS. DAVTIAN: No.

5
6 MR. MANTAGAS: Okay very good, thank you.

7
8 MS. DAVTIAN: Sure.

9
10 MR. MANTAGAS: No more questions Mr. Chairman.

11
12 MR. LEVITON: Thank you Basil, Josh.

13
14 MR. SHALIKAR: Just one question. The area behind the
15 pool is that jut out for like a diving board or something like
16 that?

17
18 MS. DAVTIAN: There is an existing diving board there
19 yeah.

20
21 MR. SHALIKAR: That's why the juts there okay no
22 further questions thank you.

23
24 MR. LEVITON: Okay thank you Josh. David?

25
26 MR. SCHERTZ: No questions at this time.

27
28 MR. LEVITON: Adam?

29
30 MR. WEISS: Do you know the size of the shed?

31
32 MS. DAVTIAN: I believe it's a ten by twelve.

33
34 MR. WEISS: Okay, no further questions.

35
36 MS. DEFALCO: That's not how it shows on the survey.
37 So has it been changed?

38
39 MS. DAVTIAN: No.

40
41 MS. DEFALCO: Because a ten by twelve would need
42 fifteen feet. Are you sure this one is eight?

43
44 MS. DAVTIAN: Is it an eight by twelve maybe?

45
46 MS. DEFALCO: Eight by twelve?

47

1 MS. DAVTIAN: Yeah it might be an eight by twelve. I
2 might be off by two feet.
3
4 MS. DEFALCO: So you're good with the five feet.
5
6 MS. DAVTIAN: Okay.
7
8 MR. WEISS: Thank you.
9
10 MR. LEVITON: Thank you Adam. Terry?
11
12 MR. ROSENTHAL: My questions were addressed. I have
13 nothing further.
14
15 MR. LEVITON: Rob?
16
17 MR. DITOTA: So I just want to be clear, you need one
18 foot on the side for the shed and five feet in the back right
19 property line?
20
21 MS. DAVTIAN: I believe its six feet from the rear
22 existing and three feet from the side, the right side.
23
24 MR. DITOTA: And that's it right?
25
26 MS. DAVTIAN: Yes.
27
28 MR. DITOTA: And then can you just put on the record
29 how wide this covered pool area is?
30
31 MS. DAVTIAN: The covered pool area ---
32
33 MR. DITOTA: Or the sidewalk behind the covered pool
34 area?
35
36 MS. DAVTIAN: Behind it?
37
38 MR. DITOTA: Yeah.
39
40 MS. DAVTIAN: So it's a little bit of an irregular
41 shape. All the way in the back ---
42
43 MR. DITOTA: Just the width.
44
45 MS. DAVTIAN: The width of it? I think its twenty
46 plus a foot width.
47
48 MR. DITOTA: You don't know the exact amount?

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MS. DAVTIAN: No I don't know the exact amount. So the pool itself ---

MS. DEFALCO: The concrete are you going to put behind where the diving board is? You know how?

MS. DAVTIAN: The concrete is already existing so we'd be just laying ---

MS. DEFALCO: It's hard to tell.

MS. DAVTIAN: Yeah.

MS. DEFALCO: Because the survey shows it as a covered pool.

MS. DAVTIAN: Yeah.

MS. DEFALCO: Do you know how much of the walkway along the side where you're requesting the five feet?

MS. DAVTIAN: The walkway itself is about four feet wide around.

MS. DEFALCO: On the side?

MS. DAVTIAN: On the side.

MS. DEFALCO: And obviously in the back it's a little bit.

MS. DAVTIAN: Yeah.

MS. DEFALCO: But you have a diving board.

MS. DAVTIAN: Yeah.

MS. DEFALCO: Okay so four feet for the walkway, leaving five feet for the property line.

MS. DAVTIAN: Correct.

MS. DEFALCO: Thank you.

MR. LEVITON: You're good Nancy?

1 MS. DEFALCO: Yeah and can I ask about the rest of
2 where it's not highlighted that portion of the deck?

3
4 MS. DAVTIAN: Sure.

5
6 MS. DEFALCO: Is that being replaced?

7
8 MS. DAVTIAN: No that's existing as is and its
9 staying --- So it's a little bit of a strange setup. The
10 previous homeowners almost like a bi-level deck around the
11 yard so that area is higher and it is supported. There's beams
12 that are lifting it about three feet from the floor on the
13 back of the yard.

14
15 MS. DEFALCO: What's the condition of that deck?

16
17 MS. DAVTIAN: It's a little bit on the older side.
18 Eventually we probably just swap out some of it or change some
19 of the boards that are little bit deteriorated, but it
20 wouldn't be a full change of the deck.

21
22 MS. DEFALCO: So when you change that deck, would you
23 have objections to also maintaining the five feet like the
24 rest of the pool patio?

25
26 MS. DAVTIAN: I think it might be a little difficult
27 just based on the position of the way that that yard is set
28 up. It would probably need to be re-adjusted or the engineer
29 would have to be done because the way the footing is done and
30 it supports basically the right side of the deck where you are
31 asking about that's where most of the legs are.

32
33 MS. DEFALCO: Obviously you would have to have new
34 footings.

35
36 MS. DAVTIAN: Right, right.

37
38 MS. DEFALCO: So you're going to replace it you would
39 have to do new footings anyway.

40
41 MS. DAVTIAN: Right. We would be talking about just
42 replacing the top boards. They wouldn't be replacing the full
43 deck so it's a wooden deck.

44
45 MS. DEFALCO: Okay thank you.

46
47 MR. LEVITON: Ms. Davtian, am I saying that
48 correctly?

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MS. DAVTIAN: Yes.

MR. LEVITON: Would you consult the photographs that you provided to us? I'd like you to talk to me about them. I'll ask you questions.

MS. DAVTIAN: Sure.

MR. LEVITON: Let's start with number one.

MS. DAVTIAN: Yeah.

MR. LEVITON: The patio that we see on the righthand side, the wood decking for lack of a better word, is there concrete under that?

MS. DAVTIAN: There is partial concrete. So if I were to guess there was some sort of concrete deck underneath years ago and when it was updated or changed around they just build on top of it so there is concrete underneath because if you look at it from the rightside where it is lifted you can see existing older concrete there.

MR. LEVITON: It's similar to what we see on the opposite side of the photograph?

MS. DAVTIAN: Probably maybe a little bit more cracked.

MR. LEVITON: Okay. Let's look at picture number three that's your backside of the pool?

MS. DAVTIAN: Correct.

MR. LEVITON: That's where on the survey there's a jut out?

MS. DAVTIAN: Yes.

MR. LEVITON: And what is it that you intend to do here when you reconfigure things?

MS. DAVTIAN: We wouldn't be touching the diving board. It would just be replacing that wood with either pavers or concrete or something of that nature just to freshen it up. The wood is not really safe with little kids running around.

1 MR. LEVITON: And if you look at picture seven and
2 tell me where is this relative to the pool?

3
4 MS. DAVTIAN: So this is to the left when you're
5 looking at it. Basically if you were to look at right by here,
6 this is the top right of the survey. It's below around the
7 corner where the property line is.

8
9 MR. LEVITON: Okay so for the record let's see if we
10 can ---

11
12 MS. DAVTIAN: So the pool is right to the right
13 bottom corner of this. That's where that's starting, the pool
14 is starting basically.

15
16 MS. DEFALCO: That's the portion that's the
17 additional two feet into the set back. Where you see in
18 picture number seven how it angles?

19
20 MR. LEVITON: Yeah I see that. That's an extra two
21 feet?

22
23 MS. DEFALCO: That's where there's only three feet on
24 the side versus the five feet that's along the pool.

25
26 MR. LEVITON: I'm having difficulty. I still can't
27 believe that on the survey. Nancy maybe you can help me.

28
29 MS. DEFALCO: Sure.

30
31 MR. LEVITON: Just bring it into. You don't have to
32 get up.

33
34 MS. DEFALCO: It's okay.

35
36 MR. LEVITON: Alright.

37
38 MS. DEFALCO: I got to get my steps in. So where you
39 see that angle in the picture you're looking at this, this
40 way.

41
42 MR. LEVITON: This is what she, what I was looking at
43 here?

44
45 MS. DEFALCO: Yeah that picture that you said number
46 seven --- it's on an angle you're looking at it in that ---

47
48 MR. LEVITON: And we're legitimizing this part here?

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MS. DEFALCO: Technically she's asking for the three feet. I asked her if she would mind bringing it to at least to five. That's what we discussed.

MR. LEVITON: If it was brought into five it would be consistent with everything else. That would make better sense to me and it's more compliant with the ordinance.

MS. DAVTIAN: So you mean this part of the deck?

MR. LEVITON: The part that juts out, yeah just that if you could take two feet off and make it even with everything else I would appreciate that.

MS. DAVTIAN: I think it might be a bit more than two feet to take in, but is that a request for doing it now because we were not planning on touching that deck for awhile?

MR. LEVITON: Oh dear.

MS. DEFALCO: I have no problem waiting until you replace it.

MS. DAVTIAN: Okay.

MS. DEFALCO: When you replace it if you could bring it to, if the board should grant you the five feet.

MS. DAVTIAN: Okay.

MR. LEVITON: And you did testify that you do intend to at some point?

MS. DAVTIAN: At some point we don't know when that will be.

MR. LEVITON: Okay then I would ask the board to take that into consideration and make it a condition of approval.

MR. WEISS: How would we for the record how would we call that because there's a lot of decks going on here?

MR. LEVITON: I don't know, Mr. Glass?

MS. DEFALCO: Part of the deck that connects to the pool, but obviously ---

1 MS. DAVTIAN: It's like a level up.

2
3 MS. DEFALCO: Now that it changed to pavers or
4 concrete so it all be the only deck.

5
6 MR. WEISS: Okay got it.

7
8 MS. DEFALCO: Alright?

9
10 MR. LEVITON: Okay good. If there's no further
11 questions or discussion up here I'm going to go out to the
12 public and ask if anyone wants to ask Ms. Davtian a question
13 or address the board regarding this matter. Seeing none I'll
14 close public. Mr. Glass do you require anything further?

15
16 MR. GLASS: I do not.

17
18 MR. LEVITON: Ms. DeFalco, are you good?

19
20 MS. DEFALCO: Yes I am thank you.

21
22 MR. LEVITON: Then I will ask for a motion and a
23 second.

24
25 MR. WEISS: I make a motion to approve the
26 application as submitted contingent upon the condition that to
27 the extent that the wood deck is replaced or otherwise
28 modified that it be brought into compliance and within five
29 feet or the lot line.

30
31 MR. LEVITON: Outstanding.

32
33 MR. DITOTA: I second that.

34
35 MR. LEVITON: Motion and thank you ---

36
37 MS. DEFALCO: --- compliant. It's got to be in line
38 with ---

39
40 MR. WEISS: I'm sorry in line.

41
42 MR. LEVITON: It would still be a set back
43 encroachment, but it would be consistent with everything else
44 that we're approving tonight and Mr. DiTota thank you for the
45 second.

46
47 **ROLL CALL**

48

1 MS. MOENCH: Mr. DiTota?
2
3 MR. DITOTA: Yes.
4
5 MS. MOENCH: Mr. Rosenthal?
6
7 MR. ROSENTHAL: Yes.
8
9 MS. MOENCH: Mr. Schertz?
10
11 MR. SCHERTZ: Yes.
12
13 MS. MOENCH: Mr. Shalika?
14
15 MR. SHALIKAR: Yes.
16
17 MS. MOENCH: Mr. Weiss?
18
19 MR. WEISS: Yes.
20
21 MS. MOENCH: Mr. Mantagas?
22
23 MR. MANTAGAS: Yes.
24
25 MS. MOENCH: Chair Leviton?
26
27 MR. LEVITON: Congratulations ma'am. The board will
28 formally memorialize that at our next meeting. You won't need
29 to be here for that.
30
31 MS. DAVTIAN: Okay thank you.
32
33 MR. LEVITON: Have a good night. Okay I know I'm
34 going to butcher this Mr. Cuollo. Did I say that?
35
36 MR. CUOLLO: Cuollo as in koala bear.
37
38 MR. LEVITON: Cuollo, Mr. Cuollo your application is
39 2241. Welcome sir, be comfortable and Mr. Glass will swear you
40 in.
41
42 MR. GLASS: Do you swear or affirm that the testimony
43 you're about to provide is the truth, the whole truth, and
44 nothing but the truth?
45
46 MR. CUOLLO: Yes.
47

1 MR. GLASS: Thank you, spell and state your name for
2 the record please.

3
4 MR. CUOLLO: Robert Cuollo, C-U-O-L-L-O.

5
6 MR. GLASS: Thank you.

7
8 MR. LEVITON: Mr. Cuollo before we start it's
9 impossible to not notice that you're a fireman.

10
11 MR. CUOLLO: Yes, retired lieutenant in New York
12 City.

13
14 MR. LEVITON: Outstanding.

15
16 MR. CUOLLO: Twenty-one years.

17
18 MR. LEVITON: Outstanding, my father-in-law also. He
19 was a driver and then in his later years the man was fortunate
20 enough to be in the --- house.

21
22 MR. CUOLLO: For overtime and pension.

23
24 MR. LEVITON: We have no complaints, but we thank you
25 for your service. Mr. Cuollo I would like you to tell the
26 board about the portico you want to construct and what it is
27 that you need from us.

28
29 MR. CUOLLO: Yeah I'm a resident of Manalapan since
30 '99 and my previous house, I just sold my house last year and
31 I moved like ten blocks away and I was always had a porch on
32 my house and it was very nice to sit out there and its good
33 for coming with the groceries, it's aesthetically pleasing to
34 the house. It makes the house look nice more like a country
35 look. It's a nice soft look for a house.

36
37 MR. LEVITON: Is it going to hurt the neighborhood in
38 any way?

39
40 MR. CUOLLO: No it's not going to hurt the
41 neighborhood.

42
43 MR. LEVITON: Okay let's go out to the board. Dan?

44
45 MR. POCHOPIN: First of all thank you for your
46 service. Fifty-three feet it is right? And eight feet there's
47 no side partitions or anything?

48

1 MR. CUOLLO: No it's going to be a roof.
2
3 MR. POCHOPIN: Just a roof?
4
5 MR. CUOLLO: Four columns and a roof.
6
7 MR. POCHOPIN: And then at the peak I remember twelve
8 feet.
9
10 MR. CUOLLO: Yeah to the top, to the outside top. It
11 should be about a foot under the top windows, the second floor
12 ones. I'm also a licensed contractor. ---
13
14 MR. LEVITON: Mr. Cuollo the --- says that you've got
15 to speak into the mic at all time even when you're addressing.
16
17 MR. CUOLLO: Sorry about that.
18
19 MR. MANTAGAS: Not that close.
20
21 MR. CUOLLO: Can you hear me now? Its twelve feet to
22 the top.
23
24 MR. POCHOPIN: It's pretty long board to it.
25
26 MR. CUOLLO: The width of the house.
27
28 MR. POCHOPIN: So the whole width?
29
30 MR. CUOLLO: Yeah.
31
32 MR. POCHOPIN: Are you going to put any lighting in
33 there, any electric?
34
35 MR. CUOLLO: Yes there's going to be some lighting
36 underneath some high hats in the --- area just around the ---
37 area we'll be doing lights there.
38
39 MR. POCHOPIN: Okay that's what I figured for safety.
40
41 MR. CUOLLO: There'll be four columns and there'll be
42 maybe a metal railing in the front with some concrete, cement
43 brick half high columns, it'll look nice.
44
45 MR. POCHOPIN: Okay that's it for me.
46
47 MR. LEVITON: Basil?
48

1 MR. MANTAGAS: Hi Mr. Cuollo.
2
3 MR. CUOLLO: How are you doing?
4
5 MR. MANTAGAS: I'd call you brother firefighters.
6
7 MR. CUOLLO: Oh good.
8
9 MR. MANTAGAS: Does that say Gravesend on your?
10
11 MR. CUOLLO: Gravensend, Brooklyn yeah.
12
13 MR. MANTAGAS: That's where I'm from that little
14 neighborhood there.
15
16 MR. CUOLLO: Yeah I'm not from Brooklyn you can't
17 tell right?
18
19 MR. MANTAGAS: I passed your house. I see this will
20 definitely dress it up and you said functionality, keep you
21 out of the rain.
22
23 MR. CUOLLO: Absolutely.
24
25 MR. MANTAGAS: On the porch have a cigar.
26
27 MR. CUOLLO: It's my wife that really wants it so.
28
29 MR. MANTAGAS: Oh yeah?
30
31 MR. CUOLLO: Happy wife you know.
32
33 MR. MANTAGAS: Listen I understand that sure, but.
34
35 MR. CUOLLO: I got to build it.
36
37 MR. MANTAGAS: So it will keep you out of the rain
38 when you're going into your house it will give you some
39 protection in the front.
40
41 MR. CUOLLO: We're always running in now. We used to
42 have a porch in my old house it always had a porch. Now you're
43 running in, dogs are running out.
44
45 MR. MANTAGAS: Sure great thank you, no more
46 questions.
47
48 MR. LEVITON: Thank you Basil. Josh?

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MR. SHALIKAR: No questions Chair.

MR. LEVITON: Nothing okay. David?

MR. SCHERTZ: No questions.

MR. LEVITON: Adam?

MR. WEISS: No questions.

MR. LEVITON: Terry?

MR. ROSENTHAL: I'm good.

MR. LEVITON: And Robert?

MR. DITOTA: I passed there too and it looks good just both construction permits.

MR. CUOLLO: I'm sorry?

MR. DITOTA: You need construction permits.

MR. CUOLLO: A hundred percent, a hundred percent, a hundred percent. Like I said I'm a licensed contractor so that's what I do now after I retired.

MS. DEFALCO: In Brooklyn you call it a porch, we call it a stoop.

MR. CUOLLO: Call it a stoop.

MR. MANTAGAS: In Brooklyn it's a stoop.

MR. CUOLLO: Can't play stoop ball on a porch.

MS. DEFALCO: That's right.

MR. LEVITON: Mr. Cuollo the house across the street from you that corner lot that's where I played baseball as a boy and I grew up within a stone's throw of your home that one of my best friends lived in your home. It is fabulous to see the old neighborhood being revitalized.

MR. CUOLLO: Yes the people I bought it off of are the original and they passed away and then the son. They've

1 been here the whole time and live in Manalapan and he can't
2 believe what I did to the house already.

3

4 MR. LEVITON: Is that Eric or Steve or Rich?

5

6 MR. CUOLLO: No Rich. Yeah he's the sprinkler guy.

7

8 MR. LEVITON: Yes.

9

10 MR. CUOLLO: Yeah I did the whole inside renovation
11 and I already started outside with permits. I started with
12 cleaning the outside. You see whoever passed by you'll see I
13 got a nice-sized driveway. I cleaned it up nice and it needed
14 something. It needed a lift.

15

16 MR. LEVITON: Thank you sir. Let us go out to the
17 public and ask if there's anyone in attendance this evening
18 who would like to question Mr. Cuollo about his testimony or
19 address the board regarding this matter. Now would be the
20 time. Okay seeing none I'm going to close public and I'll ask
21 Mr. Glass if there's anything further he requires.

22

23 MR. GLASS: I guess just one of the requirements that
24 if there's going to be a deviation from the ordinance is that
25 it substantially outweighs any detriment to the community.

26

27 MR. LEVITON: He's already testified --- no detriment
28 to the community and that it was visually pleasing.

29

30 MR. CUOLLO: It's going to look beautiful.

31

32 MR. LEVITON: Okay and Ms. DeFalco anything further?

33

34 MS. DEFALCO: No, thank you Chair.

35

36 MR. LEVITON: Then I'll ask you, welcome thank you
37 ma'am, let us get a motion and a second please.

38

39 MR. WEISS: I'll make a motion to approve the
40 application as submitted.

41

42 MR. ROSENTHAL: I'll second.

43

44 MR. LEVITON: Thank you Adam and thank you Terry.

45

46 MS. MOENCH: The second was Terry?

47

48 MR. LEVITON: Yes.

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ROLL CALL

MS. MOENCH: Mr. DiTota?
MR. DITOTA: Yes.
MS. MOENCH: Mr. Rosenthal?
MR. ROSENTHAL: Yes.
MS. MOENCH: Mr. Schertz?
MR. SCHERTZ: Yes.
MS. MOENCH: Mr. Shalikar?
MR. SHALIKAR: Yes.
MS. MOENCH: Mr. Weiss?
MR. WEISS: Yes.
MS. MOENCH: Mr. Mantagas?
MR. MANTAGAS: Yes.
MS. MOENCH: Chair Leviton?
MR. LEVITON: Congratulations sir.
MR. CUOLLO: Thank you board.
MR. LEVITON: You're welcome.
MS. DEFALCO: Good luck.
MR. MANTAGAS: Good luck.

MR. LEVITON: Okay we are at our last hearing and that would be 2245, Ms. Giordano, Mr. Yee, and Mr. Chang. Are you all here? Please come forward. Welcome to you all. You're welcome. Okay so someone has sold this house and someone has bought this house and we'll get to the brass tax after our attorney Mr. Glass swears you in.

MR. GLASS: I guess I'll start with you ma'am. Please raise your right hand and repeat after me. 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 MS. GIORDANO: Yes I do.

5
6 MR. GLASS: And please spell and state your name for
7 the record.

8
9 MS. GIORDANO: Muriel Giordano, M-U-R-I-E-L Giordano
10 G-I-O-R-D-A-N-O.

11
12 MR. GLASS: Great thank you and then I guess you sir.
13 Raise your right hand. Do you swear or affirm that the
14 testimony you're about to provide is the truth, the whole
15 truth and nothing but the truth?

16
17 MR. YEE: Yes I do.

18
19 MR. GLASS: And please spell and state your name for
20 the record.

21
22 MR. YEE: First name Edward E-D-W-A-R-D, last name is
23 Yee, Y-E-E.

24
25 MR. GLASS: Great and will you be testifying ma'am or
26 just? If you're going to testify I'll swear you in. If not you
27 can feel more than welcome to stay there, but it's up to you.

28
29 FEMALE VOICE: No I'm good.

30
31 MR. GLASS: Okay.

32
33 MR. LEVITON: You are good. You're welcome. Okay so
34 Ms. Giordano I presume you sold this home?

35
36 MS. GIORDANO: Yes I did.

37
38 MR. LEVITON: Are you currently living there?

39
40 MS. GIORDANO: No.

41
42 MR. LEVITON: Okay and Mr. Yee you are the present
43 homeowner and occupant?

44
45 MR. YEE: I am along with my wife.

46
47 MR. LEVITON: So welcome to Manalapan Township to the
48 two of you and congratulations to you ma'am.

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MS. GIORDANO: Thank you.

MR. LEVITON: Before we go any further let me ask you who is responsible for bringing the property back into compliance if the board doesn't favorably act on this application?

MS. GIORDANO: I am.

MR. LEVITON: Okay so Ms. Giordano I'll let you tell the board what it is that the property ---

MS. GIORDANO: I have something written so I'm just going to read from it.

MR. LEVITON: That's fine.

MS. GIORDANO: The garage and driveway were built seventeen years ago by my deceased husband. When projects started in 2005 we went through a variance hearing and were approved to construct fifteen feet from the property line. The permit closed after final inspection and approval in 2007. This year during the selling process it was measured twelve feet from the property line. I cannot speak beyond what I know and see which is the final inspection and the original drawings that stated fifteen feet. Today I am here requesting a twelve foot variance for the existing garage and driveway. The garage and driveway being off by a few feet hasn't harmfully impacted my neighbor nor the community. It's primarily used for storage and doesn't negatively impact the surrounding environment or community. Taking the garage down and ripping part of the driveway up would cause more disruption such as noise, leaving an eyesore for the neighbors, anyone passing by, and new owners than letting them stay as is. I lived in this township for thirty-seven years and the town has outgrown me. After my husband passed it was a hardship to take care of the house and I'm on my own in addition to keeping up with the cost of living within Manalapan which is why I needed to sell and move to a more affordable area. I retired after thirty years as working as a practical nurse and now living on a fixed income, being able to keep the money that would go towards demolishing the garage and the driveway will allow me to live more comfortably in my new home especially as I have put a lot of work and money into the house before selling it to meet requirements of the township. That's it.

1 MR. LEVITON: Thank you Ms. Giordano. We appreciate
2 your thoughts and we understand it was difficult for you.

3
4 MS. GIORDANO: Okay.

5
6 MR. LEVITON: To take you away from. Of course we
7 can't, the board is unable to consider by law the personal
8 hardship that --- hardships.

9
10 MS. GIORDANO: I understand.

11
12 MR. LEVITON: They only relate to the ---

13
14 MS. GIORDANO: I understand.

15
16 MR. LEVITON: The property.

17
18 MS. GIORDANO: Okay.

19
20 MR. LEVITON: Let's go out and see what the folks
21 think. Dan?

22
23 MR. POCHOPIN: So this garage do you happen to know
24 the size of it? It looks pretty big from the picture.

25
26 MS. GIORDANO: Fifteen by twenty-four maybe.

27
28 MR. POCHOPIN: So is there any electric in the
29 garage?

30
31 MS. GIORDANO: Yes. I have all the permits for it.

32
33 MR. POCHOPIN: Okay.

34
35 MS. GIORDANO: Everything's permitted. It wss all
36 passed,

37
38 MR. POCHOPIN: Thank you and the new owners you're
39 favorable of having it also?

40
41 MR. YEE: Yes sir.

42
43 MR. POCHOPIN: Yeah.

44
45 MR. YEE: It'd be nice to have a garage.

46
47 MR. POCHOPIN: Sure.

48

1 MS. GIORDANO: It's a beautiful garage.

2
3 MR. POCHOPIN: Right and its only a few feet over
4 from what you remember?

5
6 MS. GIORDANO: Yeah it stated the new survey showed
7 twelve feet. We thought it was fifteen.

8
9 MR. POCHOPIN: Oh okay.

10
11 MS. GIORDANO: Yeah.

12
13 MR. POCHOPIN: So you tried to do everything right
14 and you just assumed like you said back then --- 2005, okay no
15 further questions.

16
17 MR. LEVITON: Thank you Dan. Just for the sake of the
18 record there was a resolution from 2005 that was included in
19 our packet and the variance relief was granted and then there
20 was a three foot error in the installation is what Ms.
21 Giordano has testified to.

22
23 MS. GIORDANO: That's why I was asking.

24
25 MR. LEVITON: And that's why she needs that
26 legitimized. Basil?

27
28 MR. MANTAGAS: Hi Ms. Giordano. Is it the garage and
29 the driveway is past the set back? Is that what we're saying
30 or it's just the driveway itself?

31
32 MS. DEFALCO: Both.

33
34 MR. MANTAGAS: Both?

35
36 MR. LEVITON: Nancy can you quantify the set back
37 encroachment for the garage?

38
39 MS. DEFALCO: The garage technically should be thirty
40 feet from the side yard. The board granted relief of fifteen
41 foot set back and twelve exists. The driveway requires a ten
42 foot set back and seven exists.

43
44 MR. LEVITON: So there was a three foot error in the
45 construction of both then?

46
47 MS. DEFALCO: Yes --- Can I just ask about the shed?
48

1 MR. LEVITON: Absolutely.
2
3 MS. DEFALCO: Was that relocated?
4
5 MS. GIORDANO: Yes.
6
7 MS. DEFALCO: Okay.
8
9 MS. GIORDANO: It was moved.
10
11 MR. LEVITON: The board thanks you for that from the
12 bottom of its heart. Basil back to you.
13
14 MR. MANTAGAS: Did you say your husband constructed
15 it?
16
17 MS. GIORDANO: Yes ---
18
19 MR. MANTAGAS: The plans okay. Everything else is
20 okay as far as the construction-wise and all that stuff and
21 how is anybody around you have a problem with that? Do you
22 have anybody next to you that?
23
24 MS. GIORDANO: I believe so.
25
26 MR. MANTAGAS: Yeah. Has there ever been a drainage
27 problem?
28
29 MS. GIORDANO: No.
30
31 MR. MANTAGAS: With that driveway?
32
33 MS. GIORDANO: No.
34
35 MR. MANTAGAS: Because I passed by, I saw, took a
36 look at it. --- No further questions.
37
38 MR. LEVITON: Thank you Basil. Josh?
39
40 MR. SHALIKAR: No questions Chair.
41
42 MR. LEVITON: Thank you Josh. David?
43
44 MR. SCHERTZ: No questions.
45
46 MR. LEVITON: Thank you David. Adam?
47
48 MR. WEISS: No questions.

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MR. LEVITON: Thank you Adam. Terry?

MR. ROSENTHAL: I'm good.

MR. LEVITON: Thank you Terry and Robert?

MR. DITOTA: I just wanted to know if there was any lighting on the outside of the garage if you're facing it on the left side?

MS. GIORDANO: Yes.

MR. DITOTA: There is?

MS. GIORDANO: There is a lot, yeah. There is a motion detector in front of the garage.

MR. DITOTA: On the fron of the garage or on the side?

MS. GIORDANO: No not of the side, on the front.

MR. YEE: Just to confirm the motion detector light is in the front-facing of the garage that faces the street. I don't believe there's any lights on the side facing the left neighbor. There was one light on the right side which is where the door is entering the garage and of course the garage door.

MR. DITOTA: Okay.

MR. YEE: So there is one light there.

MR. LEVITON: Thank you Mr. Yee. Okay I'm last and I started by telling you that hardships have to run with the land and in your case your property Mr. Yee sits on a curve, doesn't it? Can you testify to the irregular shape of this property?

MR. YEE: Yeah sure. It's on Taylors Mills Road. Let's say if you're coming from Conmack you make a right, go straight down, and it kind of slightly curves off to the left and so 46 Taylors Mills is kind of right where the curve begins so in that sense its irregular.

MR. LEVITON: Thank you sir. I have nothing further. I'm going to go out to the public and ask if there's anyone in attendance who would like to. I see a hand being raised. Would

1 you step forward? You may cross examine the testimony that's
2 been offered or you can address the board. Either way Mr.
3 Glass will swear you in.

4
5 MR. GLASS: Through the mic over here.

6
7 MR. CHIRGOTIS: Okay.

8
9 MR. LEVITON: Sir you're invited as well. Are you
10 together? Come on up.

11
12 MS. ADAMS: Yes.

13
14 MS. MOENCH: Whatever you're more comfortable with.

15
16 MS. ADAMS: Okay.

17
18 MR. GLASS: I'll start with you ma'am. Raise your
19 right hand and repeat after me. Do you swear or affirm that
20 the testimony you're about to provide is the truth, the whole
21 truth, and nothing but the truth?

22
23 MS. ADAMS: I do.

24
25 MR. GLASS: And please spell and state your name and
26 your address as well.

27
28 MS. ADAMS: Melanie Adams, M-E-L-A-N-I-E last name
29 Adams A-D-A-M-S. My address is 326 Smithburg Road Manalapan.

30
31 MR. GLASS: Okay sir do you swear or affirm that the
32 testimony you're about to provide is the truth, the whole
33 truth and nothing but the truth?

34
35 MR. CHIRGOTIS: I do.

36
37 MR. GLASS: And please spell and state your name for
38 the record.

39
40 MR. CHIRGOTIS: Nicholas Chirgotis N-I-C-H-O-L-A-S C-
41 H-I-R-G-O-T-I-S.

42
43 MR. GLASS: And your address, is it the same or
44 different? Same address?

45
46 MS. ADAMS: Yes same 326 Smithburg Road.

47

1 MR. LEVITON: Sir say your name one more time for me?
2 One more time how do you say your name?

3
4 MR. CHIRGOTIS: C-H-I-R-G-O-T-I-S.

5
6 MS. ADAMS: Chirgotis.

7
8 MR. LEVITON: Chirgotis I got it. Thank you Ms.
9 Adams.

10
11 MS. ADAMS: That's why I have my name.

12
13 MR. LEVITON: Let's start with you ma'am.

14
15 MS. ADAMS: Okay so thank you for taking this time to
16 listen to our opposition to the application. The original
17 variance was granted quite awhile ago and we objected to that
18 then and it was granted. The construction of the garage is
19 right off the bedroom of my mother so back in 2005 whenever
20 this was my 82-year-old mother never slept in her bedroom
21 again after this garage was constructed. The other issue is
22 that the property lines are still not set so while there is a
23 survey that was submitted it's a paper survey. So we had a
24 surveyor come install stakes and they are missing. So the
25 property lines are in contention. We had the fence installed
26 after the garage went up and the town asked us to offset it
27 two feet so it essentially is two feet into the property of my
28 deceased mother. So we ran it around to the back. The back end
29 of the property also has a fence. One side is thirteen feet
30 off of the property line. The other end of the fence is
31 eighteen feet off the property line so the placement of the
32 shed that was moved is still located on my mother's property.
33 So the first thing that I would actually like is the real
34 survey. Have a surveyor come out. Let's stake it out and then
35 let's see what exactly the property lines say.

36
37 MS. DEFALCO: Did you have a survey done?

38
39 MS. ADAMS: We did.

40
41 MS. DEFALCO: Do you have a copy?

42
43 MS. ADAMS: Yes right here.

44
45 MR. DITOTA: Does somebody own your mom's house?

46
47 MS. ADAMS: My brother and sister live in my mother's
48 house. It is still in the estate of and we are executors.

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MS. DEFALCO: The current survey ---

MR. GLASS: ---

MR. CHIRGOTIS: It's not current. It was done when they did the fence.

MR. LEVITON: So the testimony by I'm going to just get that on the record, the testimony of Mr. Chirgotis.

MS. ADAMS: Chirgotis.

MR. LEVITON: Chirgotis is that the survey is not new and Ms. Adams ---

MR. CHIRGOTIS: Should be a date on it.

MR. LEVITON: The survey that we have was done this year.

MS. ADAMS: That's a paper survey.

MR. LEVITON: I understand, but it's on the record.

MS. ADAMS: Okay.

MR. LEVITON: On the survey that your husband has submitted goes back to 2007.

MS. ADAMS: Right when we ---

MR. CHIRGOTIS: Can I say something?

MR. LEVITON: Sure.

MR. CHIRGOTIS: About the survey?

MR. LEVITON: Sure.

MR. CHIRGOTIS: The first survey that you show us is a paper survey shows the property line to the fence. They only own 141.41 foot; its 160 feet to the fence so this survey is a farce. It's not a good survey. I put in when we did the survey we put in spikes with caps. Her husband kept moving these things and I had a problem with him back then. We had a problem with this survey from day one. Finally when they did the thing we just said, let them live, let it be, but now its

1 changing hands we want to get it back into legality. Let them
2 take an actual survey. They will know exactly where they own.
3 Let them stake it out. Let's get the thing resolved this time.
4 While my mother was alive we couldn't resolve it.

5
6 MR. LEVITON: Well the public portion is designed to
7 allow you to state your objections. It's also allowed for you
8 to ask questions of the Yee's or Ms. Giordano. It's not a
9 dialogue and we're not going to turn it into that. Mr. DiTota
10 you're free to ask them a question if it pleases you.

11
12 MR. DITOTA: Well if there's no dialogue, I don't
13 want to make a dialogue of this.

14
15 MR. LEVITON: Yeah.

16
17 MR. DITOTA: Then don't do that.

18
19 MR. LEVITON: I will say that this board is looking
20 at a survey done by a professional engineer and it has to
21 accept what it is. You're not providing us with an ultimate,
22 current survey and we understand that you had a problem with
23 the stakes that were moved. We hear you, but we're looking at
24 a survey that came through the zoning office and the zoning
25 officer Ms. DeFalco has identified for us what we're going to
26 go off of. It's a three foot difference from what the relief
27 the Giordano's were granted in 2005 for both the shed and the
28 driveway and that's what we're going to work off of. So beyond
29 that if you have other objections we're open to hearing all of
30 them. We heard that her mom had --- the bedroom.

31
32 MR. CHIRGOTIS: Does this survey have a seal on it
33 proving it's a survey? Your survey you're saying that you're -
34 --

35 MR. LEVITON: I understand.

36
37 MR. CHIRGOTIS: That Ms. Giordano has.

38
39 MR. LEVITON: I understand. I'm going to defer to the
40 board attorney Mr. Glass on this matter.

41
42 MS. DEFALCO: --- the fences --- that's the property
43 line. There's no fence there.

44
45 MR. CHIRGOTIS: I'm talking about our survey there's
46 nothing.

47

1 MS. MOENCH: So when they're transcribing that ---
2 you guys are talk about you're not referencing anything,
3 there's no exhibits so we can't ---

4
5 MR. GLASS: Yeah we just can't have the ---

6
7 MS. MOENCH: We can't have that.

8
9 MR. LEVITON: So there's a property line dispute that
10 this board doesn't have the authority to adjudicate, but we
11 are going to defer to the attorney's acumen in these matters
12 and Mr. Glass what are your thoughts sir?

13
14 MR. GLASS: So yes the survey that has been presented
15 with the application is certified too by a licensed surveyor.
16 The board can weigh the evidence. It's free to weigh what's
17 been presented in front of it, but this is I would say in my
18 opinion there's nothing here to discredit the survey. I mean
19 the board is free to weigh the evidence, but it is presented,
20 Its certified and signed so.

21
22 MS. DEFALCO: And I just want to add that what I was
23 saying to that is the fence that they're speaking of, their
24 fence, is not shown on the survey so.

25
26 MS. ADAMS: That was done ---

27
28 MS. DEFALCO: Unfortunately you have to have a new
29 survey done and then if the fence is somewhere else if they
30 don't agree then you'll have to get a third survey. ---

31
32 MS. ADAMS: We don't have any.

33
34 MR. CHIRGOTIS: Any survey that would be legal will
35 have a seal on it. If you read the survey, the one I gave you
36 ---

37
38 MS. DEFALCO: --- here sir.

39
40 MR. CHIRGOTIS: I'm sorry.

41
42 MR. GLASS: Yeah we'll mark that ---

43
44 MR. CHIRGOTIS: Any survey would have the seal.

45
46 MR. LEVITON: Always talk into the mic Mr. Chirgotis.

47
48 MS. DEFALCO: We have the survey with the seal.

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MR. GLASS: Yeah.

MR. CHIRGOTIS: You have one?

MS. DEFALCO: Yes.

MR. CHIRGOTIS: With a seal?

MR. GLASS: Correct.

MS. DEFALCO: Yes this is a copy of the sealed survey, correct.

MR. CHIRGOTIS: I don't see no seal. I don't even see an imprint.

MS. DEFALCO: This is a copy.

MR. LEVITON: Mr. Chirgotis we're not going to call into question the voracity of the zoning officer. There is a survey with a seal on it downstairs in the zoning office. You're invited at any time to come and see. You know Ms. Moench will take very good care of you.

MS. ADAMS: Okay.

MR. LEVITON: Okay?

MS. ADAMS: Well thank you for that.

MR. LEVITON: You're welcome.

MS. ADAMS: If I can just continue about the hardship?

MR. LEVITON: Please.

MS. ADAMS: The only one affected here is us, my brother and my sister. That property that is now in question next to us is a very small property and if the garage which is twelve by twenty-four it's a rather large structure were properly placed then there wouldn't be an issue, but not only is that not in compliance neither is the driveway. So after the septic got redone, the driveway was repaved and you can see that the driveway is even farther over than the garage. So I don't know what the answer is other than to try and bring this into compliance. It's not the fault of the new owners so

1 how this gets resolved I don't know, but the only hardship
2 that is happening is this big garage which produces noise,
3 light, exhaust, whatever is there.

4

5 MR. LEVITON: Thank you Ms. Adams. Mr. Chirgotis
6 anything further sir?

7

8 MR. CHIRGOTIS: Not at this time.

9

10 MR. LEVITON: The board thanks you both for
11 expressing your opposition and for articulating your thoughts
12 on this matter and for representing your sibling. I will
13 remark, I will say that this is relief that the Giordanos had
14 been granted in 2005 by this board and there was an error on
15 the construction of the driveway and of the shed to three
16 feet. So it's three feet and given the smallness of this
17 property and its irregular shape I would characterize that as
18 de minimis, but that's me.

19

20 MR. CHIRGOTIS: What was that? I missed the last
21 piece.

22

23 MR. LEVITON: I believe that the, just a minute, the
24 encroachment is de minimis, but that's me. Sir are you raising
25 your hand? I have not closed public if you'd like to speak
26 you'd be more than welcome to.

27

28 MALE VOICE: No.

29

30 MR. LEVITON: Are you sure? Anyone else from your
31 family? Okay, Nancy?

32

33 MS. DEFALCO: Can I ask the applicant if they would
34 object to putting a shield on the light?

35

36 MR. YEE: Are you talking about the motion sensor
37 light?

38

39 MS. DEFALCO: Yes just a shield.

40

41 MR. YEE: Sure.

42

43 MS. DEFALCO: That faces ---

44

45 MR. DITOTA: I thought the light wasn't facing.

46

47 MS. DEFALCO: The way that house is positioned their
48 front of the house is kind of facing their side of the house.

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MR. DITOTA: So it's the light that's causing the issue?

MS. DEFALCO: That's what's shining into her ---

MR. YEE: So it's kind of the shape of the shed is triangular roof and so the motion sensor light is right at the tip of the triangle facing the street and so I can reasonably see that the light could project over the fence so.

MR. POCHOPIN: Move the light a little bit.

MS. DEFALCO: Or just put a shield, that's it. Thank you.

MR. LEVITON: Nancy thank you for that fantastic suggestion. I hope that the audience has heard that the behest of the zoning office where Mrs. DeFalco the Yee's and Ms. Giordano have consented to shield the light that you see from the bedroom in the home and we thank them for that concession. Okay I've characterized my thoughts. What do the rest of you think? Thank you Adam. At this time if there's no one further in attendance who wants to come forward I'm going to close public and go back out to the board see if anyone has thoughts that they want to share. Rob are you good?

MR. DITOTA: I'd like to make a motion.

MR. LEVITON: Hold off on that for a minute. You can though.

MS. DEFALCO: Sorry I apologize. Can you say one more time for the record your address?

MS. MOENCH: No, no, no not your address, the address of this survey.

MS. DEFALCO: Of the house.

MS. MOENCH: The survey. They adjusted the survey that you provided, what is the address?

MS. ADAMS: Forty-four.

MS. DEFALCO: Forty-four okay thank you.

MS. MOENCH: Okay so do we want to put on the record?

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MR. GLASS: Just so everyone is clear this is the survey provided by the objectors marked as O1 so it's been accepted into evidence that's 44 Taylors Mills Road.

MS. MOENCH: Correct.

MR. GLASS: Just so the board is aware so that is part of the evidentiary package.

MS. MOENCH: Thank you.

MR. WEISS: Before the board makes a determination maybe it's a good idea for that survey to be circulated just so that we can say that we've looked at everything and considered everything before making our decision.

MR. LEVITON: Thank you Adam. Also I will state for the record that Ms. Giordano has indicated that the shed has been moved and it's not under consideration as part of this application. Its placement is not under consideration or before the board this evening because I know that the objections included remarks about it. Ms. Adams said that it encroaches on the neighbor's property and that she disputes the survey and we have heard you, but it's not before the board tonight, okay. And to my good friend Mr. Weiss ever was so clever sir.

MR. WEISS: Thank you.

MR. YEE: I have a question if I may. With regards to the shielding of the motion sensor light is there a possibility of us doing it so that it doesn't completely cut off the left side of the light? So that at least it can shine into our property because it would seem weird to just cut off the entire part of the defense.

MR. LEVITON: We're not going to get into the specifics of how it's done so we'll leave it to you, your judgment and you heard the objections registered and we trust that you're good neighbors and good people.

MS. DEFALCO: If you don't mind you can get in touch with me and I'll tell you what the ordinance says.

MR. YEE: Sure, thank you, thank you.

MR. POCHOPIN: Is it a solar light or electrical?

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MR. YEE: I am not in any way, shape, or form have any expertise in that.

MS. GIORDANO: It's a ring light. It was only put in ---

MR. POCHOPIN: Low volt?

MS. GIORDANO: After my husband passed away. My son put it in.

MR. POCHOPIN: Low voltage then good. So then I have an idea that doesn't really matter on this committee, but I am a licensed electrician you can put on the side a four by four volt facing opposite from the neighbors. You have the whole property without keeping it in the middle and then --- upon anybody else's light.

MR. WEISS: The other thing Mr. Yee is those heads may be adjustable so you may want to. That may be the cheapest and easiest way to. They are just be careful on the ladder that's all.

MR. LEVITON: Thank you Mr. Pochopin and thank you Mr. Weiss. The survey submitted by Ms. Adams and by Mr. Chirgotis is being sent around the dais and its journey is almost complete. And while that's occurring let's ask Mr. Glass if he requires anything further.

MR. GLASS: I don't think so. I think there's been sufficient testimony from the applicants plural I guess as to the in this case I guess I would say there is testimony as to C1 and C2. C1 being a hardship by virtue of the unique shape of the property which probably goes a little bit more towards the driveway than the shed just by virtue of the fact that there was an approval granted for this shed where it was in a different location. However there has been testimony from the applicant as to the C2 benefits versus the detriments criteria as well.

MR. LEVITON: Thank you Mr. Glass and let's ask Ms. DeFalco if there's anything further from her.

MS. DEFALCO: No thank you Chair.

MR. LEVITON: Thank you ma'am. Mr. Mantagas and Mr. Pochopin are we good?

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MR. POCHOPIN: Yeah sorry.

MR. LEVITON: We're all good then. Mr. DiTota I'll call on you to make a motion.

MR. DITOTA: Yeah I'd like to make a motion to accept the application.

MR. ROSENTHAL: I'll second.

MR. DITOTA: As stated.

MR. LEVITON: And thank you Mr. Rosenthal for the second.

ROLL CALL

MS. MOENCH: Mr. DiTota?

MR. DITOTA: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes, congratulations to the Giordanos and the Yee s. The board will adopt a formal resolution at a subsequent meeting. Janice will mail it out to you. I'm not sure to whom she'll mail it, probably both of you and you

1 don't need to be here and good luck to you in your new home
2 and it's nice to see young people come into town.

3

4 MS. GIORDANO: Thank you so much.

5

6 MR. LEVITON: Okay at this time I'm going to go out
7 to the public again and ask does anyone in attendance who
8 wants to discuss anything with the board that's non agenda-
9 related? Seeing none I'm going to close public. Whereas
10 statutes annotated 10:4-12 provides that a public body may
11 exclude the public from a portion of the meeting at which the
12 public body discusses certain subject matter which is deemed
13 private and whereas it has been determined that it is
14 necessary to hold an executive session to discuss matters
15 which are exempt from the regulations of the Open Public
16 Meetings Act. Now therefore be it resolved that the zoning
17 board of Manalapan Township approves an executive session
18 during this meeting to discuss ongoing litigation and
19 resolution enforcement matters. Be it further resolved that
20 it's anticipated that this session will last approximately
21 fifteen minutes and that when we return from executive session
22 no action will be taken.

23

24 MR. WEISS: Do you need a motion?

25

26 MR. LEVITON: Motion and then someone to second.

27

28 MR. WEISS: So moved.

29

30 MR. SHALIKAR: Second.

31

32 MR. LEVITON: Thank you Adam and thank you Joshua.
33 Janice will you call the roll? It's formal, executive session.

34

35 MS. MOENCH: Did you say all in favor?

36

37 MR. LEVITON: All in favor?

38

39 ALL: Aye.

40

41 MR. LEVITON: Okay. Justin is going to update us on -
42 -- Sorry Janice. Oh Janice you can turn off the recording and
43 we'll turn it back on when we ---

44

45 MR. WEISS: I just want to put one thing on the
46 record if I may. I am conflicted.

47

48 MR. LEVITON: Oh right.

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MR. WEISS: And I'm recusing myself from anything related to the --- Barrister Lane house.

MR. LEVITON: Forgive me Adam I knew that. --- first so that Adam can hear what's going on and then he will recuse himself and then we're going to turn off the recording at this time and when we return from executive session we will re-open the meeting and then we'll ask someone to adjourn. Okay I'm going to re-open public at this time and ask someone to call for an adjournment.

MR. SCHERTZ: So moved.

MR. LEVITON: Thank you Mr. Schertz.

MR. SHALIKAR: Second.

MR. LEVITON: Thank you Mr. Shalika. Good night everyone

TOWNSHIP OF MANALAPAN
MINUTES

ZONING BOARD MEETING
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