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**MEETING IS CALLED TO ORDER:**

MS. MOENCH: Tonight is the 2023 reorganization and public meeting of the Manalapan Township Zoning Board of Adjustment. This meeting is called to order with the reading of the following Open Public Meetings Act Notice. 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 and the News Transcript. A copy of the notice was uploaded to the municipal website and 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 made available to the public and is on file in the office of the municipal clerk. Accordingly, this meeting is deemed to be in compliance with the Open Public Meetings Act. Please rise and join me to salute the flag.

**SALUTE TO THE FLAG**

MS. MOENCH: Okay. Mayor Cohen will you administer the oaths for our returning members Robert Gregowicz, Adam Weiss, and Michael Wechsler?

MAYOR COHEN: We're going to do them individually. Okay you ready?

MR. GREGOWICZ: I'm ready.

MAYOR COHEN: Okay, I Robert Gregowicz.

MR. GREGOWICZ: I Robert Gregowicz.

MAYOR COHEN: Do solemnly swear.

MR. GREGOWICZ: Do solemnly swear.

MAYOR COHEN: That I will support the Constitution.

MR. GREGOWICZ: That I will support the Constitution.

MAYOR COHEN: Of the United States.

MR. GREGOWICZ: Of the United States.

MAYOR COHEN: And the Constitution.

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MR. GREGOWICZ: And the Constitution.

MAYOR COHEN: Of the state of New Jersey.

MR. GREGOWICZ: Of the state of New Jersey.

MAYOR COHEN: And that I will bear true faith.

MR. GREGOWICZ: And that I will bear true faith.

MAYOR COHEN: And allegiance to the same.

MR. GREGOWICZ: And allegiance to the same.

MAYOR COHEN: And to the governments established.

MR. GREGOWICZ: And to the governments established.

MAYOR COHEN: In the United States.

MR. GREGOWICZ: In the United States.

MAYOR COHEN: And in this state.

MR. GREGOWICZ: And in this state.

MAYOR COHEN: Under the authority of the people.

MR. GREGOWICZ: Under the authority of the people.

MAYOR COHEN: And that I will faithfully.

MR. GREGOWICZ: And that I will faithfully.

MAYOR COHEN: Impartially.

MR. GREGOWICZ: Impartially.

MAYOR COHEN: And justly perform.

MR. GREGOWICZ: And justly perform.

MAYOR COHEN: All the duties of.

MR. GREGOWICZ: All the duties of.

MAYOR COHEN: The offices of the Manalapan Township  
Zoning Board.

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MR. GREGOWICZ: The office of the Manalapan Township  
Zoning Board.

MAYOR COHEN: Of adjustment.

MR. GREGOWICZ: Of adjustment.

MAYOR COHEN: According to the best of my ability.

MR. GREGOWICZ: According to the best of my ability.

MAYOR COHEN: So help me God.

MR. GREGOWICZ: So help me God.

MAYOR COHEN: Congratulations. Adam Weiss.

MR. WEISS: I Adam Weiss.

MAYOR COHEN: Do solemnly swear or affirm.

MR. WEISS: Do solemnly swear.

MAYOR COHEN: That I will support the Constitution.

MR. WEISS: That I will support the Constitution.

MAYOR COHEN: Of the United States.

MR. WEISS: Of the United States.

MAYOR COHEN: And the Constitution of.

MR. WEISS: And the Constitution of.

MAYOR COHEN: The state of New Jersey.

MR. WEISS: The state of New Jersey.

MAYOR COHEN: And that I will bear true faith.

MR. WEISS: And that I will bear true faith.

MAYOR COHEN: And allegiance to the same.

MR. WEISS: And allegiance to the same.

1 MAYOR COHEN: And to the governments established.  
2  
3 MR. WEISS: And to the governments established.  
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5 MAYOR COHEN: In the United States.  
6  
7 MR. WEISS: In the United States.  
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9 MAYOR COHEN: And in this state.  
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11 MR. WEISS: And in this state.  
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13 MAYOR COHEN: Under the authority of the people.  
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15 MR. WEISS: Under the authority of the people.  
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17 MAYOR COHEN: And that I will faithfully.  
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19 MR. WEISS: And that I will faithfully.  
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21 MAYOR COHEN: Impartially.  
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23 MR. WEISS: Impartially.  
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25 MAYOR COHEN: And justly perform.  
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27 MR. WEISS: And justly perform.  
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29 MAYOR COHEN: All the duties of.  
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31 MR. WEISS: All the duties of.  
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33 MAYOR COHEN: The office of.  
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35 MR. WEISS: The office of.  
36  
37 MAYOR COHEN: The Manalapan Township Zoning Board of  
38 Adjustment.  
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40 MR. WEISS: The Manalapan Township Zoning Board of  
41 Adjustment.  
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43 MAYOR COHEN: To the best of my ability.  
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45 MR. WEISS: To the best of my ability.  
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47 MAYOR COHEN: So help me God.  
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MR. WEISS: So help me God.

MAYOR COHEN: Congratulations. Now Mr. Wechsler, I  
Michael Wechsler.

MR. WECHSLER: I Michael Wechsler.

MAYOR COHEN: Do solemnly swear or affirm.

MR. WECHSLER: Do solemnly swear.

MAYOR COHEN: That I will support the Constitution.

MR. WECHSLER: That I will support the Constitution.

MAYOR COHEN: Of the United States.

MR. WECHSLER: Of the United States.

MAYOR COHEN: And the Constitution.

MR. WECHSLER: And the Consitution.

MAYOR COHEN: Of the state of New Jersey.

MR. WECHSLER: Of the state of New Jersey.

MAYOR COHEN: And that I will bear true faith.

MR. WECHSLER: And that I will bear true faith.

MAYOR COHEN: And allegiance to the same.

MR. WECHSLER: And allegiance to the same.

MAYOR COHEN: And to the government established.

MR. WECHSLER: And to the government established.

MAYOR COHEN: In the United States.

MR. WECHSLER: In the United States.

MAYOR COHEN: And in this state.

MR. WECHSLER: And in this state.

MAYOR COHEN: Under the authority of the people.

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MR. WECHSLER: Under the authority of the people.

MAYOR COHEN: And that I will faithfully.

MR. WECHSLER: And that I will faithfully.

MAYOR COHEN: Impartially.

MR. WECHSLER: Impartially.

MAYOR COHEN: And justly perform.

MR. WECHSLER: And justly perform.

MAYOR COHEN: All the duties of.

MR. WECHSLER: All the duties of.

MAYOR COHEN: The office of.

MR. WECHSLER: The office of.

MAYOR COHEN: The Manalapan Township Zoning Board of Adjustment.

MR. WECHSLER: The Manalapan Township Zoning Board of Adjustment.

MAYOR COHEN: According to the best of my ability.

MR. WECHSLER: According to the best of my ability.

MAYOR COHEN: So help me God.

MR. WECHSLER: So help me God.

MAYOR COHEN: Congratulations and thank you everybody for volunteering. We really appreciate it.

MS. MOENCH: Thank you Mayor Cohen. At this time I'd like to ask for a nomination for chairman.

MR. ROSENTHAL: I'd like to nominate Steven Leviton.

MS. MOENCH: Okay can I get a motion.

MR. GREGOWICZ: Second.

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MS. MOENCH: Okay.

**ROLL CALL**

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: 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: Absolutely yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: This meeting will now be turned to over to Chairman Leviton.

MR. LEVITON: Thank you board for once again trusting in my abilities for what we've accomplished together so far. It's an honor to continue to serve the community in this capacity. Also thank you to the honorable mayor Ms. Susan Cohen and the township committee for their steadfast and unwavering support. I promise to work hard to maintain the confidence, your trust and confidence you've shown in me and congratulations to Bob and Adam and Michael on your reappointments. Thank you for continuing to share your time and expertise and on a personal note at a difficult time your expressions of sympathy and kindness were very much appreciated by my family and myself. Okay now it's time to

1 nominate the awe-inspiring Ms. Moench for recording secretary.  
2 Will someone make that motion and will someone second?

3

4

MR. SCHERTZ: So moved.

5

6

MR. WECHSLER: Second.

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8

MR. LEVITON: Thank you Michael and thank you Josh.

9

10

MR. SCHERTZ: No.

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12

MS. DEFALCO: David.

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14

MR. LEVITON: David. Janice you'll call that.

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**ROLL CALL**

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MS. MOENCH: Mr. Gregowicz?

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MR. GREGOWICZ: Yes.

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MS. MOENCH: Mr. Rosenthal?

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MR. ROSENTHAL: Yes.

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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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MR. WEISS: Yes.

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MS. MOENCH: Mr. Pochopin?

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MR. POCHOPIN: Yes.

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MS. MOENCH: Mr. Wechsler?

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MR. WECHSLER: Yes.

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MS. MOENCH: Chair Leviton?

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1 MR. LEVITON: Yes and Janice also call the roll for  
2 attendance call.

3  
4 MS. MOENCH: Oh I'm so sorry.

5  
6 MR. LEVITON: It's okay.

7  
8 MS. MOENCH: Thank you.

9  
10 **ROLL CALL**

11  
12 MS. MOENCH: Mr. DiTota is not with us today. He's  
13 absent. Mr. Gregowicz?

14  
15 MR. GREGOWICZ: Here.

16  
17 MS. MOENCH: Mr. Rosenthal?

18  
19 MR. ROSENTHAL: Here.

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21 MS. MOENCH: Mr. Schertz?

22  
23 MR. SCHERTZ: Here.

24  
25 MS. MOENCH: Mr. Shalika?

26  
27 MR. SHALIKAR: Here.

28  
29 MS. MOENCH: Mr. Weiss?

30  
31 MR. WEISS: Yes here.

32  
33 MS. MOENCH: Mr. Mantagas is not with us. Mr.  
34 Pochopin?

35  
36 MR. POCHOPIN: Yes.

37  
38 MS. MOENCH: Mr. Wechsler?

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40 MR. WECHSLER: Yes.

41  
42 MS. MOENCH: Chair Leviton?

43  
44 MR. LEVITON: Yes.

45  
46 MS. MOENCH: Thank you Steve.

47

1 MR. LEVITON: Thank you Janice. Okay let's make some  
2 appointments. First, I need someone to nominate a board member  
3 for vice chair, Terry.

4  
5 MR. ROSENTHAL: Yeah I was going to nominate Bob  
6 Gregowicz.

7  
8 MR. LEVITON: Thank you Terry. Will someone second?

9  
10 MR. WEISS: Second.

11  
12 MR. LEVITON: Thank you Adam.

13  
14 **ROLL CALL**

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16 MS. MOENCH: Mr. Rosenthal?

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18 MR. ROSENTHAL: Yes.

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20 MS. MOENCH: Mr. Schertz?

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22 MR. SCHERTZ: Yes.

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24 MS. MOENCH: Mr. Shalika?

25  
26 MR. SHALIKAR: Yes.

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28 MS. MOENCH: Mr. Weiss?

29  
30 MR. WEISS: Yes.

31  
32 MS. MOENCH: Mr. Pochopin?

33  
34 MR. POCHOPIN: Yes.

35  
36 MS. MOENCH: Mr. Wechsler?

37  
38 MR. WECHSLER: Yes.

39  
40 MS. MOENCH: Chair Leviton?

41  
42 MR. LEVITON: Yes.

43  
44 MR. GREGOWICZ: Thank you board.

45  
46 MR. LEVITON: Alright next we're going to make a  
47 motion and a second for the meeting dates that have been

1 uploaded to the Google Drive for the coming year. Will someone  
2 move to do so and will someone second it please?

3

4

MR. WECHSLER: I'll make the motion.

5

6

MR. POCHOPIN: Second.

7

8

MR. LEVITON: Thank you Michael and thank you Daniel.

9

10

MS. MOENCH: Who was the second by?

11

12

MR. LEVITON: Dan Pochopin.

13

14

MS. MOENCH: Yeah.

15

16

**ROLL CALL**

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MS. MOENCH: Mr. Gregowicz?

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MR. GREGOWICZ: Yes.

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MS. MOENCH: Mr. Rosenthal?

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MR. ROSENTHAL: Yes.

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MS. MOENCH: Mr. Schertz?

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28

MR. SCHERTZ: Yes.

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MS. MOENCH: Mr. Shalika?

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32

MR. SHALIKAR: Yes.

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MS. MOENCH: Mr. Weiss?

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36

MR. WEISS: Yes.

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MS. MOENCH: Mr. Pochopin?

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MR. POCHOPIN: Yes.

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MS. MOENCH: Mr. Wechsler?

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44

MR. WECHSLER: Yes.

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46

MS. MOENCH: Chair Leviton?

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1 MR. LEVITON: Yes and next I'd like someone to make a  
2 motion to appoint Marmero Law LLC where one of the original  
3 founding partners and sole owner Mr. Albert Marmero will serve  
4 as the Manalapan Township Zoning Board of Adjustment's  
5 attorney.

6  
7 MR. SCHERTZ: So moved.

8  
9 MR. LEVITON: Thank you David and will someone second

10  
11 MR. WEISS: Second.

12  
13 MR. LEVITON: Thank you Adam.

14  
15 MS. MOENCH: David and Adam right?

16  
17 MR. LEVITON: Yes.

18  
19 MS. MOENCH: Thank you, okay.

20  
21 **ROLL CALL**

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23 MS. MOENCH: Mr. Gregowicz?

24  
25 MR. GREGOWICZ: Yes.

26  
27 MS. MOENCH: Mr. Rosenthal?

28  
29 MR. ROSENTHAL: Yes.

30  
31 MS. MOENCH: Mr. Schertz?

32  
33 MR. SCHERTZ: Yes.

34  
35 MS. MOENCH: Mr. Shalika?

36  
37 MR. SHALIKAR: Yes.

38  
39 MS. MOENCH: Mr. Weiss?

40  
41 MR. WEISS: Ys.

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43 MS. MOENCH: Mr. Pochopin?

44  
45 MR. POCHOPIN: Yes.

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47 MS. MOENCH: Mr. Wechsler?

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1 MR. WECHSLER: Yes.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Absolutely, congratulations Mr.  
6 Marmero. Join us on the dais and you'll sit between Janice and  
7 Nancy. Nancy is our zoning officer.

8

9 MS. DEFALCO: Right here.

10

11 MR. LEVITON: And Janice does everything.

12

13 MS. MOENCH: Well.

14

15 MR. LEVITON: Okay. Next if someone would move to  
16 appoint Consulting Municipal Engineers also known as CME ---  
17 Brian Boccanfuso will continue to serve us as our engineer.  
18 Thank you Adam for making the motion and thank you David for  
19 seconding it.

20

21 **ROLL CALL**

22

23 MS. MOENCH: Mr. Gregowicz?

24

25 MR. GREGOWICZ: Yes.

26

27 MS. MOENCH: Mr. Rosenthal?

28

29 MR. ROSENHAL: Yes.

30

31 MS. MOENCH: Mr. Schertz?

32

33 MR. SCHERTZ: Yes.

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35 MS. MOENCH: Mr. Shalika?

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37 MR. SHALIKAR: Yes.

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39 MS. MOENCH: Mr. Weiss?

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41 MR. WEISS: Yes.

42

43 MS. MOENCH: Mr. Pochopin?

44

45 MR. POCHOPIN: Yes.

46

47 MS. MOENCH: Mr. Wechsler?

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1 MR. WECHSLER: Yes.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Absolutely, welcome back Brian and our  
6 last appointment tonight I need someone to move to appoint  
7 Leon S. Avakian, LSA Incorporated where their director of  
8 planning, the indubitable Ms. Jennifer Beahm will continue to  
9 represent this board. Thank you Mr. Wechsler

10

11 MR. POCHOPIN: Second.

12

13 MR. LEVITON: Thank you Mr. Pochopin.

14

15 **ROLL CALL**

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17 MS. MOENCH: Mr. Gregowicz?

18

19 MR. GREGOWICZ: Yes.

20

21 MS. MOENCH: Mr. Rosenthal?

22

23 MR. ROSENTHAL: Yes.

24

25 MS. MOENCH: Mr. Schertz?

26

27 MR. SCHERTZ: Yes.

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29 MS. MOENCH: Mr. Shalika?

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31 MR. SHALIKAR: Yes.

32

33 MS. MOENCH: Mr. Weiss?

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35 MR. WEISS: Yes.

36

37 MS. MOENCH: Mr. Pochopin?

38

39 MR. POCHOPIN: Yes.

40

41 MS. MOENCH: Mr. Wechsler?

42

43 MR. WECHSLER: Yes.

44

45 MS. MOENCH: Chair Leviton?

46

47 MR. LEVITON: Yes.

48

1 MS. BEAHM: Thank you guys.

2

3 MR. LEVITON: Thank you and good night. We'll see you  
4 soon. Looks like she'll be staying and at this time I beg the  
5 public's indulgence by the way good evening to one and all,  
6 I'm going to call for a five-minute recess so that our ---

7

8 MS. MOENCH: Do you want to swear them in first?

9

10 MR. LEVITON: Oh.

11

12 MR. MARMERO: I can get the professionals sworn in.

13

14 MR. LEVITON: Oh yeah Mr. Marmero is going to swear  
15 in our professionals before we do that.

16

17 MR. MARMERO: Professionals will raise their right  
18 hand and repeat after me. Do you swear that the testimony you  
19 provide tonight will be the truth, the whole truth, and  
20 nothing but the truth?

21

22 MR. BOCCANFUSO: Yes I do.

23

24 MS. BEAHM: I do.

25

26 MR. MARMERO: Okay.

27

28 MS. BEAHM: Mr. Chair I know ---

29

30 MR. LEVITON: Yes.

31

32 MS. BEAHM: It's not my night.

33

34 MR. LEVITON: It's not your night.

35

36 MS. BEAHM: So glad to see you, thank you very much.  
37 See you guys next time. Thank you. Bye guys.

38

39 MR. LEVITON: Goodnight Jennifer. Alright so we do  
40 need to take a quick recess so that our new attorney could be  
41 brought up to speed on applications before the board this  
42 evening and Mr. Boccanfuso if you could go bring up to speed  
43 in a quick way we'd appreciate it.

44

45 MR. MARMERO: Yeah it should be pretty quick. I do  
46 pull the stuff up online and I do have some so it should be  
47 pretty quick.

48

1 MR. BOCCANFUSO: Absolutely.

2

3 MR. LEVITON: Outstanding. Thank you gentlemen. I  
4 want to thank you to the public for your patience. A couple of  
5 number perfunctory things that we need to get out of the way  
6 before we call our first hearing and first among them is to  
7 accept the minutes from December 15<sup>th</sup>. Can I get a motion and a  
8 second please?

9

10 MR. GREGOWICZ: I'll make the motion.

11

12 MR. POCHOPIN: Second.

13

14 MR. LEVITON: Thank you Bob. Thank you Dan. Also  
15 before Janice calls that let's let the record reflect that the  
16 mayor is no longer in attendance at this proceeding.

17

18 **ROLL CALL**

19

20 MS. MOENCH: Mr. Gregowicz?

21

22 MR. GREGOWICZ: Yes.

23

24 MS. MOENCH: Mr. Schertz?

25

26 MR. SCHERTZ: Yes.

27

28 MS. MOENCH: Mr. Shalika?

29

30 MR. SHALIKAR: Yes.

31

32 MS. MOENCH: Mr. Pochopin?

33

34 MR. POCHOPIN: Yes.

35

36 MS. MOENCH: Mr. Wechsler?

37

38 MR. WECHSLER: Yes.

39

40 MS. MOENCH: Chair Leviton?

41

42 MR. LEVITON: Yes and next we're going to memorialize  
43 resolutions. The first one was ZBE2252. Here the board  
44 legitimized an existing non-compliant accessory structure that  
45 encroached into the side and the rear yard setbacks. Can I get  
46 a motion and then a second please?

47

48 MR. SCHERTZ: So moved.



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MR. LEVITON: Thank you David.

MR. SHALIKAR: Second, I'll second that.

MR. LEVITON: Thank you Joshua.

**ROLL CALL**

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes. Next is application number ZBE2822. First thank you to you Janice for identifying inconsistencies resolution from Sean that was rectified.

MS. MOENCH: Oh yes.

MR. LEVITON: On this application board we will be granted an extension of time for floor area ratio, and final site plan approval as well as bulk variance relief, design waivers which permitted the construction of two commercial warehouses and office buildings that were initially granted in June of 2019. Will someone make the motion to memorialize and will someone second it please?

MR. SCHERTZ: So moved.

MR. LEVITON: Thank you David.

MR. POCHOPIN: Second.

MR. LEVITON: And thank you Daniel.

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**ROLL CALL**

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes and now we're moving to the public hearing portion of our meeting. I'm going to call our first case which was carried from 12/15. Its number ZBE2240, Mr. D'Silva and on behalf of the applicant Mr. Licata and his ever faithful engineer Mr. Ploskonka.

MR. LICATA: Thank you Mr. Chairman. Good evening Mr. Chairman, board members, professionals, and staff and happy new year. Peter Licata of the law firm of Sonnenblick, Mehr & Licata on behalf of the applicant Gary D'Silva who is present and seated to my right with his spouse Irina D'Silva. I have two witnesses I intend on presenting to you all tonight. Mr. John Ploskonka our professional engineer who will tell you about this lot which is a pre-existing, non-conforming lot created by subdivision in 1979 based on a planning board approval and which was subsequently re-zoned to the RAG zone in which therefore is now undersized and non-conforming. We also have I'm sorry Jim Higgins our professional planner to address the planning testimony.

MR. MARMERO: I can have you guys sworn in now Peter before that?

MR. LICATA: Yes sir.

1 MR. MARMERO: --- Do you swear the testimony you will  
2 provide tonight will be the truth, the whole truth and nothing  
3 but the truth?  
4

5 MR. PLOSKONKA: I do, John Ploskonka P-L-O-S-K-O-N-K-  
6 A professional engineer in Manalapan, New Jersey.  
7

8 MR. LEVITON: And Mr. Marmero, Mr. Ploskonka has  
9 built this town. He's been servicing it since 1970.  
10

11 MR. MARMERO: I assume you'll accept his expert in the  
12 field of engineering.  
13

14 MR. LEVITON: Without question, he's appeared before  
15 this board numerous times and we welcome him back.  
16

17 MR. PLOSKONKA: Thank you Mr. Chairman.  
18

19 MR. MARMERO: Do you want to get Mr. Higgins sworn in  
20 now or when you?  
21

22 MR. LICATA: Absolutely why not?  
23

24 MR. MARMERO: Raise your right hand Mr. Higgins. Do  
25 you swear the testimony you will provide tonight will be the  
26 truth, the whole truth, and nothing but the truth?  
27

28 MR. HIGGINS: I do.  
29

30 MR. MARMERO: Okay just like Mr. Ploskonka can you  
31 state your name and position for the record?  
32

33 MR. HIGGINS: James Higgins, I'm a licensed  
34 professional planner in the state of New Jersey. First name is  
35 James Higgins.  
36

37 MR. LEVITON: The board recognizes Mr. Higgins  
38 credentials and welcomes him back as well.  
39

40 MR. MARMERO: Okay go ahead Mr. Licata.  
41

42 MR. LICATA: Thank you. John before you get into  
43 explaining why we're here tonight. Do you have some exhibits  
44 you need marked?  
45

46 MR. PLOSKONKA: I do. I have four pages here which  
47 include an aerial photograph that shows the property, exhibit  
48 A a tax map of this part of the subdivision map, exhibit B

1 that shows the lot in question, and then the house plans  
2 exhibits C and D.

3

4 MR. LICATA: The packet of ---

5

6 MR. PLOSKONKA: Yes, yes.

7

8 MS. MOENCH: I have that marked as A1 should I just  
9 re-mark it?

10

11 MR. LICATA: Yeah and what I would ---

12

13 MS. MOENCH: If you're going to mark them ---

14

15 MR. LICATA: --- why don't you do each one as A1, A1,  
16 A3, and A4?

17

18 MS. MOENCH: Yes.

19

20 MR. LEVITON: For the public's edification Mr.  
21 Ploskonka is giving pictures I assume that he's going to be  
22 testifying about. The board has not seen them yet and the  
23 attorney's marking them.

24

25 MR. MARMERO: It looks like A1 is an aerial  
26 photograph of the lot.

27

28 MR. LEVITON: Actually Ms. Moench is marking them.

29

30 MR. MARMERO: A2 is a tax map depiction of the lot.  
31 A3 is looks like in the front allocations of the proposed  
32 dwelling and A4 would be

33

34 MR. LEVITON: Thank you sir.

35

36 MR. LICATA: Thank you John. Could you give the Board  
37 an overview of the lot and what's proposed?

38

39 MR. PLOSKONKA: Looking at the aerial map and you all  
40 have the plans we've submitted, the aerial map shows the site  
41 of the proposed home between the two existing lots. So this is  
42 40 Daum Road to the right is 38 Daum Road and to the left is  
43 44 Daum Road. There's two houses and this is a pre-existing  
44 site that was created in 1979 by subdivision. It's about over  
45 an acre, but the zoning changed over a period of time so now  
46 it's a three-acre zone for non-conformities, but most of all  
47 its 97 feet wide. It's about five hundred feet long and it  
48 slopes from Daum Road, drops about four feet to the rear to

1 the back of the property. There is water and sewer in the  
2 street in front of the property which is very important and it  
3 used to be a single-family home on the property that would be  
4 placed a hundred feet back from the street and it would have a  
5 side yard variance of 17.64 versus thirty-five on one side.  
6 The other side would be thirty-five feet. The right side would  
7 be thirty-five, the left side would be 17.64. There are pre-  
8 existing conditions because of the shape of the lot such as  
9 lot area which is not conforming to the 420,000 frontage lot,  
10 width 200 required you have 97, improvable diameter 20,000  
11 required, there's 8,465, and improvable area a hundred  
12 required we have twenty-six foot diameter. Now if you took the  
13 ordinance and you made two thirty-five foot side yards, you  
14 try to build a house here you'd be twenty-seven feet wide so  
15 that's the reason we're trying to create the one new variance.  
16 The newer variances are pre-existing. As I said the RAG zone  
17 single-family homes are permitted. If you look at the second  
18 exhibit I call it B you're calling it A2.

19

20 MR. LEVITON: Mr. Ploskonka I'm going to need to  
21 interrupt you because I neglected to mention something to our  
22 new attorney. Albert the two members on our board Mr. Shalika  
23 and Mr. Wechsler they're volunteer firemen here. Mr. Shalika  
24 is the lieutenant. He's the big boss down there and the  
25 neighbor to this property is in attendance this evening, he's  
26 in the audience. So there's I don't know, if nothing else  
27 maybe a perception of a conflict on. I want to ensure that  
28 there is none or if you think that there is maybe that they  
29 should recuse themselves.

30

31 MR. MARMERO: I wouldn't see the existence of a legal  
32 conflict it could be a perception of a conflict which in that  
33 situation I would leave it to the members if they're  
34 comfortable obviously legally they can vote. If they feel  
35 uncomfortable with the proceedings, a conflict they can  
36 certainly recuse themselves as well. It's something where they  
37 would have to.

38

39 MR. LEVITON: So let's ask. Gentlemen, can you be  
40 objective?

41

42 MR. WECHSLER: I can.

43

44 MR. SHALIKAR: I can.

45

46 MR. LEVITON: Continue Mr. Ploskonka. Forgive the  
47 intrusion.

48

1 MR. PLOSKONKA: Thank you so if you look at A2 which  
2 is mine marked B. You see the subdivision that was created  
3 years and years ago and there's an X on the lot in question  
4 which again is 97 by approximately 500 and then the other two  
5 lots on both sides are .7 tenths of an acre. We are at one  
6 acre plus and the lot to the left as you're facing the road,  
7 facing the house is 1.1 acre. So that's lot 16.03 is the lot  
8 in question and there are homes built on all these lots which  
9 are undersized under the current ordinance and we're trying to  
10 build a house that would be compatible to what's there so that  
11 we're not out of step with the natural development of the  
12 area. We do not exceed the F.A.R. which there's a report by  
13 CME that came out, Brian in fact November 22<sup>nd</sup> and he raised  
14 some questions about the F.A.R. and I provided him with a  
15 memorandum that the F.A.R. is conforming below the required  
16 0.06, it's 0.049. So the F.A.R. is not an issue and that he's  
17 asked us to add notes to our map so that we indicate there are  
18 wetlands way in the back of the property, not close, but more  
19 through the back and we can't escape those wetlands. We're  
20 adding a note to the plans that say that if there's any  
21 activity in that area we have to get a D.E.P. permit, but we  
22 don't intend to be anywhere near the wetlands with the house  
23 construction which is close to Daum Road. He also asked that  
24 we ---

25  
26 MR. LICATA: Provide stormwater calculations.

27  
28 MR. PLOSKONKA: Stormwater calculations for recharge  
29 of the roof drains that go into the ground for the house so we  
30 won't have any excess of water running off. So we will do it  
31 permeability test and provide that to him. It will also obtain  
32 Freehold soil approval in order to be able to build on the  
33 property subject to the board's approval.

34  
35 MR. LICATA: And John just to be precise as it  
36 relates to floor area ratio is the maximum permitted floor  
37 area ratio in the zone 0.06?

38  
39 MR. PLOSKONKA: Correct.

40  
41 MR. LICATA: And we're proposing a floor area ratio  
42 of .049 based on a house with 2,260 square feet?

43  
44 MR. PLOSKONKA: Well that's the area that's  
45 calculated.

46  
47 MR. LICATA: --- yes.

48

1 MR. PLOSKONKA: And that's the house that's shown on  
2 your last two sheets of your set.

3  
4 MR. LICATA: Okay.

5  
6 MR. PLOSKONKA: So let that be, the client intends to  
7 build that type house very close to that on the property.

8  
9 MR. LICATA: Thank you. In speaking with the  
10 applicant and reviewing their records are you aware of any  
11 attempts that they have made to market the property for sale  
12 to the adjoining neighbors?

13  
14 MR. PLOSKONKA: Yes the broker for the project who  
15 was trying to sell the lot for a number of years, there was a  
16 sign on the property, had written to all the neighbors back in  
17 2021 suggesting if they want to purchase the property they  
18 could purchase it for \$200,000.00 and that's before the  
19 contract was written with our clients.

20  
21 MR. LICATA: Right, go ahead.

22  
23 MR. PLOSKONKA: And just to be sure that we're on the  
24 same page, I stopped by the two homeowners yesterday. The only  
25 thing I asked if they're interested in buying the property for  
26 \$200,000 which was the request at that time and if they got  
27 the letter from the broker and the answer was yes that they  
28 got the letter, but they weren't interested in paying  
29 \$200,000. If they make that less, but they wouldn't want to  
30 pay that number.

31  
32 MR. LICATA: And as part of your investigation into  
33 this particular issue, what if any follow up are you aware of  
34 that was made after the letters were submitted in terms of  
35 contacting the neighbors? Not necessarily by yourself, but  
36 prior to your own efforts?

37  
38 MR. PLOSKONKA: I thought the broker was there  
39 talking to the --- I'm not sure exactly when that was.

40  
41 MR. LICATA: But it was, okay. That's to the best of  
42 your memory?

43  
44 MR. PLOSKONKA: Yes.

45  
46 MR. LICATA: Okay thank you. I would make Mr.  
47 Ploskonka available for questions by the board and  
48 professionals.

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MR. LEVITON: Mr. Boccanfuso do you take exception to anything that Mr. Ploskonka testified to?

MR. BOCCANFUSO: Thank you Mr. Chairman and first of all I apologize for the voice. I'm battling laryngitis now so apologies for everybody who has to listen to it for the next couple of minutes. Generally no I don't take any exception to Mr. Ploskonka's testimony as he alluded to our office prepared a report of November 22, 2022. That report was prepared with our capacity as the municipal engineer not the zoning board engineer. I think John did a good job summarizing the comments in our report. Notably the floor area ratio comment was raised because there was an apparent typo on the first plot plan that was submitted and some of the numbers didn't really add up. He subsequently sent a response to my office stating that they would comply and that that proposed F.A.R. calculated pursuant to township requirements was 0.049 which is what they've represented in testimony. If the remainder of variances are approved by the zoning board here tonight what will happen is Mr. Ploskonka and his client will have to submit the detailed calculations to Nancy's office for review and approval to confirm that the 0.049 has in fact been calculated as per the township requirements. So they're saying they will comply, they're on record as such and they're on the hook for it if they get approved. As far as the possible freshwater wetlands in the rear of the property, the way that you determine a possible presence of wetlands is a couple of ways first of all. You would do the DEP-NJGEOWEB online resource which provides the approximate minutes that resource depicted wetlands in the extreme easterly portion of the property all the way in the back, quite a distance from the -- proposed --- of disturbance. We also typically check the county soil surveys which will show soils mapping which could be an indicator of wetlands. That resource also showed soils that could be indicative of wetlands in the extreme rear of the property. So as long as the applicant disturbs the property consistent with what's shown on the plans submitted, it doesn't appear to me that there would be any wetlands disturbance or transition area disturbance. Ultimately their response offered compliance with all DEP regulations and I think the --- that John referenced would be sufficient from my standpoint as the municipal engineer to approve the plan.

MR. LEVITON: So if they do anything out there then soil logs performed by New Jersey Department of Environment Protection needs to be done and witnessed by them?



1 MR. BOCCANFUSO: They would have to go through the  
2 whole process of either delineating wetlands or at least  
3 determining that whatever it is that they want to do say it's  
4 a garage or a pool isn't going to be within those regulated  
5 areas and there's a whole process that's dictated by the  
6 D.E.P. It involves field investigation, map preparation,  
7 application submission of you by the D.E.P., and so on.

8  
9 MR. LEVITON: That's all on the applicant and  
10 oversight goes through you or your office?

11  
12 MR. BOCCANFUSO: Only if they needed municipal  
13 permits as well, for example if it was a pool. We would review  
14 it and say the future homeowner wanted to put a pool way in  
15 the back and there was a question as to whether or not it  
16 would disturb wetlands, what we would do in our capacity as a  
17 municipal engineer is we would make them get the necessary  
18 permits or approvals from the D.E.P. to ensure they have a  
19 clean bill of health so to speak from a regulatory standpoint.

20  
21 MR. LEVITON: Mr. Boccanfuso this is an undersized  
22 lot. Mr. Ploskonka testified that it's on an acre and that  
23 zoning there has since changed since it's original subdivision  
24 to three acres, but for the edification of the public who may  
25 not know or understand F.A.R. this refers to floor area ratio  
26 and in terms of zoning that's usually an indicator of mass and  
27 so if there needs to be a variance for F.A.R. it's because a  
28 board needs to consider is the home being proposed too big for  
29 the neighborhood and in this case they don't even need that  
30 because they're compliant with our township's ordinance. So  
31 this is not an oversized home Mr. Ploskonka testified that  
32 it's consistent with the surrounding properties and they don't  
33 need variance relief for an oversized home. I just want you to  
34 confirm that.

35  
36 MR. BOCCANFUSO: What I will tell you is that while  
37 I'm not licensed as a planner, I think he categorized it well.  
38 The F.A.R. is a way to determine the intensity of the  
39 development on subject property. The fact that they are  
40 willing to comply suggests that the scope of the dwelling is  
41 consistent with what was envisioned by the zoning ordinance  
42 and the master plan. So I don't know if that would  
43 characterize it as too big or too small, but what I would say  
44 is that the floor area or the usable area within the home is  
45 in line with what is envisioned and permitted in the zone.

46  
47 MR. LEVITON: I'm confident that when Mr. Licata  
48 brings up Mr. Higgins that he'll be testifying to things just

1 like that and we'll be patient and wait for that. In the  
2 meantime, thank you sir and let's go out to the board. We'll  
3 start here at Terry. Any questions for Mr. Ploskonka?

4

5 MR. ROSENTHAL: It seems F.A.R. is not an issue, but  
6 is the home being built aesthetically compatible with the  
7 other homes on the street?

8

9 MR. PLOSKONKA: I believe so, yes.

10

11 MR. ROSENTHAL: Okay.

12

13 MR. LICATA: John are there renderings of the  
14 elevations in the handout that you've submitted A1 through 4?

15

16 MR. PLOSKONKA: Yes A3 which is my C shows a two-  
17 family residential home with two-car garage that would be.

18

19 MR. LICATA: Two-story.

20

21 MR. PLOSKONKA: Two-story.

22

23 MR. ROSENTHAL: Okay thank you.

24

25 MR. PLOSKONKA: So that would be similar size to this  
26 nearby.

27

28 MR. LEVITON: Thanks Terry, Bob.

29

30 MR. GREGOWICZ: I have none at this time.

31

32 MR. LEVITON: Adam? Thanks Bob.

33

34 MR. WEISS: I don't have any at this time, thank you.

35

36 MR. LEVITON: Thank you Adam, Josh?

37

38 MR. SHALIKAR: Just for my knowledge what was the  
39 purpose of offering the neighbors to purchase the land? Why  
40 was that added to your testimony just for my knowledge?

41

42 MR. PLOSKONKA: That's a legal question I will refer  
43 to my attorney.

44

45 MR. LICATA: So sometimes when you have an undersized  
46 lot, you have to present one of the ways you can prove the  
47 variance is that it's a hardship because of the size of the  
48 lot. In other words if you could show a hardship is that your

1 actually tried to sell the lot to surrounding property owners.  
2 None of them were interested so now you are stuck with  
3 basically this hardship undersized lot. I presume that would  
4 be one of the ways you --- try to approve the variance so that  
5 yeah.

6  
7 MR. SHALIKAR: That is correct. So is \$200,000.00  
8 fair market value for the size of the lot or was that  
9 inflated? I'm just curious on that.

10  
11 MR. LICATA: That's a fair question. John could you  
12 speak to the issue of lot value based on what a. you know this  
13 person paid for the lot, b. your experience as an engineer as  
14 well as a land developer in this county for forty years?

15  
16 MR. PLOSKONKA: Yeah the lots in Manalapan have been  
17 going up over the years as you know and most lots were around  
18 \$200-300 a year or so ago. It's come down a little bit now,  
19 but I think two hundred is a fair value for this lot. I think  
20 it was offered according to my client --- 250 and negotiate a  
21 little bit below two hundred, but if someone was to buy it for  
22 two hundred it takes awhile to do this also. It was a lot more  
23 maybe 15,000-20,000 to get the approval.

24  
25 MR. SHALIKAR: Sure and you said your understanding  
26 again obviously subject to board attorney's confirmation that  
27 when attempting to determine the fair market value of this lot  
28 that fair market value is based upon the assumption --- would  
29 receive the variance relief necessary to make it a buildable  
30 lot? Not that it was an undersized lot and you take your  
31 chances maybe you can build on it and maybe you can't.

32  
33 MR. PLOSKONKA: I agree.

34  
35 MR. SHALIKAR: Thank you, okay thank you. Second  
36 question I had so I know that you're asking for a variance for  
37 seventeen feet on the left side looking at the house and the  
38 right has thirty-five. Is there a reason why you favored one  
39 side to meet compliance versus centering the house on the  
40 property?

41  
42 MR. PLOSKONKA: It can go either way. If he were to  
43 have more than one variance you could put it in the middle  
44 too.

45  
46 MR. SHALIKAR: Right.

47

1 MR. PLOSKONKA: And have two variances which if the  
2 board says it prefers to do a different way we could do a  
3 different way.

4  
5 MR. SHALIKAR: Okay.

6  
7 MR. PLOSKONKA: We just did it this way to have only  
8 one variance.

9  
10 MR. SHALIKAR: Understood I was just asking ---

11  
12 MR. PLOSKONKA: The neighbor to the left is about  
13 fifteen feet away from the property line, but again we're  
14 flexible on where the house is placed.

15  
16 MR. SHALIKAR: Okay thank you appreciate that.

17  
18 MR. LEVITON: Thank you Joshua, David?

19  
20 MR. SCHERTZ: To continue that, excuse me, to  
21 continue that thread did the property owner get approval from  
22 both neighbors?

23  
24 MR. PLOSKONKA: I'm sorry --- I'm sorry?

25  
26 MR. SCHERTZ: Did the property owner get approval  
27 from both neighbors or were there no discourse to get to build  
28 the home? In other words, they're okay with having the home  
29 built?

30  
31 MR. LEVITON: David the neighbors don't have to give  
32 permission. They're only asked if they want to buy property so  
33 that when they say no we don't want to buy the property the  
34 applicant can satisfy the positive criteria and put that as  
35 their proof that there's a hardship to get the variance that  
36 they seek.

37  
38 MR. SCHERTZ: Right.

39  
40 MR. LEVITON: So in order to so that they want their  
41 variance due to a hardship to get their C1 variance they need  
42 to establish that they've offered the property.

43  
44 MR. SCHERTZ: I got that.

45  
46 MR. LEVITON: The neighbors don't have to approve.

47  
48 MR. SCHERTZ: Okay.

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MR. PLOSKONKA: I think the planner will speak more to that issue in a few moments when he comes up.

MR. SCHERTZ: Fine.

MR. LEVITON: Dan?

MR. POCHOPIN: My questions were answered so no further questions at this time.

MR. LEVITON: Thank you Dan and Michael?

MR. WECHSLER: I'm good thank you.

MR. LEVITON: Okay then at this time I'm going to go out to the public and ask if there's anyone in attendance who wants to ask Mr. Ploskonka a question about anything he offered onto the record this evening. Sir, come on up. Mr. Marmero is going to swear you in and Ms. Moench is going to hook you up with a microphone.

MR. LICATA: There's a hand mic over there.

MR. LEVITON: We'll do that too.

MR. MARMERO: State your name and address for the record sir.

MR. PUCCIO: Kenneth Puccio 42 Daum Road.

MR. MARMERO: And if you would just repeat ---

MR. PUCCIO: Yes.

MR. MARMERO: What was the address?

MR. PUCCIO: 42 Daum Road.

MS. MOENCH: Could you spell your last name?

MR. PUCCIO: P-U-C-C-I-O.

MS. MOENCH: Thank you.

MR. PUCCIO: You're welcome.

1 MR. MARMERO: Okay as you raise your right hand Mr.  
2 Puccio I'll get you sworn in. Do you swear that the  
3 testimony you provide today is the truth, the whole truth and  
4 nothing but the truth?

5  
6 MR. PUCCIO: Yes.

7  
8 MR. MARMERO: Go ahead sir.

9  
10 MR. PUCCIO: So actually one of my questions was  
11 already answered. One of my concerns was the location of the  
12 house and I felt like he was just kind of ---

13  
14 MR. PLOSKONKA: We're too close to you.

15  
16 MR. PUCCIO: Exactly. That and also the front  
17 setback. When I looked through the plans it just seemed a  
18 little odd that I'd be walking out my backdoor and then kind  
19 of facing the front of the house and listen it's an empty lot,  
20 it's up for sale. I'm not opposed to anyone building there. It  
21 is what it is. It's just the location really.

22  
23 MR. PLOSKONKA: Your house is about eighty feet back  
24 right?

25  
26 MR. PUCCIO: Oh don't ask me. I'm terrible at judging  
27 distance.

28  
29 MR. PLOSKONKA: We're a hundred feet back so do you  
30 prefer the house to be closer to the road so it matches your  
31 front?

32  
33 MR. PUCCIO: Just a little bit. I just don't want to  
34 walk out and see the front door. Also I'm not sure how the sun  
35 would work there. This may sound a little trivial, but I have  
36 a very large garden on that side of the property line and I  
37 like getting a little sunlight there especially for the  
38 watermelon patch.

39  
40 MR. MARMERO: How big are the watermelons?

41  
42 MR. PUCCIO: They're pretty good, yeah.

43  
44 MR. MARMERO: Is this you right here Mr. Puccio?

45  
46 MR. PUCCIO: Yes.

47  
48 MR. PLOSKONKA: He's to the left.

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MR. PUCCIO: On the left.

MR. PLOSKONKA: To the left of the proposed home.

MR. MARMERO: Got it.

MR. PLOSKONKA: And we have no problem if the board was to grant another variance for us if you move the house closer to the road. If we get to match up with your home ---

MR. LICATA: Make sure you have a mic John.

MR. PLOSKONKA: If the board looks at the plans that were submitted officially, sheet number three. It shows Ken's home closer to Daum Road and about fifteen feet away so our house is kind of matching up with his back of his house. So his question is can we move forward so it doesn't look like it's --- and he looks at the house he sees our house behind it. So the answer is we could match his house. We're less than eighty feet setback that would then allow the houses to match up on the road and we could also move it to the center of the lot and have variances on both sides or push it to make a thirty-five foot setback on this side and the variance on the south side.

MR. PUCCIO: How does that work would even it out?

MR. PLOSKONKA: I'm sorry --- I'm not sure if the other neighbor is here tonight for 38, but either way we're happy with doing the house going forward so it's matching your frontage and that would be about an eighty foot setback and then having it in the middle or pushing it to the other side, either one.

MR. LEVITON: Thank you Mr. Puccio. Is there anything else sir?

MR. PUCCIO: I just had one more question. I don't know if I'm getting ahead ourselves here, but were there any ideas of the home heating system? What would be put in place, oil, propane? The reason I ask is because if you have an above ground tank my curiosity is would that above ground tank, more specifically propane, be between our house and that one?

MR. PLOSKONKA: What do you have now?

MR. PUCCIO: We have oil.

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MR. PLOSKONKA: You have oil. No gas in the street?

MR Puccio: No, no, no.

MR. PLOSKONKA: Gary D'Silva is very innovative. He has a house in Manalapan now. He has a couple children, but his house is heated by solar entirely.

MR. PUCCIO: Okay.

MR. PLOSKONKA: So probably ---

MR. LICATA: --- John right?

MR. PLOSKONKA: Heat pump yeah.

MR. PUCCIO: Okay that's great then.

MR. LEVITON: Mr. Puccio are you a fireman who serves Manalapan Township with board members?

MR. PUCCIO: Yes that's why I asked the questions about the tanks.

MR. LEVITON: Then thank you for your service sir.

MR. PUCCIO: Thanks.

MR. LEVITON: Okay is there anyone else who wants to ask a question of Mr. Ploskonka? Ma'am, welcome to you and you'll grab that microphone on the edge of the counter there and Mr. Marmero will swear you in the way he did Mr. Puccio.

MR. MARMERO: Okay ma'am if you would please state your name and address for the record.

MS. LEBRAUN: I am Christine Lebraun I'm the owner of 38 Daum Road which is next to the property.

MR. MARMERO: Okay so you're on the other side.

MS. DEFALCO: Looks like 38.

MS. LEBRAUN: 38 Daum Road, lot 16.02.

MR. MARMERO: Ms. Lebraun if you would raise your right hand I'll get you sworn in. Do you swear that the



1 testimony you will provide today will be the truth, the whole  
2 truth and nothing but the truth?

3

4 MS. LEBRAUN: I do.

5

6 MR. MARMERO: Okay.

7

8 MS. LEBRAUN: Okay my first question is last evening  
9 that Mr. Ploskonka from Concept Engineering knocked on my door  
10 and gave me some papers and asked me if I wanted to buy the  
11 lot for \$200,000.00. So I'm wondering if he's representing his  
12 client, why would they ask me if I want to buy it? I don't  
13 understand that.

14

15 MR. LEVITON: He's going to explain it to you. We  
16 talked about it twice this evening, but clearly you still need  
17 some clarification. I'm going to let Mr. Licata explain that  
18 to you, Peter please.

19

20 MR. LICATA: Certainly Mr. Chairman. Ma'am in terms  
21 of establishing a hardship for an undersized lot.

22

23 MS. LEBRAUN: Yeah.

24

25 MR. LICATA: One of the elements of proof is to  
26 demonstrate that your neighbors don't want to buy the property  
27 for fair market value.

28

29 MS. LEBRAUN: Okay.

30

31 MR. LICATA: Because if they did it could be argued  
32 you don't have a hardship.

33

34 MR. LEVITON: You see ma'am they needed to establish  
35 that you don't want it so that they can build their home.

36

37 MS. LEBRAUN: Oh okay.

38

39 MR. LEVITON: Okay.

40

41 MS. LEBRAUN: Okay and on the --- map it was called I  
42 looked at the town, that's this one here. This is my property  
43 here. I was wondering why this doesn't show there's a house  
44 here. It makes it look like there's an empty lot, but I live  
45 here.

46

47 MR. LEVITON: Mr. Plsokonka why is that?

48

1 MR. PLOSKONKA: We didn't locate the house on  
2 Christine's property so it's not shown, but she's here and Ken  
3 is here and again --- we have a thirty-five foot setback next  
4 to her property and we could put the house in the middle and  
5 move it closer so it matches up with the houses.

6  
7 MR. LICATA: So John just stated it another way.  
8 Ma'am he can only show on that plan what he's had surveyed and  
9 what he's designed and since he hasn't surveyed your property  
10 or the other neighbor's property he's not showing their houses  
11 or garages or anything.

12  
13 MS. LEBRAUN: Okay I just wanted to let you know  
14 there's a house there.

15  
16 MR. LEVITON: Ms. Lebraun is your home, is the front  
17 of your home even with the front of Mr. Puccio's home?

18  
19 MS. LEBRAUN: Of who's home?

20  
21 MR. PLOSKONKA: If you look at the aerial you can see  
22 closer to Daum Road. You can see your house on the aerial.

23  
24 MR. LEVITON: They're similar.

25  
26 MR. ROSENTHAL: Yeah I think in terms of property  
27 they're similar within a couple of feet.

28  
29 MR. LEVITON: They are yes. Thank you Terry. I also  
30 saw Mr. Higgins nodding in the affirmative behind you  
31 gentlemen. He's your planner and he's about to testify. Ms.  
32 Lebraun is there anything else ma'am?

33  
34 MS. LEBRAUN: This is the map?

35  
36 MR. LEVITON: Yes.

37  
38 MS. LEBRAUN: Right so my house ---

39  
40 MR. LEVITON: Yes.

41  
42 MS. LEBRAUN: Can I bring it up here?

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44 MR. LEVITON: No we have it.

45  
46 MS. LEBRAUN: Alright.

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48 MR. LEVITON: They just submitted it electronically.

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MS. LEBRAUN: This is my house here.

MR. LEVITON: Yes. We understand Ms. Lebraun.

MS. LEBRAUN: Okay.

MR. LEVITON: Is there anything else that you want to ask Mr. Ploskonka?

MS. LEBRAUN: Yeah I have two more questions.

MR. LEVITON: Sure.

MS. LEBRAUN: Where we live its like a low-lying area, it gets kind of wet sometimes and right now the footprint of the house that they want to build rainwater can soak into the grass, but once the house is there that water has to go somewhere else and I'm hoping it's not coming to my property because I already have a lot of water coming in. Across the street from my house there's a storm drain and there's a ditch that goes alongside the road down this way and also the elevation across the street is high so when it rains the water goes into that ditch and while the water from the ditch and storm drain there's a --- that goes underneath the road and it comes --- a little stream by my house so I'm already getting all of that extra water. So I'm hoping I'm not going to get any more water.

MR. LEVITON: It's a great question and the applicant has submitted a stormwater management plan and it's been reviewed by our engineer Mr. Boccanfuso who represents Manalapan Township's interests and yours.

MS. LEBRAUN: Okay.

MR. LEVITON: And I'm just going to ask him to allay her concerns about runoff.

MR. BOCCANFUSO: Thank you Mr. Chairman. Ms. Lebraun the way that the property is to be graded is such that runoff will flow from Daum Road around the sides of the dwelling and continue out towards it looks like there's a little stream all the way in the back there. Probably very similar to the way your property drains. As far as the runoff from the roof itself, Mr. Ploskonka has indicated that he's going to provide some type of stormwater mitigation. It will probably be an

1 underground dry well. John, have you gotten as far as to  
2 determine how you're going to meet the stormwater requirement?  
3

4 MR. PLOSKONKA: Correct. It would be a dry well or a  
5 pipe-type system that's shallow because there's a highwater  
6 table out there.  
7

8 MR. BOCCANFUSO: Understood. Whatever design he comes  
9 up with will be subject to my review in my capacity as a  
10 representative of the municipal engineer's office and he has  
11 to meet a very specific standard that's outlined in the  
12 township code that tells you what you need to do in way of  
13 stormwater management for these types of developments. So in  
14 my view as long as he complies with that requirement and as  
15 long as the property is graded as shown on this plan I don't  
16 see that there's going to be any adverse impact on your  
17 property.  
18

19 MS. LEBRAUN: Okay and I have another question. Are  
20 you going to plant trees on the property line? The reason I'm  
21 asking I like trees they provide shade and privacy, but what I  
22 don't like is when they fall on my house and back in September  
23 and October of 2021 leaves and branches fell on my house. I  
24 have some pictures if you'd like to see.  
25

26 MR. LEVITON: Alright I know it's a hardship out  
27 there.  
28

29 MS. LEBRAUN: Do you want to look at the pictures?  
30

31 MR. LEVITON: Sure I'll take a look.  
32

33 MS. LEBRAUN: Okay.  
34

35 MR. LEVITON: Thank you ma'am.  
36

37 MS. LEBRAUN: The current owner took care of the  
38 branches that fell, but the trees are still there and every  
39 time there's a storm I'm wondering is this the storm where a  
40 tree branch is going to come through my window or is a tree  
41 that will fall down or the roof is going to cave in. So and  
42 I'm not talking about the entire spot just the few trees that  
43 are by my house. Do you have any plan for that?  
44

45 MR. PLOSKONKA: Ms. Lebraun I could tell you Steve  
46 that we'll meet at the site with you and the arborist for the  
47 town from CME to look at the trees are there and what trees  
48 need to come down to be safe.

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MS. LEBRAUN: Okay.

MR. PLOSKONKA: As part of the ---

MS. LEBRAUN: Back in September 2021 I took a letter to the Shade Tree Commission with pictures. I never heard back from them, nobody ever called me. If they came to look I didn't know. It's possible they came to look but the trees are still there.

MR. LEVITON: So there are regulations that the Shade Tree Commission have in place and the applicant will need to follow, but additionally Mr. Ploskonka has just promised to go out to the site with Ms. Spiro who works alongside of Mr. Boccanfuso and represents Manalapan's interests. She is the arborist and tree removal will be subject to her say if it's okay. Correct Mr. Ploskonka?

MR. PLOSKONKA: Correct.

MR. BOCCANFUSO: And just so I'm clear so that I can report back to Shari and so that Mr. Marmero's clear and can draft a resolution. Are we taking about removal of hazard trees as determined by Ms. Spiro?

MR. PLOSKONKA: Correct.

MR. BOCCANFUSO: Okay we're not talking arbitrary clearing.

MR. PLOSKONKA: Next to her property.

MR. BOCCANFUSO: Okay so ---

MR. LICATA: Trees that present a hazard, yeah.

MR. BOCCANFUSO: Present a hazard per Shari's opinion.

MR. MARMERO: Yeah you would meet with the arborist and Ms. Lebraun and then any hazardous trees as ---

MR. PLOSKONKA: And with Christine too so she should be there too. So she can show us where the problems are and Shari's been doing this for twenty years plus and we've done this before.

1 MR. LEVITON: Ms. Lebraun you understand?

2

3 MS. LEBRAUN: So he's going to talk to the arborist?

4

5 MR. LEVITON: And you, the arborist, and Mr.  
6 Ploskonka will go out and you will identify what you think are  
7 problematic trees and if the arborist agrees that they're  
8 hazardous the applicant will take them down at his expense and  
9 you will be better off.

10

11 MS. LEBRAUN: Okay so the applicant is going to  
12 contact Shade Tree?

13

14 MR. LEVITON: That will be a condition of an approval  
15 of the application.

16

17 MS. LEBRAUN: Okay, alright because I tried and I  
18 never got an answer back so.

19

20 MR. LEVITON: You can rest assure Mr. Marmero is  
21 keeping copious notes.

22

23 MS. LEBRAUN: Okay.

24

25 MR. MARMERO: You have to bring the coffee.

26

27 MS. LEBRAUN: What?

28

29 MR. MARMERO: You have to bring the coffee.

30

31 MS. LEBRAUN: What?

32

33 MR. MARMERO: Bring the coffee to the meeting.

34

35 MS. LEBRAUN: And I have one last question.

36

37 MR. LEVITON: Sure.

38

39 MS. LEBRAUN: Okay the side yard setback was thirty-  
40 five feet required between the property line and where the  
41 house is?

42

43 MR. LEVITON: Yes.

44

45 MS. LEBRAUN: And they're only putting I believe  
46 17.64 feet?

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48 MR. LEVITON: That's going to change ma'am.

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MS. LEBRAUN: That's what?

MR. LEVITON: That's going to change. Another condition of approval, the applicant has agreed to center the house on the property. Mr. Marmero will we have to be alleviated to grant them a second variance tonight without re-noticing?

MR. MARMERO: So obviously I'm sitting for the first time I haven't looked at the notice. I assume there's some language in there about any and all variances which is kind of the catch all provision. --- bulk variances and that nature that would be fine. If it was a D variance that was discovered tonight it would be a little bit ---

MR. LEVITON: Okay.

MR. MARMERO: ---

MR. LEVITON: So it's not going to be the seventeen feet. The house is going to be centered on the property.

MS. LEBRAUN: Alright.

MR. LEVITON: And it will be equidistant from both sides.

MS. LEBRAUN: So what would it for ---

MR. LEVITON: Mr. Ploskonka wants the new number for her?

MR. PLOSKONKA: --- foot house.

MR. LICATA: Roughly nine feet on each side. Twenty-two feet?

MR. PLOSKONKA: About twenty-two feet.

MR. LICATA: On either side.

MS. LEBRAUN: Twenty-two feet?

MR. LEVITON: On both sides.

MR. PLOSKONKA: Yeah.

1 MS. LEBRAUN: So still less than the thrity-five  
2 feet?

3  
4 MR. LEVITON: Yes, yes. When there's a hardship this  
5 board has the authority under the municipal land use law to  
6 grant them variance relief because the MLUL cannot have  
7 anticipated all of the different types of properties that  
8 would look to be developed. So we can grant them the relief  
9 that they need. They've established a hardship by offering the  
10 home to the neighbors to buy, they've satisfied that criteria.

11  
12 MS. LEBRAUN: Okay that's my last question, alright  
13 thank you.

14  
15 MR. LEVITON: Thank you Ms. Lebraun.

16  
17 MR. WEISS: Mr. Chairman if I can?

18  
19 MR. LEVITON: Yes Mr. Weiss.

20  
21 MR. WEISS: Since we were talking about centering the  
22 house with regard to the side yards I believe that we also  
23 discussed making it even with the others so I believe as a  
24 result of that the setback would be roughly eighty-ish feet or  
25 so?

26  
27 MR. LEVITON: Mr. Ploskonka?

28  
29 MR. PLOSKONKA: He's correct abou eighty feet setback  
30 and then I think it's about twenty-five feet on both sides  
31 through the side yards, twenty-six.

32  
33 MR. LICATA: Approaching twenty-six and a half  
34 probably.

35  
36 MR. PLOSKONKA: Yeah.

37  
38 MR. LICATA: And he's been crunching numbers.

39  
40 MR. LEVITON: He's a number cruncher.

41  
42 MR. PLOSKONKA: Thank you Joshua.

43  
44 MR. MARMERO: You're going to center it?

45  
46 MR. PLOSKONKA: Center the house right based on the  
47 architechtrual plans we have about twenty-five, twenty-six  
48 feet.



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MS. DEFALCO: You made plans for a deck or a patio?

MR. PLOSKONKA: Not so far.

MS. DEFALCO: Even if you got the forty ---

MR. PLOSKONKA: Not for a deck, but for a patio  
right?

MS. DEFALCO: For both, the one with the side  
setback.

MR. LEVITON: Mr. Licata why don't you confer with  
your client because we can subsume that we're getting  
everything that we're doing.

MR. LICATA: I appreciate that.

MR. LEVITON: You're welcome.

MR. LICATA: Mr. Chairman excuse me for one moment.

MR. LEVITON: Thank you Nancy.

MR. LICATA: Mr. Chairman I've had a chance to  
consult with my client and while he appreciates the  
opportunity for the board to consider additional relief, he  
has instructed me that no additional structures are at all in  
the planning for this property by him and he does not wish to  
seek additional relief at this time.

MR. LEVITON: Okay then I'll just state for the  
record that should there be a change of heart, the applicant  
would need to reappear before this board for variance relief  
because there will be setback issues as it relates to the  
sides. Okay board is there anything else? Let's go back out to  
the public and just make sure that there's no one else who  
wants to address the board or ask Mr. Ploskonka questions  
about anything that he offered onto the record. Okay board?

MR. LICATA: Mr. Chairman I believe I need to call  
Mr. Higgins.

MR. LEVITON: Please sir, continue with your  
affirmative case. Mr. Higgins, welcome back sir. You've  
already been sworn in.

1 MR. HIGGINS: Thank you.

2

3 MR. LEVITON: I know you'll keep it brief.

4

5 MR. HIGGINS: Yes I will. I think John's done most of  
6 my testimony for me anyway, but yes you've had the existing  
7 non-conforming conditions described to you so you don't need  
8 me to go over that again. The existing variances as amended  
9 tonight and I think really suggested by the board and by the  
10 neighbors and agreed to by the applicant with how you'll have  
11 side setbacks of somewhere between twenty-five and twenty-six  
12 feet on each side rather than the thirty-five feet that's  
13 required by your ordinance. One of the things that I looked at  
14 initially when I was looking at the plans is the fact that the  
15 proposed house as it was proposed earlier was setback a  
16 hundred feet to conform with the ordinance which does  
17 eliminate a need for another variance, but to make sense of it  
18 and when you look at all the other buildings on this section  
19 they're all set back about eighty feet. So it would make more  
20 sense to have this building be set back eighty feet also. It  
21 not only brings more into conformance with the character of  
22 the area, but it also gives a little bit more rear yard area  
23 for whoever would occupy that house. So I think when I look at  
24 this clearly there's a hardship. The applicant is constrained  
25 by the size of the site and can't acquire any land on either  
26 side because of the fact that both lots on either side are  
27 developed and the owners of the adjacent properties have  
28 indicated that they would not be interested in spending  
29 \$200,000.00 to purchase this lot and I can understand that  
30 totally and I did review the tax records and the assessed  
31 values of the other properties in the immediate vicinity of  
32 the site including the ones on either side are just slightly  
33 in excess of \$200,000.00 so that figure is a pretty accurate  
34 figure I think. So there is clearly a hardship with regards  
35 particularly with regard to the existing conditions. I think  
36 in terms of the variances for the side yard setback and the  
37 front yard setback that's now being requested. Again I think  
38 in terms of a C2 it's a much better planning alternative. It  
39 brings the site and what's being proposed more into  
40 conformance with what's in the area. The house that's being  
41 proposed is more in conformance with the size of the other  
42 houses in the area. Again when you look at the aerial,  
43 particularly the lots that are to and I'm guessing that's the  
44 east of the property I'm not quite sure how this is oriented,  
45 but as you're facing the property to the left of the property  
46 there are larger houses and this house being proposed would be  
47 consistent with them probably a little bit smaller than those.  
48 So I think what's being proposed makes sense from a planning

1 and zoning standpoint. I don't think there's any substantial  
2 detriment to the surrounding area, to the surrounding lots  
3 particularly if the drainage is done as been described where  
4 it's going to be maintained on the site and --- its impact as  
5 far as drainage. The setbacks are consistent and in fact in  
6 excess of what exists for most of the buildings in this  
7 immediate area of the site. So I really think that the board  
8 can approve this application both in terms of C1 for the  
9 existing variances and both C1 and C2 for the proposed  
10 variances for side and front yard setbacks.

11

12 MR. LEVITON: Mr. Marmero do you want to pin him down  
13 or was that fine?

14

15 MR. MARMERO: No he's fine. --- both C1 and C2 and  
16 then for C1 making a hardship argument for C2 and I think he  
17 basically said what the front yard and even the side yard so  
18 they make planning sense --- request variance.

19

20 MR. HIGGINS: That's correct.

21

22 MR. LEVITON: Thank you sir. Thank you Mr. ---

23

24 MR. HIGGINS: And I do want to say that I enjoy  
25 working with Mr. Ploskonka because I'm younger than he is and  
26 there's very few people I work with that are younger than me.

27

28 MR. LEVITON: Mr. Higgins that's great. Okay board  
29 let's see. We'll start with Michael this time. Do you want to  
30 ask Mr. Higgins a question?

31

32 MR. WECHSLER: No I'd like to thank for the  
33 flexibility, very informative. I have no questions and I like  
34 Josh's drawing.

35

36 MR. LEVITON: Thank you sir. Dan?

37

38 MR. POCHOPIN: Very good. My questions were all  
39 answered and it was very fair.

40

41 MR. LEVITON: David?

42

43 MR. SCHERTZ: No, nothing at this time.

44

45 MR. LEVITON: Joshua?

46

47 MR. SHALIKAR: No further questions.

48

1 MR. LEVITON: Counselor?

2

3 MR. MARMERO: No questions.

4

5 MR. LEVITON: Bob?

6

7 MR. GREGOWICZ: No questions.

8

9 MR. LEVITON: Terry?

10

11 MR. ROSENTHAL: Oh I have several, no I have no  
12 questions.

13

14 MR. LEVITON: And at this time I'll open up to public  
15 and ask if there's anyone who wants to cross-examine Mr.  
16 Higgins on the testimony that he's entered onto the record.  
17 Now would be the time. Okay seeing none I'll close public and  
18 Mr. Higgins we thank you for your testimony.

19

20 MR. HIGGINS: Thank you.

21

22 MR. LEVITON: And Mr. Licata would you like to  
23 summate?

24

25 MR. LICATA: We appreciate the board's time and  
26 attention and we respectfully would request authorization of a  
27 positive resolution.

28

29 MR. LEVITON: Mr. Marmero do you require anything  
30 further?

31

32 MR. MARMERO: No I think that Mr. Licata covered it.  
33 I don't know if your prior counsel had to summarize the relief  
34 that he needed in.

35

36 MR. LEVITON: Yeah.

37

38 MR. MARMERO: Okay.

39

40 MR. LEVITON: Yeah.

41

42 MR. MARMERO: Yeah again what you're dealing with  
43 here if we indeed to approve this. We have a pre-existing bulk  
44 variances for minimum lot area --- We have the pre-existing  
45 bulk variances which are the minimum lot area, you have the  
46 minimum lot frontage, you have the improvable area and the  
47 improvable diameter. You have the side yard setback variance  
48 that is created here, but the applicant is now going to have

1 two variances because we indicated we would center the lot. So  
2 that's going to be a side yard setback of about twenty-five to  
3 twenty-six feet on each side and then we did indicate that the  
4 front yard setback will now be a variance that would be  
5 required. One hundred feet is required, but I think we're  
6 talking about eighty feet or so. It's a condition to kind of  
7 line up with the adjacent properties?

8  
9 MR. LICATA: That's correct, yes.

10  
11 MR. MARMERO: Okay so that's the variance relief  
12 that's required and then some of the conditions we discussed  
13 tonight is that the applicant will revise the plans to confirm  
14 that the floor area ratio variance is not needed and obviously  
15 show that on the revised plans. Obviously as our board  
16 engineer indicated if there's going to be any kind of wetlands  
17 disturbance that would require NJDEP approval. I think  
18 stormwater calculations have been submitted so you don't need  
19 any --- additional is that correct Brian?

20  
21 MR. BOCCANFUSO: No they have not been submitted.  
22 They need to be submitted as a condition of approval and comply  
23 with the ordinance requirements.

24  
25 MR. MARMERO: And then your letter indicated  
26 obviously soil conservation district approval will be required  
27 as well as any additional outside agencies that are needed and  
28 then some conditions that were added was the applicant agreed  
29 to meet with both Ms. Lebraun and the township arborist at the  
30 lot and has agreed to remove any trees that are deemed  
31 hazardous by the arborist and then I just have notes about the  
32 others that we've already discussed. Again that the home will  
33 be centered on the lot and that the front yard setback  
34 variance was now added.

35  
36 MR. LEVITON: Outstanding.

37  
38 MS. DEFALCO: Good stuff.

39  
40 MR. LEVITON: Good stuff.

41  
42 MS. MOENCH: Good stuff.

43  
44 MR. MARMERO: There you go I'll take that.

45  
46 MR. LEVITON: Nancy anything further from you?

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48 MS. DEFALCO: I'm good.

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MR. LEVITON: Alright then. Alright will someone make a motion?

MR. SHALIKAR: I'll make a motion to approve. I hope I don't have to repeat what he just said, but based on the conditions of the variances and the conditions that you said, yes.

MR. LEVITON: And will someone second that motion?

MR. WECHSLER: I will second.

MR. LEVITON: Thank you Michael.

MS. MOENCH: I'm sorry Michael isn't eligible to vote tonight.

MR. POCHOPIN: I'll second.

MR. LEVITON: Dan's going to second. Why is Michael ineligible to vote?

MS. MOENCH: Because we have Rob is out.

MR. LEVITON: Correct.

MS. MOENCH: --- members so.

MR. LEVITON: Of course.

MS. MOENCH: Basil's out.

MR. LEVITON: Yes. Janice God bless you.

**ROLL CALL**

MS. MOENCH: Okay Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

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MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Congratulations Mr. D'Silva. Mr. Licata always a pleasure.

MR. LICATA: Thank you everybody. Have a good night.

MR. LEVITON: Mr. Ploskonka and Mr. Higgins thank you gentlemen.

MR. PLOSKONKA: Thank you.

MR. LEVITON: Does anyone need a break before we call our next application? Alright then the board calls the Hagers application 2263. Mr. Hager, Mrs. Hager are you in attendance?

MR. BOCCANFUSO: Mr. Chairman I assume my attendance isn't necessary?

MR. LEVITON: Yes let's all bid Mr. Boccanfuso a good evening and thank him. Brian, outstanding.

MR. BOCCANFUSO: Mr. Chairman, members of the board thank you very much for the re-appointment look forward to working with you for another year. Nancy, Al, Janice I look forward to that as well.

MR. LEVITON: Good to have you Brian.

MR. BOCCANFUSO: Have a good night everybody get home safe and dry.

MR. LEVITON: Thank you sir, same to you. Okay our next application is 2263 Mr. and Mrs. Hager are you here? Oh

1 come on up, make yourselves comfortable and Mr. Marmero will  
2 swear you in.

3

4 MR. MARMERO: Good evening. Do you both plan on  
5 testifying this evening?

6

7 MRS. HAGER: No, not unless you need me.

8

9 MR. MARMERO: Okay so you wouldn't be sworn in. If  
10 you want to state your name and address for the record sir.

11

12 MR. HAGER: My name is Gregory Hager and I live at 11  
13 Lamb Lane.

14

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

19

20 MR. HAGER: I do.

21

22 MR. MARMERO: Alright.

23

24 MR. LEVITON: Welcome Hagers. Mr. Hager you're here  
25 about the addition on your home. Why don't you tell the board  
26 about your application and what it is that you need from us.

27

28 MR. HAGER: Absolutely. I'd like to introduce myself.  
29 My name is Greg Hager. My wife and I have lived in Manalapan  
30 for four years. We're proud to tell people that we live in  
31 Manalapan and we love it here. We have two small children at  
32 home. One is one-years-old and one is two-years-old. We do  
33 plan on having more children that's the reason we want to put  
34 this addition on our house. I work in law enforcement nearby  
35 and I've worked closely with officers here in Manalapan pretty  
36 much on a daily basis. We're looking forward to hopefully  
37 moving forward with this addition. So if you look at our  
38 survey our house currently sits sixty feet off of Lamb Lane as  
39 do most houses on Lamb Lane. That was I believe the setback  
40 when the neighborhood was designed. Since then the setback has  
41 been changed to seventy-five feet so if you look at our house  
42 on the survey it currently is in the shape of an L and we are  
43 proposing to basically fill in that remaining quadrant there  
44 in the bottom right corner and make it more of a square.

45

46 MR. LEVITON: Hold on just for my own edification.  
47 Nancy is that right? Within the last four years the setback --

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MR. HAGER: Oh no not within the last four years.

MR. LEVITON: Oh okay.

MR. HAGER: We've lived here for four years. I think that's from the '95 master plan.

MR. LEVITON: Oh good for you. All that's --- learn you've done your homework. I like that.

Mr. HAGER: So I'm just going to read, you guys have it in front of you, but the minimum front yard setback for a principal structure located in R20 is sixty feet however Lamb Lane is identified in the master plan as a subcollector street. So it's the fact that the street is a subcollector if I understand it correctly that requires us to be seventy-five feet.

MR. LEVITON: Yes and the subcollector street is one for which traffic connects probably the Sweetmans Lane and ---

MR. HAGER: Sweetmans and Woodward.

MR. LEVITON: Thank you because I know ---

MR. HAGER: We're neighbors.

MR. LEVITON: Yeah.

MR. HAGER: Not quite but ---

MR. LEVITON: Okay.

MRS. HAGER: Did you get our letter?

MR. LEVITON: He's not that close. Continue Mr. Hager, apologies.

MR. HAGER: So I know we need to demonstrate a hardship with the land.

MR. LEVITON: Holy smokes are you prepared.

MR. HAGER: And I believe the one we're going to try to make a case for is the hardship C1 under section three the unique conditions affecting the property. It's not drawn on the survey there, but there is both a new septic system and an

1 old, properly abandoned septic system that prohibit us from  
2 building in any other direction. So if you look at the survey  
3 to the east we are bound by the fifteen foot side setback, to  
4 the south there's a large concrete patio with a septic pipe  
5 that runs underneath it as well as an abandoned septic tank  
6 next to the patio, to the west there is the new septic tank  
7 roughly ten feet off of the house as well as plumbing that  
8 takes wastewater from the house to the septic tank, and to the  
9 north is where we're proposing basically filling in that  
10 quadrant of the house.

11

12 MR. LEVITON: Mr. Hager I'm assuming that your  
13 preparation was facilitated by Ms. Moench.

14

15 MR. HAGER: Yes.

16

17 MR. LEVITON: She's amazing.

18

19 MR. HAGER: Yes.

20

21 MR. LEVITON: And the board thanks her publicly,  
22 continue sir.

23

24 MR. HAGER: Yes and then I know that there's a final  
25 element here at the bottom of this bulk variance that it will  
26 be without substantial detriment to the public good and will  
27 not substantially impair the intent or purpose of the  
28 municipal zoning plan ordinances and I feel that because we're  
29 not building out any closer to the road than any of our  
30 neighbors are and we're also not building any closer to any of  
31 the neighbor's houses laterally that it won't impede on any of  
32 that.

33

34 MR. LEVITON: To my satisfaction sir you have  
35 satisfied both the positive and negative criteria. I am but  
36 one vote. Let's see what the board thinks, Terry?

37

38 MR. ROSENTHAL: I have nothing. I think he summed it  
39 up and covered it pretty well.

40

41 MR. LEVITON: And I can't believe he's in law  
42 enforcement. I think he's an attorney. Adam?

43

44 MR. WEISS: I think that's why I can say that.

45

46 MR. LEVITON: Oh also law enforcement, retired yeah.

47

1 MR. WEISS: I think you did an excellent job. The  
2 other thing that I raise to my fellow board members is that  
3 it's my recollection that other homes in that area did  
4 essentially what the Hagers are planning to do so I think that  
5 certainly it falls within line of what's done in that  
6 neighborhood along Lamb Lane.

7  
8 MR. LEVITON: Adam you're saying it's going to be an  
9 aesthetic improvement?

10  
11 MR. WEISS: It will be most definitely an aesthetic  
12 improvement to that area.

13  
14 MRS. HAGER: You know what it looked like five years  
15 ago right?

16  
17 MR. WEISS: What's that?

18  
19 MRS. HAGER: You know what the property was like five  
20 years ago right?

21  
22 MR. WEISS: Not yours in particular, but it's  
23 nevertheless going to be an improvement.

24  
25 MR. LEVITON: Joshua? Thank you Adam.

26  
27 MR. SHALIKAR: No questions, great testimony.

28  
29 MR. LEVITON: David?

30  
31 MR. SCHERTZ: No questions.

32  
33 MR. LEVITON: Daniel?

34  
35 MR. POCHOPIN: No questions.

36  
37 MR. LEVITON: And Michael?

38  
39 MR. WECHSLER: No questions.

40  
41 MR. LEVITON: Albert?

42  
43 MR. MARMERO: No. The only question I have is it just  
44 looks like and based on this addition if that was built at the  
45 time the home was built, that would be before you even bought  
46 it, where it is right?

47  
48 MR. HAGER: Yes.

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MR. MARMERO: Okay.

MR. LEVITON: And Nancy anything from you?

MS. DEFALCO: No.

MR. LEVITON: Let's go out to the public. Is there anyone in attendance who wants to question Mr. Hager or address the board? Seeing none I'll close public and ask someone to make a motion.

MR. WEISS: Motion to approve the application as submitted.

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

MR. SHALIKAR: I'll second that.

MR. LEVITON: Thank you Mr. Shalika.

**ROLL CALL**

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: 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. Pochopin?

MR. POCHOPIN: Yes.

1 MS. MOENCH: Chair Leviton?

2

3 MR. LEVITON: PBA cards for everyone.

4

5 MR. HAGER: Sold.

6

7 MRS. HAGER: Thank you guys so very much.

8

9 MR. LEVITON: Congratulations, good luck with this  
10 then.

11

12 MR. SCHERTZ: Welcome to the neighborhood.

13

14 MR. LEVITON: Does anyone need a break before we call  
15 our last hearing? No then I will call oh my goodness  
16 application 2258 and I'm sorry for butchering your name in  
17 advance. How about if I just ask you sir, how do I pronounce  
18 it?

19

20 MR. SAINI: Ajay or AJ.

21

22 MR. LEVITON: Your last name, I want to address you  
23 properly.

24

25 MR. SAINI: Saini.

26

27 MR. LEVITON: Saini, Mr. Saini thank you. Mr. Saini,  
28 Mr. Marmero when he's ready he'll swear you in, but you get  
29 comfortable. Make yourself comfortable.

30

31 MR. MARMERO: Okay please state your name and address  
32 for the record.

33

34 MR. SAINI: Ajay Saini address 1 Oldwyck Court  
35 Manalapan, New Jersey 07726.

36

37 MR. MARMERO: Okay just like the others raise your  
38 right hand I'll get you sworn in. Do you swear the testimony  
39 you provide tonight will be the truth, the whole truth, and  
40 nothing but the truth?

41

42 MR. SAINI: I do.

43

44 MR. LEVITON: Okay Mr. Saini I have been told by Ms.  
45 Moench what a nice man you are and how much she's enjoyed  
46 working with you. Always a positive thing, also I've been  
47 privy to some of the back and forth with the emails and so  
48 I've been right in on what's going on. I've also driven by the

1 property. I know you're here to legitimize your shed and I'm  
2 wondering are you calling it something else now? What is the  
3 plan going forward? See I have a problem with it because of  
4 it's setback and it's proximity to the Union Hill Road, but  
5 we'll talk about that. Tell us what it is that you intend to  
6 ask for and then tell the board about your application.

7

8 MR. SAINI: Sure. This was an existing shed, a large  
9 shed, and it was rotting. I think during Sandy a tree fell on  
10 it, but eventually it was rotting so we decided to renovate it  
11 and we extended it a bit and then we thought that maybe it  
12 would be a good idea to have it as a pool or a cabana house  
13 since we have a pool and so the idea is to have that.  
14 Currently it does not have electricity or insulation. I was  
15 hoping to use it as a storage space also for my yardworks and  
16 ---

17

18 MR. LEVITON: So for me no matter what you call it  
19 it's still a detached accessory building, shed, cabana. To me  
20 it's the same thing. Let's bring the board up to speed. The  
21 previous homeowner applied for and received permission to  
22 build a shed. Can you tell the board what were the dimensions  
23 of that shed?

24

25 MR. SAINI: I believe the dimensions of that shed  
26 were give me one second let me go back to my notes. It was, I  
27 believe it was twelve by eighteen.

28

29 MR. LEVITON: We have seen the variance relief for  
30 that. Our office was able to pull that up.

31

32 MR. SAINI: Sorry I might be wrong on that.

33

34 MR. LEVITON: Its okay I'll pull it up and I'll  
35 confirm that, give me a second. Nancy do you have it in front  
36 of you?

37

38 MS. DEFALCO: I have it in front of me.

39

40 MR. LEVITON: Can you tell us what the original  
41 dimensions for the shed were?

42

43 MS. DEFALCO: The original ---

44

45 MR. LEVITON Twelve by sixteen I think is what I'm  
46 looking at.

47

48 MS. DEFALCO: --- want to see.

1 MR. SAINI: Yeah twelve by sixteen and nine feet  
2 high.

3  
4 MS. DEFALCO: What's the setback if they ---

5  
6 MR. LEVITON: Seventeen feet where seventy-five is  
7 required, but I'll wait for Nancy to confirm that. I don't  
8 pretend to know any of that. She's amazing, doesn't miss a  
9 trick.

10  
11 MS. DEFALCO: Says that on the denial.

12  
13 MR. LEVITON: Okay so.

14  
15 MS. DEFALCO: --- the denial.

16  
17 MR. LEVITON: Okay so it was originally twelve by  
18 sixteen and seventeen feet was granted in the way of relief  
19 and now Mr. Saini I --- that right? Saini?

20  
21 MR. SAINI: You're right.

22  
23 MR. LEVITON: Okay Mr. Saini you testified that there  
24 was substantial damage to the original shed and you were  
25 constructing something new to replace it, but you changed the  
26 footprint.

27  
28 MR. SAINI: Correct.

29  
30 MR. LEVITON: And the township asked you to stop  
31 building.

32  
33 MR. SAINI: I did immediately.

34  
35 MR. LEVITON: And you did and so it has been  
36 completed. It's been some time. How long has that been since  
37 that happened?

38  
39 MR. SAINI: Since I stopped?

40  
41 MR. LEVITON: Yes.

42  
43 MR. SAINI: I would say it's over three months.

44  
45 MR. LEVITON: Over three months?

46  
47 MR. SAINI: Yeah.

48

1 MR. LEVITON: Okay so the new shed what are the  
2 dimensions of the new shed?

3  
4 MR. SAINI: It is twenty by fourteen.

5  
6 MR. LEVITON: Twenty by fourteen. Okay and how much  
7 of an encroachment into the rear setback is there now?  
8 Seventeen was permitted and what is there now?

9  
10 MR. SAINI: I think takes additional two feet.

11  
12 MR. LEVITON: Okay so for me the problem is when you  
13 drive down Union Hill Road and by the way I grew up in that  
14 area. I don't spend a lot of time there. I made a special trip  
15 to go out and see it and I was sort of envious that you could  
16 walk to Chinese and pizza and you can get a soda at Wawa.

17  
18 MR. SAINI: And my kids go to the Montessori right  
19 behind it.

20  
21 MR. LEVITON: So convenient right?

22  
23 MR. SAINI: Yes.

24  
25 MR. LEVITON: Except when I drove passed on Union  
26 Hill this was a huge eye sore. There's just no other way for  
27 me to characterize it and that's what the setback is for. It's  
28 to help maintain the character of a neighborhood to make it  
29 feel like a community and over there it didn't feel like that  
30 to me. So I have reservations, but again I'm one vote. So  
31 let's see and let me ask you before we go out to the board.  
32 Did you know that you needed variance relief before you  
33 started to build?

34  
35 MR. SAINI: No I did not unfortunately and I wouldn't  
36 have done it.

37  
38 MR. LEVITON: And what is it that alerted the  
39 township to the construction? Why were they there that they  
40 were able to see that there was something being built?

41  
42 MR. SAINI: Two reasons. One I believe somebody  
43 obviously must have seen it, but my fence in the back of the  
44 yard is not that tall. So it's visible I think it's roughly  
45 around six feet high and there's no tree line. That was the  
46 reason it was visible. Now after the fence I do have space  
47 which is additional four feet I can put a tree line there so



1 it's not an eye sore that's what I can do. I will do anything  
2 so it's more aesthetically.

3

4 MR. LEVITON: We appreciate that offer and we will  
5 take it definitely under advisement and into consideration.  
6 Let me just ask Ms. Moench. There were pictures that Mr. Saini  
7 submitted today. I saw them.

8

9 MS. MOENCH: They're on the dais.

10

11 MR. LEVITON: They're on the dais. So you all can see  
12 and okay thank you. Everybody has them.

13

14 MS. MOENCH: And uploaded to the Google Drive.

15

16 MR. LEVITON: And they're on the Drive. Good so we've  
17 all seen it electronically. We have it in front of us and  
18 we're going to go and we're going to find out what they think  
19 now. I'll start here.

20

21 MR. ROSENTHAL: Okay I'm just curious why such a  
22 large structure?

23

24 MR. SAINI: So we have three bedrooms and we are a  
25 family of six and I have a lot of furniture in the backyard. I  
26 have a kitchen. You can see there's a pergola and a kitchen  
27 and a --- that are stored there. So a lot of my things that  
28 are in the garage they are in that shed and I'm a DIY kind of  
29 person I store a lot of my power tools there and also I have  
30 close to an acre of property so I do my own landscaping so  
31 that's the reason I was using it and I was hoping that I can  
32 use it probably as a shed and probably as a cabana.

33

34 MR. ROSENTHAL: Thank you.

35

36 MR. LEVITON: It did read more to me as a small  
37 building that would be habitable as opposed to just room for  
38 storage and that's subjective I know, but I base my opinion on  
39 the windows and the door. It reads more cabana than shed to  
40 me.

41

42 MR. SAINI: If I may.

43

44 MR. LEVITON: Yeah.

45

46 MR. SAINI: While researching what kind of shed we  
47 want to build and were doing Google search and we looked at  
48 modern sheds and that's what the design we were coming up with

1 and the blueprints. So when we looked at it and we do want to  
2 stay in this town and we do want to live in that house and we  
3 eventually want to renovate our house. I's an old house and we  
4 thought that we don't want it to look like an eye sore being  
5 there because the previous shed which was also large, but it  
6 did not fit in the layout of the house. That's why we thought  
7 that maybe this is the way we want to do it in the front of  
8 the structure there are boards, cinder boards, in the back  
9 because it was invisible so those are the gray panels.

10

11 MR. LEVITON: It's not invisible Mr. Saini. That's  
12 where I had the problem. Let me ask Nancy. I'm sorry sir for  
13 interrupting, forgive me. Please finish your thought.

14

15 MR. SAINI: No that was it.

16

17 MR. LEVITON: Okay.

18

19 MR. SAINI: Those were gray bolts for the shed which

20 I ---

21

22 MR. LEVITON: Nancy what about the height? Is he  
23 compliant in terms of height?

24

25 MS. DEFALCO: He said the height is nine feet. ---  
26 from the ground to the peak?

27

28 MR. SAINI: That's the peak.

29

30 MR. LEVITON: So he is then compliant.

31

32 MS. DEFALCO: Yes.

33

34 MR. LEVITON: With the height.

35

36 MS. DEFALCO: Can I just say something --- Janice and  
37 I talked about it and when I saw the pictures I like the  
38 Chairman thought this is not a shed. We know that pools have  
39 cabanas which could be used as storage for your pool  
40 enclosing. I just want before you change what you're going to  
41 do, regulations for a poolhouse or cabana are different from a  
42 shed. This is a storage building you will need to get  
43 construction permits and I don't know offhand what the  
44 requirements are. They may require footings. They may require  
45 insulation so you should take that into consideration.

46

47 MR. SAINI: Sure, absolutely.

48

1 MR. LEVITON: You need to tell us what your  
2 intentions are. Do you want to build a shed or do you want to  
3 build a cabana?

4  
5 MR. SAINI: I think at this point I would go with the  
6 cabana.

7  
8 MR. LEVITON: No, no, no.

9  
10 MR. SAINI: At this point I would go with the shed.  
11 That's fine I would go with the shed. That was always the  
12 intention.

13  
14 MR. LEVITON: Because I don't want to scare you, but  
15 let me lay it out for you more clearly. When Mrs. DeFalco  
16 tells you that if you were to build a poolhouse you're going  
17 to have to go downstairs to the construction department.  
18 They're going to send someone out and they may necessitate  
19 footings, concrete footings, underneath the structure that you  
20 didn't put it in.

21  
22 MR. SAINI: I didn't it was already there and when  
23 extended I added an addition.

24  
25 MR. LEVITON: But there ---

26  
27 MS. DEFALCO: Regardless you're going to have to get  
28 a permit. ---

29  
30 MR. SAINI: Sure.

31  
32 MS. DEFALCO: Fron the building department because  
33 you exceed twelve by eighteen. You're over two hundred square  
34 feet so that triggers the need for the foundation and the  
35 building permit.

36  
37 MR. SAINI: Sure.

38  
39 MR. LEVITON: So I'll ask you again. I'll even give  
40 you time to think about it if you want, but you need to let us  
41 know what you're going to be asking relief for.

42  
43 MR. SAINI: Alright there is intent is for a shed.

44  
45 MR. LEVITON: So we're going to go with the shed?  
46 Okay.

47

1 MR. GREGOWICZ: You said you did a lot of research  
2 into what type of sheds were out there and based on that  
3 that's why you decided to build that. Did you do any research  
4 into whether or not you need a permit for this type of shed?

5  
6 MR. SAINI: This is unfortunate part because what I  
7 did was I took the original --- floor. I did not change the  
8 floor. I extended yes. Did I Google? Yes. Did I check with the  
9 township? No that was my mistake and I regret that mistake for  
10 sure.

11  
12 MR. GREGOWICZ: Did you build this yourself or did  
13 you have a contractor?

14  
15 MR. SAINI: It was myself. I was my brother-in-law  
16 who has a construction.

17  
18 MR. GREGOWICZ: And it never dawned on you that might  
19 should have checked with the township first before building?  
20 You never had a thought about that?

21  
22 MR. SAINI: ---

23  
24 MR. GREGOWICZ: --- let just check with the township  
25 before I started building this building?

26  
27 MR. SAINI: I honestly didn't and I apologize for  
28 that.

29  
30 MR. GREGOWICZ: No other questions.

31  
32 MR. LEVITON: Adam?

33  
34 MR. WEISS: Mr. Saini I really empathize with you and  
35 your predicament, but this looks nothing like a shed to me and  
36 the windows alone while beautiful, it's not a shed and while I  
37 see that there's a lot of equipment and items that were stored  
38 in there at one time. When I look at a shed and when I look at  
39 the sheds that were proposed with the prior approvals which I  
40 know you had nothing to do with, those appear to be storage  
41 sheds. Storage sheds don't generally have large windows and  
42 double doors with windows in them and so I just have a hard  
43 time with where this application is and where I think this  
44 structure is headed in terms of its true use and the intended  
45 true use and for that I've heard what you had to say, but I'm  
46 not buying it.

47

1 MR. LEVITON: So he's always resolute and he's  
2 straightforward. So I will not hold you to a shed. If you want  
3 to change to cabana before we make a motion and take a vote  
4 that will be your prerogative so you can get a feel for where  
5 the board stands and then I'll ask you again later. Josh?

6  
7 MR. SHALIKAR: Yeah so I certainly empathize with you  
8 let me just start with you. I did a bit of Googling myself and  
9 if you do search against modern shed, a shed of what you built  
10 looks very similar to what shows there. Albeit the other thing  
11 that's worth mentioning is that the insides of those sheds are  
12 absolutely not for tool storage, lawn care storage, etc. So  
13 it's a bit of a double-edged sword. I understand where you're  
14 coming from. I think aesthetically it is a very nice  
15 structure. I do think that the intended use will not be for a  
16 lawn tractor like my shed is that I had to come not in front  
17 of the board, but to the township to ensure that it was in  
18 compliance the whole nine and it is an oversized shed and I  
19 had to go through jump through all the hoops like everyone  
20 else would have to. So it does not have windows like yours.  
21 I'm a little bit jealous to be quite honest, but I will say  
22 that I don't feel like it's going to be used as a shed. I  
23 agree with your original statement that it is more like a  
24 cabana.

25  
26 MR. LEVITON: Joshua you said you didn't come before  
27 this board you went for the township for that, but before you  
28 were a member of this board you were an applicant yourself. It  
29 was for something different then.

30  
31 MR. SHALIKAR: Yes.

32  
33 MR. LEVITON: Oh.

34  
35 MR. SHALIKAR: Yeah.

36  
37 MR. LEVITON: Oh dear.

38  
39 MR. SHALIKAR: I try to play by the rules you know. I  
40 have a weird-shaped lot so it's not that --- it's a giant ---  
41 way. From the back it gets really thin.

42  
43 MR. LEVITON: Thank you Joshua.

44  
45 MR. SHALIKAR: You're welcome.

46  
47 MR. LEVITON: David?

48

1 MR. SCHERTZ: Excuse me, my concerns have been  
2 previously stated.

3  
4 MR. LEVITON: Daniel?

5  
6 MR. POCHOPIN: So I can certainly understand because  
7 I have come before the board here myself for a shed and it was  
8 actually a shed built by the Amish people. It was a ten by  
9 fourteen I believe the structure like I said was built very  
10 well. The height requirements, that's correct it's nine feet  
11 high. So you seem like you're on regulation there, but it does  
12 look as if there is more to it than a shed so either way  
13 you're going to go I would say building that size shed, cabana  
14 whatever you're going to categorize it as for safety for you  
15 and your family, you're probably going to put electric in  
16 there. You can't have something there without water, without  
17 electric. Do you plan on putting electric in there? That would  
18 be a permit anyway.

19  
20 MR. SAINI: I don't have plans yet, but if I go with  
21 cabana then definitely yes.

22  
23 MR. POCHOPIN: Yeah so and then the structure with  
24 the footings and all as everyone here on the board said for  
25 the safety of your family the pictures are a little deceiving.  
26 It looks as if it's not square to me. I'd have to physically  
27 go out to the site and see it, but it doesn't look like the  
28 corner is --- So again your integrity, your workmanship it's  
29 hard to tell by a picture.

30  
31 MR. SAINI: Sure.

32  
33 MR. POCHOPIN: But that's why they have all these  
34 codes and regulations for footings, structure, electrical,  
35 etc. So I would certainly really think about which way you're  
36 going to roll with this. That's all.

37  
38 MR. LEVITON: Thank you Dan and Michael?

39  
40 MR. WECHSLER: I share the chairman's thoughts on the  
41 sides that you see are appealing, the sides that you don't see  
42 are very unappealing. I don't know if trees would cover that  
43 so from your point-of-view the back of the house it's pretty.  
44 Someone driving across Union Hill it's just a gray box and I  
45 would have issue with that.

46  
47 MR. LEVITON: Yeah so the setback is a buffer to  
48 protect everyone and the aesthetics and I appreciate your

1 offer to mitigate the negative impact with a living fence,  
2 with a tree line behind and I don't know which way you're  
3 going to go poolhouse or shed, but if there were arborvitae.  
4 They're expensive and I don't want little ones. I'd want  
5 mature trees.

6  
7 MR. SAINI: Absolutely.

8  
9 MR. LEVITON: That are going to cover and protect  
10 Union Hill Road from what I see as an eyesore. That's the way  
11 I characterized it I'm sticking to it. To me it's  
12 unacceptable, but I would look favorably on the condition that  
13 you shield the shed and it's entirety from the street behind  
14 you. So you've seen what we think. There's a lot of us. Only  
15 seven votes count. There are more than seven of us here and I  
16 don't know which way it'll go, but its close so why don't you  
17 tell us now may or may not impact it. Let me see if I can help  
18 you I think they're talking about ensuring that you go before  
19 the construction department and ensure that there are no  
20 safety issues. Nobody here wants to put their name on  
21 something that will hurt someone. So you may want to for that  
22 reason call it one thing as opposed to another. That may help  
23 you. I don't know. What are your thoughts sir?

24  
25 MR. SAINI: I hear everybody's suggestions and it  
26 makes sense and those are well-taken. I think it would be best  
27 of interest if I go with the cabana and then also seek  
28 obviously go through the construction and all those permits.  
29 Yeah and further I will put those trees which will be over  
30 twenty feet that's what I have in front of the house and the  
31 side of the house. It literally covers me from Union Hill all  
32 around. Just one part is missing and that unfortunately is  
33 that area where the shed is, but I would absolutely do so.

34  
35 MR. LEVITON: I want to thank you for that  
36 concession. I always want to congratulate you on being a nice  
37 man and for working well with our staff.

38  
39 MR. SAINI: Absolutely.

40  
41 MR. LEVITON: You're welcome not everyone's as nice  
42 and ---

43  
44 MR. SAINI: Janice has been phenomenal. She's helped  
45 a lot. My wife serves on the diversity committee here in the  
46 township. I applied for the --- degree committee. I wasn't  
47 part of it, but my wife is so.

48

1 MR. LEVITON: Well I have a feeling you're going to  
2 be sitting up here soon. All of our board members are former  
3 applicants.

4  
5 MR. SAINI: No I mean you guys are tremendous.

6  
7 MR. LEVITON: Mr. Marmero?

8  
9 MR. MARMERO: Yeah so I mean obviously the  
10 applicant's made it clear that he --- to build a  
11 cabana/poolhouse as opposed to a shed. One of the conditions  
12 we heard discussed by board members and by the applicant is  
13 screening the structure with trees. We would need to set that  
14 to somebody's approval. I mean this is my first meeting --- to  
15 make the approval of the arborist or the board's engineer or  
16 the planner.

17  
18 MR. LEVITON: We're going to take him at his word,  
19 but he indicated that they would be twenty feet.

20  
21 MR. MARMERO: Yeah.

22  
23 MR. LEVITON: And that they will shield Union Hill  
24 Road from the shed.

25  
26 MR. MARMERO: So we don't have to specify?

27  
28 MR. LEVITON: Correct.

29  
30 MR. MARMERO: --- trees that are twenty feet or over  
31 that will screen the property from the road.

32  
33 MR. LEVITON: Correct, but Mr. Saini the zoning  
34 officer is always out and about and you are subject to the  
35 conditions if your application is approved that are  
36 memorialized in the resolution that would be set forth at a  
37 subsequent meeting if you're so lucky.

38  
39 MS. DEFALCO: The trees have to be at least ten feet  
40 from the property line also. They can't be right up to the ---

41  
42 MR. SAINI: No, no absolutely.

43  
44 MR. LEVITON: There's a rule for that?

45  
46 MS. DEFALCO: Yes.

47



1 MR. LEVITON: Okay. Oh my God --- to Rutgers for the,  
2 she's certified zoning officer.

3  
4 MR. WEISS: Mr. Chairman can I ask Mr. Marmero a  
5 question and I hate to put you on the spot Mr. Marmero, but if  
6 the applicant's application was to contain a condition that  
7 requires the tree line to be put in that's going to run with  
8 the land so that if one of those trees dies or falls down  
9 fifteen years from now whoever the land owner is fifteen years  
10 from now is going to have to replace it.

11  
12 MR. MARMERO: So that would be a violation of the  
13 condition of resolution that would run with future property  
14 owners and that would thus then be a zoning violation.

15  
16 MR. WEISS: Thank you.

17  
18 MR. LEVITON: Good point. Nancy anything else?

19  
20 MS. DEFALCO: Yes before you go out and vote. Are you  
21 changing it to cabana --- one of the variances that is  
22 required so we're eliminating the oversized shed variance. He  
23 has a pergola and a patio --- You look at it. You can really -  
24 --

25  
26 MR. LEVITON: I didn't, Albert can you include the  
27 pergola?

28  
29 MR. MARMERO: Sir is the pergola is that an  
30 impervious?

31  
32 MS. DEFALCO: Is the pergola is it just a covering or  
33 do you have a patio under the pergola?

34  
35 MR. SAINI: No it's just a covering.

36  
37 MS. DEFALCO: So it's grass?

38  
39 MR. SAINI: What's that?

40  
41 MS. DEFALCO: Just grass under the pergola?

42  
43 MR. SAINI: It's got pavers underneath it.

44  
45 MS. DEFALCO: And then it leads to the other patio  
46 right?

47  
48 MR. SAINI: Correct.

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MR. MARMERO: Yeah so then you would want I mean if you were going to grant such --- I mean these items are also within the setback so you would have to --- it's the same variance essentially.

MS. DEFALCO: Yeah it's the side yard.

MR. MARMERO: It's the same variance you just have different structures in that setback so we would just want to memorialize that in the resolution.

MR. SAINI: We can do so.

MS. DEFALCO: Because of his shape he can't maintain the seventy-five feet from Union Hill.

MR. LEVITON: They're trying to help you and they're indicating that under the municipal land use law which governs the decision-making of this board tha the irregular shape of your property works to your advantage because it establishes a hardship and allows the board to grant you variance relief.

MR. SAINI: Okay.

MR. LEVITON: But that's only the positive criteria. In order for me to get your variance relief you need to satisfy the negative criteria as well and that means you need to establish that there's no substantial detriment to the community at large and the way you do that is by ensuring that you're going to put that living wall of trees behind your shed, your cabana, whatever. And to me that's good stuff, but I'm one vote. I'm one vote.

MS. MOENCH: Because of the shape of the lot, the pergola and the patio are considered technically in the setback as well.

MR. SAINI: I see.

MR. LEVITON: We're writing it into the ---

MS. MOENCH: Add it to the approval --- setback.

MR. SAINI: Yes.

MS. MOENCH: Sure.

1 MR. LEVITON: You're going to be covered for  
2 everything if your application is favorably voted upon  
3 everything will be legitimized is what they're taking care of.

4  
5 MR. SAINI: Yes.

6  
7 MR. LEVITON: And that remains to be seen.

8  
9 MR. SAINI: Sure if I may?

10  
11 MR. LEVITON: Yes.

12  
13 MR. SAINI: The pergola and the other structure that  
14 we --- were already part of the property when I bought it.

15  
16 MR. LEVITON: Correct we understand and know that,  
17 yes.

18  
19 MS. MOENCH: But because there's not enough space to  
20 here.

21  
22 MR. SAINI: Sure.

23  
24 MS. MOENCH: That's why they're going to include all  
25 this as well as that.

26  
27 MR. SAINI: Understood, yes.

28  
29 MR. MARMERO: And Mr. Saini is it accurate that you  
30 provided public notice to the surrounding property owners?

31  
32 MR. SAINI: Yes I did.

33  
34 MR. MARMERO: Okay so sometimes I mean a lack of a  
35 substantial detriment by the fact that notice was provided to  
36 neighbors and doesn't look like anybody's here.

37  
38 MR. LEVITON: Thank you Mr. Marmero. So because no  
39 one's here I will open and close public and I'll go to the  
40 board one last time. Gentlemen is there anything you require  
41 further? Any concerns?

42  
43 MR. SCHERTZ: I have one more question.

44  
45 MR. LEVITON: David.

46  
47 MR. SCGHERTZ: What type of trees have to be planted  
48 deciduous or evergreen?

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MR. LEVITON: Evergreen arborvitaes is what I'm ---

MR. SAINI: That's what I have on the property and absolutely do that.

MR. LEVITON: Okay.

MR. SCHERTZ: I heard that but I want to make sure.

MR. WEISS: Mr. Marmero.

MR. MARMERO: Yes.

MR. WEISS: Again I'm sorry to bother you, but can we require that the arborvitaes be of a certain height or minimum height?

MS. MOENCH: He already did.

MR. MARMERO: He's agreed to a minimum of twenty feet.

MR. WEISS: Just want to make sure that it gets into the conditions.

MR. SAINI: Just for clarity purposes, you're not requiring the grown trees already right?

MR. LEVITON: We are, the little ones will take five years and then you do substaintally negatively impact on the community.

MR. SAINI: Okay. Also ---

MR. LEVITON: And then we can't grant you relief. The relief as its being structures mitigates the negative impact that people driving on Union Hill.

MR. SAINI: Understood.

MR. LEVITON: Have to put up with. Guys anything else?

MR. SHALIKAR: I would recommend the condition not be out the gate a twenty-foot arborvitaes. I would say there should be a minimum of let's say ten feet with room to grow.

1 MR. LEVITON: Ten feet is the minimum.

2

3 MR. SHALIKAR: Right so I would comply with ---  
4 that's my personal opinion. I would comply with the minimum  
5 and then make them grow to the twenty to match the rest of the  
6 property. I think ten feet should shade or cover or whatever.

7

8 MR. LEVITON: He's being very nice. He's a very nice  
9 man. I need to have that building covered. I'm going to drive  
10 by and we're going to give you a fair amount of time. What's a  
11 fair amount of time to give him?

12

13 MR. MARMERO: It's up to you guys. The structure is  
14 is already there right? I guess you've stopped construction.

15

16 MR. SAINI: I stopped.

17

18 MR. MARMERO: --- there's many concerns.

19

20 MR. LEVITON: Yeah, yeah --- Does anybody have  
21 expertise in this area?

22

23 MR. WEISS: Actually Mr. Pochopin came up with.

24

25 MR. LEVITON: Dan?

26

27 MR. POCHOPIN: So arborvitaes are --- they don't grow  
28 as fast --- I'm not a tree expert, but I did have them and  
29 once they fill I have three in my backyard now. I have a pool  
30 filter and as soon as they root these things grow in the past  
31 couple of years at least a foot and a half, two a year. You're  
32 getting that sir? --- and they're very nice trees and they  
33 really take off.

34

35 MR. LEVITON: I don't want them done at seven or  
36 eight feet. I don't think because he testified that the height  
37 of the structure is nine feet.

38

39 MR. SAINI: From the front.

40

41 MR. LEVITON: But I drove by and I'm telling you this  
42 thing reads like a Walmart.

43

44 MR. MARMERO: You have neighbors behind.

45

46 MR. LEVITON: You got to cover it.

47

48 MR. SAINI: Sure.

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MR. LEVITON: Okay. I'm sorry for the hyperbole.

MR. WEISS: And Mr. Chairman if I can because you're the one that usually supplies the color commentary.

MR. LEVITON: Yes.

MR. WEISS: So I'll do that for you now.

MR. LEVITON: Thank you sir.

MR. WEISS: Mr. Saini just so you know Mr. Leviton maintains a rather steady pace and tone at almost every meeting. He just got very excited about the trees which means to me that it's bothersome and if it's bothersome to him I'm sure its bothersome to the rest of the board. So I think that it's important to just highlight that it's very rare that Mr. Leviton expresses himself in the way that he just did. So I will concur then with Mr. Leviton's assessment.

MR. LEVITON: I'm not even on meds. Alright someone make a motion.

MR. MARMERO: Should we go through conditions?

MR. LEVITON: I went out to public already and I closed public already because there's no one here, yeah. I even said there's no one here.

MR. SCHERTZ: Yes conditions.

MR. LEVITON: They want the conditions read.

MR. MARMERO: So obviously by calling it a poolhouse/cabana house we've eliminated the oversized shed variance. That leaves us with the side and rear yard setback relief variance. We also did discover that both the pergola and the patio are within the setback as well so part of that you can give them the relief to legitimize those such structures as well and then what we're discussing is screening the structure from Union Hill Road with essentially the trees. We didn't talk about a certain mnumber of trees, but the applicant did agree to screen the structure. We're talking about evergreen arborvitaes. There's been some discussion about the height just needs it firm that a little bit because I have a few things that I've taken notes down.

1 MS. DEFALCO: We said minimum of ten right?  
2  
3 MR. MARMERO: Minimum of ten feet is that what we're?  
4  
5 MR. WEISS: The shed's nine feet yeah.  
6  
7 MR. SCHERTZ: Ten feet.  
8  
9 MR. WEISS: At least ten feet right Steve?  
10  
11 MR. LEVITON: Minimum.  
12  
13 MR. MARMERO: Okay so a minimum of ten feet.  
14  
15 MR. LEVITON: That is the minimum requirement.  
16  
17 MR. MARMERO: And that's to start.  
18  
19 MR. LEVITON: Yes.  
20  
21 MR. MARMERO: The trees would grow.  
22  
23 MR. LEVITON: Absolutely.  
24  
25 MR. MARMERO: --- over ten feet and did we settle on  
26 a time period for those trees?  
27  
28 MR. SCHERTZ: Six months.  
29  
30 MR. LEVITON: That's good. Six months will give you  
31 ample time and the time will be correct to plant.  
32  
33 MR. MARMERO: So should the applicant get approval  
34 then it would be six months from the time the resolution is  
35 memorialized.  
36  
37 MR. LEVITON: Yes. That will happen at the beginning  
38 of February at our next regular meeting. It'll be February 2<sup>nd</sup>  
39 and you don't need to be here. Again if they act favorably and  
40 there are no guarantees still.  
41  
42 MR. MARMERO: Okay I think that covers all of the  
43 conditions that I heard this evening. So if the board was  
44 inclined to approve this application you would need a motion  
45 to approve the relief that I cited with the condition of the  
46 trees that would be a minimum of ten feet in height that will  
47 screen the structure from Union Hill Road and the trees will  
48 be evergreen arborvitaes.

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MR. WEISS: Mr. Marmero if I can just in view of Mr. Pochopin's comment with regard to leyland cypresses. Again none of us are arborists here, but I am familiar with that and so I would just suggest that we give Mr. Saini the option of arborvitaes or leyland cypresses and I think that'll do the trick.

MR. MARMERO: I don't think ---

MR. LEVITON: Motion?

MR. WEISS: I do make the motion to approve the application with the conditions that were cited by Mr. Marmero.

MR. LEVITON: And second?

MR. SHALIKAR: I will second that.

MR. LEVITON: Thank you Joshua. Thank you Adam. Call it.

**ROLL CALL**

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: No.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Mr. Shalikar?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Congratulations.



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MR. WEISS: I don't get to vote?

MR. LEVITON: Oh.

MS. MOENCH: Oh did I call you?

MR. WEISS: No, yes.

MS. MOENCH: Wait, Mr. Weiss?

MR. LEVITON: You're good to go.

MR. SAINI: Thank you everyone.

MR. LEVITON: You're welcome.

MR. SAINI: I really appreciate it.

MR. LEVITON: Let niceness go a long way in life and we thank you.

MR. SAINI: Lesson learned. I will not --- again.

MR. LEVITON: Okay.

MR. SAINI: Okay thank you, appreciate it.

MR. LEVITON: You're welcome. Gentlemen don't pack up, I have to bring up for you the --- I just want to let you know that I was ready to move on with a new firm.

MS. MOENCH: I just wanted to make sure.

MR. LEVITON: Albert did an amazing job. Thank you Albert, but it was brought to the attention of the office, not intentionally, that Dustin left the firm so. He wasn't with the firm anymore anyway, but now there's the matter of the litigation that we're currently under. Who's going to continue to represent us? I'm thinking its okay for Ron to continue to represent us with that litigation. He's familiar with it. Albert could bring himself up to speed. I think Ron actually was here for those cases. He was the attorney of record for those cases. He knows the case well and for those of you that don't know we're being sued and ---

MS. DEFALCO: Do you think you should close?

1 MR. LEVITON: It's okay. I don't want to talk about  
2 it on the record. --- talking on the record.

3  
4 MR. WEISS: Its litigation and its ---

5  
6 MR. LEVITON: I'm not being specific. I'm just ---

7  
8 MR. MARMERO: I mean I don't know. As long as we're  
9 not talking defense strategy or ---

10  
11 MR. LEVITON: No, no no just discussing the case.

12  
13 MR. MARMERO: I mean whatever it is the fact that it  
14 exists is public so.

15  
16 MR. LEVITON: Yeah.

17  
18 MR. MARMERO: --- of strategy.

19  
20 MR. LEVITON: No I just want to know, I'd like if  
21 you'll do it. I didn't ask him, but I'd like Ron to continue.

22  
23 MR. SCHERTZ: I have no problem with that.

24  
25 MR. LEVITON: Yeah.

26  
27 MR. MARMERO: He knows the case.

28  
29 MR. LEVITON: Okay.

30  
31 MR. WEISS: And it was a case that was over multiple  
32 nights and it was very contentious and so I think that that  
33 case is probably it's been in process for at least a year at  
34 this point and it would be a lot I think for Mr. Marmero to  
35 get up to speed on. So I would imagine that there's not much  
36 more to go litigaton-wise in that case so.

37  
38 MR. LEVITON: Okay then it's settled. Ron will  
39 continue to represent us in the matter and thank you to Janice  
40 for everything.

41  
42 MS. MOENCH: You're welcome. I have a question. --- I  
43 can extend this so you guys aren't on top of each other.

44  
45 MR. MARMERO: No we're comfortable.

46  
47 MR. WEISS: It was like Statler and Waldorf.

48

1 MR. LEVITON: Gentlemen also one more thing.

2

3 MS. DEFALCO: Make sure you --- for tomorrow.

4

5 MR. MARMERO: I will.

6

7 MR. LEVITON: My wife is taking me away. I'm not  
8 going to be here on the 2<sup>nd</sup>. Bob is going to sit in the chair  
9 and you're all going to be very nice to him. Bob's  
10 experienced, Bob knows.

11

12 MR. SCHERTZ: I make a motion to close.

13

14 MR. LEVITON: Yes, second.

15

16 MR. POCHOPIN: Second.

17

18 MR. MARMERO: --- continues to go to construction at

19 ---

20

21 MR. LEVITON: He has to go through construction  
22 absolutely.

23

24 MR. MARMERO: But that is one of the ---

25

26 MR. LEVITON: Yeah.

27

28 MR. MARMERO: Even if you don't make it a condition.

29

30 MR. LEVITON: Janice I need help Janice. Janice I  
31 need help. I don't know what I'm looking at. David made the  
32 motion and Dan seconded it. We're adjourned, thank you Terry.

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