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MEETING IS CALLED TO ORDER:

MR. LEVITON: I ask you to join me in the salute to the flag.

SALUTE TO THE FLAG

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

ROLL CALL

MS. MOENCH: Mr. DiTota is not with us this evening. Mr. Gregowicz?

MR. GREGOWICZ: Here.

MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Here.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Here.

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

MR. WEISS: Here.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Here.

MS. MOENCH: Mr. Wechsler?

1 MR. WECHSLER: Here.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Here. Okay so first I see folks in the
6 audience. Good evening to you both how are you? If you are
7 here for ZB2315 on Washington Advance that application will
8 not be heard this evening. There was a problem with the
9 noticing on the applicant's behalf and for that reason it's
10 been rescheduled. Janice do you know when it's going to be
11 heard? While she's looking board members give a friendly wave
12 to the woman sitting on Janice's left that's Nancy Jean she
13 works in the office and she's here tonight to observe. Welcome
14 NJ. Will there be additional noticing for the folks that ---
15 so there will be further noticing coming to your home and it's
16 definitely coming and if you have any questions feel free to
17 call the zoning office. Janice will help you she's amazing.

18

19 MS. MOENCH: Are you here for that application, no?

20

21 MR. LEVITON: Oh you're not.

22

23 MS. MOENCH: Okay well it'll be noticed for 7/20.

24

25 MR. LEVITON: Okay then our first order of business
26 this evening is to accept the minutes from June 1st. Will
27 someone make a motion and will someone second it?

28

29 MR. SCHERTZ: So moved.

30

31 MR. WEISS: Second.

32

33 MR. LEVITON: Thank you David and Adam.

34

35 MR. WEISS: Yeah I can.

36

37 MS. MOENCH: I'm sorry who and Adam?

38

39 MR. LEVITON: David and Adam.

40

41 MR. WEISS: June 1st.

42

43 MS. MOENCH: Okay Adam.

44

45 MR. LEVITON: David and then Adam.

46

47 MS. MOENCH: Adam's not eligible.

48

1 MR. LEVITON: Oh yes.

2

3 MR. WEISS: It does say it on here that I am.

4

5 MR. LEVITON: Yes.

6

7 MS. MOENCH: But you weren't here right?

8

9 MR. LEVITON: Yeah it's a mistake on the agenda.

10

11 MR. WEISS: On the first I was not here.

12

13 MR. MANTAGAS: I second it Mr. Chairman.

14

15 MR. LEVITON: Thank you Basil and.

16

17 **ROLL CALL**

18

19 MS. MOENCH: Mr. Gregowicz?

20

21 MR. GREGOWICZ: Yes.

22

23 MS. MOENCH: Mr. Rosenthal?

24

25 MR. ROSENTHAL: Yes.

26

27 MS. MOENCH: Mr. Schertz?

28

29 MR. SCHERTZ: Yes.

30

31 MS. MOENCH: Mr. Mantagas?

32

33 MR. MANTAGAS: Yes.

34

35 MS. MOENCH: Mr. Pochopin?

36

37 MR. POCHOPIN: Yes.

38

39 MS. MOENCH: Chair Leviton?

40

41 MR. LEVITON: Yes. Okay next we're going to
42 memorialize two applications this evening. The first one is
43 number ZBE2232, Mr. Marmero please.

44

45 MR. MARMERO: Mr. Chairman and board as you'll
46 remember this is an application looking for bulk variance
47 relief that was granted for front yard setback --- There was
48 four separate matters. There is an existing fence, an existing

1 pool, an existing patio, and then an existing retaining wall
2 all which required front yard setback relief.

3

4 MR. LEVITON: Thank you Albert. Will someone move to
5 memorialize and will someone second it please?

6

7 MR. MANTAGAS: So moved.

8

9 MR. LEVITON: Thank you Basil. Thank you Daniel.
10 Daniel you aren't eligible either.

11

12 MR. SCHERTZ: Second.

13

14 MR. LEVITON: Thank you David. Janice?

15

16 MS. MOENCH: Is this for Schoefeld?

17

18 MR. MARMERO: Yes.

19

20 MS. MOENCH: Okay so Mr. Mantagas and Mr. Pochopin I
21 believe Mr. Mantagas voted no and it was a motion to approve.

22

23 MR. LEVITON: Oh so Basil you're not eligible.

24

25 MR. MANTAGAS: Okay.

26

27 MR. LEVITON: Because you voted no.

28

29 MS. MOENCH: Mr. Rosenthal, Mr. Schertz, Chair
30 Leviton you three are available to vote.

31

32 MR. ROSENTHAL: I'll move to accept.

33

34 MR. LEVITON: Thank you Terry. Remind them who's
35 eligible.

36

37 MS. MOENCH: Mr. Schertz and you.

38

39 MR. LEVITON: David?

40

41 MS. DEFALCO: He already seconded.

42

43 MR. LEVITON: Oh okay thank you Nancy. So thank you
44 Terry and thank you David.

45

46 MS. MOENCH: Thank you okay.

47

48 **ROLL CALL**

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MS. MOENCH: Mr. Rosenthal?

MR. ROSENTHAL: Yes.

MS. MOENCH: Mr. Schertz?

MR. SCHERTZ: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes and the next one is number 2203.

MR. MARMERO: Sure this was a use variance approval along with the related bulk variance. This was for the two apartments that would be above the dental office.

MR. LEVITON: Thank you counselor. Motion and second?

MR. MANTAGAS: I make a motion.

MR. LEVITON: Thank you Bob and thank you Basil.

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. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes and Ms. Moench thank you for your diligence and for your omnipotence. Thank you so much. Okay there's only one hearing on the agenda this evening. It's number ZBE2317 Mr. Sommese.

1 MR. SOMMESE: Yes.

2

3 MR. LEVITON: Did I say that right?

4

5 MR. SOMMESE: Yeah that's perfect.

6

7 MR. LEVITON: Mr. Sommesse come on up, make yourself
8 comfortable here, and notice how I'm using the microphone.
9 It's got to be very close to yourself. Our attorney is going
10 to swear you in and then we'll begin.

11

12 MR. MARMERO: Okay sir if you'll raise your right
13 hand. Do you swear the testimony that you'll provide tonight
14 will be the truth, the whole truth, and nothing but the truth?

15

16 MR. SOMMESE: I do.

17

18 MR. MARMERO: Okay and if you could just provide your
19 name and address for the record please.

20

21 MR. SOMMESE: Christopher Sommesse address 53
22 Yorktowne Drive Manalapan, New Jersey.

23

24 MR. MARMERO: Okay.

25

26 MR. LEVITON: Thank you Mr. Sommesse make yourself
27 comfortable. Pull the mic back and I want to alert you to the
28 fact that we have two numbers from the zoning board absent
29 tonight so our first and our second alternate Mr. Pochopin and
30 Mr. Mantagas respectively will be eligible to vote this
31 evening. However, the third alternate Mr. Wechsler will not.
32 He'll vote, but it won't count towards your application.
33 You're going to need four affirmative votes to get an
34 approval.

35

36 MR. SOMMESE: Okay.

37

38 MR. LEVITON: Okay. Alright so tell the board why
39 you're here tonight and what it is that you need from us.

40

41 MR. SOMMESE: Yeah I'm looking to file a variance C.
42 My hardship on my property that's on, my property is two front
43 yards so I have a corner lot and my property tails in at the
44 end so it's towards the lefthand side of the street, the
45 lefthand side of the block the street curves in so my property
46 line curls in there. So my house originally when I purchased
47 it wasn't set back at the standard seventy-five feet. I think
48 it was sixty-eight feet so I was looking for today to file a

1 variance to hold the fence line in line with my property to
2 square off my yard to make it usable and also I'm looking to
3 my deck is in line with the fence also. I have a deck that was
4 existent in part of the house. I did not realize that was a
5 big deal. I refaced the deck. I didn't change any of the
6 structure. I didn't change the location of the steps or
7 anything like that. All I did was I picked up the old planks
8 and I redid the new planks with trek decking instead because I
9 have little kids and the wood was giving them splinters and
10 stuff. So I didn't know that I had to file a variance for
11 that, but I'm looking to do that at the same time. Also the
12 shed and my location of my shed, I'm looking to hold my shed
13 in five feet off my fence line on both sides because due to
14 the hardship of my property that my property is squished in as
15 enough by the fence line and the whole seventy-five feet that
16 if I hold the standard ten or fifteen that the shed would be
17 more or less in the middle of my yard and I'm already losing a
18 lot of property to the lefthand side of my yard and I'm saying
19 that using them because I'm trying to fence off my yard. I
20 have two little girls and I'm trying to keep everything, keep
21 that in there, the yard and stuff like that. So I drove around
22 the neighborhood I'm not looking for something that probably
23 was never approved before. A lot of people do have their fence
24 lines in line with the house so I'm not looking for something
25 that's I would say not out of the ordinary. I'm not looking to
26 drive my fence any further out than in line with my house,
27 that's my straight plane and that's what I'm looking for
28 approval for tonight.

29

30 MR. LEVITON: So let me understand that was a lot.
31 You have a corner lot?

32

33 MR. SOMMESE: Correct.

34

35 MR. LEVITON: And by virtue of it being a corner lot
36 you have two front yards.

37

38 MR. SOMMESE: Yes sir.

39

40 MR. LEVITON: Is it correct that you testified that
41 the home itself encroaches into the setback?

42

43 MR. SOMMESE: Correct.

44

45 MR. LEVITON: Nancy is that correct, the principle
46 structure?

47

48 MS. DEFALCO: That is correct.

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MR. LEVITON: Okay.

MS. DEFALCO: At the start of the meeting I was looking over the survey from when the house was built and --- it's probably sidewalk and right-of-way that wasn't taken in consideration when the seventy-five foot setback was in place so the house actually is sixty-eight.

MR. LEVITON: That's crazy.

MS. DEFALCO: Well I guess it's not unheard of right?

MR. LEVITON: That probably dates back to 1965.

MS. DEFALCO: The 1965 survey shows that the house is at eighty-one though the current survey shows it at sixty-eight.

MR. LEVITON: How?

MR. WEISS: Did the house move?

MS. DEFALCO: No the house didn't move. We're thinking that it was a sidewalk measurement.

MR. SOMMESE: I asked the surveyor about that and he just said something happened with I think they moved the curb line or sidewalk, but don't quote me on that one.

MR. MARMERO: Yeah that's what it looks like. I'm looking at the survey.

MR. SOMMESE: And so I lost a few feet there.

MR. LEVITON: You're new to the neighborhood.

MR. SOMMESE: Correct.

MR. LEVITON: How long have you been here?

MR. SOMMESE: Almost two years.

MR. LEVITON: Nancy has there been a ZCCO?

MS. DEFALCO: Of when he purchased the house.

MR. LEVITON: Yes.

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MS. DEFALCO: He did. He signed two documents, one that the house was non-conforming.

MR. SOMMESE: Correct.

MS. DEFALCO: He was made aware of that and the deck was non-conforming.

MR. SOMMESE: Correct.

MR. LEVITON: So you knew that the deck was non-conforming because it encroached into the side setback?

MR. SOMMESE: Yes I knew it was non-conforming, but it was going to be no problems with if I left the deck there alone they said at the time there was going to be no problems with the deck.

MR. LEVITON: And then you testified about the fence.

MR. SOMMESE: Correct.

MR. LEVITON: That's an existing fence?

MR. SOMMESE: No.

MR. LEVITON: You're proposing that fence?

MR. SOMMESE: Yes. I'm sorry the fence existing I put the fence up without a permit not realizing that you need a permit and then I put that when I asked the contractor at the time when he did it. He said it's no big deal. I put it up, my wife is big with the safety of the girls. We're just trying to, we just moved in, we put the fence up didn't really think much of it.

MR. LEVITON: And the fence extends from the corner of your deck back towards the rear of the property.

MR. SOMMESE: So yes four inches is the size of the post, maybe five and a half inches. So the fence touches the deck and it goes straight down the line.

MR. LEVITON: So you didn't get a permit, but you knew when you moved in because of the ZCCO and the affidavit that you signed that the deck itself encroached into the

1 setback and then you put the fence also inside the setback. Is
2 that correct?

3

4 MR. SOMMESE: Correct.

5

6 MR. LEVITON: Okay it's clear to me now. Let's go out
7 to the board, Michael?

8

9 MR. WECHSLER: No I'm okay.

10

11 MR. LEVITON: Daniel?

12

13 MR. POCHOPIN: Thank you Mr. Chair. So this fence
14 line, proposed fence, going back there's a house right along
15 side of you.

16

17 MR. LEVITON: It's an existing fence. He testified
18 it's there.

19

20 MR. SOMMESE: Yes there's a house on the side of me,
21 the neighbor behind me already planted trees across my fence
22 line so they seem like they're fine with it. They put a couple
23 of trees there to make it look prettier. I was going to put
24 some evergreens too or something eventually.

25

26 MR. POCHOPIN: Very good. Okay so you're on a corner
27 lot so it doesn't seem to be a sight --- or safety issue or
28 anything like that so thank you.

29

30 MR. SOMMESE: No problem thank you.

31

32 MR. LEVITON: Thank you Dan, Basil?

33

34 MR. MANTAGAS: And you said you have young children
35 it's a safety issue with the fencing?

36

37 MR. SOMMESE: Well no my wife once we moved in she
38 wanted the fence up. I called the guy. We just put the fence.
39 I didn't really think it was going to be this big a deal with
40 the fence. I'm not going to lie to you it was a mistake on me,
41 but we're trying to resolve it now and if you've met my wife
42 the fence would've been up regardless so.

43

44 MR. MANTAGAS: But you said you --- the deck in it's
45 in the same place. You didn't move anything.

46

47 MR. SOMMESE: Yeah I did not move one thing. I ---
48 exactly just picked up the top planks and I just refaced it.

1 Underneath you could tell it's old. I think I replaced one,
2 two two by sixes underneath it, but it pretty much everything
3 is existing except the screws and then the deck ---

4

5 MR. MANTAGAS: Okay thank you Mr. Sommese.

6

7 MR. SOMMESE: No problem.

8

9 MR. LEVITON: Thank you Mr. Mantagas, Mr. Schertz?

10

11 MR. SCHERTZ: No questions at this time.

12

13 MR. LEVITON: Thank you David, Adam?

14

15 MR. WEISS: Hi Mr. Sommese I note that we received a
16 pool plot plan dated March 8, 2023. Are you familiar with that
17 document?

18

19 MR. SOMMESE: Yes.

20

21 MR. WEISS: Okay so do you have a pool currently?

22

23 MR. SOMMESE: No, no pool. I'm no doing an inground
24 pool anymore. I will be doing an above ground pool after this
25 is settled. I would figure out where I could put it in the
26 proper location.

27

28 MR. WEISS: Okay and so as far as the fence goes the
29 fence that you put up is that a vinyl fence?

30

31 MR. SOMMESE: It's a white PVC fence.

32

33 MR. WEISS: Okay and so part of the purpose of the
34 fence would be also to secure the property once the pool is in
35 place correct?

36

37 MR. SOMMESE: Correct yeah I'm looking to do an above
38 ground pool now.

39

40 MR. WEISS: Okay I have no further questions thank
41 you.

42

43 MR. LEVITON: Thank you Adam, Terry?

44

45 MR. ROSENTHAL: The fence is the only issue the
46 height?

47

1 MS. DEFALCO: The fence is the height and the
2 setback.

3
4 MR. ROSENTHAL: The setback okay.

5
6 MS. DEFALCO: The shed is the size and the setback
7 and since he's here the deck.

8
9 MR. ROSENTHAL: The deck is side setback, okay thank
10 you.

11
12 MS. DEFALCO: Yes three sides.

13
14 MR. ROSENTHAL: That's all I have.

15
16 MR. LEVITON: Thank you Terry, Bob?

17
18 MR. GREGOWICZ: You put the shed in yourself or was
19 that?

20
21 MR. SOMMESE: I built the shed.

22
23 MR. GREGOWICZ: You built it. Did you look into or
24 think about getting any permits as far as to maybe how big the
25 shed could be built or the placement of shed?

26
27 MR. SOMMESE: So at the time when I built the shed I
28 did Google. I built the shed maybe six months ago and I didn't
29 go on the website. I knew it could be two hundred square feet.
30 I did miss where it said the size where it said instead of
31 being I think eighteen eventually I found out the size could
32 be eighteen by twelve. I build a ten by twenty so I guess on a
33 plan either you could see square footage of the shed is the
34 same square footage in that two hundred square feet, but I did
35 make a mistake by not going down filing the right permits and
36 stuff like that, but I did build the shed. I ordered drawing
37 from a shed builder dot com. I bought a drawing and I just
38 built it.

39
40 MR. GREGOWICZ: Okay no further questions.

41
42 MR. LEVITON: You're a handy man sir. Tell me you
43 researched the total number of square feet and you built
44 twelve by eighteen. Is that right?

45
46 MR. SOMMESE: No I built ten by twenty, yeah.

47

1 MR. LEVITON: Ten by twenty and the setbacks, did you
2 look into the setbacks at the time?

3

4 MR. SOMMESE: No I missed that.

5

6 MR. LEVITON: Because they're each five feet from the
7 fence is that correct?

8

9 MR. SOMMESE: I did five feet from the fence. I
10 copied almost a neighbor or two maybe that has something
11 similar to that and I thought that was kind of what it was and
12 I knew I was going to end up doing a whole bunch of stuff in
13 my backyard in the next months and I thought I could just
14 square it all in, but that was a mistake.

15

16 MR. LEVITON: Mistaken by a lot. Nancy what are the
17 actual setbacks for that?

18

19 MS. DEFALCO: For a maximum size shed twelve by
20 eighteen. It would be ten from the rear and fifteen from the
21 side. Five and five would be for a shed a hundred square feet
22 or less.

23

24 MR. WEISS: Mr. Sommesse is the shed on a pad?

25

26 MR. SOMMESE: The shed's not on a pad, but I can move
27 the shed.

28

29 MR. WEISS: Okay.

30

31 MR. LEVITON: Board anything further? Okay then at
32 this time I'll go out to the public and ask if you'd like to
33 address the board or if you'd like to ask Mr. Sommesse a
34 question now would be the time. Come on up. There's a
35 microphone that Ms. Moench just put on the podium.

36

37 MS. HANLON: I've had surgery so excuse the mask.

38

39 MR. LEVITON: It's fine. It's fine as long as the
40 proceedings here at this hearing are being recorded and will
41 later be transcribed and in order to be heard you've got to
42 talk right into it so the mask is going to be fine, but Mr.
43 Marmero is going to swear you in.

44

45 MR. MARMERO: So ma'am if you'll raise your right
46 hand I'll get you sworn in. Do you swear the testimony that
47 you will provide tonight will be the truth, the whole truth,
48 and nothing but the truth?

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MS. HANLON: Yes.

MR. MARMERO: Okay and for the record can you please state your name and address?

MS. HANLON: Noreen Hanlon H-A-N-L-O-N, --- 56 Yorktowne Drive.

MR. MARMERO: 56 Yorktowne and I'm sorry I missed the last name what was it?

MS. HANLON: Hanlon H-A-N-L-O-N.

MR. LEVITON: Mr. Marmero Ms. Hanlon is a past mayor of the town.

MR. MARMERO: There we go.

MS. HANLON: How do you know that?

MR. LEVITON: I'm Steve Leviton.

MS. HANLON: Oh Steve how are you? I can't see either.

MR. LEVITON: Okay.

MS. HANLON: Anymore.

MR. LEVITON: It's nice to see you.

MS. HANLON: Nice to see you. We came just to observe. I have not met Mr. and Mrs. Sommese yet, but I just wanted to tell the board that what they've done to their home is lovely. I don't think, it's up to you what variances you want to grant, but the fence looks lovely. The setbacks are there. I live there, I know what the setbacks are. I do live next to a side lot so I was interested to see what you would do. I live across the street not next to him. It does appear that no one else is here and that his neighbor did put up trees which look very nice to maybe soften the fence. So I just came to tell you that they've done a really nice job even though I haven't met them yet.

MR. LEVITON: Thank you Noreen.

1 MR. SOMMESE: Thank you so much yeah. We're going to
2 have to --- sometimes.

3
4 MS. HANLON: Yeah.

5
6 MR. SOMMESE: It's hard with the little ones.

7
8 MR. LEVITON: Sir would you like to say something?

9
10 MR. HANLON: No she's speaking for the household.

11
12 MR. SOMMESE: Thank you.

13
14 MR. LEVITON: As it should be. Okay well ---

15
16 MR. HANLON: Well she's the mayor of the house too.

17
18 MR. LEVITON: I understand well. Okay so from what I
19 understand the fence is there. I understand that it's
20 aesthetically pleasing. I understand that it squares off the
21 property. I like that he's made improvements on his home, but
22 I have a problem with the fact that he knew that where he was
23 putting it was already an encroachment into the setback. I'm
24 not inclined to have him take it down. I have no problem with
25 his deck being repaired either, but I would like to ask him to
26 move the shed. After all he said it's movable so I'd like him
27 to move that back into conformity, but that's me I'm one vote.

28
29 MR. SCHERTZ: I agree.

30
31 MR. LEVITON: David I see a lot of headshaking. Mr.
32 Sommese if we approve your application as a condition we're
33 going to have you bring the shed back into conformity.

34
35 MR. SOMMESE: That's fine.

36
37 MR. LEVITON: Mr. Marmero?

38
39 MR. MARMERO: Yeah so what you've heard tonight
40 there's several areas of relief that the applicant would need.
41 So we're dealing with really three different issues here.
42 We're dealing with the fence and there we have the height
43 issue then we have the setback issue. We're dealing with the
44 deck where we have the setback issue and then we're dealing
45 with the shed where we have both the size of the shed or the
46 dimensions of the shed really and then the setback, but it
47 sounds like if you're inclined to make a motion to grant the

1 requested relief one of the conditions would be to bring the
2 shed into conformity at least with respect to the setbacks?

3

4 MR. LEVITON: Yes sir.

5

6 MR. MARMERO: Okay and if that's something that the
7 board saw fit then we would need a motion to grant all
8 required relief with the exception of the shed location which
9 would be brought into conformity.

10

11 MR. LEVITON: Thank you Mr. Marmero.

12

13 MR. MARMERO: Sure.

14

15 MR. LEVITON: Will someone make that motion?

16

17 MR. WEISS: I make a motion to grant the relief with
18 the exception of the shed which should be brought into
19 conformity.

20

21 MR. SCHERTZ: Second.

22

23 MR. LEVITON: Thank you Adam and David.

24

25 **ROLL CALL**

26

27 MS. MOENCH: Mr. Gregowicz?

28

29 MR. GREGOWICZ: Yes.

30

31 MS. MOENCH: Mr. Rosenthal?

32

33 MR. ROSENTHAL: Yes.

34

35 MS. MOENCH: Mr. Schertz?

36

37 MR. SCHERTZ: Yes.

38

39 MS. MOENCH: Sorry Mr. Weiss?

40

41 MR. WEISS: Yes.

42

43 MS. MOENCH: Mr. Mantagas?

44

45 MR. MANTAGAS: Yes.

46

47 MS. MOENCH: Mr. Pochopin?

48

1 MR. POCHOPIN: Yes.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Yes. Congratulations sir and many years
6 of health and happiness.

7

8 MR. SOMMESE: Oh thank you, thank you. Thanks for
9 your time.

10

11 MR. LEVITON: That'll yes?

12

13 MR. MARMERO: In terms of a time frame do you guys?

14

15 MR. LEVITON: Oh did he ask that?

16

17 MR. SOMMESE: I can do it in thirty days.

18

19 MR. LEVITON: Oh no we're not going to compel you to
20 though, in a timely fashion within six months is going to be
21 fine. The sooner the better, but if something should happen
22 you've got the time. It's not pressing.

23

24 MR. SOMMESE: Okay yeah I'll still get it done.

25

26 MR. LEVITON: And this board will move to memorialize
27 your application at its next regular meeting and you won't
28 need to be here.

29

30 MR. SOMMESE: Alright thank you for your guys' time.

31

32 MR. LEVITON: You're welcome.

33

34 MR. SOMMESE: Appreciate it.

35

36 MR. LEVITON: Have a good night.

37

38 MR. SOMMESE: You too.

39

40 MR. LEVITON: Good night Hanlons, thank you very
41 much. Wonderful to see you Noreen.

42

43 MR. LEVITON: Okay.

44

45 MR. SCHERTZ: I have a question.

46

47 MR. LEVITON: Who has a question? David?

48

1 MR. SCHERTZ: Who is in charge of enforcement of a
2 property.

3
4 MR. LEVITON: Say it again.

5
6 MR. SCHERTZ: Things that are done on someone's
7 property.

8
9 MR. LEVITON: Nancy is. Nancy is the code law, the
10 code enforcer. She's a law enforcement agent.

11
12 MR. SCHERTZ: So last meeting Nancy we were talking
13 after the meeting here about ---

14
15 MR. LEVITON: David remember we're on the record
16 maybe.

17
18 MR. SCHERTZ: I know we're on the record.

19
20 MR. LEVITON: Okay.

21
22 MR. SCHERTZ: I understand we're on the record.

23
24 MR. LEVITON: Okay.

25
26 MR. SCHERTZ: A few of us were talking about the
27 house on Turkey Way.

28
29 MS. DEFALCO: Turkey Way?

30
31 MR. SCHERTZ: And Union Hill Road.

32
33 MS. DEFALCO: Oh okay.

34
35 MR. SCHERTZ: The one with the large, the large
36 structure.

37
38 MS. DEFALCO: The Board granted the variance yes.

39
40 MR. SCHERTZ: And nothing's been done yet. So who's
41 in charge of enforcement to make them put the trees?

42
43 MS. DEFALCO: Did you give them a time frame?

44
45 MR. SCHERTZ: I don't remember did we?

46
47 MR. WEISS: The fence?

48

1 MR. WECHSLER: Yeah.
2
3 MR. SCHERTZ: Yeah.
4
5 MR. WECHSLER: They had a shed, an oversized shed.
6
7 MR. SCHERTZ: Yeah.
8
9 MR. LEVITON: The one that ---
10
11 MR. WECHSLER: He wasn't going to live in it, but he
12 built it to live in it.
13
14 MR. POCHOPIN: Just in case.
15
16
17 MR. WEISS: For the nights that he has to sleep on
18 the couch.
19
20 MR. WECHSLER: Yes.
21
22 MR. LEVITON: It's on the record. Nancy put it on.
23
24 MR. MARMERO: And he's got to find that ---
25
26 MR. LEVITON: Fifteen and ten and he agreed to it.
27
28 MR. LEVITON: I asked.
29
30 MR. WEISS: Steve asked. Well that's why I said is it
31 on a pad. I mean it doesn't have to be, but one of that size.
32
33 MR. WECHSLER: My problem is he knew what he was
34 doing.
35
36 MR. WEISS: If you can do it, do it. It won't be for
37 twenty years.
38
39 MR. MARMERO: From the resolution being memorialized.
40 February 16th so six months from February 16th, August 16th.
41
42 MS. DEFALCO: August 16th.
43
44 MR. SCHERTZ: August 16th?
45
46 MS. DEFALCO: From the --- tree?
47
48 MR. MARMERO: I'm sorry.

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MS. DEFALCO: Planting the trees?

MR. MARMERO: Yes.

MS. DEFALCO: August 16th.

MR. SCHERTZ: Okay thank you.

MR. MARMERO: So ask your question in about two months.

MR. WECHSLER: --- going for a walk. We'll take a drive by.

MR. SCHERTZ: Well you guys live over there.

MR. WECHSLER: Yeah.

MR. LEVITON: Mr. Marmero any news on the litigation front?

MR. MARMERO: Yeah so on the litigation matter we've been discussing like I indicated we have a motion to dismiss that's filed. It seems like the applicant is somewhat amenable to agreeing to dismissal. What the applicant has done is ask for a conference with the court so we'll discuss. The applicant's only concern is what they appealed is your resolution, your zoning board resolution. They're comfortable dismissing us as long as they can retain their litigation and the demands they have against the planning board. They're just trying to figure out how to do that. So we're going to conference with the judge and hopefully we can find out a way to come up with a consent order to get us out of the matter.

MR. WEISS: This is Yum and Chill?

MR. MARMERO: No.

MR. SCHERTZ: The warehouse on 33.

MR. WEISS: Oh 33.

MR. MARMERO: This is the interpretation that you granted --- your interpretation is really just a legal question that the judge can decide on the zone. He can just, she doesn't even need your input, so our position is essentially just let the judge rule on if there's nothing we

1 need to do. If the judge rules that the use is permitted then
2 it'll go back to the planning board and if the judge rules
3 that the use is not permitted then it's up to the applicant
4 how they want to proceed. There's really no need for you guys
5 to spend money to defend the case.

6
7 MR. WEISS: Do we have any updates on Yum and Chill?

8
9 MR. LEVITON: Yum and Chill was being handled by Ron
10 Cucchiaro.

11
12 MR. WEISS: Oh.

13
14 MR. LEVITON: Ron was involved with the case from the
15 beginning and we collectively made the decision as a board.
16 You may not have been here to allow Ron to continue to do so
17 on our behalf.

18
19 MR. WEISS: Good. Do we have any update?

20
21 MR. LEVITON: I don't personally know where it is
22 even if he told me I wouldn't be able to relay that
23 information to you, but I do know that we get billed. Janice
24 sees the stuff coming through the office and it is my
25 intention to reach out to him and ask him to update me. Oh you
26 did? Albert would you feel comfortable asking him to be CC'd
27 on things?

28
29 MR. MARMERO: No problem.

30
31 MR. LEVITON: I would love that and now we'll know
32 for sure. I have nothing else. Gentlemen? Ladies? Will someone
33 move to adjourn?

34
35 MR. WEISS: Motion to adjourn.

36
37 MR. LEVITON: Thank you Adam.

38
39 MR. SCHERTZ: Second.

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