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MEETING IS CALLED TO ORDER:

MR. LEVITON: 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. Additionally, 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. Please stand for a salute to our flag.

SALUTE TO OUR FLAG

MR. LEVITON: Thank you all. Greetings public. Greetings Board. Roll call please.

ROLL CALL

MS. MOENCH: Mr. Shalikar? Not with us. Mr. Weiss?

MR. WEISS: Here.

MS. MOENCH: Mr. Harrington?

MR. HARRINGTON: Here.

MS. MOENCH: Ms. Klompus is not here this evening. Mr. Mantagas?

MR. MANTAGAS: Here.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Here.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Here.

MS. MOENCH: Ms. Levenson?

MS. LEVENSON: Here.

MS. MOENCH: Ms. Latilla?

1 MS. LATILLA: Here.

2
3 MS. MOENCH: Mr. Hughes is not here. Chair Leviton?

4
5 MR. LEVITON: I am here. Okay, up first tonight we need to
6 accept the minutes from January 16th. I'm sure you've all had time to
7 read and review them. Will someone make the motion?

8
9 MR. HARRINGTON: I'll make a motion to accept the minutes.

10
11 MR. LEVITON: Thank you Mr. Harrington. Will someone second
12 that?

13
14 MR. MANTAGAS: I'll second Mr. Chairman.

15
16 MR. LEVITON: Thank you Mr. Mantagas.

17
18 **ROLL CALL**

19
20 MS. MOENCH: Mr. Harrington?

21
22 MR. HARRINGTON: Yes.

23
24 MS. MOENCH: Mr. Mantagas?

25
26 MR. MANTAGAS: Yes.

27
28 MS. MOENCH: Mr. Pochopin?

29
30 MR. POCHOPIN: Yes.

31
32 MS. MOENCH: Mrs. Levenson?

33
34 MS. LEVENSON: Yes.

35
36 MS. MOENCH: Ms. Latilla?

37
38 MS. LATILLA: Yes.

39
40 MS. MOENCH: Chair Leviton?

41
42 MR. LEVITON: Yes. There are two applications that need to be
43 memorialized this evening. First one is ZBE1917A.

44
45 MR. MARMERO: Yes, Mr. Chairman as you recall this is a use
46 variance application to approve a couple of different of recreation
47 uses for specific tenants and a general recreation use for the

1 remainder of the site and then there was also a financial subdivision
2 as part of the application as well.

3
4 MR. LEVITON: Thank you Mr. Marmero, motion and second
5 please.

6
7 MR. MANTAGAS: I make a motion.

8
9 MR. LEVITON: Mantagas.

10
11 MR. POCHOPIN: I'll second.

12
13 MR. LEVITON: Pochopin. Thank you, gentlemen and yeah we'll
14 call it.

15
16 **ROLL CALL**

17
18 MS. MOENCH: Mr. Harrington?

19
20 MR. HARRINGTON: Yes.

21
22 MS. MOENCH: Mr. Mantagas?

23
24 MR. MANTAGAS: Yes.

25
26 MS. MOENCH: Mr. Pochopin?

27
28 MR. POCHOPIN: Yes.

29
30 MS. MOENCH: Mr. Leviton, Ms. Levenson I'm sorry.

31
32 MS. LEVENSON: Yes.

33
34 MS. MOENCH: Chair Leviton?

35
36 MR. LEVITON: Yes, and then the next one is 2408.

37
38 MR. MARMERO: Yes Mr. Chairman this was the application and
39 approval for variance relief that was related to an electronic sign
40 that was underneath an existing sign.

41
42 MR. LEVITON: Thank you counselor.

43
44 MR. MARMERO: Sure.

45
46 MR. LEVITON: Will someone move to memorialize?

47
48 MR. MANTAGAS: I'll make the motion.

1
2 MR. LEVITON: So moved. Thank you, Mr. Mantagas, and will
3 someone second it?

4
5 MR. HARRINGTON: I'll second.

6
7 MR. LEVITON: Thank you John.

8
9 **ROLL CALL**

10
11 MS. MOENCH: Mr. Harrington?

12
13 MR. HARRINGTON: Yes.

14
15 MS. MOENCH: Mr. Mantagas?

16
17 MR. MANTAGAS: Yes.

18
19 MS. MOENCH: Mr. Pochopin?

20
21 MR. POCHOPIN: Yes.

22
23 MS. MOENCH: Ms. Levenson?

24
25 MS. LEVENSON: Yes.

26
27 MS. MOENCH: Chair Leviton?

28
29 MR. LEVITON: Yes. There are three hearings this evening. The
30 first one is number ZBE2441, Mr. Lucas. Come on up sir. How are you
31 tonight?

32
33 MR. LUCAS: Good, how are you?

34
35 MR. LEVITON: Make yourself comfortable. Come up here and
36 before you sit let me get our Board Attorney to swear you in and then
37 you should be comfortable, and speak into the mic, and our proceedings
38 are recorded, and then later transcribed.

39
40 MR. MARMERO: Raise your right hand I'll get you sworn in. Do
41 you swear the testimony that you will provide tonight will be the
42 truth, the whole truth, and nothing but the truth?

43
44 MR. LUCAS: Yes.

45
46 MR. MARMERO: Okay.

47

1 MR. LEVITON: Okay so please Mr. Lucas get comfortable and
2 tell the board what brings you here this evening and what type of
3 relief you seek.

4
5 MR. LUCAS: Okay so I live at 1 Hapenny Drive and my lot is a
6 corner lot. On one side is Tuppence and the other side is Hapenny. So,
7 the front of the property which is considered Hapenny has a sixty-foot
8 setback. Now most properties both side lots have I think it's either a
9 ten- or fifteen-foot setback, but because the other side is Tuppence
10 that gives me another sixty-foot setback. So that in addition to the
11 fifty-foot setback off the back of the property also with the
12 footprint of the house I think it came out to around 27,100 feet or so
13 on the property that falls within the setback.

14
15 MR. LEVITON: So, you want to put some type of portico in the
16 front.

17
18 MR. LUCAS: Correct.

19
20 MR. LEVITON: Update the property, make it look better.

21
22 MR. LUCAS: Correct.

23
24 MR. LEVITON: And you want to put some type of covered porch
25 in the back?

26
27 MR. LUCAS: Correct.

28
29 MR. LEVITON: And because it's a corner lot and your home is
30 situated on an angle.

31
32 MR. LUCAS: Yes.

33
34 MR. LEVITON: You are encroaching on the front setback and
35 the rear setback.

36
37 MR. LUCAS: Yes.

38
39 MR. LEVITON: And for the Board's edification some new
40 members are in attendance this evening. When you're on a corner lot
41 the municipal land use law recognizes that is two fronts not a front
42 and a side. So, it's the way the home is situated that's problematic
43 for you. There's no room in the back and there is less room in the
44 back than there is in the front. So, your proposed porch encroaches
45 into the rear setback.

46
47 MR. LUCAS: Correct.

1 MR. LEVITON: So that's the exact kind of thing that this
2 Board can do and very easy, good conscience because the municipal land
3 use law cannot take into consideration those types of exceptions and
4 this board is empowered to grant you the relief that you seek without
5 subverting any general purposes of the ordinance or our master plan.
6 Let's go out to the board and see what they think. Adam?

7
8 MR. WEISS: Thank you. Mr. Lucas the map that I have has some
9 red lettering and drawing on it and I realized that it's not to scale,
10 but one of the questions I have for you is, is the proposed covered
11 patio in the front, is that going to line up with the edge of the
12 current footprint of the house? Because on my sheet it's about and you
13 can come up and look at my sheet, but it's about a few feet off of the
14 edge of the house. I just didn't know if it was going to be flushed
15 up.

16
17 MR. LEVITON: This does not need to be - - -

18
19 MR. LUCAS: No it's not going to be flushed.

20
21 MR. WEISS: Okay.

22
23 MR. LEVITON: It's going to extend out.

24
25 MR. LUCAS: It's going to be about several feet in, about
26 two- or three-feet in.

27
28 MR. WEISS: Okay and then questions about the rear. Is it a
29 covered porch in the back?

30
31 MR. LUCAS: Yes.

32
33 MR. WEISS: Okay and the reason that you'd like it to be
34 covered is so that you can use it during weather events and all of
35 that, correct?

36
37 MR. LUCAS: Yes.

38
39 MR. WEISS: Get more use out of your backyard and land. Okay
40 I have no further questions, thank you.

41
42 MR. LEVITON: Well, he raised the issue about how far it
43 would be from the front of the house. For the record Mr. Marmero is
44 going to ask and we're going to get to it. What is the encroachment
45 into the front setback? How many feet are we talking about?

46

1 MR. LUCAS: The front porch is going to extend out ten feet.
2 So, the encroachment onto the corner section that would be about ten
3 feet.

4
5 MR. LEVITON: Brian do you have the numbers in front of you?

6
7 MR. BOCCANFUSO: I'm sorry Mr. Chairman, can you repeat that?

8
9 MR. LEVITON: Do you have the numbers in front of you?

10
11 MR. BOCCANFUSO: I think what you're asking is what the
12 proposed setback is to the proposed covered front porch and how much
13 that encroaches into the front setback.

14
15 MR. LEVITON: Yes.

16
17 MR. BOCCANFUSO: So, the requirement is sixty feet. The
18 proposal is roughly forty-eight feet, plus or minus forty-eight.

19
20 MR. LEVITON: And his covered porch in the back?

21
22 MR. BOCCANFUSO: Yes, so just a little bit about the back.
23 First of all, Mr. Lucas, I'm glad you're here. How are you feeling?

24
25 MR. LUCAS: I'm good thank you.

26
27 MR. BOCCANFUSO: Good, alright. Mr. Lucas and I had a
28 conversation several months ago about what he was looking to do on the
29 property and it took me a while to figure out which yard is actually
30 the rear yard and the front yard or the rear yard and the side yard.
31 Our ordinance isn't as clear as some other ordinances that I've seen.
32 I really had to dive into the file and figure out what happened was, a
33 number of years ago there was a determination by the previous zoning
34 officer that the yard opposite Hapenny is the rear yard. So, I had to
35 remain consistent with that and I think that's probably because the
36 address is on Hapenny. That was probably the deciding factor. An
37 interesting thing to note is that the house is at a forty-five-degree
38 angle to the corner. So, if when the subdivision was created, if that
39 rear lot corner was just a little one- or two-foot-long property line
40 that would be the rear yard and he would have two side yards and we
41 wouldn't be here right now, but unfortunately or fortunately for
42 whatever reason they drew it as a more regular type of square. We've
43 had to make a determination as to which yard is the rear yard which is
44 the one opposite Hapenny. So, the rear yard setback requirement for
45 principal structures in this zone is fifty feet. That applies to
46 covered porches. It applies to raised decks, anything that's attached
47 to the principal structure that's more than six inches above grade is
48 treated as part of the principal structure. So, in this case the

1 closest point of that covered rear deck is thirty-seven feet more or
2 less from the rear property line where fifty feet is required. As you
3 can see on the mark up that's been submitted there are other portions
4 of that deck and the steps and such that are less than fifty feet, but
5 nothing is less than thirty-seven feet. So, the thirty-seven foot is
6 the number that we're using for the variance relief.

7
8 MR. LEVITON: Thank you Mr. Boccanfuso. Mr. Harrington?

9
10 MR. HARRINGTON: I don't have any questions.

11
12 MR. LEVITON: Okay, Mr. Pochopin?

13
14 MR. POCHOPIN: No, I'm glad Brian clarified the front of the
15 house and the back because looking at it really quick it did look like
16 it was opposite, but I see you have the fence there. I don't see any
17 sight triangle obstructions or anything for traffic so.

18
19 MR. LUCAS: No not on that corner.

20
21 MR. POCHOPIN: Very good.

22
23 MR. LEVITON: Ms. Levenson?

24
25 MS. LEVENSON: No questions.

26
27 MR. LEVITON: Ms. Latilla?

28
29 MR. LATILLA: No questions.

30
31 MR. LEVITON: Mr. Mantagas?

32
33 MR. MANTAGAS: I have one question. It probably would be hard
34 to do with that setback for your plans. They would probably look funny
35 and looking at the way it's cut out so I think you did the best way
36 that you could to make it look good aesthetically and it's not going
37 over that much so it doesn't really bother me. No more questions.

38
39 MR. LEVITON: Thank you Basil. Mr. Wechsler?

40
41 MR. WECHSLER: Welcome Mr. Lucas. Just one question, it's
42 covered not enclosed right? The patio.

43
44 MR. LUCAS: I'm sorry, what's that?

45
46 MR. WECHSLER: It's just a covered patio not enclosed?

47
48 MR. LUCAS: No, just covered.

1
2 MR. WECHSLER: That was my only question.

3
4 MR. LEVITON: So it doesn't change the footprint at all of
5 what's existing.

6
7 MR. LUCAS: Of what's existing, no.

8
9 MR. LEVITON: At this time, I'm going to go out to the public
10 and ask if there's anyone in attendance who would like to ask the
11 applicant a question or address the board. Seeing none I'll close
12 public and I'll ask our attorney Mr. Marmero.

13
14 MR. MARMERO: Sure, so what we heard from the applicant
15 tonight is kind of your classic hardship argument that we hear.
16 Typically when we have a situation where it's a corner lot and in this
17 situation not only is it a corner lot, but the house is kind of
18 situated in a strange way which makes all of this relief necessary for
19 the applicant's proposal and the variances that we've heard tonight
20 are the front setback is sixty feet as the requirement, but forty-
21 eight feet is proposed for the improvement, for the rear setback was a
22 fifty foot requirement and as Brian pointed out using thirty-seven
23 feet was being proposed and then the front setback at least as listed
24 on the application materials was also a variance necessitated by the
25 fence. Again, the first setback is sixty feet whereas the six-foot
26 vinyl fence is situated at forty-seven feet. So those would be the
27 three necessary variances for this application.

28
29 MR. BOCCANFUSO: And Mr. Chairman if I can just in very
30 quickly. The fence, there was a variance previously granted for that
31 fence at forty-eight feet. There was a slight deviation during
32 construction. It's not uncommon. It's not an issue I would've raised
33 on its own, but since Mr. Lucas was here already, I felt appropriate
34 to call it out so that we can ratify it and he won't have any issues
35 down the road.

36
37 MR. LEVITON: That's very generous. Thank you, Mr.
38 Boccanfuso, and yes for my new board members Mr. Marmero has
39 accurately pointed out that a hardship needs to be established so that
40 this board can grant the C1 variance and Mr. Lucas can get the relief
41 that he needs. Another way would have been to establish for a C2
42 variance and he would still get what he needed that his project would
43 be advancing one of the sixteen or seventeen purposes of the municipal
44 land use law. He'd have been good on that account also. Plenty to say
45 about the positive aspects of young people revitalizing our community
46 and with that I'll ask someone to make a motion.

47
48 MR. WEISS: Mr. Chair I'd like to make a motion to approve.

1
2 MS. MOENCH: Wait did we go out to public?

3
4 MR. LEVITON: I've gone to the public, yeah.

5
6 MS. MOENCH: Okay sorry.

7
8 MR. LEVITON: It's alright.

9
10 MS. MOENCH: Also, sorry to interrupt you.

11
12 MR. LEVITON: We appreciate the interruption. What?

13
14 MS. MOENCH: I just want to confirm that being that Mr.
15 Shalikar and Ms. Klompus are absent that Ms. Levenson and Ms. Latilla
16 will be voting this evening. Okay?

17
18 MR. WEISS: Thank you. Mr. Chairman I'd like to make a motion
19 to approve the application as submitted and to ratify the
20 nonconforming fence as it's currently situated on the property.

21
22 MR. WECHSLER: I will second that motion.

23
24 MR. LEVITON: Thank you Adam and thank you Michael.

25
26 MR. BOCCANFUSO: I'm counting eight board members.

27
28 MR. LEVITON: Yeah, only one.

29
30 MS. MOENCH: Shalikar and Klompus.

31
32 MR. LEVITON: Yes.

33
34 MR. BOCCANFUSO: Janice I'm counting eight members. I don't
35 know what's on your paper, but I see eight.

36
37 MS. MOENCH: Mr. Shalikar.

38
39 MR. BOCCANFUSO: There's eight right?

40
41 MR. WECHSLER: Yeah there's eight.

42
43
44 MR. LEVITON: It's just a discussion about whose vote will
45 count this evening.

46
47 MR. BOCCANFUSO: Ms. Latilla's vote will not count.

48

1 MR. LEVITON: Because Patrick Hughes is the other person
2 who's out.

3
4 MS. MOENCH: Ready?

5
6 MR. LEVITON: You can call it.

7
8 MS. MOENCH: Okay.

9
10 **ROLL CALL**

11
12 MS. MOENCH: Mr. Weiss?

13
14 MR. WEISS: Yes.

15
16 MS. MOENCH: Mr. Harrington?

17
18 MR. HARRINGTON: Yes.

19
20 MS. MOENCH: Mr. Mantagas?

21
22 MR. MANTAGAS: Yes.

23
24 MS. MOENCH: Mr. Wechsler?

25
26 MR. WECHSLER: Yes.

27
28 MS. MOENCH: Mr. Pochopin?

29
30 MR. POCHOPIN: Yes.

31
32 MS. MOENCH: Ms. Levenson?

33
34 MS. LEVENSON: Yes.

35
36 MS. MOENCH: Chair Leviton?

37
38 MR. LEVITON: Mr. Lucas, your application has been favorably
39 voted upon. You won't need to be here at our next regular meeting, but
40 at that meeting it will be memorialized and then you can begin your
41 work. Janice will take care of everything if you have any questions.

42
43 MR. LUCAS: Thank you everyone.

44
45 MR. LEVITON: You're welcome. Okay next up is ZBE2437, Mr.
46 and Mrs. Waller. The Waller's have appeared before this board. We
47 granted them variance relief to add an addition to their home. I don't

1 believe they did that work. So, you're here for something other than
2 that tonight?

3
4 MR. WALLER: No, we didn't do it.

5
6 MR. LEVITON: And we've already established, but we will
7 anyway for Mr. Marmero that when I was a school teacher Mrs. Waller
8 and I were employed by the same Board of Education. We never worked in
9 the same building. I did have family members of hers in class, but we
10 have no financial dealings between us.

11
12 MR. MARMERO: Yeah, and once again a legal conflict of
13 interest would only be a conflict if for some reason you felt you
14 couldn't be impartial, but that doesn't seem to be the case.

15
16 MR. LEVITON: So, I will not be recusing myself. Waller's,
17 you're here tonight because you want to build a pavilion over a
18 proposed pool as well and in the process of getting that permission
19 Mr. Boccanfuso identified a couple of things that need to be
20 legitimized tonight. Those would namely be your patio, your shed, and
21 your driveway. Tell the board what kind of relief you need and what
22 the infractions are.

23
24 MR. MARMERO: Mr. Chairman, I'm going to get them both sworn
25 in. Are you both going to testify this evening?

26
27 MR. WALLER: Yes sir.

28
29 MR. MARMERO: Okay, if you'll both raise your right hand,
30 we'll get you sworn in. Do you swear that the testimony you will
31 provide tonight will be the truth, the whole truth, and nothing but
32 the truth?

33
34 MRS. WALLER: Yes.

35
36 MR. MARMERO: Okay ---

37
38 MRS. WALLER: Okay what do I have to do?

39
40 MR. LEVITON: You need to start by telling us. We've all seen
41 your plans. We've all seen the survey that you put together for us for
42 lack of a better word. We need to know about, and we've read the
43 denial, but we need you to get on the record what it is about your
44 patio that's not compliant.

45
46 MRS. WALLER: Right so our property, I guess we're applying
47 for a hardship as well because our property is very narrow. Instead
48 of, I talked to Brian.

1
2 MR. WALLER: --- two hundred feet ours is a hundred feet.

3
4 MRS. WALLER: A hundred feet.

5
6 MR. WALLER: So, it's half the width.

7
8 MRS. WALLER: Of a normal size of a piece of property in
9 Manalapan. So, and I don't know the numbers off the top of my head,
10 but my patio.

11
12 MR. LEVITON: So, when you talk about the hardship, you're
13 talking about the gazebo. Is that what we're calling it? What is it
14 that you're? The pavilion that you're proposing encroaches on the side
15 setback and it needs to be because your land is too narrow. There's no
16 place to put it.

17
18 MRS. WALLER: Correct.

19
20 MR. LEVITON: That would be compliant where you could still
21 use your backyard.

22
23 MRS. WALLER: Correct, thank you.

24
25 MR. LEVITON: We understand, so your shed, now you can tell
26 us about your shed.

27
28 MRS. WALLER: The shed is the same thing. It wasn't enough
29 off the setback and then it's a little bit bigger than it's supposed
30 to be.

31
32 MR. LEVITON: Ten foot is the maximum? Eighteen is the
33 maximum, you have twenty.

34
35 MRS. WALLER: Twenty, yes.

36
37 MR. LEVITON: And the height. You had a problem with the
38 height as well?

39
40 MRS. WALLER: I don't think so.

41
42 MR. LEVITON: Okay.

43
44 MR. WALLER: Yeah, it's standard height.

45
46 MR. LEVITON: Okay good, okay and tell us about the.

47
48 MRS. WALLER: The driveway.

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MR. LEVITON: And then the porch.

MRS. WALLER: So, the driveway we enlarged, but I don't think we enlarged it on the left side of the property line. You guys are saying we did, but I don't think we did. We definitely did into the.

MR. WALLER: We did onto the center of our property it widens that way. We have a narrow piece of property in between us and our neighbors so there's really no room and it's already landscaped to go further over. What we did do is driveway's the same there. There were old, rotten railroad ties when we moved in so we had those replaced.

MRS. WALLER: With a strip of concrete.

MR. WALLER: Yeah.

MRS. WALLER: Yeah.

MR. LEVITON: Mr. Boccanfuso do you take exception to that testimony?

MR. BOCCANFUSO: No with regard to the driveway specifically just to offer a little clarity. Maybe the driveway was moved, maybe it was not. What I can say is that the Waller's were here for an application for something a number of years ago. I can't recall the details right now.

MS. MOENCH: An addition.

MR. BOCCANFUSO: An addition which never went forward as I recall and the plan or survey that was submitted at the time showed a driveway with a compliant location. So certainly, it's possible that the driveway as shown on that survey was incorrectly located and it was in a non-compliant location at that time. However, if the driveway was shown in a non-compliant location at that time, it would have been flagged. Sometime between then and now the driveway as the Waller's indicated was resurfaced and improved and when the application came in for the pool and the pavilion it was based upon a survey that showed a non-compliant location of the driveway which has led us to the need for variance relief now. I will offer that they did put a Belgian block curb, granite block curb alongside of the driveway on that non-compliant side. One of the major concerns with the driveway setback is that it can create drainage issues on a neighboring property if it's not pitched correctly or it's too close. In this case the granite block curb is going to control runoff and direct it towards the street so there should not be any adverse impact from a drainage standpoint. Further there is landscaping mature trees, all types of other

1 improvements that'll mitigate any drainage impact so I don't have any
2 issue with the driveway specifically.

3
4 MR. LEVITON: Outstanding, thank you Brian. Do I recall
5 there's an easement at the back of your property as well?

6
7 MRS. WALLER: What's that?

8
9 MR. LEVITON: The town has asked for a piece of the property
10 for a particular reason, I'm wrong. Forgive me I'm wrong and I stand
11 corrected.

12
13 MR. WALLER: Listen if it helps get it approved, they could
14 have it.

15
16 MR. LEVITON: That's very nice of you sir, okay.

17
18 MRS. WALLER: And then the patio.

19
20 MR. LEVITON: The porch.

21
22 MRS. WALLER: Yes, the patio. We did a paver patio. It comes
23 out in one area. It rounds out a little bit farther than the house so
24 I don't think it's more than a foot, right?

25
26 MR. WALLER: I don't know.

27
28 MRS. WALLER: I'm not sure.

29
30 MR. LEVITON: Mr. Boccanfuso, she's characterizing it as de
31 minimis. Do you take exception to that?

32
33 MR. BOCCANFUSO: I would not characterize it as de minimis.
34 The patio is supposed to be thirty feet from the side property line
35 where it's twenty feet. I think what Ms. Waller may be trying to get
36 to is that they replaced a pre-existing patio. Is that correct?

37
38 MR. WALLER: Deck yeah.

39
40 MRS. WALLER: We have a deck yeah.

41
42 MR. BOCCANFUSO A deck so whenever you do something like that
43 you require a zoning permit and if it's existing, noncompliant you
44 don't necessarily get to put it exactly back where it was.

45
46 MR. LEVITON: So they went a foot further than what had
47 originally been there?

48

1 MR. BOCCANFUSO: Perhaps a couple of feet no more than a
2 couple of feet, but I certainly can't get to we have a de minimus
3 deviation here because thirty feet is required and they're at twenty
4 feet. Now this is an undersized lot deficient in width. I think some
5 of this relief is driven by the geometry and area of the lot,
6 particularly the patio. I think given that it's in the same location,
7 roughly the same location as the pre-existing improvement I think
8 there is a bit of a hardship there.

9
10 MR. LEVITON: And is there anything you want to tell us about
11 the proposed gazebo?

12
13 MR. WALLER: Pavilion.

14
15 MR. LEVITON: Alright.

16
17 MR. BOCCANFUSO: Who me?

18
19 MR. LEVITON: No, the Waller's.

20
21 MRS. WALLER: It's fourteen by twenty-four, but that's the
22 only where on the yard where we would have shade. If we put it
23 straight back it would be full sun.

24
25 MR. LEVITON: And for the purposes of satisfying our attorney
26 can we quantify the encroachment of the side setback of the pavilion?
27 How much will it?

28
29 MR. WALLER: I'm not a hundred percent sure, but I believe
30 it's going to line up with the back of the shed, the side of the shed
31 I'm sorry, that's next to the neighbor's property.

32
33 MR. LEVITON: Brian can you quantify that?

34
35 MR. BOCCANFUSO: The pavilion on the pool plan that was
36 submitted the setback was identified as 20.7 feet.

37
38 MR. WEISS: Where thirty is required?

39
40 MR. BOCCANFUSO: Correct.

41
42 MR. WEISS: Okay.

43
44 MS. MOENCH: Just for the record, Steve you are correct.
45 There is a stream.

46
47 MR. WECHSLER: In the back?
48

1 MS. MOENCH: Yes.
2
3 MR. LEVITON: Oh, there is?
4
5 MR. WALLER: Yeah.
6
7 MR. LEVITON: I'm not usually right.
8
9 MR. WEISS: You're always right.
10
11 MR. LEVITON: We're all surprised.
12
13 MR. BOCCANFUSO: And Mr. Chairman I think that while I
14 recognize that the sun is a real-world hardship that we all have to
15 deal with for better or worse, from a zoning and land use standpoint I
16 don't know that the board can rely on the sun as a hardship case. The
17 pavilion could certainly be located on the east side of the pool
18 perhaps it's not preferable for the Waller's for the reasons they
19 mentioned, but I think the board needs to get to some other
20 justification than a hardship based upon the sun.
21
22 MR. LEVITON: Would you say that the building of the pavilion
23 is going to enhance the overall aesthetic of the property and thereby
24 the neighborhood at large?
25
26 MRS. WALLER: Of course, yeah.
27
28 MR. LEVITON: Well, that's definitely one of the purposes of
29 the municipal land use law. Mr. Marmero is it okay if we grant an
30 applicant?
31
32 MR. WEISS: Can I just ask a question that may help?
33
34 MR. LEVITON: Absolutely.
35
36 MR. WEISS: If the pavilion is located where you're
37 proposing, will you have better field of view of the pool area? If
38 there are kids in the area, you'll be able to monitor them more
39 closely than you would if it was set off to the side, to the east?
40
41 MR. WALLER: Yes.
42
43 MR. WEISS: Okay.
44
45 MR. LEVITON: Always a good thing, that's a second purpose of
46 the municipal land use law. So, Mr. Marmero can this board grant
47 relief with C1 and C2?
48

1 MR. MARMERO: Sure, so several different variances being
2 applied for. There is several of them associated with pre-existing
3 things which it sounds like the argument based on what we heard so far
4 really not a hardship argument based on the geometry, the area, and
5 the size of the lot. The proposed pavilion is a new improvement ---
6 the sun would perhaps be a hardship --- flex variance is C2 for that
7 and then as you pointed out earlier --- advances some purposes of
8 zoning is sufficient and as well as any of those purposes outweigh any
9 of the negative associated with the variance.

10
11 MR. LEVITON: Yeah so, the first way to get relief is to
12 establish a hardship and the second way is a balancing test between
13 detriment and benefit and I think that's been established here. So,
14 we're going to go out to the public and ask if there's anyone here who
15 wants to ask the Waller's a question about their project or who wants
16 to address the board regarding this matter. Seeing none I'll close
17 public. Albert anything else do you require?

18
19 MR. MARMERO: Sure, kind of just to sum it up a little bit
20 just to get it all on. The variances we're dealing with is one is the
21 size of the existing shed. Your ordinance permits a 12 by 18 square
22 feet and the - - - proposed an existing is 12 by 20. There's also a
23 setback variance that's needed with that shed as well where thirty
24 feet is required and the location is fifteen feet. We do have a side
25 setback variance for the driveway. We talked about ten feet is
26 required whereas existing you have a six-foot setback and then with
27 respect to the existing patio there is a side setback variance needed.
28 Thirty feet would be required - - - you have a twenty-foot setback for
29 that existing patio and the pavilion which is the actual improvement
30 that's being proposed here would require a thirty-foot setback, but
31 based on the location that's being proposed tonight 20.7 feet setback.

32
33 MR. LEVITON: Thank you counselor. Now let's just check with
34 the board. Ladies and gentlemen anything further from you?

35
36 MR. MANTAGAS: I have on question Mr. and Mrs. Waller. What
37 is the height of the pavilion, the new pavilion you're going to be
38 building?

39
40 MRS. WALLER: I don't know.

41
42 MR. MANTAGAS: Just for curiosity.

43
44 MRS. WALLER: I mean I could look it up.

45
46 MR. WALLER: I'm going to say it's nothing extraordinary as
47 far as we didn't go any bigger. It's probably going to be very similar
48 to the same height as the shed.

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MR. MANTAGAS: Okay.

MR. BOCCANFUSO: It's permitted to be fifteen feet.

MR. MANTAGAS: Fifteen feet?

MR. BOCCANFUSO: Yeah, so as long as it's less than that, doesn't matter.

MR. LEVITON: They submitted as part of their packet that it's going to be fourteen by twenty-four.

MR. BOCCANFUSO: That's the horizontal. He's asking the height.

MR. LEVITON: Of course.

MR. BOCCANFUSO: It might be a good idea to confirm that it's less than fifteen feet because if it's not now is the time to get it on the record.

MRS. WALLER: Okay let me see if I can find it.

MR. WALLER: Now I have a question with the setback for that use at twenty-one feet or something like that.

MR. BOCCANFUSO: Yeah, I have in my report 20.7 feet. I didn't pull that out of the clear blue sky. It was probably indicated on the pool plan that you guys had submitted previously.

MR. LEVITON: If it's not what you're seeking you can ask for what you need.

MR. WALLER: Because I'm thinking if the back of the pavilion, I was going to say gazebo, the back of the pavilion lines up with the back of the shed and the shed is eleven feet I guess that's what we're going to need.

MRS. WALLER: Twelve feet.

MS. LATILLA: Wait sixteen feet I thought the shed was.

MR. WALLER: From the property line?

MS. LATILLA: Yes.

MR. WALLER: Whatever it is if it's fifteen feet.

1
2 MS. LATILLA: It looks like it almost lines up. It's really
3 close, but it says the pavilion is 20.7 and the shed is sixteen.
4

5 MR. WALLER: Yeah, so it should be the same as the shed.
6 Right and that's what we're looking for, the same as the shed.
7

8 MS. LATILLA: You said the height of the structure in your
9 case is twelve feet.
10

11 MR. WALLER: Correct.
12

13 MR. BOCCANFUSO: Well below.
14

15 MR. LEVITON: You're good and thank you Temika.
16

17 MR. BOCCANFUSO The shed did not have a setback dimension
18 indicated on anything submitted. I approximated it at plus or minus
19 fifteen feet. The drawing that's submitted shows the pavilion a little
20 bit further just to kind of use some geometry here it shows the
21 setback to the pool patio as thirty-five feet. The pavilion is
22 fourteen feet wide so if the pavilion is basically going to abutt the
23 pool patio, thirty-five minus fourteen is twenty-one that's the 20.7.
24 I don't know if the board wants to consider plus or minus twenty or if
25 the Waller's want to request something else.
26

27 MS. MOENCH: The pool plan on the drive.
28

29 MR. LEVITON: Albert writes it up to include what - - -
30 Fifteen will cover it.
31

32 MS. MOENCH: Saved on the file, yeah let me check.
33

34 MR. MARMERO: Yeah.
35

36 MR. WALLER: The pavilion?
37

38 MR. LEVITON: It's well under, yeah, you're good.
39

40 MRS. WALLER: How high can the pavilion be?
41

42 MR. LEVITON: Fifteen.
43

44 MR. BOCCANFUSO: Fifteen max.
45

46 MR. LEVITON: Okay so.
47

48 MR. MARMERO: Fifteen feet ---

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MR. LEVITON: Okay so will someone make a motion?

MR. WEISS: I'll make a motion to approve the application as submitted and as adjusted by Mr. Marmero's measurements that he just read out including that fifteen-foot side, the setback.

MR. LEVITON: Thank you Adam. Will someone second?

MR. MANTAGAS: I'll second that Mr. Chairman.

MR. LEVITON: Thank you Mr. Mantagas. Congratulations, good luck with your project.

MR. BOCCANFUSO: We got to vote, no?

MR. LEVITON: Yeah.

MS. MOENCH: I had my paperwork right before. I apologize I said the wrong names, but I did have you marked down as to vote, my apologies. So, okay I have a motion from Mr. Weiss and second from Mantagas?

MR. MANTAGAS: Yes.

ROLL CALL

MS. MOENCH: Okay, Mr. Weiss?

MR. WEISS: Yes.

MS. MOENCH: Mr. Harrington?

MR. HARRINGTON: Yes.

MS. MOENCH: Mr. Mantagas?

MR. MANTAGAS: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Mr. Pochopin?

MR. POCHOPIN: Yes.

MS. MOENCH: Ms. Levenson?

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MS. LEVENSON: Yes.

MS. MOENCH: Chair Leviton?

MR. LEVITON: Yes, please extend my warmest regards to your family and the pride that I feel for your son who's going to be a police officer.

MRS. WALLER: Thank you. Thank you so much.

MR. WALLER: Thank you.

MR. BOCCANFUSO: You're welcome so when your resolution gets memorialized if you recall your permit application was approved conditioned upon you relocating all this stuff. We'll have to update that, but let the resolution get memorialized and you can come in, make an appointment, we'll sort it all out.

MRS. WALLER: Make an appointment with you or Janice?

MR. BOCCANFUSO: Myself, Janice, somebody in the department will help you out.

MRS. WALLER: Alright great thank you so much.

MR. LEVITON: Good night. Okay application ZBE2439, Mr. and Mrs. O'Reilly. Hello folks. Mr. Marmero will swear you in. Welcome by the way.

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

MR. O'REILLY: Yes.

MR. MARMERO: Okay.

MR. LEVITON: Mrs. O'Reilly you lost your dad this year.

MRS. O'REILLY: Yeah, April of last year.

MR. LEVITON: And he was a veteran of the Korean War, one of the great ones.

MRS. O'REILLY: Yes.

1 MR. LEVITON: And you want to make improvements to his home
2 and you need our help.

3
4 MRS. O'REILLY: Yes.

5
6 MR. LEVITON: Okay, tell the board what it is that you want
7 to do and the relief that you seek.

8
9 MRS. O'REILLY: I actually grew up in that house so I'm a
10 longtime Manalapan-ite if that's the proper term.

11
12 MR. LEVITON: Are you related to David and Laura who are on
13 the other side of 33?

14
15 MRS. O'REILLY: David was my cousin.

16
17 MR. LEVITON: Yeah, okay.

18
19 MRS. O'REILLY: Or is my cousin.

20
21 MR. LEVITON: And his sister isn't Laura?

22
23 MRS. O'REILLY: I'm Laura. His sister is Donna.

24
25 MR. LEVITON: Oh, Donna right.

26
27 MRS. O'REILLY: Yeah, yeah.

28
29 MR. LEVITON: Of course.

30
31 MRS. O'REILLY: So, it's a small ranch 1957, we wanted to
32 basically renovate the whole thing and add on, well it was a three
33 bedroom, but we wanted to add on a master on one end and another
34 bathroom making it a two bath.

35
36 MR. LEVITON: You talk about it being the end, but is it
37 really the back also?

38
39 MRS. O'REILLY: The back, yes sorry. So yeah, we're not
40 extending the building on the property line. It's just going in the
41 back so a master with a bath on one side. It has a side all season
42 room, porch that we're closing in and we wanted to add a mud room to
43 gain entry into the kitchen. So, it would be basically adding a mud
44 room on one side, adding a master and a bath on the other, and a front
45 porch, covered, open, but covered front porch.

46
47 MR. LEVITON: And you're in a zone where homes are currently.
48

1 MRS. O'REILLY: Four acres.
2

3 MR. LEVITON: Four acres per lot and yours is only two which
4 is why the proposal encroaches into setbacks. Brian is that correct?
5

6 MR. BOCCANFUSO: Sort of. The front setback or the proposed
7 front porch does encroach into the setback that's required in the
8 zone. As we heard on an earlier application because it's attached to
9 the principal dwelling and covered even though it's an open porch it's
10 treated as part of the principal dwelling from the setback standpoint.
11 With regard to the other improvements, they are compliant from a
12 setback standpoint. However, the lot itself is undersized and when you
13 have an undersized lot you really can't do anything without a
14 variance. The only exception is if it's a one-story house you can
15 build an addition straight up within exactly the same footprint. Even
16 a small addition on the rear that would otherwise comply with the
17 setback requirements would not be permitted by our zoning regulations
18 on an undersized lot. So basically, anything that was to be done on
19 this property would require relief from that section. In addition, we
20 have the setback variance for the proposed front porch and during my
21 review of the application I noticed that the O'Reilly's are seeking to
22 replace an old shed with a new shed. Assuming it's in the same
23 location which is something that we need to get on the record. Same
24 location?
25

26 MR. O'REILLY: Same location.
27

28 MRS. O'REILLY: Yes.
29

30 MR. BOCCANFUSO: Right the setback would not comply. They
31 would need a variance for that as well. The other question I would ask
32 is with regard to height. How high is the proposed shed going to be?
33

34 MR. O'REILLY: Ten feet.
35

36 MRS. O'REILLY: Yeah.
37

38 MR. BOCCANFUSO: Okay, if it's ten feet or less it complies.
39 Any more than ten feet would be another variance.
40

41 MR. LEVITON: Spectacular. Board members? I'm going to go out
42 to the public. Sir would you like to address the board or ask the
43 O'Reilly's a question?
44

45 MALE VOICE: No, I was very close to her father. --- and well
46 respected.
47

1 MR. LEVITON: Okay we got that. He didn't want to address the
2 board and we thank him for his attendance just the same. Mr. Marmero
3 do you require anything further?
4

5 MR. MARMERO: Sure, so far, we heard from the applicant ---
6 which is an undersized lot where four acres is required. This lot has
7 two acres so literally anything they want to do does not comply with
8 the setbacks and so it requires variance relief just to do those
9 improvements only on the undersized lot. So everything that they are
10 proposing with a few exceptions which were pointed meets all setback
11 requirements, but variance relief is required because of the size of
12 the lot and then with respect to the front with the front porch that's
13 being proposed that will require a setback variance where a hundred
14 feet is required, but there's a 68 foot proposed setback there and
15 then with respect to the existing shed which had been in place in the
16 same exact location there would be a side yard setback variance needed
17 where thirty feet is required and eighteen feet is where the current
18 shed exists.
19

20 MR. LEVITON: Thank you Mr. Marmero. Will someone make a
21 motion?
22

23 MR. WEISS: I make a motion to approve the application as
24 submitted and as detailed by Mr. Marmero.
25

26 MR. LEVITON: And will someone second Mr. Weiss' motion?
27

28 MR. HARRINGTON: I'll second.
29

30 MR. LEVITON: Thank you Mr. Harrington.
31

32 **ROLL CALL**

33 MS. MOENCH: Mr. Weiss?
34

35 MR. WEISS: Yes.
36

37 MS. MOENCH: Mr. Harrington?
38

39 MR. HARRINGTON: Yes.
40

41 MS. MOENCH: Mr. Mantagas?
42

43 MR. MANTAGAS: Yes.
44

45 MS. MOENCH: Mr. Wechsler?
46

47 MR. WECHSLER: Yes.
48

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2 MS. MOENCH: Mr. Pochopin?
3
4 MR. POCHOPIN: Yes.
5
6 MS. MOENCH: Ms. Levenson?
7
8 MS. LEVENSON: Yes.
9
10 MS. MOENCH: Chair Leviton?
11
12 MR. LEVITON: Yes, congratulations Mrs. O'Reilly. David and I
13 graduated high school together. Donna was a year older or a grade
14 ahead either way and if you could remember my name and pass on my
15 regards.
16
17 MRS. O'REILLY: I will.
18
19 MR. LEVITON: I appreciate that. Thank you and good luck to
20 you.
21
22 MRS. O'REILLY: Thank you all, thanks.
23
24 MR. LEVITON: You're welcome. Okay at this time I just want
25 to go out to the public and ask. You're good to go. Your request for
26 relief will be memorialized at our next regular meeting and you won't
27 need to be here.
28
29 MRS. O'REILLY: Okay.
30
31 MR. LEVITON: Okay.
32
33 MRS. O'REILLY: Thank you.
34
35 MR. LEVITON: I just want to go out to the public and ask if
36 there's anyone in attendance who wants to address this board on non-
37 agenda items. Now would be the time. Seeing none, I'm going to close
38 public. Nobody needs to leave, but I need someone to move to adjourn.
39
40 MR. WEISS: I make a motion to adjourn.
41
42 MR. LEVITON: Someone second?
43
44 MR. MANTAGAS: I'll second that.
45
46 MR. LEVITON: And thank you for that. We are in adjournment.
47 *****