

1 WEST LONG BRANCH ZONING BOARD OF ADJUSTMENT

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3

REGULAR MEETING FOR:

TRANSCRIPT OF
PROCEEDINGS

4

THURSDAY, NOVEMBER 21, 2019

5

6

7 BEFORE:

8

ROBERT VENEZIA

PAMELA HUGHES

9

SCOTT LAMARCA

PAUL GIGLIO

10

MARK ENGEL

11

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13

14 ALSO PRESENT:

15 MICHAEL IRENE, ESQ., Board Attorney

GREGORY GITTO, P.E., Board Engineer

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CHRIS ANN DEGENARO, Recording Secretary

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7 Attorneys for the Applicant

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1 MR. VENEZIA: Good evening, Ladies and
2 Gentlemen. This is the November 21st 2019
3 regular meeting of the West Long Branch Zoning
4 Board of Adjustment. This meeting is called
5 pursuant to the provisions of the Open Public
6 Meetings Act. This meeting was listed in the
7 Notices of the annual schedule of the regular
8 meetings of this Board sent to both the Asbury
9 Park Press and the Link news. Said Notice was
10 also posted on the bulletin board in Borough
11 Hall and has remained continuously posted there
12 as required and such Notices under the Statute.

13 In addition, a copy of said Notice is
14 and has been available to the public and on
15 file in the office of the Borough clerk. A
16 copy of said Notice has also been sent to such
17 members of the public as have requested such
18 information in accordance with the Statute.
19 Proper Notice having been given, the Board
20 secretary is directed to include this statement
21 in the meeting of the Minutes. Roll call,
22 please?

23 MS. DEGENARO: Robert Venezia?

24 MR. VENEZIA: Present.

25 MS. DEGENARO: Pamela Hughes?

1 MS. HUGHES: Here.

2 MS. DEGENARO: Scott LaMarca?

3 MR. LAMARCA: Here.

4 MS. DEGENARO: Paul Giglio?

5 MR. GIGLIO: Here.

6 MS. DEGENARO: Mark Engel?

7 MR. ENGEL: Here.

8 MR. VENEZIA: A little housekeeping
9 before we start the meeting with the items of
10 business.

11 MR. IRENE: Mr. Chairman, on the 4th
12 Item on the Agenda, Almeida, 45 Lakeview Avenue,
13 we received a letter from Counsel for the
14 Applicant dated November 20, yesterday, came in
15 late in the day, Counsel is asking that the
16 matter be carried, indicates that they are
17 revising plans or attaining additional
18 information. I'm not sure if the Board would
19 have been prepared to proceed tonight. There
20 was an issue with the Survey that we had not
21 being currently accurate as the structures that
22 exist on the property and I know there was
23 communication between Michael Camstra the
24 attorney for the Applicant and Greg Gitto and
25 myself in that regard.

1 In any event, Mr. Camastra's letter
2 requested the matter be carried to December 19,
3 2019. I don't know what the Agenda is like
4 currently for that, Mr. Chairman.

5 MS. DEGENARO: Besides Lakeview and the
6 King of Christ might be a big application. That
7 is about it. Just two.

8 MR. VENEZIA: Right now, just the two.

9 MR. IRENE: Do you want to carry it
10 to --

11 MR. VENEZIA: December 19th meeting.

12 MR. IRENE: It's up to you. I think, if
13 I am not mistaken, they noticed for the last
14 adjournment.

15 MR. VENEZIA: They did.

16 MR. IRENE: And then we carried to
17 tonight. Is there anybody here on the Almeida
18 application? Let the record reflect no
19 response. It's up to the Board. Do you want to
20 carry it without the necessity of re-Notice for
21 the one month?

22 MR. VENEZIA: I don't have a problem
23 with that. Does anyone else on the Board?

24 MS. HUGHES: No.

25 MR. IRENE: And that will be subject to

1 the Applicant stipulating the extension of time,
2 which the Board has to act. They have some
3 stipulation language in here, but we will get
4 them to sign off of a letter. And absent a
5 stipulation, they will be deemed to dismiss
6 without prejudice.

7 MS. HUGHES: That sounds good.

8 MR. IRENE: Is that a motion?

9 MS. HUGHES: I will make a motion.

10 MR. ENGEL: Second.

11 MS. DEGENARO: Robert Venezia?

12 MR. VENEZIA: Yes.

13 MS. DEGENARO: Pamela Hughes?

14 MS. HUGHES: Yes.

15 MS. DEGENARO: Scott LaMarca?

16 MR. LAMARCA: Yes.

17 MS. DEGENARO: Paul Giglio?

18 MR. GIGLIO: Yes.

19 MS. DEGENARO: Mark Engel?

20 MR. ENGEL: Yes.

21 MR. IRENE: And we should probably just
22 make sure that is the date for the meeting,
23 right, December 19?

24 MS. DEGENARO: Yes, it is. We moved it
25 from the 26th, because it was the day after

1 Christmas, I believe. I will double check.

2 MR. IRENE: Let's check right now. Yes,
3 December 19. There was no response when we
4 asked if there were any interested parties. We
5 are going to make the announcement that the
6 Almeida matter is being carried to December 19,
7 2019 without the necessity of re-Notice. Any
8 interested parties, please mark your calendar
9 accordingly. There will be no further Notice.

10 MR. VENEZIA: The next matter is Stephen
11 and Kerry Bray.

12 MR. IRENE: Mr. Chairman, I should
13 indicate that Councilman Bray is also the
14 Council liaison to the Planning Board. As a
15 result, because I am the Planning Board Attorney
16 and Greg Gitto is, and there he is waving to us,
17 is the Planning Board Engineer. We are going to
18 recuse ourselves. And we are fortunate to have
19 Scott Arnette, Esquire, who is going to be
20 filling in as conflict attorney. As well as
21 fortunate to have Elizabeth Waterbury, who is
22 going to be filling in as conflict engineer.
23 Let the record reflect that Mr. Gitto and I, Mr.
24 Gitto is already heading on out to the back of
25 the room.

1 MR. VENEZIA: Welcome, Mr. Arnette.

2 MR. ARNETTE: Thank you, Mr. Chairman.

3 Are you representing yourself tonight?

4 MR. BRAY: Yes.

5 MR. VENEZIA: Would you like to tell us
6 what you have planned?

7 Whereupon Stephen and Kerry Bray are
8 sworn.

9 Whereupon Elizabeth Waterbury, P.E.,
10 sworn.

11 A. If it's okay, I would like to also
12 qualify myself as a Professional Engineer, if the
13 Board pleases. I would like to go over my
14 qualifications. I have my Bachelor's and Master's
15 Degree in Engineering from Rutgers University. I've
16 been a Licensed Professional Engineer, in New Jersey,
17 since 2003. I am also licensed in 48 other states,
18 Puerto Rico, Washington, D.C. and Guam. I am the
19 President and CEO of KB Design Group. It is a
20 National engineering firm. I've appeared before the
21 Board about 11 years ago when we lived on Delaware
22 Avenue we did an application for an addition there
23 and my plans were in front of the Board about a
24 year-and-a-half ago for the food pantry.

25 MR. VENEZIA: Thank you.

1 MR. ARNETTE: Have you been accepted as
2 an expert by other Boards?

3 MR. BRAY: Yes.

4 MR. VENEZIA: Any objection?

5 MR. BRAY: Thank you.

6 A. I have three exhibits. I think you have
7 a list. A-1 the Pool Grading Plan by Chester
8 DiLorenzo P.E. A-2, I will go over, a computer
9 simulation of the backyard prepared by Seasonal
10 World. And then Exhibit A-3 was the letter from
11 myself dated October 23rd 2019.

12 MS. DEGENARO: Robert, do you have
13 something that looks like this?

14 MR. VENEZIA: I don't.

15 MS. DEGENARO: Would you like to see
16 this?

17 MR. VENEZIA: Please.

18 MS. DEGENARO: It's only what is listed
19 on the exhibits. I didn't make a copy of it.

20 MR. BRAY: I will give you a copy. I
21 have a copy for you. These are the exhibits I
22 was going to use. The letter they should have,
23 right?

24 MS. DEGENARO: Yes, they do.

25 A. If it's okay, on Exhibit A-3, I

1 addressed Ms. Waterbury's concerns on the
2 completeness review items, but I can kind of speak to
3 those, if that is okay. The Completeness Review Item
4 1.2, there are no existing easements or lands
5 reserved dedicated for public use on the property.
6 Completeness Review Item 4.3, the nearest adjacent
7 wetlands are approximately 153 feet away from my
8 nearest property line.

9 Using overlay mapping data from the DEP
10 to your website, my professional opinion is that the
11 proposed development will not have any impact on the
12 existing mapped wetland and with regards to the FEMA
13 mapping for the area, I can confirm that my property
14 is an X-zone area of minimal flood hazard and then
15 Completeness Review Item 1.4, there are no
16 environmentally-sensitive areas on the property and
17 the land buffers that would require the DEP approval,
18 so the application is deemed complete.

19 MS. WATERBURY: So I don't know if the
20 Board in my letter dated October 17th 2019, I
21 had the number of completeness items and those
22 are the only ones that I had here. The only
23 other one I had on there was just for a key
24 map. I offered I didn't have an objection,
25 from an engineering point of view, and had

1 attached to the letter a copy of aerials from
2 Google Maps which would be standard in the
3 letter, anyway, but so the Board was inclined
4 to accept the information that was submitted
5 addressing these completeness items then, you
6 know.

7 MR. VENEZIA: And you have no further.

8 MS. WATERBURY: I have no further
9 requirements. I did note in there that I did
10 want them to address locations of
11 environmental. There is not, I guess, two
12 properties over there is a natural area that
13 exists and I wanted to just note if there was
14 anything in that area that could overlap onto
15 their property and the Applicant has provided
16 their response.

17 MR. VENEZIA: Thank you. And that was
18 the hundred and --

19 MR. BRAY: Yeah, 153 feet. This is next
20 to Peter Cooper Village. It wasn't, before
21 Sandy, it wasn't even designated that. It got
22 designated that. They have their little
23 stream there. It's dry. They actually have
24 mulch and dirt over there and grass underneath
25 those trees, so it is not a concern.

1 MR. VENEZIA: Thank you.

2 A. Is it okay to proceed?

3 MR. VENEZIA: I have no problem with
4 waving the requirements from the engineering
5 letters.

6 MS. HUGHES: I would second that.

7 MR. VENEZIA: Mr. Giglio, you have no
8 problem?

9 MR. GIGLIO: No, sir. Mark was showing
10 me something. We are good.

11 MR. ARNETTE: Everybody is satisfied
12 it's deemed complete then okay.

13 A. We're seeking a bulk C variance for lot
14 coverage for an installation of a 17-by-32 in-ground
15 pool and surrounding patio. We have an existing
16 non-conformity at 41.5 percent and new proposed
17 coverage is 49.5 percent. Also, as a result of
18 receiving Ms. Waterbury's letter, you will see in my
19 Exhibit A-3, that we would also need a variance for
20 rear lot coverage where the proposed coverage is 29.3
21 percent where the limit is 25 percent.

22 So, just to give everybody a little bit
23 of background, we have four children, 16, 15, 11 and
24 10. Our 15-year old son is on the autism spectrum,
25 amongst other things, goes to therapeutic boarding

1 school, but he is home in the summertime and we found
2 that the beach is too much for him. It's too
3 intense. We need to have really a home base, so
4 that's really what started this project for
5 ourselves. And then we came across that this was a
6 non-conformity and that is why we are in front of the
7 Board.

8 We wanted to maintain as much of the
9 backyard as possible, so as not to exacerbate the
10 problem, but we had, so we wanted to minimize the
11 patio and the coping around and that's why we also
12 went with the rectangular design, but we had some
13 challenges due to the topography in the backyard.
14 You will see the contour lines how it dips down so we
15 had to put the retaining wall in, but we worked with
16 the pool design to keep the patio and coping to a
17 minimum.

18 I can put either one up. I think
19 everybody has a copy of this as well. This is from
20 Seasonal World. This is Exhibit A-2. So the
21 variance that we are seeking is a hardship variance.
22 As the property has an existing non-conformity that
23 would not allow us to add the recreational amenity,
24 such as this pool, without exceeding the lot
25 limitation. It's our understanding that the house

1 was actually completed before the lot coverage limit
2 of 38 percent was put into place when the house was
3 originally constructed. I should have said that.

4 We moved in the house four years ago
5 just to kind of give it perspective. So maybe I
6 could go through the other items.

7 MR. VENEZIA: Four years ago, that
8 depicts what the house looks like.

9 MR. BRAY: Correct, yes.

10 MR. VENEZIA: Minus --

11 MR. BRAY: Minus the pool.

12 A. So some of the items, I think, will help
13 with the application if I address Ms Waterbury's,
14 some of her items from her engineering letter. On
15 Page -- Sheet 3 of 5, Section -- Item 3.2, I did the
16 calculation. It does look like we need a variance
17 for the rear lot coverage 29.3 versus the 25 percent.
18 4.1 showed the calculation in Exhibit A-3, so this
19 one is the important item for this whole application
20 in my mind. Our entire house, all the downspouts go
21 into the dry wells. So if you look at that, I did
22 the calculations for the purpose of runoff when you
23 remove the 3,206 square feet from the house, you have
24 an existing condition of 20.1 percent and a proposed
25 condition of 28.1 percent. It should be both under

1 the limit of 38 percent.

2 MS. WATERBURY: So you are saying, you
3 are speaking effectively from a storm water
4 runoff standpoint.

5 MR. BRAY: Correct.

6 MS. WATERBURY: You still need the
7 variance.

8 MR. BRAY: Yes.

9 MS. WATERBURY: But effectively, you've
10 taken that much area away from what would cause
11 water to run onto the neighbors and put that
12 into the ground, so the amount that has water
13 that would runoff would be the 20.1 percent.

14 MR. BRAY: Right.

15 MS. WATERBURY: In existing and 28.1
16 proposed.

17 MR. BRAY: Correct. Yes, thank you.

18 A. Some of the other comments, 4.2, we are
19 going to have one light in the pool that we can add
20 to the plans. It will not negatively affect our
21 neighbors and in addition we will be adding buffer
22 landscaping along the back and I will have them add
23 that light to the drawing, as per the Engineer's
24 request.

25 MR. ARNETTE: Did you say the light will

1 be in the pool?

2 MR. BRAY: Yes, yeah.

3 MR. ARNETTE: No ground lighting?

4 MR. BRAY: No, in the pool. For 4.3, we
5 are going to be using, I spoke to Ms. Waterbury
6 about this, we have a cartilage-style filter
7 that cannot be back washed and that doesn't
8 have any discharge, but for draining the pool,
9 there is a garden hose spigot located on the
10 plumbing at the filter area that will be used
11 to drain the area that would not impact the
12 neighbors so that can be pumped to the
13 driveway, to the dry wells or to the main lawn.
14 We will make sure it doesn't affect the
15 neighbors.

16 MR. VENEZIA: The hose?

17 MR. BRAY: Yeah, you hook the garden
18 hose up to the spigot onto that device.

19 A. 4.4, the water does not collect. We've
20 had no water problems on the property at all. 4.6,
21 the deep end will be 6 feet to 6-and-a-half feet to
22 the patio level. We have a full basement right next
23 to it that the Bilco doors go down to that is
24 actually be lower than the base of the pool and we
25 haven't had any water problems in there at all.

1 So I think, unless there is any other
2 items on the letter that you would like me to speak
3 to. Oh, the last one is, I will add the de-watering
4 note to the plans, as per the request of the
5 engineer. And the other important point, our
6 neighbors on both sides have in-ground pools and they
7 haven't had any problems either.

8 So just in summary, I think the most
9 important thing to note, all of the existing
10 downspouts go into the existing dry wells, so we feel
11 that the dry well system mitigates any adverse
12 drainage impact that the addition of the pool and
13 patio might otherwise generate. And also we will be
14 planting replacement landscaping along the back
15 property line. That will screen the improvements to
16 the neighboring properties. There will be no
17 negative impacts on our neighbors. We kindly request
18 the Board consider these facts.

19 MS. HUGHES: Okay. I have a question.
20 Your driveway, it looks like that is -- well, I
21 see an existing sports court.

22 MR. BRAY: Yes.

23 MS. HUGHES: Can you point to that?

24 MR. BRAY: Right here.

25 MS. HUGHES: So the driveway.

1 MR. BRAY: This is the driveway right
2 here.

3 MS. HUGHES: Okay.

4 MR. BRAY: The main driveway. We
5 occasionally park an extra car here, but that
6 is like a little mini basketball court.

7 MS. HUGHES: How many cars can your
8 driveway fit?

9 MR. BRAY: One, 2, 3, 4 and then this
10 will be a fifth one there.

11 MS. HUGHES: You do not have a garage?

12 MR. BRAY: We do have a garage.

13 MS. HUGHES: You do.

14 MR. BRAY: We have a two-car garage. I
15 park my car in there every night.

16 MS. DEGENARO: Steph, that is A-1,
17 right?

18 MR. BRAY: Yes.

19 MR. ENGEL: I have a couple of
20 questions.

21 MR. BRAY: Sure.

22 MR. ENGEL: Regarding the downspouts and
23 the dry wells, have the dry wells ever been,
24 ever been exceeded capacity at all, even in the
25 heaviest rains?

1 MR. BRAY: No, not that we've
2 observed.

3 MR. ENGEL: And the drainage method that
4 you were talking about where you can actually
5 use a hose to actually drain out?

6 MR. BRAY: The way they explained it to
7 me is that, I actually asked about pumping it,
8 if I wanted to pump it to the driveway, hook up
9 the garden hose and they said that wouldn't be
10 any problem.

11 MR. ENGEL: And if it's pumped out to
12 the driveway, where will it runoff to?

13 MR. BRAY: The street.

14 MR. ENGEL: Okay. And there is a sewer
15 drain close by?

16 MR. BRAY: Yeah, it goes down towards
17 Peter Cooper.

18 MS. WATERBURY: I think the Ordinance
19 requires that they discharge it to either like
20 directly into one of those or into a stream
21 which are neither right there.

22 MR. ENGEL: Alright. As long as that is
23 within conformance, I have no problem with
24 that. There is a note in the second half of
25 your comments on 4.1 about runoffs from the

1 rear -- side and rear property drain according
2 to this needs to be addressed.

3 MS. WATERBURY: Yeah, I just wanted to
4 have him describe for us. You can see, and
5 this is just where my comment came from which
6 might be helpful, is that the water runs at
7 right angles to the contours and you can see
8 that some of the contours kind of curve around
9 so there was some areas that it could go off to
10 the side and so there just was a request to
11 understand if any of this is going to impact
12 any of that pattern.

13 MR. ENGEL: So, have you had such
14 problems with runoff before you ever built the
15 pool?

16 MR. BRAY: Never.

17 MR. VENEZIA: On the coverage, Ms.
18 Waterbury?

19 MS. WATERBURY: Yes.

20 MR. VENEZIA: If we obtain extra square
21 footage from the front of the house, would that
22 mitigate the back problem in total, the
23 percentage? What I am going to suggest now is,
24 do you use that basketball court?

25 MR. BRAY: Yes.

1 MR. VENEZIA: Can the court be, I mean,
2 I am looking.

3 MR. BRAY: We use it extensively and we
4 definitely use it for parking, too. As my
5 16-year old is about to drive, too, that
6 definitely will be used.

7 MR. VENEZIA: Well, you definitely have
8 the four, you know, the four cars in there.

9 MR. BRAY: Right.

10 MR. VENEZIA: I am looking at that front
11 and seeing right down the street, I don't see
12 anyone else that has something like that, you
13 know, basketball court. I was thinking, if
14 that was swapped out, that might give you the
15 coverage right there.

16 MR. BRAY: Yeah, again, going back to
17 the recreational amenities for my family and
18 that is a use that my son uses. It is a
19 calming mechanism for him.

20 MR. VENEZIA: The autistic one.

21 MR. BRAY: Yes.

22 MR. VENEZIA: You have two beautiful
23 basketball courts down the street.

24 MR. BRAY: He needs to be under
25 supervision.

1 MS. HUGHES: Many people come to us and
2 they want to put in pools and they exceed their
3 lot coverage.

4 MR. BRAY: Yes.

5 MS. HUGHES: And it's generally our
6 practice to ask people where they are willing
7 to compromise.

8 MR. BRAY: Yes.

9 MS. HUGHES: You know, you are supposed
10 to be at 38, you are at 42 and you are asking
11 for 49.5. So what I think we are trying to say
12 is, what are you willing to give up to
13 compromise? 49.5 is a very high number. It
14 goes with your land long after you and your
15 family are gone, what we decide here goes with
16 the property.

17 MR. BRAY: Right.

18 MS. HUGHES: We try and stick with the
19 West Long Branch Ordinances as much as
20 possible.

21 MR. BRAY: Yes.

22 MS. HUGHES: And we ask everyone --

23 MR. BRAY: Appreciate that.

24 MS. HUGHES: -- for compromise. So have
25 you considered compromise?

1 MR. BRAY: I have considered it and I
2 actually, that was the revisions on our design
3 were to kind of minimize that. In reviewing
4 the situation, in a lot of cases, if an
5 Applicant was above the coverage, I believe
6 you also request dry wells. So, in this case,
7 our whole entire house has a dry well system,
8 so there really is not going to be any adverse
9 effect to this. So that is part of the reason
10 why the original 38 percent was put in place
11 the concern about the runoff, the storm water
12 runoff and I believe with our dry well system
13 we mitigate that problem.

14 MS. HUGHES: Well, the adverse effect is
15 that you are having us make exceptions for you
16 from the 38 percent to the 49.5 percent.

17 MR. BRAY: Uh-huh.

18 MS. HUGHES: Because that is not where
19 the Town is. Are you saying that there is no
20 room to compromise in this plan?

21 MR. BRAY: I feel like we spent a lot of
22 time actually really focused on trying to
23 minimize that. We went with that rectangular
24 pool and what adds to it is bringing that
25 retaining wall and that is the topography issue

1 we had.

2 MR. VENEZIA: I am looking at that wall
3 also. I mean, that might be another answer,
4 too, eliminate that wall and just put those
5 plants without a wall.

6 MR. BRAY: You need the wall.

7 MR. LAMARCA: With the grade of the
8 property would slope down there, so that is
9 going to level it out.

10 MR. BRAY: Right. That's where the
11 level is.

12 MR. LAMARCA: That's holding his grade
13 up.

14 MS. WATERBURY: So I think if you want
15 to look and maybe a little testimony might be
16 of assistance, so up around the pool, the grade
17 that you have right now, looks like you are
18 showing like a 25-and-a-half.

19 MR. BRAY: Yes.

20 MS. WATERBURY: And the elevation that's
21 up by the house is like 25-and-a-half.

22 MR. BRAY: Correct.

23 MS. WATERBURY: And how about the grade
24 down at the bottom, it looks like you have an
25 elevation of 22.

1 MR. BRAY: Yes, depending where you are
2 talking about, in particular, but yes. 21.9
3 down here, but yes.

4 MS. WATERBURY: And so the height of the
5 wall that you have, could you tell them the
6 highest part of the wall?

7 MR. BRAY: 25.5.

8 MS. WATERBURY: The total height, I
9 mean, exposed height.

10 MR. BRAY: Oh, the total height, so
11 probably, what is that, 2.1 feet, 2.2 feet or
12 2.1 is the most that it is, depending where it
13 is, and it goes down to 25 feet in one section.

14 MS. WATERBURY: So just for some
15 additional questions to kind of --

16 MR. BRAY: Sure.

17 MS. WATERBURY: The back of where you
18 have on that side, how wide is the area around
19 the pool on this southern side which would be
20 the side facing the rear yards of the others?

21 MR. BRAY: So this is the detail here,
22 so it's three feet and then it has pervious fill
23 here, so that any of that runoff that is around
24 goes into there.

25 MS. WATERBURY: So what is the setback

1 from the property line to that patio?

2 MR. BRAY: Ten-and-a-half feet to the
3 retaining wall.

4 MS. WATERBURY: So if you were to not
5 have the retaining wall and go straight down,
6 what kind of a slope would you have?

7 MR. BRAY: I think it would be a pretty
8 significant drop and I would be concerned about,
9 you know, keeping that.

10 MS. WATERBURY: Yeah, because there is
11 certainly, from a maintenance standpoint, we
12 want to make sure there is a --

13 MR. BRAY: Yeah, you would be going from
14 25.5 down to that 21.9 in that short run.

15 MR. VENEZIA: How about a raised
16 curbing? Instead of that whole setup, just have
17 a 6-inch curb come straight up around there, a
18 curving affect around the pool.

19 MS. WATERBURY: So the pool is higher.

20 MR. VENEZIA: You bring the curbing up.

21 MS. WATERBURY: I want to make sure I
22 understand. Are you saying lower the pool a
23 little, so you would not have as much?

24 MR. VENEZIA: No. No. You would take
25 that wall out, right, all of this out, right,

1 and then come from here right around a curve.

2 MS. WATERBURY: A shorter curving that
3 would go off of the patio.

4 MR. VENEZIA: That would go off the
5 patio, but would raise it and then you grade out
6 to the property line to save a lot of area.

7 MR. GIGLIO: I have a suggestion. I
8 think that would be a little more sufficient.

9 MS. HUGHES: Okay.

10 MR. GIGLIO: Where the basketball court
11 is at, would you consider converting that to
12 pervious pavement? I've seen it used in West
13 Long Branch now and in Long Branch now. The
14 water goes through it. I have a friend of mine
15 who owned a car wash in West Long Branch, whose
16 husband now owns a detail shop in Long Branch.
17 I was there. I watched the water go right
18 through it. I think for the small amount that
19 that basketball court is, having it replaced
20 with pervious pavement would probably solve all
21 of your problems in one shot here. And, at the
22 same time, your pool would stay at grade and not
23 collapse because of possibly down the road a
24 curbing cracking. And the rest of the asphalt
25 or cement driveway does not have to get touched.

1 It is a completely separate section. I know
2 because my son played there with your son a
3 couple of times. I think it might be a quick.

4 MR. LAMARCA: What is the footage on the
5 court? What is the difference?

6 MR. VENEZIA: Pretty good-sized court.
7 I am saying it could be almost a swap out for
8 that.

9 MS. HUGHES: Why wouldn't you do the
10 drive, too?

11 MR. GIGLIO: I'm not 100 percent
12 positive, but I remember when Mr. Cantalfa built
13 that house. I believe that driveway is --

14 MR. BRAY: Three hundred twenty-one
15 square feet.

16 MR. GIGLIO: In other words, I believe
17 it's got a three-foot pact underneath on top of
18 the cement.

19 MR. VENEZIA: The basketball court?

20 MR. GIGLIO: I remember when that whole
21 thing was built. Removing it, you would have to
22 have probably --

23 MR. LAMARCA: A job.

24 MR. GIGLIO: -- a hydraulic crane that
25 could maybe, you know, pick up a train.

1 MS. WATERBURY: If I could just offer
2 because I do quite a few design, you know, I do
3 private development design in towns I don't
4 represent and I've used porous asphalt, porous
5 concrete permeable pavers and one of the things
6 that I usually just from my own experience stay
7 away from is putting that surface too close to a
8 structure that has a basement, because it is
9 intended to put the water back into the ground
10 and you don't want it to go into the ground and
11 up in the basement. So I just offer that as a
12 consideration as you are having --

13 MR. VENEZIA: A little basketball court.

14 MS. WATERBURY: Right. The driveway
15 would be up against the structure.

16 MR. BRAY: It's either that solution or
17 if the Board were acceptable, if I was able to
18 find another swap of 321 square feet on the
19 property, either by doing that solution or by
20 finding 321 square feet somewhere else.

21 MS. HUGHES: What does that bring us?

22 MR. VENEZIA: What is that percentage?

23 MS. WATERBURY: I was just, I had to
24 talk with my hands. I am not over here. I keep
25 notes in my phone, so they are with me all of

1 the time. We have 321 divided by the lot area,
2 14,999, so that is about a 2.1 percent, you
3 know, part of the property.

4 MR. ENGEL: That brings his existing
5 coverage down very close to the 38 percent
6 original.

7 MS. WATERBURY: Right.

8 MR. ENGEL: Yeah, that would bring his
9 proposed coverage down to like 47, which is
10 definitely progress.

11 MS. WATERBURY: Well, you have, I guess,
12 when you are speaking about the coverage, as it
13 would relate to storm water, right, so he's got
14 the roof is in the roof drains, so that is not
15 running off also. Similar how this would not be
16 running off. So, in that instance, you would be
17 doing the storm water comparison would relate to
18 the percentages he had in his response letter of
19 4.1.

20 MR. ENGEL: This section where the
21 planting is going to be, is that pervious or
22 impervious?

23 MR. BRAY: That has a pervious section.
24 On the detail on the A-1, you will see, you will
25 see over there you have pervious section in

1 there.

2 MR. ENGEL: Right.

3 MR. BRAY: And you have the concrete
4 walk right there.

5 MR. GIGLIO: If the pool ever decides to
6 flip over, it goes down instead of over. Smart.

7 MR. BRAY: Yes.

8 MR. GIGLIO: Smart.

9 MR. ENGEL: That is included in the
10 coverage numbers?

11 MR. BRAY: That small stretch, yes.

12 MR. VENEZIA: Just so I am clear, that
13 wall that I was talking about with the plants on
14 it, all of that rock --

15 MR. GIGLIO: That is pervious.

16 MR. ENGEL: Removing that would not
17 change the impervious.

18 MR. VENEZIA: Now, you were suggesting
19 possibly.

20 MR. BRAY: What I am saying, Mr.
21 Giglio's suggestion, we would look into that or
22 if we agree that we either do that to make up
23 the 321 square feet or find the 321 square feet
24 somewhere else.

25 MR. VENEZIA: It is a pretty tight lot.

1 MR. BRAY: I'm sorry?

2 MR. VENEZIA: It's a pretty tight lot.

3 MR. BRAY: Well, one consideration that
4 we were looking into is the side walkway as we
5 go down there and that's what the computer
6 simulation actually shows the renovation. We
7 have to weigh out the cost and everything about
8 this. I would agree that we make up the
9 additional 321 square feet either through the
10 basketball court or some other means.

11 MR. VENEZIA: Anything else? Any other
12 questions on that part?

13 MR. VENEZIA: You guys, anything else?

14 MR. GIGLIO: No.

15 MS. WATERBURY: Can I just be, so you
16 had mentioned about the landscaping that you
17 were going to provide landscaping across the
18 back.

19 MR. BRAY: Yes, on the back.

20 MS. WATERBURY: So I am thinking your
21 picture showed at the top of the wall.

22 MR. BRAY: The top of the wall, but also
23 along the back, the whole back line here we are
24 going to either put Norway spruces, Arborvitae,
25 something along the back 10 or 12-footers right

1 away.

2 MS. WATERBURY: That was my question
3 since you had that height difference.

4 MR. BRAY: Yeah, right away.

5 MS. WATERBURY: It will help the water
6 also screening because you now have the wall and
7 you have the pool a little higher up.

8 MR. GIGLIO: Leland Cypresses.

9 MS. WATERBURY: That would be something
10 that would be desirable to have on the plan as
11 well.

12 MR. BRAY: Sure.

13 MS. WATERBURY: The planting heights and
14 what was the height you said propose?

15 MR. BRAY: Ten to 12-footers is what we
16 got the quote on.

17 MS. WATERBURY: That would give you
18 effectively screen the lower part of the wall
19 plus people in the pool area.

20 MR. BRAY: Right, yes. You want that on
21 the plans, too?

22 MS. WATERBURY: Yes.

23 MR. LAMARCA: Would that just be in the
24 back? What are you doing on the sides? Same
25 thing or does it matter?

1 MR. BRAY: The screening on the sides
2 has been growing up. I am bad with names of
3 plants.

4 MS. HUGHES: Skip Laurel?

5 MR. BRAY: Skip Laurel. That one has
6 been a little bit healthier. It's growing up
7 over the fence line.

8 MR. VENEZIA: Usual growth on the back
9 what you want to put there is usually about a
10 foot a year to maturity.

11 MR. BRAY: Right. Right.

12 MR. VENEZIA: So you are hoping to gain
13 a 12-footer?

14 MR. BRAY: Yes, yeah.

15 MR. VENEZIA: Twelve to 14 feet.

16 MS. WATERBURY: What was the height at
17 planting?

18 MR. BRAY: Ten to 12-footers.

19 MS. WATERBURY: I thought that is what
20 you meant.

21 MR. BRAY: Yes.

22 MR. GIGLIO: This is going be to an
23 off-the-cuff question.

24 MR. BRAY: Sure.

25 MR. GIGLIO: Where's the filter system

1 going?

2 MR. BRAY: It goes right behind these
3 right here.

4 MR. GIGLIO: Okay. That is why the --
5 is there?

6 MR. BRAY: Yes.

7 MR. GIGLIO: Going around the filter.
8 That is additional pervious.

9 MR. BRAY: That is all part of the
10 calculation, yep.

11 MR. GIGLIO: I am only going by what I
12 had to do.

13 MR. BRAY: Yeah.

14 MS. WATERBURY: Any of those kinds of
15 plantings that are screening the back, that are
16 screening the filters, things of that.

17 MR. BRAY: Right.

18 MS. WATERBURY: At least from an
19 engineering perspective would be desirous to
20 have on the plan.

21 MR. BRAY: Sure.

22 MR. VENEZIA: Any other interested
23 parties in the audience on this matter? Seeing
24 none, hearing none, what is the Board's
25 pleasure?

1 MS. HUGHES: I would make a motion. I
2 am ready to make a motion. Are you ready to
3 make a motion?

4 MR. VENEZIA: Any more questions?

5 MR. GIGLIO: I am good. I am good.

6 MS. HUGHES: I will make a motion to
7 accept the plan with these changes to add all of
8 the plantings onto the plan.

9 MR. BRAY: Okay.

10 MS. HUGHES: And we have agreed to allow
11 Mr. Bray to remove the 321 square feet of his
12 choice, right, correct?

13 MR. GIGLIO: Yes.

14 MS. HUGHES: To bring the total lot
15 coverage to --

16 MR. GIGLIO: Between 46 and 47, we
17 figured, right?

18 MS. WATERBURY: To reduce lot coverage
19 by an additional 2.1 percent.

20 MS. HUGHES: Perfect.

21 MR. GIGLIO: There you go.

22 MR. ENGEL: I will second the motion.

23 MS. DEGENARO: Mr. Venezia?

24 MR. VENEZIA: Yes.

25 MS. DEGENARO: Pamela Hughes?

1 MS. HUGHES: Yes.

2 MS. DEGENARO: Scott LaMarca?

3 MR. LAMARCA: Yes.

4 MS. DEGENARO: Paul Giglio?

5 MR. GIGLIO: Yes.

6 MS. DEGENARO: Mark Engel?

7 MR. ENGEL: Yes.

8 MR. IRENE: Let the record reflect that
9 Mr. Gitto has rejoined the Board as the Board
10 Engineer and we thank Ms. Waterbury for covering
11 on the last application and let the record
12 reflect that Mr. Irene has rejoined the Board as
13 Board Attorney and I thank Mr. Arnette for
14 covering as conflict attorney on the last
15 application.

16 Mr. Chairman, I think the next matter on
17 the Agenda is the Terlecsky application. Am I
18 pronouncing that correctly? And that is Mr.
19 Witek's matter. We will let him put his
20 appearance on the record and then we will do a
21 few housekeeping matters.

22 MR. WITEK: Good evening, Mr. Chairman
23 Members of the Board, Learned Professionals, my
24 name is Robert Witek and I have the privilege
25 this evening of representing Mr. and Mrs. John

1 Terlecsky on an application that comes before
2 you essentially seeking a height variance for a
3 fence and a couple of other minor little things.
4 Thank you very much.

5 MR. IRENE: And we are going to swear in
6 Mr. Gitto, our professional engineer so we don't
7 forget.

8 Gregory Gitto, P.E.

9 John Terlecsky, sworn.

10 MR. IRENE: Mr. Witek, we had that was
11 submitted with the application there was a
12 Survey. The copy that I have is cut off. Do we
13 have a full one to mark it? I just want to mark
14 the full one.

15 MR. WITEK: I do.

16 MS. DEGENARO: Weren't there ones just
17 handed out?

18 MR. IRENE: I recused myself. While we
19 are passing those out, Lisa, we've got a Survey
20 prepared by Charles Surmonte, P.E. and PLS and
21 it is dated September 11, 2018, one sheet and no
22 revision date. So that will be, Chris Ann, we
23 will mark that A-1, please?

24 MS. DEGENARO: A-1, you got it.

25 MR. IRENE: Now, the Survey we have is

1 the Survey, but on the other part of the Survey
2 there were handwritten notes to propose fence.
3 Why don't we mark that as well?

4 MR. WITEK: I was going to ask that be
5 marked as A-2.

6 MR. IRENE: Okay. Great. Mr. Witek,
7 when Mr. Terlecsky testifies, you can have him
8 what he put on A-2 for us.

9 MR. WITEK: Absolutely.

10 MR. IRENE: A-2 marked up by the
11 Applicant to show the proposed fences.

12 MR. IRENE: Alright.

13 MR. WITEK: Are you ready, Mr. Irene?

14 MR. IRENE: Yes, sir. Whenever you are
15 ready.

16 DIRECT EXAMINATION BY MR. WITEK:

17 Q. Mr. Terlecsky, good evening.

18 A. Good evening.

19 Q. Are you the Applicant in this
20 application this evening?

21 A. Yes, I am.

22 Q. And are you the owner of 74 Brookwillow?

23 A. Yes, I am.

24 Q. And with whom do you own that?

25 A. Laurie Terleski my wife.

1 Q. How long have you owned that property?

2 A. Since October of last year.

3 Q. I'm going to ask you to keep your voice
4 up for purposes of the stenographer, please?

5 A. Sure.

6 Q. Sometimes it's a little nerve wracking
7 to testify, but when you have a big mouth like me
8 it's not a big deal. I am going to show you marked
9 A-1. I am going to ask you to identify that, please?

10 A. Yes.

11 Q. That is what?

12 A. That is 74 Brookwillow.

13 Q. Is that the Survey that you received
14 when you purchased the property?

15 A. Correct.

16 Q. Let me direct your attention to what
17 we've marked as A-2 and that appears to be the same
18 Survey with some handwritten notations on it. Is
19 that fair to say?

20 A. That is correct.

21 Q. And do you know who added those
22 handwritten notations?

23 A. I added those handwritten notations.

24 Q. And please briefly describe for the
25 Board what it is that you are proposing to do should

1 the Board see fit to grant the relief that you are
2 asking for in this application?

3 A. I think very consistent with the
4 neighborhood, we would like to put a 5-foot open
5 aluminum fence on the Hollywood side from near the
6 driveway to the end of the property. There is a
7 property on 80 Hollywood, for instance, that is also
8 a corner lot, but has the same fence, same height and
9 that is sort of the fence I measured to model it
10 after.

11 On the back of the property, the entire
12 way, we would like the 6-foot fence privacy fence to
13 separate the two properties and that was all we're
14 seeking. There is the fence on the right side
15 already and we don't want anything in the front and
16 we don't want to mess with the site lines.

17 Q. Since you are a corner lot, there is a
18 site triangle; is that accurate?

19 A. Correct.

20 Q. On the corner of Brookwillow and
21 Hollywood?

22 A. Yes.

23 Q. And what you are proposing has no impact
24 on that, fair to say?

25 A. It does not.

1 we learned that that was not supposed to be the case.
2 But in the meantime, we have put up a ton of
3 landscaping. In fact, I counted the Arbs. There are
4 42 Arbs on the property now, a Maple tree and
5 three-quarters of the house has Skip Laurels or
6 boxwood hedges and we do have Ralph Veneto do some
7 other landscaping for us and we were hoping to put
8 trees back just something we didn't realize at the
9 time.

10 MR. IRENE: Do we have a tree Ordinance?

11 MS. HUGHES: Yes, we do.

12 MR. IRENE: So if, in fact, the Board
13 sees fit to grant the relief, would you have
14 any objection to a condition that you comply
15 with the tree Ordinance, so that you show
16 whatever trees were removed and if they say you
17 got to replace them, you replace them. And if
18 they say what you replaced is sufficient and
19 you are good, but whatever it is, you comply
20 with the tree Ordinance.

21 THE WITNESS: Sure.

22 Q. Now, just as a matter of just in case to
23 satisfy any curiosity that the Board Members might
24 have, the reason you are interested in doing this is
25 what?

1 A. We have a four-year old and a six-year
2 old and we would like them to be able to run around
3 in the backyard. We are on a busy street. Right
4 now, we don't have that ability and we need to watch
5 them, obviously, watch them anyway, but just
6 something we would like for our own safety needs.

7 Q. Other than the height of the fence, the
8 fences are otherwise compliant. In other words, you
9 are not running afoul of any setback requirements or
10 anything like that?

11 A. Nope.

12 Q. And I know that when we filed the
13 application, we were talking about some driveway
14 piers?

15 A. Yes.

16 Q. Now, you are not, that is not before the
17 Board. You are not pursuing that at this time?

18 A. No, I would like the driveway piers
19 also.

20 Q. Are you aware of whether or not you need
21 a variance for those?

22 A. I don't think we do, but we just put
23 them on the application in case we did.

24 Q. Right. We noticed for those just in
25 case. Can you describe the piers that you are

1 proposing?

2 A. Yeah, they are three-and-a-half feet
3 high, 24-by-24 block.

4 Q. Will there be a light on top?

5 A. There will be a light on top.

6 Q. Okay. That is basically to permit
7 proper ingress and egress to the driveway. Would
8 that be fair to say?

9 A. Correct.

10 MR. WITEK: Okay. That is all I have of
11 this witness at this time.

12 MR. VENEZIA: The fence that you are
13 talking about on the rear of your property,
14 that is going to be solid white?

15 THE WITNESS: Solid black.

16 MR. VENEZIA: Solid black.

17 MR. IRENE: Vinyl?

18 THE WITNESS: Yes.

19 MR. IRENE: The rear, the eastern
20 property line.

21 THE WITNESS: Yes.

22 MR. VENEZIA: The Jerreth-style fence
23 you are talking about, do you know the distance
24 in between the down wrought irons?

25 THE WITNESS: I don't think it's

1 anything not traditional.

2 MR. VENEZIA: I am just mentioning it.
3 You want to make sure that a head can't go
4 through there.

5 THE WITNESS: Yes.

6 MR. VENEZIA: Especially, when you are
7 saying a four and six-year old, you know, be
8 very cautious on that.

9 THE WITNESS: Yeah, I don't think it's
10 anything that is not consistent.

11 MR. GIGLIO: Or get caught in between
12 and not get out.

13 Q. You have no objection to that being a
14 condition of the Resolution should the Board approve
15 it?

16 A. Sure.

17 MS. HUGHES: Let me just understand. In
18 the backyard that is the 6-foot high and that
19 is --

20 THE WITNESS: Yes.

21 MS. HUGHES -- PVC black.

22 THE WITNESS: Uh-huh.

23 MS. HUGHES: Solid.

24 THE WITNESS: Solid.

25 MS. HUGHES: On the side, it will be

1 open?

2 THE WITNESS: On the Hollywood side.

3 MS. HUGHES: On the Hollywood side.

4 That is what Bob was talking about. So it will
5 be black.

6 THE WITNESS: Uh-huh.

7 MR. IRENE: Aluminum Jerreth-style
8 fence.

9 MS. HUGHES: It says here on your notes
10 here or PVC.

11 MR. LAMARCA: And the five-foot, it
12 doesn't become an obstruction at the corner?

13 MR. IRENE: It doesn't go down to the
14 site triangle.

15 THE WITNESS: It does not.

16 MR. VENEZIA: The three-and-a-half
17 foot --

18 THE WITNESS: Driveway.

19 MR. VENEZIA: -- post. The fence is
20 going to hit into one side.

21 THE WITNESS: No. It's going to be off
22 and in between the fence and the driveway.

23 MR. VENEZIA: So it wouldn't be
24 connected. That would look a little strange.
25 It should be at least the height of the fence.

1 MR. LAMARCA: I was looking at that
2 dotted line.

3 THE WITNESS: Maybe with the light it
4 will be.

5 MR. VENEZIA: Okay, but is it connecting
6 into.

7 THE WITNESS: No.

8 MR. VENEZIA: I think that would look
9 nice.

10 THE WITNESS: Thank you.

11 MS. HUGHES: I have another question or
12 a comment this time. On your application, you
13 have marked that you are in zone R15.

14 THE WITNESS: That was incorrect.

15 MS. HUGHES: Yeah, you are in R22. Do
16 you know what your impervious coverage is
17 currently?

18 THE WITNESS: I don't. I do not think,
19 because we had done a little paver patio where
20 we got a permit this summer and I know we were
21 within the requirements.

22 MS. HUGHES: Because for an R22, you top
23 out at 30, so just a little.

24 THE WITNESS: In case we wanted to do
25 anything in the future, you are saying.

1 MS. HUGHES: Right.

2 THE WITNESS: Thank you.

3 MS. HUGHES: Only because your
4 application said R15, so I wanted to make sure
5 you understood.

6 THE WITNESS: We are R22.

7 MR. VENEZIA: Should I have?

8 James Miller, sworn.

9 MR. IRENE: Jim Miller is our Zoning
10 Officer in the Borough of West Long Branch.

11 MR. VENEZIA: Do you see any problem
12 with that from your inspections earlier on this
13 year?

14 MR. MILLER: Mind if I see a picture?

15 MR. IRENE: Do you want to show Mr.
16 Miller the one that shows the proposed location
17 of fence also, please?

18 MR. MILLER: I don't see any problem
19 with that.

20 MR. VENEZIA: Thank you.

21 MR. GIGLIO: I have a quick question to
22 ask you, and I know it's going to come up, how
23 many trees did you cut down? Do you remember
24 how big they were?

25 THE WITNESS: A couple of them were

1 dying, to be honest.

2 MR. GIGLIO: I understand.

3 THE WITNESS: They were just the ones
4 the builder put on the lot.

5 MR. GIGLIO: Small little whimsy things.

6 THE WITNESS: Yes.

7 MR. GIGLIO: How many Arbs did you put
8 in?

9 THE WITNESS: Forty-two.

10 MR. GIGLIO: I would say he met the
11 Ordinance and then then some.

12 MR. IRENE: I don't know. The Ordinance
13 differentiates between trees and shrubs. If it
14 conforms now, he is done. If it isn't, he will
15 conform. I don't know.

16 MR. GIGLIO: Me and Pamela are on the
17 Shade Tree.

18 MR. IRENE: We don't know what was
19 pulled. We don't know what he put in, unless we
20 want to do a tree catalog tonight.

21 MR. GIGLIO: Negative.

22 MR. IRENE: If he said he will conform,
23 he will conform and that will be a condition of
24 approval. Just my suggestion. It's up to the
25 Board.

1 MR. VENEZIA: Inspecting your property,
2 it is definitely a beautiful piece of property
3 and I feel that this will help it along and it
4 will take care of your needs with your children.

5 THE WITNESS: Thank you.

6 MR. IRENE: Any other questions from the
7 Board?

8 MR. GIGLIO: We are good.

9 MR. VENEZIA: Any interested parties in
10 the audience?

11 MR. IRENE: Anybody have any questions
12 or comments with regard to 42 Brookwillow
13 Avenue?

14 MR. WITEK: I have nothing further. I
15 would ask the Board to vote on the matter.
16 Thank the Board for your attention and comments.
17 Do we have a motion?

18 MR. ENGEL: I move that, you know, with
19 the condition that they comply with the tree
20 Ordinances, as we describe, that we accept their
21 application as presented.

22 MR. IRENE: Subject to any requirements
23 or recommendations in the T&M report prepared by
24 Mr. Gitto.

25 MR. GIGLIO: I will second it.

1 MR. IRENE: Second to the fences being
2 described.

3 MR. ENGEL: Yes.

4 MR. WITEK: That would be with the
5 spaces between the wrought iron, that
6 discussion.

7 MR. IRENE: Don't know if I need to
8 describe head width. Solid black vinyl on the
9 eastern side, open black aluminum Jerreth-style
10 halfway down Hollywood for A-2, right?

11 MR. WITEK: Right. It depends.

12 MR. IRENE: Motion and a second?

13 MR. GIGLIO: I seconded, yes, sir.

14 MS. DEGENARO: Robert Venezia?

15 MR. VENEZIA: Yes.

16 MS. DEGENARO: Pamela Hughes?

17 MS. HUGHES: Yes.

18 MS. DEGENARO: Scott LaMarca?

19 MR. LAMARCA: Yes.

20 MS. DEGENARO: Paul Giglio?

21 MR. GIGLIO: Yes.

22 MS. DEGENARO: Mark Engel?

23 MR. ENGEL: Yes.

24 MR. IRENE: It carries. Thank you.

25 THE WITNESS: Thank you very much.

1 MR. WITEK: Thanks, folks.

2 MR. IRENE: Next matter, Mr. Chairman,
3 on the Agenda is the Jengo matter. That is 68
4 Locust Avenue, and again, that is Counsel is Mr.
5 Witek. We will let him put his appearance on
6 the record and then we have to do a few
7 housekeeping matters.

8 MR. WITEK: Once again, Mr. Venezia, Mr.
9 Chairman, Members of the Board, Learned
10 Professionals, once again, my name is Robert
11 Witek from the law firm of Resnikoff, Resnikoff
12 & Witek in Long Branch. I appear before you
13 this evening with the pleasure of representing
14 Amy and Don Jengo on this application that comes
15 before you seeking D relief for a
16 mother-daughter and I would like to begin the
17 presentation.

18 MR. IRENE: Before we do that, we will
19 swear in Mr. Gitto, our professional engineer.

20 Gregory Gitto, P.E., sworn.

21 MR. IRENE: A couple of housekeeping
22 matters, procedural matters. As I understand
23 the application, Mr. Witek, and you can correct
24 me if I am wrong, the application is for D1 use
25 variance relief to seek approval for a

1 two-family dwelling in a single-family zone.

2 MR. WITEK: That is correct, Mr. Irene.

3 MR. IRENE: We know and I know, Mr.

4 Witek, you know because you are an experienced
5 land use attorney that use variance relief D1
6 use variance relief requires five affirmative
7 votes out of a maximum seven Member voting Board
8 and you can see tonight because we have one
9 person out with the flu and someone had a family
10 commitment and someone is away and we have one
11 vacancy. We have five Members up here that
12 would be, if we conclude tonight, would be
13 eligible to vote. Essentially, the Applicant
14 would require the unanimous vote because you
15 require five affirmative votes and we only have
16 five voting Members here. I want to make that
17 clear. I know you know that. I am going to
18 assume you discussed that with your Applicant.
19 I don't know if you want to take a minute to
20 explain. That's up to you.

21 Amy Jengo sworn.

22 Q. Ms. Jengo, you and I had a rather
23 lengthy discussion earlier this evening; is that
24 right?

25 A. Yes.

1 Q. And I advised you that there is only
2 five sitting Members this evening to consider your
3 application for use variance relief; is that right?

4 A. Yes.

5 Q. And I told you that I think it's really
6 not a good idea to go forward with less than seven
7 voting Members. I think I told you that in,
8 approximately, 30 years of doing this kind of work, I
9 can't remember the last time I ever went forward with
10 less than seven Members and I've explained that to
11 you and you understood that. Is that fair to say?

12 A. Yes.

13 Q. Notwithstanding that advice to that
14 effect, you are ready, willing, able to go forward
15 and it is your desire to go forward and proceed with
16 five Members this evening?

17 A. Yes, we are out of time. We started
18 this in May and we had a time limit to get --

19 MR. IRENE: That is all well and good.

20 I want it to be clear that essentially you
21 require a unanimous vote. That is all. If you
22 proceed, it's your prerogative. Essentially,
23 if one person votes no, even if you get four in
24 favor and one against, you lost. It's odd.
25 Most people that don't do this kind of work

1 don't realize you need five affirmative votes
2 out of a maximum of seven Members. If there is
3 less than seven, you still need to get five.
4 If there is six, you need six out of six. If
5 it's five, you need five-out-of-five. I want
6 you to be aware of that. I was assuming Mr.
7 Witek, because he is a very experienced land
8 use counsel, would have went over that with
9 you. I want to make it clear so nobody would
10 surprised.

11 MR. WITEK: Thank you Mr. Irene.

12 MR. IRENE: You are welcome indeed.

13 DIRECT EXAMINATION OF MR. WITEK:

14 Q. Ms. Jengo, you are the contract
15 purchaser of the property located at 68 Norwood
16 Avenue, correct?

17 A. 68 Locust.

18 Q. Locust. Sorry. I don't why I said
19 Norwood. 68 Locust, correct?

20 A. Yes.

21 Q. You signed a contract to purchase that
22 property back in May?

23 A. Yes.

24 Q. And, basically, the contract is
25 contingent on your getting approval to basically

1 continue what is, in effect, a mother-daughter at the
2 house; is that correct?

3 A. Yes.

4 Q. Would you be -- strike that.

5 You also received permission from the
6 seller of the property to make this application?

7 A. Yes.

8 Q. And that has been signed and there was a
9 notice of concurrence to be submitted with the
10 application?

11 A. Yes.

12 Q. And the owner is a fellow named Jared
13 Murphy. Is that fair to say?

14 A. Yes.

15 Q. Now, can you describe the premises as it
16 presently exists?

17 A. It was advertised as a mother-daughter,
18 so there are two kitchens existing in the property.

19 MR. IRENE: What is a mother-daughter
20 from a legal perspective? It has no legal
21 meaning, just all clear from the Board's
22 perspective. We hear this sometimes where
23 people talk about a mother-daughter where there
24 was a kitchen in the basement for mom or
25 whatever that means. Legally, mother-daughter

1 doesn't mean anything. It's either one-family
2 or a two-family, so I am not sure how it was
3 advertised on the MLS. I'm not sure that it
4 matters. You can describe physically what is
5 there, but telling us it's in the MLS as a
6 mother-daughter doesn't really tell us anything
7 legally. Go ahead.

8 A. It is a single-family home. When it has
9 two kitchens, I am a real estate agent, so it's
10 typically referred to as a mother-daughter with two
11 kitchens, but it is a single-family home. We were
12 attracted to the property because we are looking to
13 purchase our property with our in-laws. We never
14 realized they never got approvals, so we were under
15 contract when they found out the second kitchen
16 wasn't legal, so that is why we are here.

17 Q. Now, we submitted in conjunction with
18 this application an architectural drawing dated, I
19 believe the most recent one was October --

20 MR. GIGLIO: Twenty-nine?

21 MR. WITEK: Right. Thank you.

22 Q. Do you remember that?

23 A. Yes.

24 Q. And does that fairly and accurately
25 depict, number one, I will show you, I guess you can

1 mark that as A-1.

2 MR. IRENE: Yeah, let's just make sure
3 we are talking about the same thing. Make sure
4 we all have the same plan that you have. That
5 is the Jengo residence plan consisting of one
6 sheet prepared by Brian Berzinskis,
7 B-E-R-Z-I-N-S-K-I-S. One sheet dated October
8 29, 2019.

9 MR. WITEK: That is correct, Mr. Irene.

10 MR. IRENE: Okay. That will be A-1,
11 Chris Ann.

12 MR. IRENE: While we are marking, do you
13 want to mark the Charles Bell?

14 MR. WITEK: Yeah, we should mark that.
15 There is a Survey, an updated Survey dated
16 November 26, 2019.

17 MR. IRENE: Here is my suggestion, even
18 though they are attached, let's mark them
19 separately because there was a prior Survey
20 that had been submitted and I guess Mr. Bell
21 revised it.

22 MR. WITEK: That is correct.

23 MR. IRENE: The Board Members are going
24 to have these three sheets attached that we are
25 describing now. We are going to mark them

1 separately, okay? It looks like this, three
2 sheets. That one has got a black border on it.
3 It's bound by the side. So the Survey that's
4 contained in that package is prepared by
5 Charles V. Bell, B-E-L-L, PLS consisting of one
6 sheet dated May 30, 2019, revised through
7 October 29, 2019. Mark that A-2, please?
8 Also, in that pack is a Board of Adjustment
9 plan also prepared by Mr. Bell consisting of
10 one sheet dated November 6, 2019. A-3, please?
11 And on top of that package is an aerial
12 photograph, again, prepared by Mr. Bell and
13 that is dated November 6, 2019. That will be
14 A-4.

15 MS. DEGENARO: One second, Mike. This
16 is A-4, this top part?

17 MR. IRENE: The aerial is A-4. The
18 Survey, which is the next sheet is A-2 and A-3
19 is the Plot Plan. Okay. And you had your
20 witness testify, Mr. Witek, before I
21 interrupted you.

22 MR. WITEK: I'm sorry.

23 MR. IRENE: No. I interrupted you.

24 Q. So, Ms. Jengo, I wanted you to take a
25 look at A-1 and, in particular, does A-1 reflect what

1 is existing at the present site?

2 A. Yes, for the downstairs.

3 Q. Now, what you are proposing, as set
4 forth in A-1, can you describe that? Let's start off
5 with, how many bedrooms are you proposing?

6 A. To add one bedroom.

7 Q. How many bedrooms will there be in total
8 at the house?

9 A. Six.

10 Q. Six total, if the Board grants you the
11 relief?

12 A. Yes.

13 Q. How many bathrooms?

14 A. There is five existing, each bedroom
15 pretty much has its own bath already.

16 Q. Really?

17 A. Yeah.

18 Q. Kitchen?

19 A. There is one kitchen existing, so there
20 will be two.

21 Q. Isn't there two existing now?

22 A. There are two kitchens right now, yes.

23 Q. And you are proposing, I guess, to move
24 them both around a little bit, if the Board sees fit
25 to grant your application?

1 A. Right. That's how I found out it wasn't
2 approved, because I contacted Jim Miller, if I put
3 the addition on, can I relocate the existing kitchen
4 that they got approvals for to another part of the
5 house, would that be okay, and he informed me there
6 were no approvals, but there are two kitchens. I
7 photographs, if you want them.

8 MR. IRENE: Here's the issue with
9 kitchens. Let's get to the bottom line, so
10 everybody knows where we are going with this.
11 We've had this occasion in the past and I've
12 had that in other towns. Kitchens are a flag
13 for what looks like a second dwelling unit. If
14 you don't have a kitchen, you can't get a C.O.
15 If there is only one kitchen, it's generally a
16 single-family dwelling. If you have more than
17 one kitchen, you could have more than one
18 dwelling unit.

19 We have had circumstances in the past
20 where you have a situation where somebody will
21 say, listen, it's a house. It is a
22 single-family house, but I want to bring mom
23 in, who is elderly, or grandma or we have a
24 case where we had a disabled adult child who
25 was still living at home and we want to give

1 this person, who is apart of our integral
2 family, some space, so they are going to have a
3 bedroom, well, single-family houses can have
4 more than one bedroom. Maybe have a bathroom,
5 single-family houses can have more than one
6 bathroom, but we want to build like a little
7 kitchenette, so Grandmom, who is going to be
8 living on this side of the house, if she wants
9 a cup of tea before she goes to bed doesn't
10 have to go all the way across to this side.

11 When that happens, many times, the
12 Zoning Officer will look at the plan and deny a
13 zoning permit. You are putting in a second
14 kitchen and that raises the issue of whether we
15 are creating a second dwelling unit. It is a
16 single-family zone.

17 We've had occasion where somebody would
18 come to us, and say, look, they made us apply
19 for a use variance for a two-family dwelling.
20 We don't want a two-family dwelling. We don't
21 want to create two separate dwelling units. We
22 have no intention of renting it out, selling
23 it as two dwelling units. We want Grandmom,
24 who is going to be over here on this side of
25 the house, be able to make a cup of tea at

1 night without walking all the way across the
2 house with her walker across the kitchen to
3 make her cup of tea.

4 What the Board has looked at in those
5 cases, you know what, in the right
6 circumstances, we may be able to interpret the
7 Ordinance in the plan to find that it remains
8 an integrated single-family dwelling
9 notwithstanding this little kitchenette because
10 there is no hard divider between Grandma's
11 space and the remainder of the house. You can
12 walk freely from Grandma's space through the
13 house, okay? There is no hard divider, no hard
14 walls, no separations. There is no separate
15 means of ingress and egress on Grandma's
16 side of the house. There is no exterior door.
17 It's all part of the house. One house.
18 One family. We would just like the
19 kitchenette.

20 And, in those cases, the Board, in one
21 instance, did and it is the right circumstance
22 made determine that it's still an integrated
23 single-family dwelling. Family members, one
24 structure not compartmentalized. You can flow
25 through, no separate means of ingress and

1 egress over on Grandma's side, okay? So we
2 found in that one case it was an integrated
3 single-family dwelling, but the issue the
4 kitchen, the second kitchen or additional
5 kitchens becomes the flag and then what you
6 look at, you look at the structure, how is it
7 laid out? Because the Ordinance says, and I
8 don't have it in front of me, when you have
9 dwelling unit used by or I think the word is
10 designed for a dwelling unit. A separate
11 dwelling unit.

12 So one of the issues is going to be on
13 this and I am not trying to steal Mr. Witek's
14 thunder.

15 MR. WITEK: Oh, steal it, please.

16 MR. IRENE: We need to focus on it.
17 What you have right now and another issue is
18 the Survey said there was a second floor. We
19 don't have the second floor plan. Set that
20 aside for a moment. I believe the addition is
21 a proposed one-story addition, so you have the
22 existing first floor that has apparently, from
23 the description, five bedrooms, five baths and
24 attached two-car garage, but then what is being
25 proposed on the other side of the garage, so

1 you have, I am going to say, in the front, call
2 it the front, the house, in the back is the
3 attached two-car garage and then adjacent to
4 the rear of that is this other component that
5 is being.

6 A. That is not correct entirely.

7 MR. IRENE: When we get to it, you can
8 tell me I am wrong because I am just saying,
9 this is what it looks like and this is what
10 creates the problem. Not necessarily the
11 kitchen alone. So when you look at it, it
12 appears that what's being added on the end
13 there is a hard wall between the garage and all
14 of that proposed 1,400-square foot addition,
15 that proposed 1,400-square foot addition has
16 two separate means of direct exterior ingress
17 and egress and it's got its own attached
18 garage.

19 MS. HUGHES: Right. The proposed is
20 two-family. It's not an integrated
21 single-family.

22 MR. IRENE: Right. I am simply saying
23 the question of, well, it's simply that we have
24 another kitchen is not the be all and end all.

25 MS. HUGHES: I hear you.

1 MR. IRENE: If we are saying we
2 understand and we are asking for a use variance
3 relief D1 use variance relief for a two-family
4 structure, that is fine. That is what we are
5 asking for, but we're not getting into the
6 realm of, we are really asking the Board to
7 say, yeah, we have a second kitchen, but this
8 is akin to a single-family residence. I assume
9 we're not.

10 MR. WITEK: Well, no. I will ask Amy to
11 testify.

12 MR. IRENE: Please do.

13 Q. Amy, you and I went over exactly what
14 Mr. Irene has placed on the record; is that right?

15 A. Yes.

16 Q. You and I had a lengthy discussion about
17 that and I told you the key to the whole thing is
18 going to be, as Mr. Irene describes, basically a flow
19 between the house.

20 MR. IRENE: And it may be more than
21 that, too. It is the layout. It is the
22 design. So you look at it, and you say, is it
23 compartmentalized into two separate structures?
24 It sure looks that way. It's up to the Board
25 to make that determination. Not me. When you

1 look at that layout, it looks like two separate
2 dwelling units. It's not somebody stuck a
3 second kitchen in.

4 Q. If we are looking at A-1?

5 MR. IRENE: Yeah.

6 Q. A-1 the proposed first floor, can you
7 describe how there will be a flow between the
8 addition and the existing structure?

9 A. The existing floor plan behind the
10 two-car garage, that large area behind the two-car
11 garage is existing already, so it's not part of the
12 addition. That is where the existing kitchen is. I
13 know it's not allowed, but that second kitchen is
14 there. We wanted to put an addition that had the
15 same layout as the back area of that garage behind
16 the garage, so we can use the existing kitchen that
17 is there and put it in the addition. I don't know if
18 everyone is following me. The space right behind the
19 garage is part of the front of the house.

20 MR. IRENE: Right.

21 A. So we are moving the kitchen back, so I
22 mean you had mentioned that the addition is attached
23 to the back of the garage, but it's not.

24 MR. IRENE: It's physically connected.

25 You don't have two separate structures. You

1 are attaching it.

2 THE WITNESS: But not to the back of the
3 garage.

4 MR. IRENE: Oh, there is some space
5 between the garage and the addition, but that
6 space is part of the front house.

7 THE WITNESS: It's part of the existing.
8 There is a room behind the garage, is what I am
9 saying. The addition would be added to that.

10 MR. IRENE: And there is a wall there.

11 THE WITNESS: Well, right now, it's the
12 exterior of the house.

13 MR. IRENE: Right.

14 Q. Let me ask you this, let's see if we can
15 simplify this. Will there be unfettered access
16 between the addition that you are proposing and the
17 existing house? There won't be any doors or --

18 A. The back, left-hand corner, there is not
19 going to be a wall there. I don't know if it was put
20 on here because that is the exterior of the house,
21 but that is all open. The back left-hand corner of
22 the existing home, there is not supposed to be a wall
23 there.

24 Q. So, in other words, we have what appear
25 to be cabinets just to the right of what we are

1 talking about. Is that fair to say?

2 A. The cabinets are to the right, right.

3 Q. That is what I was talking about.

4 A. This kitchen was just flipped flopped.

5 Q. We have countertops and what appear to
6 be cabinets and then there is a wall that is
7 perpendicular to those cabinets. Would you agree
8 with me that is what appears?

9 A. Yes. The exterior wall will be taken
10 down.

11 Q. You are telling the Board that will not
12 be there. That is going to be strictly open space?

13 A. Right.

14 Q. And then how about where the cabinets
15 are, is there going to be a means of ingress and
16 egress into the new proposed kitchen?

17 A. Yes. The cabinets go along the base
18 only. The top will be open.

19 Q. Okay.

20 A. And that is a doorway into the room.

21 Q. And who is it that you are proposing is
22 going to reside in this house?

23 A. Myself, my husband, our three children
24 and my mother and father-in-law.

25 Q. And your mother and father-in-law are

1 somewhat aged?

2 A. Yes, they are in their mid 80s.

3 Q. Not in the best of health, right?

4 A. Yes. Mid 80s, yeah.

5 Q. That's why they are living with you?

6 And your husband is also in need of some medical
7 attention. Is that fair to say?

8 A. Yes, he is a cancer survivor, but he has
9 a lot of side effects, so he is not able to work and
10 he is not able to be a full-time caretaker to our
11 two-and-a-half year old, so we have some health
12 issues on that end and thought it would be mutually
13 beneficial for all of us to support each other and
14 live together.

15 Q. So in other words, it would be fair to
16 say if the Board grants this relief, you would reside
17 in the residence as a single economic unit. Would
18 that be fair to say?

19 A. Yes.

20 Q. How many garages are you proposing, just
21 the one two-car garage?

22 A. Yes.

23 Q. And --

24 MR. IRENE: What about the new garage?

25 A. Well, that is existing. There is

1 already an existing two-car garage.

2 MR. IRENE: What is being proposed?

3 A. It is a little less than a two-car.

4 There is no basement, so we want to park my in-laws's
5 vehicle in there.

6 MR. VENEZIA: Four-car garage. Four
7 garages.

8 MR. IRENE: Two separate attached
9 garages, one for the existing front component.

10 A. Yeah, the second garage being built
11 would be a little bit less. It would be an
12 over-sized one-car. Two garages.

13 MR. VENEZIA: I do believe this addition
14 is like 2,800 square feet?

15 THE WITNESS: No, like 18.

16 MR. VENEZIA: Eighteen hundred?

17 MR. IRENE: What is on the second floor
18 of the existing house?

19 THE WITNESS: There is only a second
20 floor above the garage which has two bedrooms
21 and one bath, so the whole front part of the
22 house is a ranch.

23 Q. Now, we reviewed the bulk variances with
24 Mr. Bell; is that correct?

25 A. Yes.

1 Q. And, in fact, he has recalculated to
2 conform the proposed dwelling and addition to fit
3 within all of the zoning requirements. Is that fair
4 to say?

5 A. Yes.

6 Q. Can I have a marking for this, please?

7 MR. WITEK: Mike, I've marked as A- 6
8 some lot coverage calculations that were
9 prepared today by Mr. Bell. I will have Ms.
10 Jengo identify and present it to the Board.

11 Q. A-6, do you recognize that document?

12 A. Yes.

13 Q. And would you describe that, please?

14 A. The surveyor, I guess, clearly marked
15 the impervious surface coverages.

16 MR. VENEZIA: Excuse me on that. Is
17 this something that came today?

18 MR. WITEK: I literally got it today.

19 MR. VENEZIA: I don't have any reference
20 to it. I'm sure we are going to need five
21 copies of that. An assisted calculation sheet.

22 MR. WITEK: That is correct, Mr.
23 Venezia.

24 Q. So then, would it be fair to say that
25 the bulk requirements for the proposed addition and

1 the existing dwelling, based on Mr. Bell's
2 calculations and the Survey which we've marked as
3 A-3 -- strike that.

4 A-2 reflect that there is no need at all
5 for any bulk relief as it relates to the house and
6 the addition. In other words, all of the setbacks
7 are compliant, lot coverage is compliant, right?

8 A. Yes.

9 Q. And, in fact, this is an oversized lot.
10 Is that fair to say?

11 A. Yes.

12 Q. This lot is 2,500 square feet, I
13 believe?

14 A. Yes.

15 MR. GITTO: Twenty-five thousand.

16 MR. VENEZIA: Please, if you see any
17 contradiction in there, please break in.

18 MR. GITTO: Do you actually have an
19 extra copy of that calculation?

20 MS. HUGHES: So I have a concern or a
21 comment. I understand what you are trying to
22 do, but my feeling is this area is not zoned
23 for a two-family and even though, you know,
24 right now you are creating egress from one
25 house to another, any new owner could come in

1 at any time and put up walls and then there
2 would be two separate families living in this
3 house.

4 MR. IRENE: Or put a lock on that door.

5 MS. HUGHES: Right. So that is a big
6 concern of mine.

7 MR. ENGEL: You were about to answer, I
8 apologize.

9 A. With all due respect, just being a
10 realtor and selling 60 to 70 homes a year, I
11 understand what you are saying. We see
12 mother-daughters all of the time. They are pretty
13 much a single-family home, but separate living space.

14 MR. IRENE: With a separate attached
15 garage with separate means of ingress and
16 egress.

17 THE WITNESS: I've seen a separate means
18 of egress. I have not seen one with a separate
19 garage. The reason we chose this property is,
20 we don't need a variance. With all due
21 respect, we could build this. I just can't put
22 a kitchen in. I could build it, if I wanted
23 to. I just can't put a kitchen in it. I would
24 rather do this legally.

25 MS. HUGHES: But you couldn't sell it as

1 a two-family. That is what you are asking for.

2 THE WITNESS: I don't want a two-family.
3 We were behind Deed restrictions. There is
4 enough of a market for buyers who would be
5 signing Affidavits at closing saying it would
6 be a family member living there and it's not
7 going to be used as a two-family. It would not
8 be sold as a two-family. It would be a
9 single-family home. The way it was marketed to
10 me, I wouldn't be sneaky putting in a kitchen.
11 It would be sold as a one-family, single-family
12 home with an additional, you know, kitchen for
13 mother-daughter.

14 MR. IRENE: The Board is going to be
15 concerned not only who is going to use it and
16 accepting everything you say accurately, but it
17 also has to be concerned about the physical
18 layout of the structure. Right now, again,
19 it's up to the Board, you determine whatever
20 you choose to determine because it appears to
21 be, I would suggest, it's up to the Board the
22 ultimate determinations up to the Board, to be
23 compartmentalized into two separate dwelling
24 units. That is the issue that creates the
25 problem. That is why it's laid out like a

1 two-family. You say, we don't want it to be a
2 two-family. It is laid out physically. They
3 are separated. They are separated by a wall.
4 They have two separate attached garages. One
5 for the front, quote, house, one for the back
6 attached, quote, what looks like a separate
7 dwelling unit. It's up to the Board.

8 THE WITNESS: So the issue, sorry, I
9 don't know if you want me to respond to that or
10 not.

11 MR. ENGEL: Yes, go ahead.

12 THE WITNESS: There is no basement in
13 the house for storage at all. For us to be
14 wanting to park our vehicles in the garage, so
15 they are not in the driveway, it's hard for
16 four adults to use a two-car garage and have
17 that be your basement storage, bicycles. We've
18 got three kids. I understand what you are
19 saying. I don't know where else, because the
20 existing home is already there. I don't know
21 where else to put storage space or a garage. I
22 don't know where else to put that.

23 MR. ENGEL: More technical question,
24 okay, going along the lines of Mr. Irene's
25 definition of a home with continuous access,

1 okay, along the existing plans where the
2 kitchen is now shows a solid wall, okay, please
3 clarify for me, the room beyond the garage,
4 okay, which is going to be the room on the
5 plans where the wall is now, am I seeing that
6 there is going to be access to what's labeled
7 as the, sun room, from inside here?

8 THE WITNESS: Yes, the whole wall will
9 be gone.

10 MR. ENGEL: It looks like most of the
11 wall is there. The plans show most of the wall
12 and then a 6-foot doorway in between that room
13 and the sun room at least the A-1 plans that
14 I'm looking at right now, okay? It looks like
15 there is a wall extending on either side and
16 then a 6-foot doorway with doors looks like
17 double door, maybe French doors or something.
18 I don't know, where the kitchen was and the
19 sun room. Are you saying that instead it's
20 going to be totally open between that room and
21 the sun room?

22 THE WITNESS: Yes.

23 MR. ENGEL: So those plans would need to
24 be revised to show that. That is very much
25 different than what the plans are showing.

1 THE WITNESS: Okay. I am hearing you.
2 I don't see a doorway at all.

3 MR. GIGLIO: Let me show her.

4 MR. ENGEL: So basically, the space
5 between this open space and what's labeled as
6 the sun room and the kitchen is going to be
7 totally open?

8 THE WITNESS: That is going to be
9 completely open.

10 MR. ENGEL: Okay. That answers my first
11 question. Reading into that, since that is a
12 wall close to a garage, wouldn't that be
13 designated as a firewall and should not be
14 taken down?

15 THE WITNESS: What do you mean closet to
16 a garage?

17 MR. ENGEL: It's right close to the
18 two-car garage that's right there now.

19 THE WITNESS: No. There is no two-car
20 garage there.

21 MR. VENEZIA: Presently, there is.

22 THE WITNESS: No. Where? I don't see a
23 two-car garage.

24 MR. ENGEL: If you look at the existing
25 first floor, okay, you have the top room is

1 labeled, living/kitchen, okay? Right below
2 that, there is a room that says, two-car
3 garage.

4 THE WITNESS: Right. We're not talking
5 about that wall.

6 MR. GIGLIO: The wall that is being
7 taken down where the small little door is being
8 put in is the existing exterior wall of the
9 house, correct?

10 THE WITNESS: Right, but it doesn't
11 border a garage. Am I not understanding?

12 MR. GIGLIO: The kitchen was put in
13 without -- is that the kitchen that was put in
14 kind of, I don't want to use the word, but
15 illegally, right, so that was one, at one
16 point, one huge garage, correct?

17 THE WITNESS: No, never.

18 MR. GIGLIO: It was never sectioned off,
19 never.

20 THE WITNESS: No, it was never a garage.
21 It was built like that.

22 MR. ENGEL: That answers that question.
23 The other question I had, okay, and you can
24 answer, is that one of the definitions that Mr.
25 Irene put forth space for being classified for

1 one continuous dwelling, was that the addition
2 didn't have separate ingress and egress and it
3 looks like there is at least two or three
4 doors, you know, exclusively for that dwelling,
5 okay, the one by the sun room, the one at the
6 top left end of the living room and the one at
7 the bottom right end of the living room and I
8 guess the egress, ingress to the garage at the
9 bottom right corner of the garage.

10 THE WITNESS: Okay. So I will go
11 through each entrance with you and explain
12 what's happening.

13 MR. ENGEL: Okay. Please do.

14 THE WITNESS: The back of the house on
15 the right next to the existing two-car garage.

16 MR. ENGEL: Yes, that is already
17 existing, right. I'm not concerned about that.
18 I am concerned about the ones totally new in
19 the first floor.

20 THE WITNESS: The one in the back, we
21 are taking that out. That is all deck. We
22 wanted more access to the deck. We are making
23 the deck smaller, so we don't have impervious
24 surface.

25 MR. ENGEL: Labeled the sun room.

1 THE WITNESS: No. No. The existing
2 back of the house that says, living room, there
3 is a door with deck. That whole section is
4 being taken out.

5 MR. ENGEL: No. That is not what I was
6 asking about. I am talking about on the
7 proposed side, on the proposed first floor,
8 okay?

9 THE WITNESS: Okay.

10 MR. ENGEL: You have doors from at the
11 top end of what's labeled as the sun room.

12 THE WITNESS: That is to the backyard to
13 a deck. A deck. That is a slider for a
14 deck, so you can't access it from the front of
15 the house. You have to have something in the
16 rear. The other one is being removed. You are
17 not putting it in. This is their deck right
18 here.

19 MR. ENGEL: Yes.

20 THE WITNESS: This door not being put in
21 and this part of the deck is going to be
22 removed because we didn't want to be over on
23 the impervious surface area.

24 MR. ENGEL: What about the two doors of
25 the living room of the addition?

1 THE WITNESS: I believe there is only
2 one door.

3 MR. ENGEL: The plan shows two, one at
4 the upper left corner going to the deck and one
5 in the bottom right corner going to where I
6 assume is the driveway.

7 THE WITNESS: Okay. One is for the
8 front of the house. We put that there because
9 we are hoping to put a ramp in. The one in the
10 front here. I am assuming you are talking
11 about this one and you are talking about this
12 one.

13 MR. ENGEL: Correct.

14 THE WITNESS: We are hoping to put a
15 ramp, a wheelchair ramp in there, so we wanted
16 room so we could put something in there so it's
17 on the same level. This one is the backyard.
18 This is all deck. We had an entrance here.
19 It's all to the backyard.

20 MR. ENGEL: I understand their use and I
21 have no problem with the use, per se, except
22 that it falls under the category of what Mr.
23 Irene described as separate egresses for the
24 addition that make it -- that make it fall
25 within the definition of a separate living

1 unit.

2 MR. IRENE: Or could be.

3 MR. ENGEL: Or could be.

4 MR. IRENE: Right now, the plan is
5 proposed to show at least three or four
6 separate means of exterior ingress and egress
7 to this proposed new addition area. So if I
8 have an apartment, I have to be able to get in
9 and out of my apartment, okay? If I have to
10 walk through your house, it makes it more
11 difficult and maybe we could argue it's all
12 part of one house. This separate space in the
13 back, there are at least three and perhaps four
14 ways I could walk into that separate new space
15 and out of it into the yard without walking
16 through the existing structure, so that is
17 what.

18 THE WITNESS: I don't know how you would
19 get to it. You would have to walk all the way
20 around the house to get to the doors in the
21 back. Do you know what I mean? The ones for
22 the deck, I'm sorry, the openings in the
23 backyard for the deck into the backyard, like
24 you have to walk around the house.

25 MR. IRENE: So the Ordinance defines

1 a dwelling unit as follows: Dwelling unit
2 shall mean a room or a series of connected
3 rooms containing living, cooking, sleeping and
4 sanitary facilities for one housekeeping unit.
5 That is the question. Is it one? It goes onto
6 say, a dwelling unit shall be self-contained
7 and shall not require the use of outside
8 stairs, common hallways passing through another
9 dwelling unit or other indirect routes to get
10 to any portion of the dwelling nor shall there
11 be shared facilities with another housekeeping
12 unit. So the notion is, do you have something
13 that is compartmentalized that has all of those
14 elements, living, whatever that means, cooking,
15 sleeping, sanitary, bathrooms, that is
16 compartmentalized.

17 THE WITNESS: Wouldn't there be a safety
18 issue taking out egresses?

19 MR. IRENE: I am not asking you to take
20 them out. I'm saying, the way it is
21 structured, it is designed as a separate
22 compartmentalized living unit. That's what we
23 are saying. The layout-wise. You could say,
24 we are not going to use it that way. The Board
25 can take you at your word. The problem, it's

1 being physically designed under the Ordinance
2 to be two separately compartmentalized
3 dwellings.

4 MR. ENGEL: We're not arguing the
5 sensibility of those egresses. We understand
6 they make sense to be there as a living unit.
7 It makes the whole arrangement possibly fall
8 under that definition and so when we consider
9 that, we have to consider that it is within
10 that definition and we have to apply the Zoning
11 Laws appropriate to that potential definition.
12 We are just letting you know that.

13 MR. IRENE: Which pushes you back into
14 the D1 use variance.

15 MR. WITEK: Respectfully, doesn't that
16 beg the question of the flow or the egress by
17 taking the wall down and opening up the
18 proposed kitchen?

19 MR. IRENE: All somebody has got to do
20 is put a door from the kitchen to the sun room
21 and it is a separate dwelling unit.

22 THE WITNESS: The wall is coming
23 completely out.

24 MR. IRENE: It's not on the plan. The
25 plan shows this being compartmentalized and

1 whether the Board is going to accept that one
2 wall coming down, it's up to the Board. That
3 is for the Board to determine.

4 AUDIENCE MEMBER: Excuse me, I have a
5 question.

6 MR. IRENE: We will get to you.

7 MR. GIGLIO: I wanted to make a
8 statement that I understand you are a realtor.
9 I don't know of any other towns that actually
10 have an Ordinance that allow two-families. And
11 if it is, it is stated on the books as a
12 different. West Long Branch, we do not have a
13 zone for two-family.

14 MR. IRENE: Well, we have multi-family.

15 MR. GIGLIO: Multi family, exactly.

16 MR. IRENE: There are some towns that
17 allow two-family structures.

18 MR. GIGLIO: I am wondering how it was
19 sold that way.

20 MR. IRENE: No one is saying it was sold
21 as a two-family. Mrs. Jengo testified they
22 recognize it's a single-family. They ended up
23 with a second kitchen. Okay. That is a
24 different issue.

25 THE WITNESS: We didn't want to put an

1 addition on and put a kitchen in and like, I
2 guess, you don't really realize what goes on in
3 people's homes until they sell them and see all
4 of the crazy stuff that they've done. We just
5 wanted to be up front and not put this big
6 giant addition on and sneak a kitchen in, like
7 the previous owner did. We really thought they
8 got approvals. We thought, great, we will take
9 the existing kitchen and it is a huge piece of
10 property. We don't need any other variances.
11 We will just put an addition on it and it will
12 work for all of us.

13 We realize when we sell it would be
14 restrictions. It is a single-family home and
15 two kitchens and it has to be sold to a family
16 like ours. We understand that. I didn't want
17 to put a kitchenette in. I didn't want to put
18 a big addition and put a kitchenette. We would
19 like to put a full kitchen in, if possible. I
20 guess we could build this and put a kitchenette
21 in. It has a second kitchen and we would like
22 to keep it there.

23 MR. VENEZIA: Did you consider keeping
24 it the same footprint with the five bedrooms?

25 THE WITNESS: Well, it's not. It's not

1 big enough the way it is. There is no bedroom
2 in the back. There is no bedroom in the back
3 for them, you know, keeping the kitchen the way
4 it is, it's not big enough, I don't know, for
5 all of us to live together.

6 MR. VENEZIA: You don't think it could
7 be adjusted back there for a bedroom?

8 THE WITNESS: Well, part of the thing,
9 I have three kids. The front part of the house
10 is three bedrooms, a kitchen and a living room.
11 There is no family room, there is no dining
12 room. So we were going to use that back part
13 of the house for living space, like I work at
14 home, so I have a home office and I have.

15 MR. VENEZIA: I am just wondering if you
16 considered it.

17 THE WITNESS: Yeah, what attracted us to
18 the property was the huge yard and that we
19 could build without any problems.

20 MR. IRENE: So the issue is this, and
21 it's up to the Board how you want to proceed,
22 if, in fact, the Applicant is arguing this
23 should be considered akin to a single-family
24 dwelling then that's fine. They could make
25 their argument and you could do what you want.

1 I thought, at the outset, the Applicant was
2 saying, it is a D1 use variance, in which case
3 it would have to get onto the proofs for a use
4 variance. And then they are asking for a
5 two-family dwelling. If you grant that, it
6 runs with the land. We have to demonstrate the
7 site is particularly suitable for a two-family
8 dwelling, even though it's in a one-family zone
9 and there is a one-family house there now,
10 presumably. You know, that is a steep burden
11 to prove. That would be up to the Applicant.

12 They would have to show negative
13 criteria, no substantial detriment to the
14 public good and no substantial impairment to
15 the zone plan and that would be interesting,
16 too, because you would be injecting a
17 non-permitted two-family into a single-family
18 zone that prohibits two families. They would
19 have to show by enhanced quality of proof that
20 it's not going to be inconsistent with the zone
21 plan and then you have to reconcile the fact
22 that you would be granting use variance relief
23 to allow a use that is not permitted in the
24 zone in the zone notwithstanding what the
25 governing body has prescribe or post scribed.

1 The question is, if we are going to
2 continue along that this should be considered
3 to be an integrated single-family dwelling,
4 that is fine and then the Board will have to
5 make a determination. If we are going to
6 proceed to the use variance maybe we should get
7 to the proofs of the use variance. It's up to
8 the Applicant.

9 THE WITNESS: We prefer to be a
10 single-family home.

11 MR. IRENE: Okay.

12 THE WITNESS: We own rental properties.
13 I don't want to live in one. I can afford not
14 to live in one. I do not want to come off in
15 the wrong way. This is a nice house. We are
16 using the same builder that the previous owners
17 used. We are living with our family. I don't
18 want to live with strangers.

19 MR. ENGEL: Another purely technical
20 question about that top wall, that exterior
21 wall at the top, you know, in the
22 living/additional kitchen, okay, you are saying
23 that that wall would come down, okay, to make
24 the whole area open and more like one
25 continuous dwelling, is what you are saying,

1 correct?

2 THE WITNESS: No, from the sun room into
3 the kitchen.

4 MR. ENGEL: Yeah.

5 THE WITNESS: And the sun room wall into
6 the existing like living room.

7 MR. ENGEL: Yeah.

8 THE WITNESS: But the back wall.

9 MR. ENGEL: No. Up top I am talking
10 about.

11 THE WITNESS: That would come down.

12 MR. ENGEL: This wall here.

13 THE WITNESS: Top cabinets there. We
14 are using the existing kitchen. We didn't want
15 to buy a new kitchen. We tried to do this
16 lay out like we took that layout and just put
17 it here. Same kitchen.

18 MR. ENGEL: So you are taking down the
19 wall between what is the blank space and the
20 sun room, correct, you are proposing? Half.

21 MR. GIGLIO: Half.

22 MR. ENGEL: Half of that wall.

23 MR. GITTO: It's this wall and this
24 wall. This wall is going to be coming down and
25 this wall right here, correct?

1 THE WITNESS: These are bottom cabinets.
2 These are going to be all open. This has top
3 cabinets.

4 MR. GITTO: That is a wall here.

5 MR. ENGEL: That half section of the
6 wall that is going to come down, that is an
7 exterior wall and it supports the roof.

8 THE WITNESS: It is not an exterior
9 wall. It is the addition that we are putting
10 on. I don't think you are understanding.

11 MR. ENGEL: No. Right now, the existing
12 floor, okay, look at the existing floor plan
13 right now, okay? The space labeled living and
14 kitchen at the top, okay, there is a wall,
15 okay, which is the exterior wall of the house,
16 right, as it stands right now, okay? And you
17 would be taking down part of that.

18 THE WITNESS: Right.

19 MR. ENGEL: Okay. Presuming the part
20 that's where the sun room is going to be
21 proposed.

22 THE WITNESS: Yeah, it's from these
23 cabinets because this is getting flip flopped.

24 MR. ENGEL: Right. Exactly. That
25 section of wall is currently an exterior wall

1 to the house.

2 THE WITNESS: Okay.

3 MR. ENGEL: Which means it would support
4 that section of the roof, okay?

5 THE WITNESS: Okay.

6 MR. ENGEL: I am assuming that whoever
7 is engineering this has figured out a way to
8 compensate for the support that's going to be
9 lost by the loss of that piece of exterior
10 wall.

11 THE WITNESS: Yeah, it would have to be,
12 yeah. I can have him, I guess, resubmit a plan
13 to you, if you need that.

14 MR. ENGEL: Definite we would need to
15 see that part of the wall is not there anymore,
16 because that is really showing making us feel
17 like the place is compartmentalized.

18 THE WITNESS: I understand. It wasn't
19 supposed to be there.

20 MR. ENGEL: That is the only question I
21 have. I know there is a lot of people out
22 there that want to speak as well.

23 MR. VENEZIA: I do have another
24 question. At the beginning, when we started,
25 correct me, I have four to six bedrooms, five

1 existing baths, two kitchens. It's five
2 bedroom?

3 MR. IRENE: Five bedrooms.

4 THE WITNESS: Existing is five bedrooms.
5 We are adding one bedroom.

6 MR. VENEZIA: And do you have that open
7 area in between where that open sun room is?

8 MR. IRENE: It is labeled as living room
9 on the existing plan.

10 MR. VENEZIA: There is an open area that
11 could be closed off, you know, from my
12 knowledge of the house. I've been there a
13 couple of times. Not totally inside, but in
14 that area where he would entertain outside.

15 THE WITNESS: Okay.

16 MR. VENEZIA: It's in between the main
17 house.

18 THE WITNESS: Oh, if you want to know
19 the truth, the house right now is set up like a
20 the mother-daughter right now. Set up like a
21 mother and daughter very compartmentalized the
22 way it is right now. So we are trying to move
23 things around and open it up. I have five
24 kids -- I mean, there is five of us.

25 MR. VENEZIA: In a 1,900-square foot

1 addition. In a 1,900-foot addition.

2 THE WITNESS: What do you mean?

3 MR. VENEZIA: You want to add an
4 addition also.

5 THE WITNESS: If you're counting the
6 garage, I mean it's 1,300 square feet, if
7 you're not counting the garage which is storage
8 and the car. So 1,300 square feet is what we
9 are asking for. I mean, we've been looking at
10 the mother-daughters and it's hard to find
11 something that is big enough that is just not a
12 one bedroom with a tiny kitchen. The property
13 is huge and the kitchen, like I said, was here
14 already.

15 MR. IRENE: The reason those are that
16 way is because they are integrated within the
17 house. Do you know what I am saying? They are
18 a single-family house. They are integrated.
19 It's usually a small space. Maybe not. Maybe
20 not. Any more questions from the Board or are
21 we going to allow Ms. Jengo to let her continue
22 with her testimony because we kind of peppered
23 her with a bunch of questions.

24 MR. WITEK: That is really all I have at
25 this point. I would welcome the public

1 comment.

2 MR. VENEZIA: Any interested parties who
3 would like to make a comment one at a time?
4 Ladies first.

5 MR. IRENE: Why don't we do this,
6 because I'm not sure if we have questions or
7 comments, why don't we swear in each person.
8 That way, if it's a comment, you will be under
9 oath. One at a time. You have to make sure we
10 can get you on the record. If you want to
11 stand up, give us your name and your address
12 and we will swear you in. If you have a
13 question, you can pose a question to Ms. Jengo.
14 If you want to make a statement, you would be
15 under oath.

16 MS. CENICOLA: Linda Cenicola, 1
17 Franklin Parkway.

18 Linda Cenicola, sworn.

19 MS. CENICOLA: Our property is adjacent
20 to the property in question. Our yard would be
21 right adjacent to the new structure that would
22 be put there. I don't have any problem with
23 what you are saying about how you want to live.
24 That is your business. However, the potential
25 for a multi-family rental in the future is huge

1 and that is my concern, okay? We are a stone's
2 throw from Monmouth University. Someone could
3 buy that house and they could rent it.
4 Unbelievable renting potential. No matter what
5 you say, that house will be there when you are
6 all gone. And your business is real estate.
7 You own many rental properties. That is your
8 business and that is what you do. You know, I
9 have one home. That is my concern. That is it.

10 MR. IRENE: So everything you just said,
11 was that true?

12 MS. CENICOLA: One hundred percent.

13 MS. LASALLE: Diane LaSalle, Walnut
14 Place.

15 Diane LaSalle, sworn.

16 MS. LASALLE: I have two questions. I
17 understand the family you want to integrate your
18 family living together, but why do you need to
19 change the use? I had my family, extended
20 family living with me and we all used the same
21 kitchen, we used the same bathrooms. I just
22 want to know why you need to change the use.
23 Also, with regard to the extra garage, what
24 about a shed? Couldn't you just put a large
25 shed in your yard?

1 MR. WITEK: Mr. Irene, can I address
2 that?

3 MR. IRENE: Well, I think it's directed,
4 the question is to Ms. Jengo, so she is going to
5 have to answer it.

6 Q. The question I asked Ms. Jengo was why
7 do you feel that it's necessary to have a separate
8 kitchen?

9 A. Why is it necessary to have a separate
10 kitchen?

11 Q. Correct.

12 A. So they can cook and we can cook.

13 MS. LASALLE: Excuse me, but that was
14 not my question. My question was, why do you
15 need to change the use?

16 THE WITNESS: We didn't want, I guess --
17 we didn't want to build an addition and put a
18 kitchen in after. We wanted to be up front
19 about it. People do it all of the time. I
20 think at 7, 8, 900 to a million dollar home,
21 they don't buy it to rent. They buy it because
22 they have a need to live there with their
23 family. I mean, as far as the garage, we don't
24 have a basement. The property does not have a
25 basement.

1 MS. LASALLE: That's why I suggested a
2 shed.

3 THE WITNESS: There is no place to put
4 your vehicles.

5 MR. IRENE: Okay. Anybody else?
6 Questions or comment? We are going to swear
7 you in.

8 MS. COURTNEY: Linda Courtney, 69 Locust
9 Avenue.

10 Linda Courtney, sworn.

11 MS. COURTNEY: I have a couple of
12 questions first. The current lot coverage is?

13 MR. IRENE: Well, if we look, and I am
14 not going to answer it, I am just looking at
15 Exhibit A-6, so maybe Mr. Witek can tell us
16 what the current lot coverage reflected on A-6
17 Mr. Bell's calculation is?

18 MR. WITEK: It appears to be, I know
19 it's well within.

20 THE WITNESS: Building coverage is 11.58
21 percent. Impervious surface coverage total
22 28.75 percent.

23 MS. COURTNEY: Proposed?

24 MR. WITEK: Proposed will be 38 percent.

25 MS. COURTNEY: Allowed for that lot that

1 R15, what is the maximum lot coverage?

2 THE WITNESS: Thirty-eight percent.

3 MS. COURTNEY: They will be maxing that
4 out with that addition they are putting on?

5 MR. IRENE: They say they are going to
6 conform.

7 MS. COURTNEY: You said that you wanted
8 to move -- you purchased this property in May.
9 That property was for rent for \$9.000 a month
10 for June and July.

11 THE WITNESS: We did not purchase.

12 MR. WITEK: They haven't closed.

13 THE WITNESS: We made an offer.

14 MS. COURTNEY: Your current residence in
15 Eatontown, is that for sale?

16 THE WITNESS: I don't know how that is
17 relevant.

18 MS. COURTNEY: If they all want to live
19 together, why would they sell their primary
20 residence?

21 MR. IRENE: Here is the issue that we
22 have when we deal with land use and this cuts
23 both ways, okay? The land use deals with the
24 use of the land not the person or people using
25 it. And that is also an issue with regard to

1 use variances. So if the Board grants a use
2 variance, it runs with the land. So even though
3 somebody says, listen, let's assume they are
4 being absolutely honest, this is what it's going
5 to be used for or this is the way it's going to
6 be used for or I am only going to occupy it and
7 I am a nice guy and I am going to be a good
8 neighbor and not cause any problems. That's all
9 well and good, but the variance runs with the
10 land because it doesn't matter, we like you so
11 you get a variance. We don't like you, so you
12 don't get one. That's not the way it works. It
13 is the issue of the land. If the Board grants
14 the use variance, it runs with the land so it
15 would stay with the property going forward
16 regardless.

17 MS. COURTNEY: So they are asking for
18 special privilege.

19 MR. IRENE: It's not clear to me right
20 now. Initially, I thought they were asking for
21 a use variance for a two-family dwelling. Then
22 it seemed the Applicant was going into, well,
23 this is really not a two-family dwelling. That
24 is up to the Board to determine based upon the
25 layout. So if the Board finds that it's a

1 single-family dwelling then I guess we are done.
2 If the Board finds that it's not then the issue
3 of, is the Board going to grant a use variance
4 for a two-family dwelling and that is up to the
5 Board.

6 THE WITNESS: May I say something?

7 MR. IRENE: Sure. Why not?

8 THE WITNESS: Just to answer your
9 question, the previous owner, I believe,
10 purchased another property and was carrying two
11 homes and they were trying to rent Locust for a
12 ridiculous amount of money. They never found a
13 tenant, so it has been vacant since May since
14 they moved out. We didn't want to move into
15 Locust until we finished the work on the
16 property and then we plan on moving.

17 MR. IRENE: Even if it's a single-family
18 home, it can be rented out. The question is not
19 the owner or the person who lives there. It is
20 the use of the property. Single-family.
21 Multi-family.

22 MS. COURTNEY: Does the addition appear
23 to you --

24 MR. IRENE: It's not my decision. It is
25 the Boards's decision.

1 MR. MASICA: I have a question.

2 MR. IRENE: Sir, could you give us your
3 name and address and we are going to swear you
4 in, in case it gets into a comment.

5 Mr. Masica, sworn.

6 MR. MASICA: I just want to understand
7 the situation. Essentially, we have a
8 two-family house that is there now that is not
9 in compliance. Now we are asking for
10 essentially a three-family house. Am I right
11 about that?

12 MR. IRENE: No. Nope. Nobody said it
13 is a two-family. I don't know what it is. I
14 don't know if it's lawful. Apparently, a second
15 kitchen was added and no one can indicate that
16 there were any permits granted. That doesn't
17 necessary make it a two-family. It may or it
18 may not. It's not lawful.

19 MR. MASICA: Right.

20 MR. IRENE: The Applicant is coming in
21 with this plan and either on the one hand saying
22 it should be considered a single-family dwelling
23 and if not maybe give us a use variance for a
24 two-family dwelling, If I understand the
25 Applicant's argument.

1 MR. WITEK: That's essentially correct.

2 MR. MASCIA: So the plan that is
3 proposed is not exactly clear how many kitchens
4 we have.

5 MR. IRENE: Two.

6 MR. MASICA: We have two kitchens now.
7 A proposal is a third, correct?

8 MR. IRENE: No. They are going to move
9 it into the addition. Have you seen the plan?

10 MR. MASICA: Keep it a single-family
11 home.

12 THE WITNESS: Yes. These are my
13 in-laws. They can stand up or wave or
14 something.

15 MR. IRENE: Would you like to see the
16 plan?

17 MR. MASICA: I would love to see the
18 plan. And the addition, the square footage of
19 the addition is how much?

20 THE WITNESS: Thirteen hundred square
21 feet not counting the garage.

22 MR. MASICA: That is considered a slight
23 addition that is stated in the letter?

24 MR. IRENE: I don't care how it was
25 characterized. Do we have a set of all three?

1 Why don't we hand those back to Mr. Masica?

2 MR. WITEK: I think Mr. Masica was
3 seeking to see the actual Master Plan. Just for
4 purposes of the record and maybe to add some
5 clarification to Mr. Masica's question, take
6 your time. The proposal, as Ms. Jengo has
7 testified, the proposed addition complies in all
8 respects with the bulk variances. It's just
9 whether it is a single-family with an additional
10 kitchen or a --

11 MR. IRENE: I'm sorry?

12 MR. WITEK: The proposal complies with
13 all of the bulk variance requirements of the
14 zone.

15 MR. IRENE: Okay. Mr. Witek just
16 indicated the proposal complies with the bulks.
17 Was Mr. Masica done?

18 MR. MASICA: Yes, I am done. Thank you.

19 MR. IRENE: Sir, just give us your full
20 name.

21 Lou Cenicola, sworn.

22 MR. CENICOLA: One Franklin Parkway.
23 Again, my wife explained. We had bought -- a
24 little history here. We had bought the present
25 house from Mr. Murphy who built that house,

1 okay? He had his family in that house. Very
2 large house. Putting another garage behind that
3 is obtuse. It's ridiculous. The footprint on
4 that house is bigger than everything on Locust,
5 if you allow that. It is very large and that is
6 right behind my house. It will directly affect
7 my real estate value directly.

8 MRS. CENICOLA: We don't even have a
9 fence.

10 MR. CENICOLA: We don't have a fence.
11 We have arborvitaes all along the site. That
12 house is going to affect my real estate.

13 MRS. CENICOLA: Who is going to live
14 next to the compound?

15 MR. IRENE: It looks like we are dealing
16 with an issue of a use variance. If the use
17 variance issue goes away, the Applicant may or
18 may not be able to build the house if they
19 conform to all of the bulk variances just so you
20 are aware. That is what is being represented to
21 us.

22 MR. CENICOLA: And a garage?

23 MR. IRENE: Different story. If it were
24 a single-family and if this structure as
25 proposed, if it is accurate as the Applicant

1 tells us that it conforms to all of the bulk
2 requirements then they can build the structure,
3 if it is a conforming single-family. That is
4 the structure, not the use. They are two
5 different issues.

6 MR. CENICOLA: What about the garage?

7 MR. IRENE: I don't know. I don't know
8 what the Ordinance says for the number of
9 garages you can have in a single-family house.

10 MR. CENICOLA: The plans I saw.

11 MR. GIGLIO: Mr. Irene, we have Mr.
12 Miller.

13 MR. CENICOLA: The plans that I saw that
14 we looked at, the second garage which is either
15 two or one-and-half, whatever you want to call
16 it, is at the end of the driveway.

17 MR. IRENE: Yes.

18 MR. CENICOLA: Which is directly behind
19 my house that I assume is going to be next to
20 the extension.

21 MR. IRENE: It is attached to as part of
22 the extension. It's shown on the plan, right.

23 MR. CENICOLA: Yes, exactly.

24 MR. IRENE: That is why the Board you
25 heard the discussion back and forth, do we have

1 a separate compartmentalized unit back there?

2 MR. CENICOLA: From my second floor, I
3 can look directly into that house now. It is
4 ridiculous.

5 MS. COURTNEY: So, they are looking for
6 a change in use, correct? I'm sorry. Linda
7 Courtney. They are looking for a change in use,
8 correct?

9 MR. IRENE: Not necessarily. It seems
10 to me that their argument is two prong. First
11 prong, the Board should look at this plan, and
12 say, it's really a single-family dwelling, and
13 therefore, they go home and don't need any
14 relief if the Board decides that is the case.

15 Their second prong is, if you don't
16 agree with that first prong, then we are asking
17 for use variance for a two-family dwelling.
18 That is the way I understand the argument.

19 MS. COURTNEY: I thought it was a use
20 variance.

21 MR. IRENE: I thought that's the way it
22 was in the beginning, but it seems to shift a
23 little bit. I will let Mr. Witek answer that.

24 MS. COURTNEY: Essentially altering the
25 character of our section of West Long Branch,

1 Locust Avenue. Fourteen hundred square feet is
2 bigger than my entire first floor. Most of
3 those houses are ranches and Cape Cod style
4 homes. We're not mc mansion anywhere. This is
5 a smaller section near the track. We're not
6 million dollar homes. So I just think that's
7 negatively going to affect our property values.
8 It's going to aesthetically, if not any other
9 way, disturb the character of our neighborhood.
10 Some of us have lived here for 25, 41 years and
11 people coming from another towns to alter our
12 neighborhood. We have issues with that. Sorry.

13 MR. IRENE: Well, again, we don't deal
14 with people. We deal with the uses of the land.

15 MS. COURTNEY: But they could move out.
16 Okay.

17 MR. IRENE: We deal with the use of the
18 land. Sir?

19 MR. SCALISE: Antonio Scalise, 60 Locust
20 Avenue.

21 Antonio Scalise, sworn.

22 MR. SCALISE: The only comment I would
23 like to make is that I don't think anybody is
24 trying not to have a family that wants to live
25 together. I think that is a beautiful thing,

1 that intention. I think, in my professional
2 opinion or my personal opinion, is that the
3 plans maybe are a little bit vague in nature to
4 start. And I think also, when I am looking at
5 these plans, I know that is not the intention,
6 but I think what the design, it is very
7 compartmentalized and I think Mr. Irene hit the
8 nail on the head that I could see three
9 apartments here.

10 I know that is not the intention of the
11 family trying to move in and I am not suggesting
12 that's what they want to do. I am not saying
13 that, but I think the design, the way it is set
14 up, it is like two apartments, right, not
15 two-family because I think it should still be a
16 one, single-family home. I think the character
17 of the neighborhood is better served that it
18 stays a single-family to not be clear it's one
19 unit with two kitchens, right?

20 So the problem that I have is that when
21 I look at the design, there is a laundry room
22 that kind of separates the two existing units
23 now, right, and then we are looking to kind of
24 create another bottleneck and another separation
25 for the new addition and they are allowed to

1 build, you know, to the setbacks and the
2 conformity and I don't disagree with that. You
3 know, these are large lots. I have the same lot
4 a couple of houses down, but I just wish the
5 design was maybe from a flow, not aesthetics
6 because beauty is in the eye of the beholder,
7 but from a flow perspective, I think if that was
8 better, if it was done in a different way, I
9 think that would be less resistance, if that
10 helps. That is my humble opinion.

11 MR. GIGLIO: Can I ask Mr. Scalise a
12 question? When you say, different flow, are you
13 saying, in other words, so it can't be
14 compartmentalized in the future?

15 MR. SCALISE: I think the problem is,
16 and this is what is the concern and why towns
17 have Ordinances the way they do now is because
18 it's not what happens today, it's what happens
19 maybe 10 years from now. Let's just say, you
20 know, your family moves in, all good intentions,
21 you sell the house. There is already confusion
22 that we think it is a two-family house, right,
23 or two kitchens mother-daughter or whatever the
24 confusion is.

25 THE WITNESS: That is why I am here

1 because when we found out it wasn't.

2 MR. SCALISE: Your intention. I am not
3 questioning your intentions. I'm talking about
4 what happens down the road, right? If the Board
5 seeks to give you approval today, right, you
6 could sell the house tomorrow and then there
7 could be more confusion or something happens,
8 somebody adds something later and I think,
9 unfortunately, that is the problem.

10 So I don't have an issue with the
11 families living together. That is not our
12 business. That is your business. I think the
13 design does compartmentalize and could lend
14 itself, whether it's now or years from now,
15 three families is what I could see. I know that
16 is not the intention. I think that is what I am
17 seeing.

18 THE WITNESS: I just don't think,
19 though, people purchase a \$900,000 house and
20 rent it out for multi-families. I understand
21 what you are saying. It is not an apartment
22 complex.

23 MR. GIGLIO: Really? It happens a lot.

24 THE WITNESS: \$900,000.

25 MS. HUGHES: Oh, sure.

1 MR. GIGLIO: That is cheap.

2 MS. HUGHES: In the summer, you get a
3 lot of money for that house.

4 THE WITNESS: And they are renting them?

5 MS. HUGHES: Oh, yes.

6 MR. IRENE: It is not a debate,
7 Gentlemen. Are you done, Mr. Scalise?

8 MR. SCALISE: Yes, sir.

9 MR. IRENE: Anybody else questions?
10 Comments? No? Mr. Chairman, anymore questions
11 from the Board?

12 MR. VENEZIA: I would like to bring Mr.
13 Miller up to give us an idea how this occurred.
14 James Miller sworn.

15 MR. IRENE: This is James Miller,
16 Borough's Zoning Officer.

17 MR. VENEZIA: Mr. Miller, how did this
18 all develop with the two kitchens? Was it in
19 the initial plans?

20 MR. MILLER: The initial plan was a
21 single-family home, one kitchen and there may
22 have been a wet bar upstairs and that was it.

23 MR. VENEZIA: Now the upstairs is in the
24 back section?

25 MR. MILLER: Leading to above the garage

1 area.

2 MR. VENEZIA: Which exists.

3 MR. MILLER: Yes.

4 MR. VENEZIA: There was news to you also
5 there was also a second kitchen.

6 MR. MILLER: Right. As Mrs. Jengo
7 explained, when they listed the home, there was
8 in the listing there was a second kitchen added
9 into the house. That is another issue that we
10 have to work on.

11 MR. VENEZIA: And it wasn't done
12 legally.

13 MR. MILLER: No.

14 MR. VENEZIA: Any other questions?

15 MR. GIGLIO: Thank you.

16 MR. LAMARCA: There is someone in the
17 back.

18 MR. IRENE: Sir, give us your name, your
19 address?

20 Jared Murphy, sworn.

21 MR. MURPHY: I am not a resident of West
22 Long Branch. I am actually representing Mr. and
23 Mrs. Murphy in the real estate sale and I would
24 just like to say we deny that. I would just
25 submit it's my understanding that there was

1 certain -- there was a gas line run to the back
2 and that was permitted and approved, so as far
3 as the characterization of the kitchen being put
4 in illegally, I would deny that. That is all I
5 have to say.

6 MR. IRENE: Do you know if permits were
7 issued?

8 MR. MURPHY: I do know the permits. The
9 permits for the gas line were issued. I think
10 initially it was approved and this is in the
11 back. It's not upstairs. It's in the back.

12 MR. IRENE: Sir, let me make sure I know
13 who you are. You said you represent the
14 Murphys, who are the homeowners.

15 MR. MURPHY: Correct. I am Jared
16 Murphy, their son.

17 MR. IRENE: You lived at the property at
18 some point.

19 MR. MURPHY: I did. I lived there for
20 three years where I was in between renting and
21 buying my own home. I wanted to put on the
22 record that it's my parents's understanding that
23 the kitchen in the back was not put in
24 illegally.

25 MR. IRENE: So does that mean it was put

1 in legally or were permits not required? I just
2 don't understand what that means.

3 MR. MURPHY: Attorney Irene, I will be
4 quite candid, I am not a land use. I do civil
5 litigation mostly with some real estate closing,
6 so I can't represent. I can't make any
7 representations, but I didn't want it put on the
8 record that something was done here illegally
9 without at least disputing.

10 MR. IRENE: I am just trying to find the
11 facts. Everybody can take whatever position
12 they want. Mr. Miller, would permits have been
13 required for that kitchen?

14 MR. MILLER: Yes.

15 MR. IRENE: Mr. Murphy, do you know if
16 permits were obtained?

17 MR. MURPHY: There was a gas line run.

18 MR. IRENE: Not a gas line. Were
19 permits obtained for the kitchen?

20 MR. MURPHY: This is the way it was
21 explained to me.

22 MR. IRENE: So you don't know.

23 MR. MURPHY: The plans for the original
24 build called for a kitchenette. Afterwards,
25 there was a gas line run to install a stove.

1 That gas line was permitted and inspected. So
2 as far as I am concerned, it was installed.

3 MR. IRENE: Do you know that or did
4 someone tell you that.

5 MR. MURPHY: Again, this is secondhand
6 knowledge.

7 MR. IRENE: So you don't know. Mr.
8 Miller, would permits have been required for the
9 second kitchen?

10 MR. MILLER: Yes.

11 MR. IRENE: Do you know if permits were
12 issued?

13 MR. MILLER: I don't know that. I did
14 not issue any permits through zoning. I don't
15 know.

16 MR. IRENE: Okay.

17 MR. LAMARCA: Were you involved when the
18 house was built?

19 MR. MILLER: Yes. I approved it as a
20 single-family home.

21 MR. LAMARCA: Okay.

22 MR. VENEZIA: You were going to say
23 something?

24 THE WITNESS: I don't want to get in a
25 whole like, it was marketed to us.

1 MR. WITEK: You did some due diligence.

2 THE WITNESS: I did some due diligence
3 when I had contacted Jim Miller to see if we
4 could move the kitchen. I want to put an
5 addition on, so I don't need a variance because
6 the property is huge. I am going to put a
7 little ranch addition on and move the kitchen.
8 Would be that okay or does it have to stay where
9 it is at? That is what I was asking.

10 Then we found out, when he said we
11 didn't even know there was a kitchen there. I
12 filed for an open permit request and there is no
13 permits and that is why we are here. We want
14 the house. It's just, do we get to use the
15 kitchen that is there or is it like a
16 kitchenette? I didn't want to not use the
17 kitchen. We are buying a house paying for two
18 full kitchens. I would like it to be legal to
19 keep the kitchen, so my in-laws can use it. I
20 mean, people live together all of the time.

21 MR. LAMARCA: That is a great thing, but
22 me, as a resident of Town and as a Board Member
23 it looks like to me, you are adding a house to a
24 house to a house. And that is just my opinion.
25 As I said, that is what I get from it, you know?

1 MR. VENEZIA: You have to consider the
2 neighborhood. It is out of character for the
3 neighborhood as the neighbors are saying. It's
4 like an eyesore.

5 THE WITNESS: I don't think it is out of
6 character.

7 MR. VENEZIA: You don't see anything
8 close to that.

9 THE WITNESS: Right on the corner, brand
10 new construction on the corner. I think it --

11 MR. VENEZIA: Yeah, it's not a house
12 behind a house. It is a two-story giant
13 colonial.

14 MR. LAMARCA: Single-family.

15 THE WITNESS: Yeah, I am saying it is a
16 huge, huge piece of property.

17 MR. LAMARCA: I get it.

18 THE WITNESS: Again, we thought this was
19 a mother-daughter and we were going to put an
20 addition on the garage because there was all of
21 this land.

22 MR. LAMARCA: You are right.

23 MR. IRENE: Any further interested
24 parties comments or questions? Mr. Witek, any
25 other witnesses?

1 MR. WITEK: No. No. I am going to ask
2 you to ask the Board to basically to either
3 determine that it's a single-family with an
4 additional kitchen or alternatively if it's a
5 D1. I think, quite frankly, if the answer to
6 the first question is no then I think the second
7 question essentially becomes moot.

8 In other words -- not necessarily.
9 Never mind. Let me withdraw that. It's late,
10 so I am going to ask the Board to basically, as
11 you make a determination as to whether or not
12 this is, in fact, a single-family with a second
13 kitchen ala the example you presented before or
14 alternatively to vote on the D1 relief.

15 MR. IRENE: The issue also with regard
16 to, is it a single-family or not, I am going to
17 leave that to the Board. Mr. Miller's zoning
18 permit denial, as I understand it, the denial is
19 based on the fact that he determined that it was
20 set up as a two-family. Otherwise, they
21 wouldn't have been here and he would have given
22 them permits. So there was no appeal taken from
23 his determination, so the issue then becomes, is
24 the Applicant bound by that determination? You
25 don't challenge that determination. I will

1 leave that to you. I think one could argue,
2 yes, they are bound by that and you are left
3 with the application for the use variance for a
4 two-family, but I am just raising that at this
5 point, okay?

6 So no interested parties, no questions,
7 comments from the audience. Mr. Witek indicated
8 he has no further -- Mr. Chairman, are we going
9 to open it back up. Are we done?

10 MR. VENEZIA: No. I think we are done.

11 MR. IRENE: Mr. Witek says he has no
12 further witnesses. He has given his summation.
13 What does the Board want to do?

14 MR. VENEZIA: I still have a lot of
15 questions.

16 MR. GIGLIO: So do I.

17 MR. VENEZIA: On this continuous flow of
18 this new addition that you want to put on that's
19 going to have another two-car garage when you
20 have the two-car garage and I think within your
21 footprint that you have now, you could still
22 adjust it to a 6, 7 bedroom and have a flow, a
23 continuous flow and I wouldn't have a problem
24 with that part of having the two separate
25 kitchens. But with the addition going on like

1 that, I don't care how you are going to do it.
2 It could be construed later as a separate living
3 area and I am just uncomfortable with it.

4 MR. IRENE: Is there a consensus from
5 the Board on that initial issue about whether or
6 not the proposal before you is laid out as a
7 single-family dwelling or not?

8 MS. HUGHES: I do not believe that this
9 plan represents the characteristics of a
10 single-family home and I am not in favor of
11 approving a two-family home in this zone. I am
12 ready to make a motion to deny the application.

13 MR. IRENE: So your motion is dual that
14 you find it's not designed, it's not laid out,
15 it doesn't constitute a single-family dwelling
16 and you are denying the application for a use
17 variance?

18 MS. HUGHES: Yes.

19 MR. IRENE: Is there a second on that?

20 MR. LAMARCA: I will second it.

21 MR. IRENE: Any questions on the motion?

22 Roll call, Mr. Chairman?

23 MR. VENEZIA: I agree with the motion.

24 MS. DEGENARO: Pamela Hughes?

25 MS. HUGHES: Yes.

1 MS. DEGENARO: Mr. Lamarca?

2 MR. LAMARCA: Yes.

3 MS. DEGENARO: Paul Giglio?

4 MR. GIGLIO: Yes.

5 MS. DEGENARO: Mr. Engel?

6 MR. ENGEL: No.

7 MR. IRENE: So the motion carries four
8 in favor, one against, so the Board determined
9 that it does not constitute a single-family
10 dwelling and they denied use variance relief.
11 Anything that was marked, please leave with
12 Chris Ann.

13 MR. WITEK: Thank you, folks.

14 MR. IRENE: Thank you for your time.

15 9:53 p.m.

16 (Five-minute break

17 10:02.

18 MR. VENEZIA: Roll call.

19 MS. DEGENARO: Pamela Hughes?

20 MS. HUGHES: Here.

21 MS. DEGENARO: Scott LaMarca?

22 MR. LAMARCA: Here.

23 MS. DEGENARO: Paul Giglio?

24 MR. GIGLIO: Here.

25 MS. DEGENARO: Mark Engel?

1 MR. ENGEL: Here.

2 MR. VENEZIA: Last month's meeting, you
3 did -- you approved 123 Hollywood Avenue. I
4 believe it was a fence and a Resolution is here.
5 Everyone has a chance to review who was here?

6 MS. HUGHES: Yes.

7 MR. VENEZIA: Any corrections or
8 additions?

9 MS. HUGHES: No. It looked perfect.

10 MR. VENEZIA: Make a motion. I can't
11 because I wasn't here.

12 MS. HUGHES: I would make a motion to
13 accept the Resolution as presented.

14 MR. ENGEL: Second.

15 MS. DEGENARO: Pamela Hughes?

16 MS. HUGHES: Yes.

17 MS. DEGENARO: Scott LaMarca?

18 MR. LAMARCA: Yes.

19 MS. DEGENARO: Mark Engel?

20 MR. ENGEL: Yes.

21 MR. VENEZIA: The review and the
22 approval of the minutes for our last meeting.

23 MS. DEGENARO: Yeah, they are still
24 being worked on. I have my laptop downloaded.
25 It's hard with the time. There is about seven

1 of them. You are going to have them at once.
2 They are being worked on.

3 MR. VENEZIA: If you present us with the
4 last meeting of October and November and we will
5 work on the backlogs.

6 MS. DEGENARO: That's why I am going
7 backward. That is why I am doing it.

8 MR. VENEZIA: Please. Anything else?
9 Anything for me to sign?

10 MS. DEGENARO: Have a very nice
11 Thanksgiving.

12 MR. VENEZIA: Motion to close this
13 meeting.

14 (Meeting concludes at 10:15 p.m.)
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