

1 WEST LONG BRANCH ZONING BOARD OF ADJUSTMENT

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3 REGULAR MEETING FOR:

TRANSCRIPT OF
PROCEEDINGS

4 THURSDAY, DECEMBER 19, 2019

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8

9 BEFORE:

10

ROBERT VENEZIA

11

MICHAEL SCHULZ

12

SCOTT LAMARCA

13

PAUL GIGLIO

GREG MALFA

MARK ENGEL

14

15

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19 ALSO PRESENT:

20 MICHAEL A. IRENE, JR., ESQ., Board Attorney

21 GREGORY GITTO, P.E., Board Engineer

22 CHRIS ANN DEGENARO, Recording Secretary

23

24

LISA NORMAN, CCR

25

15 Girard Avenue

West Long Branch, New Jersey 07764

732-229-5897

1 A P P E A R A N C E S:

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3 LIEBERMAN & BLECHER
4 BY: STUART LIEBERMAN, ESQ.
5 MICHAEL CAMASTRA, ESQ.
6 Attorneys for the Applicant

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1 I N D E X

2

3 WITNESS NAME

PAGE NO.

4 JOAN WIDDIS

5 By Mr. Lieberman

17

6

7

8 CATHY ZUCKERMAN

9 By Mr. Lieberman

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11

12 LEONARDO ALMEIDA

13 By Mr. Lieberman

43

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16 JUSTIN AUCIELLO, P.P.

17 By Mr. Lieberman

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25

1 E X H I B I T S

2

3 EXHIBIT NO. DESCRIPTION PAGE NO.

4 A-1 Survey prepared by James B. 13
 5 Goddard, PLS of C.C. Widdis
 6 Surveying, LLC October 19, 2019

6

7 A-2 Proposed pool house plan 14
 8 submitted by James J. Monteforte,
 9 AIA, eight sheets, April 4, 2017,
 10 revised through June 20, 2017

10

11 A-3 Cabana as-built plans 14
 12 prepared by Cathy Zuckerman, R.R. of
 13 CDZ Architects, LLC, one sheet
 14 11/11/19

14

15 A-4 Aerial photo 15

16

17

18 A-5 Four Photographs of pool 15
 19 plan

20

21 A-6 Detached Garage 26
 22 Architectural Plan

22

23

24 A-7 Photograph of playhouse 43
 25 and fence

1 Mr. Venezia reads the Open Public
2 Meetings Act.

3 Pledge of Allegiance.

4 MR. VENEZIA: Can we have a roll call,
5 please?

6 MS. DEGENARO: Robert Venezia?

7 MR. VENEZIA: Here.

8 MS. DEGENARO: Michael Schulz?

9 MR. SCHULZ: Here.

10 MS. DEGENARO: Scott LaMarca?

11 MR. LAMARCA: Here.

12 MS. DEGENARO: Paul Giglio?

13 MR. GIGLIO: Here.

14 MS. DEGENARO: Greg Malfa?

15 MR. MALFA: Here.

16 MS. DEGENARO: Mark Engel?

17 MR. ENGEL: Here.

18 MR. VENEZIA: Ladies and Gentlemen, this
19 is the December 19, 2019 regular meeting of the
20 West Long Branch Zoning Board of Adjustment.
21 In addition, I want to make note there is an
22 emergency exit right here to my left, as I am
23 pointing, and also the entrance that you came
24 in. We are going to go right to the items of
25 business, right to the variance of Almeida from

1 45 Lakeview Avenue.

2 MR. IRENE: Mr. Chairman, this is the
3 Almeida application. It has been carried from
4 a prior meeting of the Board without the
5 necessity of re-Notice. We will let Counsel
6 set up a Counsel table here. While they are
7 setting up, we are going to swear in Mr. Gitto,
8 our professional engineer.

9 Gregory Gitto, sworn.

10 MR. IRENE: Mr. Gitto has been sworn.
11 We will let Counsel put their appearance on the
12 record.

13 MR. LIEBERMAN: Yes. Good evening,
14 everybody. My name is Stuart Lieberman
15 and I am from the firm of Lieberman and
16 Blecher. With me is Michael Camastra and we
17 represent the Applicant in this case Leonardo
18 Almeida.

19 MR. VENEZIA: You can have a seat,
20 Gentlemen.

21 MR. IRENE: Couple of housekeeping
22 matters. First, there was the review letter
23 that we received from our professional engineer
24 dated August 7th 2019 revised December 18,
25 2019, and there were a couple of items

1 of completeness that we need to address, so why
2 don't we just take a minute and address those.
3 So do you want to run through them, Mr. Gitto,
4 for the Board, please?

5 MR. GITTO: Sure. Item No. B5 is just
6 they didn't provide a key map on the plan. We
7 have no objection as long as you provide an
8 aerial photo.

9 MR. CAMASTRA: Yeah, I have some aerial
10 photos.

11 MR. IRENE: Hold onto it.

12 MR. GITTO: Item B9 which is proof of
13 taxes are current.

14 MS. DEGENARO: Yes, they are.

15 MR. GITTO: Item B4 stream wetlands.
16 There are no floodplains or bodies of water
17 around the project site, so we have no
18 objection to waiving this.

19 MR. IRENE: Other than Franklin Lake.

20 MR. SCHULZ: I have a question. Can we
21 stop there?

22 MR. GITTO: Sure.

23 MR. SCHULZ: You said floodplains
24 adjacent to the property. The Shore Regional
25 Girls Field Hockey team was built on a swamp.

1 Did you look into the field hockey field as
2 being in a floodplain?

3 MR. GITTO: I did not do that as part of
4 my review. I defer that question to the
5 Applicant.

6 MR. IRENE: And we also indicate that
7 they are, as I understand it, we can confirm
8 this by testimony conforming to lot coverage,
9 so presumably there wouldn't be any issue with
10 trying to mitigate any excess surface water
11 flow from the property on any neighbors because
12 there is not excess lot coverage.

13 MR. VENEZIA: Even with the pool being
14 in the back?

15 MR. IRENE: My understanding is they
16 conform to lot coverage. If it turns out,
17 during the hearing, Mr. Schulz, that we need
18 any other additional information on that we
19 can certainly request it. Right now, we are
20 looking to get through the completeness
21 waivers, if the Board sees fit to grant them,
22 so we can then move onto the merits, hear the
23 information, hear the information on some of
24 those issues and if it turns out the Board
25 requires anything further on any of these

1 issues that we've waived in terms of
2 completeness, we can ask for anything
3 additional, okay?

4 MR. GITTO: Number B25 is a list of
5 variances required or requested. They have it
6 listed on their plan which variances they
7 requested.

8 MR. IRENE: Okay.

9 MR. GITTO: So I have no objection to a
10 waiver. Signed Affidavit of owner's
11 consent. The owner and the Applicant are the
12 same, so I have no objection to granting that
13 completeness waiver. Application for
14 Environmental Commission Site Plan review, the
15 Applicant requested a waiver for that
16 condition.

17 MR. SCHULZ: Can you stop there again?

18 MR. GITTO: Sure.

19 MR. SCHULZ: This has been like floating
20 around for months now. The environmental
21 report does not take a long time to do. I
22 don't understand why they want a waiver on the
23 environmental. It's right next to a lake, and
24 again, it's right next to Shore Regional Field
25 Hockey field which was filled in. It was a

1 swamp. Here we are, again, I don't understand
2 why they didn't do their homework and get an
3 Environmental Commission report. It's no big
4 deal. It doesn't hurt.

5 MR. IRENE: Is it required on all
6 applications or only site plan?

7 MR. GITTO: It is. It is required.

8 MR. IRENE: It's up to the Board. If
9 you want to proceed on the merits and if we get
10 into the testimony and you find that you want
11 some, there may be some environmental impact
12 and you want environmental information and you
13 want more information, they will have to go
14 home and get that information and come back.
15 So it's your call.

16 MR. SCHULZ: I will address it again
17 during testimony, but I don't understand how
18 the engineer waives or says it's okay to waive
19 the environmental forms when I think this is a
20 perfect example. Where is it? You are asking
21 for a waiver. You are asking for a waiver. I
22 don't understand this. It's not a hard form to
23 fill out. You don't need a professional to
24 fill it out, but you are asking for a waiver
25 for it.

1 MR. LIEBERMAN: I understand what you
2 are saying. What we are talking about are
3 improvements that have already generally been
4 approved by the Board, permits have been
5 generally been issued and so the scope of the
6 variances that are requested we thought was of
7 the nature because they are relatively minor
8 that they wouldn't implicate the environmental
9 review. But I understand what you are saying.

10 MR. SCHULZ: There is nothing that has
11 been approved by this Board in regards to this.

12 MR. LIEBERMAN: I understand. Permits
13 have been issued.

14 MR. SCHULZ: Permits have been issued,
15 but nothing has been approved by the Board.

16 MR. LIEBERMAN: I understand that.

17 MR. IRENE: What is the Board's
18 pleasure?

19 MR. VENEZIA: Any conversation on this
20 as far as the waiver, especially with what Mr.
21 Schulz has mentioned the waiver of the
22 Environmental Commission report?

23 MR. ENGEL: I am in concurrence with Mr.
24 Schulz. I would like to hear testimony and
25 then based on how we interpret that and we can

1 have some conversation on that.

2 MR. IRENE: If everyone agrees, you are
3 inclined to grant the waivers to proceed to the
4 merits. Once we are in the merits, if you
5 decide you need additional information, you
6 always have the right to request that. Is that
7 where we are? Everybody is okay?

8 MR. LAMARCA: I make a motion.

9 MR. IRENE: You want to make a motion to
10 grant the completeness waivers?

11 MR. LAMARCA: Yes.

12 MR. GIGLIO: I will second it.

13 MS. DEGENARO: Completeness waiver?

14 MR. IRENE: Just for the completeness
15 waivers, right.

16 MS. DEGENARO: Robert Venezia?

17 MR. VENEZIA: Yes.

18 MS. DEGENARO: Michael Schulz?

19 MR. SCHULZ: Yes.

20 MS. DEGENARO: Scott LaMarca?

21 MR. LAMARCA: Yes.

22 MS. DEGENARO: Paul Giglio?

23 MR. GIGLIO: Yes.

24 MS. DEGENARO: Greg Malfa?

25 MR. MALFA: Yes.

1 MS. DEGENARO: And Mark Engel?

2 MR. ENGEL: Yes.

3 MR. IRENE: Any other housekeeping
4 matters before we swear in the first witness?
5 We are good? Counsel, when we call your first
6 witness, should we mark the plans that have
7 been submitted with the application so we don't
8 forget to do that? Do you want to mark those?
9 We've got the Survey prepared by James B.
10 Goddard, PLS of C.C. Widdis Surveying, LLC.
11 It's got a date of August 9, 2019, but it's
12 dated in the signature block, it's dated in the
13 signature block of October 9, 2019. Mark that
14 as Exhibit A-1, please? Do you have that,
15 Chris Ann?

16 MS. DEGENARO: I have it.

17 MR. VENEZIA: Mr. Irene?

18 MR. IRENE: My thought was, Mr.
19 Chairman, if we could mark the sets of plans
20 that were submitted and anything else we can
21 mark and identify as we go. I don't want to
22 lose sight what we have with the application.

23 MS. DEGENARO: That is A-1, Mike.

24 MR. IRENE: A-1. Goddard Survey dated
25 in the signature block 2019. If you look in

1 the signature block right next to his name, it
2 says, October 9, 2019. I'm sorry. October 19.
3 There was also, and again, just so they are
4 marked so we can show the change, if need be,
5 there was a proposed pool house plan submitted
6 by James J. Monteforte, AIA, eight sheets,
7 April 4, 2017, revised through June 20, 2017.
8 That is the big set. That is the one. That
9 will be A-2. Looks like this. That is it.

10 MR. IRENE: And then subsequent to
11 that, we received the cabana as-built plans
12 prepared by Cathy Zuckerman, R.R. of CDZ
13 Architects, LLC, one sheet and somebody help me
14 with the date.

15 MR. VENEZIA: 11/19/19.

16 MR. IRENE: That is A-3.

17 MR. GITTO: 11/1/19.

18 MS. DEGENARO: It's 11/19/19. That is
19 A-3.

20 MR. IRENE: Did you want to mark
21 something else at this point?

22 MR. CAMASTRA: One of the
23 aerials Google Earth. One set of closer and
24 one is zoomed out.

25 MR. IRENE: Is there a date on there?

1 Sometimes it prints on the bottom.

2 MR. CAMASTRA: 2019. The
3 photograph has the year.

4 MR. IRENE: What year?

5 MR. CAMASTRA: 2019.

6 MR. IRENE: One sheet.

7 MR. CAMASTRA: Two sheets
8 stapled.

9 MR. IRENE: She is going to mark that
10 A-4, please?

11 MR. CAMASTRA: Mike, I also have
12 pictures of the pool house.

13 MR. IRENE: Okay. Is somebody going to
14 identify those? We will mark them subject to
15 identification.

16 MR. LIEBERMAN: Yes.

17 MR. IRENE: We will mark them. Just
18 make sure you keep one at Counsel's table, so
19 whichever witness can identify can identify
20 subject to identification. We have a
21 photograph of the pool house; is that right?

22 MR. CAMASTRA: Yes. Set of four
23 photographs.

24 MR. IRENE: Set of four photographs all
25 of pool house.

1 MR. CAMASTRA: Correct.

2 MR. IRENE: A-5 is a set of four
3 photographs of the pool house subject to
4 somebody identifying it and when it was taken
5 or the cabana or whatever we are referring this
6 structure.

7 MR. GIGLIO: Do you have any more
8 aerals? I am a little confused because this
9 aerial is prior to the pool.

10 MR. VENEZIA: It sure looks it, even
11 though it says, 2019, on it

12 MR. GIGLIO: It's prior to the pool and
13 the house.

14 MR. ENGEL: How long has the pool been
15 there?

16 MR. LIEBERMAN: Everything was built in
17 the last year.

18 MR. CAMASTRA: It looks like the --

19 MR. LIEBERMAN: The pool was built in
20 2017.

21 MR. GIGLIO: It should be here then, if
22 you look at the current Google map aerial.

23 MR. IRENE: It does say, Imagery
24 Google.

25 MR. GIGLIO: It's missing the fence for

1 the field hockey.

2 MR. IRENE: Here is what we are going to
3 do, keep it marked as Exhibit A-4 just to show
4 the location of the property. Not to list the
5 site. We have the current Survey for that, all
6 right?

7 MR. LIEBERMAN: We are ready to get
8 started. I think our first witness is going to
9 be Joan Widdis.

10 MR. IRENE: Do you want to come on up
11 Ms. Widdis?

12 MR. GIGLIO: Mr. Irene, I wanted to
13 bring something about the aerial. This has to
14 go back before 2000. The fence for the field
15 hockey for Shore Regional was put up in 2000.
16 This is doesn't show the fence at all.

17 MR. IRENE: We know it doesn't show the
18 fence, the pool, the cabana.

19 MR. GIGLIO: It shows nothing.

20 MR. IRENE: We're not accepting it to
21 represent what exists at the site. We are only
22 showing the location of the property,
23 vis-à-vis, the lake and the field next door.
24 How is that? Obviously, we discount what it
25 depicts on the site?

1 Joan Widdis, sworn.

2 DIRECT EXAMINATION BY MR. LIEBERMAN:

3 Q. Ms. Widdis, by whom are you employed?

4 A. C.C. Widdis Surveying.

5 Q. And you are a principal of that Company;
6 is that correct?

7 A. I am.

8 Q. And did your company and Mr. Goddard is
9 employed by your company; is that correct?

10 A. That is correct.

11 Q. He is a licensed Surveyor in the State
12 of New Jersey; is that correct?

13 A. Yes.

14 Q. And your company prepared Surveys for
15 use before planning boards, zoning boards and other
16 legal purposes; is that correct?

17 A. Yes, it is.

18 Q. And what has been identified for --
19 what's been marked for identification purposes as A-1
20 represents a Survey that was prepared by your
21 company; is that correct?

22 A. Yes.

23 Q. And your personal knowledge and
24 familiarity with what is located on this document; is
25 that correct?

1 A. Yes.

2 MR. LIEBERMAN: At this time, I would
3 request Ms. Widdis's credentials be accepted as
4 a Surveyor.

5 MR. IRENE: Are you a Surveyor?

6 MS. WIDDIS: No. I am not a Surveyor.

7 MR. LIEBERMAN: I will introduce her.
8 I want to introduce the Survey.

9 MR. IRENE: It's fine. It's signed and
10 sealed as a Licensed Surveyor. Is that the
11 only purpose?

12 MR. LIEBERMAN: That is the only thing.
13 I wanted her to go over the Survey.

14 MR. IRENE: Has she been to the
15 property?

16 THE WITNESS: I've been to the property
17 several times, yes.

18 MR. IRENE: Were you there before the,
19 when the Survey was drawn or after it?

20 THE WITNESS: Yeah.

21 MR. IRENE: If you were there after the
22 Survey was drawn, I'm not sure -- you just want
23 to confirm the Survey is accurate?

24 MR. LIEBERMAN: Well, I want her to walk
25 through the Board what's there. There was a

1 question what's there and how it lays out.

2 MS. WIDDIS: I did all of the work on
3 it.

4 MR. IRENE: We will accept Ms. Widdis as
5 a fact witness because she's been to the
6 property.

7 MR. LIEBERMAN: Right.

8 Q. What's been marked as A-1, your company
9 prepared dated October 19, 2019; is that correct?

10 A. Yes.

11 Q. Would you be able --

12 A. Revised to that date.

13 Q. Would you identify for the Board what is
14 depicted on the Survey starting with the two-story
15 framed dwelling and working towards the back? What
16 is there?

17 A. There is an existing two-story framed
18 dwelling and attached paver patio and to the rear
19 there is an existing pool house with an in-ground
20 pool with a wood deck attached and concrete patio.

21 Q. And that is what we need the variance
22 for today. That's what we are asking for a variance
23 for, right?

24 A. Correct.

25 MR. IRENE: No. For the pool house. I

1 thought you were talking about the pool and the
2 wood deck.

3 MR. LIEBERMAN: No. Just the pool
4 house.

5 A. The height of the pool house --

6 Q. Keep going.

7 A. All right. As you go back, there is a
8 little pool pump area, there is a wood shed and then
9 in the back there is a playhouse.

10 Q. And the playhouse was mentioned by the
11 Board's Planner as needing a Survey as well; is that
12 correct?

13 MR. IRENE: Variance?

14 A. It's been updated several times. We've
15 been up there three or four times in the last couple
16 of years.

17 Q. Okay. I wanted the witness to layout
18 what was there. I don't know if the Board Members
19 have any questions about what's there. I know that
20 was something that we should do for the Board.

21 MR. VENEZIA: Do the Board Members have
22 a question of this witness?

23 MR. IRENE: Interested parties?

24 MR. VENEZIA: Is there any interested
25 party in the audience?

1 MR. IRENE: Who wants to question the
2 witness? No. The record will reflect none.
3 Next witness?

4 MR. LIEBERMAN: Thank you, Ms. Widdis.
5 Cathy Zuckerman, please?

6 MR. IRENE: So looking at the Survey
7 where the Survey references a proposed garage,
8 it appears that from the Survey that the garage
9 is attached to the pool house.

10 MS. ZUCKERMAN: Correct, but it is not.

11 MR. IRENE: So we have already marked
12 the plan that you prepared, the cabana as-built
13 plan as A-3, so why don't we mark that? Do you
14 have extra copies for the Board?

15 MS. ZUCKERMAN: I don't.

16 MR. IRENE: Has the cabana changed on
17 that plan?

18 MS. ZUCKERMAN: No. No. The Board has
19 on the back of it. Do you want to swear me in
20 first?

21 MR. IRENE: sure. Why not.

22 Cathy Zuckerman, CDZ Architects, sworn.

23 MR. IRENE: We are going to get your
24 credentials on the architect.

25 DIRECT EXAMINATION BY MR. LIEBERMAN:

1 Q. Ms. Zuckerman, you are employed?

2 A. My firm is CDZ Architects. I've been in
3 business for 30 years.

4 Q. You are a licensed architect in the
5 State of New Jersey?

6 A. Yes, I am.

7 Q. You've been a licensed architect for 30
8 years?

9 A. Yes.

10 Q. Your license is still good today?

11 A. Correct.

12 Q. No actions against you?

13 A. No.

14 MR. IRENE: Will the Board accept Ms.
15 Zuckerman's credentials in the field of
16 architecture?

17 MR. VENEZIA: Yes.

18 Q. Why don't we start, Ms. Zuckerman, you
19 prepared some as-built drawings in order to show the
20 Board what's going on in terms of the cabana. Isn't
21 that correct?

22 A. Yes, I did. Just to clear up the garage
23 issue, so my garage drawings, which were submitted
24 for building permit, there was mention of some
25 confusion so we will straighten that. It is

1 detached. Nothing to do with this cabana. And it's
2 fully conforming for its setbacks. As far as the
3 setbacks is concerned, I was not the architect. I
4 was brought into the picture after the fact of, I
5 guess, little support from previous architect and the
6 Almeidas asked me to measure and come up with an
7 as-built drawing based on what was actually built
8 compared to the drawings that they were building
9 from.

10 Q. That's because there was a question
11 about the height and we needed to get an answer to
12 what it actually was?

13 A. Correct.

14 Q. What did you find?

15 A. The ground slopes on one side from the
16 front of the cabana to the back of the cabana. And
17 the side still slopes. This is when Joan Widdis went
18 out and shot the roof and came up with some numbers
19 that we used and so I can just tell you that from the
20 pool side -- on my drawings, it should be taken from
21 average grade. So on one side of the building is 17
22 feet and on the other side of the building it's 18'8
23 to the top of the ridge. On the pool side 17 feet to
24 the top of the ridge is what we get and on the side
25 facing the street 18'8. So I guess Joan came up with

1 a number of 2'8, around.

2 MS. WIDDIS: 17.5.

3 MR. ZUCKERMAN: 17.5.

4 Q. When you say the average?

5 A. Average grade, correct.

6 Q. What is allowed by the zone? What is
7 the zone?

8 A. Fifteen feet. So I want to make a
9 couple of comments, you know, because I was new to
10 the site when I went out to do my as-built. It's
11 beautiful. I don't know if you've ever seen it, but
12 it's surrounded fully by the school, commercial
13 property and parking lots in the back, obviously, the
14 lake. There is one neighbor to the east, but it's
15 beautifully maintained and if it makes a difference
16 it's quite an improvement, I felt, to the
17 neighborhood.

18 It was built, I guess there is some
19 confusion as to the architectural drawings as to
20 where that average grade was taken from. It doesn't
21 say average grade. I could see you how it could be a
22 bit confusing. It just says 15 feet and the builder,
23 I believe who can testify, took it from top of
24 foundation instead of what was labeled as average
25 height.

1 Q. The builder can testify to that.

2 MR. IRENE: Before what we talk about
3 what the builder is going to testify to, let's
4 go back and mark this plan that you referred
5 to. This is going to be A-4, right?

6 MS. ZUCKERMAN: It is the same that you
7 already marked.

8 MR. IRENE: It is not. It's got a
9 garage on it. The cabana is the same, right?
10 It's not. We are talking about the garage.
11 Hold on. All that's being offered for is to
12 show that the garage is going to be detached
13 from the pool house. The pool house on A-4 is
14 the same as the pool house depicted on A-3,
15 correct?

16 MS. ZUCKERMAN: Two separate dwellings,
17 but yes.

18 MR. IRENE: Let's mark Exhibit A-4.

19 MS. DEGENARO: A-4 was the Google
20 site.

21 MR. IRENE: I'm sorry. A-6. Thank you.
22 So how is A-6 captioned? What is the plan
23 called?

24 THE WITNESS: Detached garage
25 architectural drawing. It's A-1.

1 MR. IRENE: No. It's called, detached
2 garage.

3 THE WITNESS: Detached garage and the
4 back side is labeled.

5 MR. IRENE: I don't need the back side.
6 We have the back side. Ms. Zuckerman, here is
7 how it works. I ask a question, you answer
8 the question. If we keep talking over one
9 another, we are not getting anywhere. So,
10 please, A-6 is the plan. It's called, detached
11 garage plan. It's one sheet, right?

12 THE WITNESS: Yep.

13 MR. IRENE: What is it dated?

14 MS. ZUCKERMAN: It's dated 4/29/19.

15 MR. IRENE: 4/29/19 and that was
16 prepared by you.

17 MS. ZUCKERMAN: Correct. Thank you so
18 much. That is that. The other one you
19 referred to is on the back. The other one
20 that's on the back is A-3 the cabana as-built
21 plans 11/11/19. All right. Great. We are
22 caught up to where we are with our exhibits.

23 Q. Why don't you go back to A-3 now.

24 A. Okay.

25 Q. And explain the significance of it, in

1 terms of what we need to know, what is height? We
2 know 15 feet is allowed. What is the height?

3 A. According to the Surveyor, it is
4 two-and-a-half feet over, 17.5.

5 Q. And that is measured from
6 where-to-where?

7 A. Average grade around the foundation to
8 the ridge.

9 Q. And, by the way, why don't you also
10 identify A-5?

11 A. I took these photos.

12 Q. So A-5 consists of one, two, three, four
13 pictures. What is the first picture we are looking
14 at?

15 A. The first picture is the side of the
16 cabana that faces the pool. That is the northern
17 face.

18 Q. And that is the one with the four --
19 that is the one with all of the windows and the
20 triangular configuration, right?

21 A. Faces the pool. The pool is in the
22 foreground. The second picture is the side that
23 faces the lake or the side that faces the front yard,
24 faces the south. That is the back.

25 Q. Is this the back, the one with the

1 recycling containers?

2 MS. DEGENARO: Where does that face?

3 A. Faces the street side. It faces south.

4 MR. VENEZIA: From the back door of the
5 main house, you would see this?

6 MS. ZUCKERMAN: Correct. Right.

7 Q. What is the next picture?

8 A. The next picture is facing the soccer
9 fields, I guess. Yeah, both of these pictures are
10 taken from the west side.

11 Q. One at a time. The one with the soccer
12 net is facing what, please?

13 A. The west.

14 Q. Facing the west?

15 A. Correct.

16 Q. Is that the soccer field?

17 MR. LAMARCA: Field hockey field.

18 A. The last picture is the same elevation,
19 just the other end of the building.

20 Q. When did you take those photographs,
21 please?

22 A. They were taken, oh, I would say,
23 probably the summer.

24 MR. IRENE: This past summer.

25 THE WITNESS: Yeah.

1 MR. LIEBERMAN: Summer of 2019.

2 MR. IRENE: Summer of 2019. Those
3 photographs continue to fairly and accurately
4 depict the pool house, cabana as it exists
5 today?

6 THE WITNESS: Correct.

7 MR. ENGEL: Do you have a photograph of
8 the east-facing wall of the property?

9 THE WITNESS: I do not.

10 MR. ENGEL: The one that borders what
11 the diagram shows as concrete pavers?

12 THE WITNESS: I do not have a picture on
13 that side, no, but I do depict it on my drawings
14 accurately.

15 Q. Please show what depicts that
16 accurately? The side elevation on the top left?

17 A. Correct.

18 MR. ENGEL: Thank you.

19 MR. IRENE: Back to the height then, so
20 we have the height of the structure calculated
21 from average grade as being 17.5 feet measured
22 to the ridge line?

23 THE WITNESS: Yes. Joan actually
24 certified that. I would prefer --

25 MR. IRENE: We will get her back in a

1 minute. As far as what's depicted on your plan
2 that we've marked as Exhibit A-3, the cabana
3 as-built plan, we have a cupola, and we have Mr.
4 Gitto here to help us out, too.

5 MS. ZUCKERMAN: It's not included.

6 MR. IRENE: Is that excluded from the
7 Ordinance calculation of height? Okay. Great.
8 So we just got to get to the ridge line. When
9 we are done with her testimony, Mr. Chairman, we
10 can bring back Ms. Widdis and she can confirm
11 the height, okay?

12 Q. Do you have an understanding of the wood
13 stockade fence issue, because the Planner had
14 indicated --

15 A. No, but I think Joan does.

16 Q. We can call Joan on that as well. Do
17 you have an understanding about the tree house issue
18 because on the Planner's letter there was a question
19 about that.

20 A. Do not.

21 Q. So we should just call Joan back to
22 resolve that. And the pool house kitchen issue, we
23 can resolve.

24 MR. IRENE: Is there a kitchen in the
25 pool house?

1 MS. ZUCKERMAN: It is a bar server.

2 MR. VENEZIA: Sitting area.

3 MS. ZUCKERMAN: I believe there is a
4 sink and refrigerator, but maybe Mrs. Almeida
5 can answer.

6 MR. LIEBERMAN: We can swear my witness
7 in.

8 MR. VENEZIA: I have a question for
9 you. On Photos 3 and 4, you could see the
10 different grade of the property --

11 MS. ZUCKERMAN: Right.

12 MR. VENEZIA: -- where it's two blocks
13 it goes down to four or five blocks on the end.
14 Would that affect it on the corner? Does that
15 meet --

16 MS. ZUCKERMAN: So that's where I
17 labeled it the 18. That is the highest point.
18 That's 18.8, actually.

19 MR. VENEZIA: Which is 18.8?

20 MS. ZUCKERMAN: From the lowest --
21 greatest to lowest where the ridge would be say
22 the highest. And actually, I was surprised
23 because he actually could have leveled this
24 grading off a little bit more and made it not
25 quite two-and-a-half feet because it's a stone

1 foundation. Could have filled out a little
2 bit, but I don't think he touched it because he
3 was over the garage whatever. We work that
4 out. We did calculate that as part of the
5 average.

6 MR. VENEZIA: Would that far corner
7 conform with the height requirement?

8 MS. ZUCKERMAN: The lowest point.

9 MR. VENEZIA: Yeah.

10 MS. ZUCKERMAN: No, it doesn't. It's
11 17. It still doesn't. Joan, again, it's hard
12 for me to reach that ridge. It's
13 16-and-a-half.

14 MR. VENEZIA: I see where you are saying
15 the average --

16 MS. ZUCKERMAN: Right.

17 MR. VENEZIA: -- is 7. If you went in
18 the middle is probably where it starts sloping
19 at 17.5.

20 MS. ZUCKERMAN: Yeah.

21 MR. LAMARCA: And if you walk the
22 property, it does go. It's all over the place,
23 so it's hard to get a benchmark.

24 MS. ZUCKERMAN: I think they were trying
25 for drainage purposes and for water table he

1 could tell you, they were trying to relate to
2 the pool which put them in that position.

3 MR. LIEBERMAN: I have Ms. Widdis here
4 that I am going to bring back to very
5 definitely answer those questions. Does
6 anybody have any further questions of this
7 witness?

8 MR. VENEZIA: Anybody in the audience?

9 MR. IRENE: Let the record reflect
10 none.

11 MR. LIEBERMAN: Ms. Widdis, would you
12 come back to answer?

13 MR. IRENE: Ms. Widdis, you understand
14 you remain under oath?

15 THE WITNESS: Yes.

16 CONTINUED DIRECT EXAMINATION BY MR. LIEBERMAN:

17 Q. There was a request for some definite
18 measurements that the Board asked. Are you able to
19 explain what the measurements are at the various
20 sides of the structures and how it is that we get to
21 that average?

22 A. Yes, the field guys, when they went out
23 there, they picked up the elevation wall of the
24 buildings, including the house and the shower. They
25 get elevations around the four corners of the house

1 and we take those elevations and divide it by the --
2 add them together, divide it by four and we come up
3 with the average grade. The roof height by the roof
4 elevation, you get the roof elevation and then we
5 take the average grade and subtract it and that's how
6 we get our height.

7 MR. IRENE: At one point, somebody
8 mentioned 17.5 and another point somebody said
9 17.6.

10 MS. WIDDIS: 17.6 is actually correct.

11 MR. IRENE: 17.6 feet. Got it. Thank
12 you.

13 MR. VENEZIA: On the plans, it's shown
14 51.68 on one corner and 53.55 on the other
15 corner. Is that the grade you are talking
16 about?

17 MS. WIDDIS: Correct, yes.

18 MR. IRENE: So we don't forget, do you
19 want to address the elevated playhouse or tree
20 house or whatever it's called?

21 MR. LIEBERMAN: I was going to go to
22 that and the fence also.

23 Q. The comments from the Planner that we
24 received reflected some issues concerning the
25 playhouse, specifically, the height, as I understand,

1 was the concern and because of the height --

2 MR. GITTO: It's related to the setback.

3 Q. So what is the height -- what did you
4 measure the height of the tree house or the playhouse
5 to be?

6 A. They picked up two average grades over
7 there. We divided that by the roof elevation and we
8 came out to 11.96 as the roof height.

9 MR. IRENE: 11.96.

10 MS. WIDDIS: Correct.

11 Q. Do you have an understanding of what
12 the --

13 MR. GITTO: I'm sorry. Is that based on
14 average grade?

15 MS. WIDDIS: Yes.

16 Q. And is it correct that 10 feet is what
17 would have been permitted?

18 A. I think it's 15.

19 MR. GITTO: Fifteen feet is allowable
20 for an accessory structure. The issue is the
21 size because the setback has to equal the
22 height.

23 Q. Do you have an understanding of what the
24 current setback is?

25 A. Yes.

1 MR. IRENE: It's on the plan, right?

2 A. It's on the plan.

3 MR. IRENE: Referring to the Survey,
4 it's 10.18.

5 MR. GITTO: There is no dimension to the
6 rear property line. Do you have a dimension to
7 the rear property line?

8 MS. WIDDIS: It's not on that plan? No,
9 but I could find out. We could scale it.

10 MR. IRENE: Could you scale it?

11 MS. WIDDIS: I don't have an engineer
12 scale with me.

13 Q. Why don't we keep going to see if we can
14 scale it and talk about the fence. With regard to
15 the fence, the Planner reflected in his letter that
16 there was, that the fence trespassed another property
17 or went beyond the property lines. Do you have an
18 understanding as to what is going on with the fence
19 based on what you saw?

20 A. When I was preparing the plan, I thought
21 I had picked up that point and that is why it's over.

22 Q. What you are talking about is, you are
23 talking about your Survey, which is A-1, right, and
24 you are talking about the right-hand portion as you
25 are looking at it.

1 MR. GITTO: North Eastern.

2 A. Northeast corner.

3 Q. Northeast corner right over here, the
4 very end, so is that, in actuality, over the property
5 line?

6 A. The way it is shown, it is, yes. I
7 spoke to Leonardo and he told me, when he was out
8 there, the guys did stake it out for him, so I am
9 going to double check to see if that was a 10-foot
10 offset that he may have done. The way it shows on
11 here, it's over.

12 Q. But do you know whether or not you
13 picked up the right points on that?

14 A. I am going to check my file and then I
15 would know for sure.

16 Q. You know, because that sort of just came
17 up. My client says it is on the property line that
18 they adhere to it, but the Surveyor's Survey reflects
19 something different. We are trying to reconcile.

20 MR. IRENE: If that fence is on the
21 property line, you don't have a setback problem
22 from the rear line with the playhouse.
23 Obviously, the Board has no authority to give
24 people variances or any other relief to put
25 their fence on somebody else's property.

1 MR. LIEBERMAN: We understand that. We
2 believe it isn't the problem.

3 MR. VENEZIA: You are saying it is a
4 quarter of an inch -- quarter of a foot over.
5 It's point 28, point 15, point 22 over on
6 someone else's property.

7 MR. IRENE: No. It's more than that,
8 Mr. Chairman. If the property line shown on
9 the Survey marked A-1, that fence encroaches,
10 at its furthest point, assuming it encroaches
11 into Lot 7, probably 12, 13, 14 feet.

12 MR. CAMASTRA: It's into the 15-foot
13 wide sanitary sewer easement.

14 MR. IRENE: Right. An easement is on
15 somebody else's property. It's not a property
16 onto itself.

17 MR. IRENE: I was comparing it to the
18 10.18 setback of the pool house -- of the
19 playhouse.

20 A. The playhouse looks like it's nine feet
21 to the rear.

22 Q. I thought that maybe I could ask my
23 client to explain, but maybe depending what happens
24 tonight, obviously, we're not going to have the fence
25 extend over the property line and maybe we could have

1 our engineer discuss that with the Board's Engineer
2 to prove that is not the case afterwards, because we
3 have no intention of trespassing. We didn't think
4 that we did. If we did, we are going to rectify it.

5 MR. IRENE: Whose property is Lot 7? Do
6 we know? Is that part of the School or
7 is it residential?

8 THE WITNESS: No. It is a commercial
9 property. It used to be Gagliano's.

10 MR. VENEZIA: I think Gagliano's was the
11 other property.

12 Q. Just to go back to the playhouse issue,
13 that does require a variance because it's two feet,
14 because this is a two feet -- it misses the required
15 setback by two feet; is that correct?

16 A. By two feet, correct.

17 MR. IRENE: Are we talking about the
18 rear or the side?

19 THE WITNESS: The side.

20 MR. IRENE: The side is 10.18 where
21 11.96 is required. Were we able to come up
22 with a number for the rear?

23 MR. CAMASTRA: About nine feet.

24 THE WITNESS: Yes, nine feet.

25 Q. I don't think it was anything else that

1 you mentioned in the letter from two days ago that we
2 haven't covered with the Survey.

3 A. I don't think so.

4 MR. LIEBERMAN: I don't have any further
5 testimony from this witness at this point.

6 MR. IRENE: Is the fence, if we are
7 talking about fences, the fence that's on the
8 western property sideline, is that the
9 Applicant's fence or is that the School's
10 fence?

11 MS. WIDDIS: That is the School's fence,
12 okay.

13 MR. IRENE: When we are talking about
14 fences encroaching, we are only talking about
15 the one on the northern property line? The
16 rear property line? What we are talking about
17 is the question about the encroachment of the
18 fence was the fence along the rear property
19 line or the northern property line. I just
20 asked Ms. Widdis what information she has about
21 the fence on the western property line, the
22 sideline and she indicated that's the School's
23 fence.

24 MR. LIEBERMAN: That is right. That is
25 not our fence.

1 MR. MALFA: Wood stockade fence? The
2 wood stockade fence is not the School's, to my
3 knowledge.

4 MR. GIGLIO: The School's is metal
5 fencing.

6 MR. MALFA: The wood stockade fencing
7 would be the fencing this gentleman put in.
8 The School doesn't have wood stockade fence.

9 MR. IRENE: My suggestion is going to
10 be, because, again, the Board has no authority
11 to permit someone to put their fence on someone
12 else's property. If, in fact, the Board sees
13 fit to grant the relief, it is going to contain
14 a condition of fence. Any fence encroachment
15 will be removed, unless the Applicant can
16 obtain a license or an easement from whoever's
17 property the fence may be encroaching into then
18 he can leave it there. That is all.

19 MR. LIEBERMAN: There is no other way.
20 That is the way it is. You can't trespass on
21 somebody else's property.

22 THE WITNESS: Inside the property line.
23 We tell them to put it in six inches in, so
24 the footings are inside as well.

25 MR. LIEBERMAN: What I want to do also

1 then is, why don't we mark this also? This is
2 that playhouse, so that the Board Members can
3 see what we are talking about.

4 MR. IRENE: A-7. And, Ms. Widdis, while
5 you are there, can you identify that? Does
6 that photograph fairly and accurately depict
7 the playhouse as it currently exists?

8 MR. LIEBERMAN: I'm going to just call
9 Mr. Almeida to come up and talk about the
10 playhouse and the fence, so that you can
11 explain a few things about that. Why don't you
12 just come up?

13 MR. IRENE: For the record, first time
14 around, we asked if anybody had any questions
15 for Ms. Widdis. Anybody have any questions for
16 her this time? Let the record reflect no
17 response. Thank you.

18 MR. VENEZIA: This will be A-7.

19 MR. IRENE: That photo is A-7, yes.

20 Leonardo Almeida, 45 Lake View Avenue,
21 West Long Branch, sworn.

22 DIRECT EXAMINATION BY MR. LIEBERMAN:

23 Q. Mr. Almeida is the Applicant in this
24 case. Mr. Almeida, in terms of the wooden fence,
25 what is your understanding? First of all, the wooden

1 fence that they asked about before, that is yours.

2 It's not the School's?

3 A. It's ours.

4 Q. I apologize. I made an error on that.

5 I didn't mean to. I apologize. Do you have an
6 understanding as to whether or not it was installed
7 on the property line? Let me restate the question.

8 Do you have an understanding if, at any
9 point, it's not on the property line, you have to
10 conform it and make sure it's within your property
11 line?

12 A. Yes.

13 Q. Do you understand that?

14 A. Yes.

15 Q. Do you have an understanding as to
16 whether the fence was installed, whether it was an
17 effort was made to stay within the property lines and
18 how that was done?

19 A. Yes.

20 Q. How was that?

21 A. Which exact side are you asking about?
22 This borders the School's field.

23 Q. Yes.

24 A. So, if you look, you see the fence like
25 this. The School's field, their fence is inside my

1 property.

2 MR. VENEZIA: What is he referring to?

3 A-1?

4 MR. CAMASTRA: Correct.

5 MR. VENEZIA: I just didn't know which,
6 if we were looking at something different.

7 A. On the front side of the property, their
8 fence is inside the field.

9 Q. Their fence is whose?

10 A. The High School.

11 Q. The School's?

12 A. So around the property going towards the
13 back of the property, their fence is inside of my
14 property two feet because that is the way the field,
15 it was marked, so they need, they need that section.

16 MR. IRENE: I thought someone just said
17 that was your fence.

18 THE WITNESS: Okay. Hold on. There is
19 two fences. My fence is actually inside my
20 property 2.1, which is supposed to be out two
21 feet, but I didn't want to mess with the School
22 field because they need that space, otherwise
23 their field.

24 Q. Do they have a metal fence?

25 A. They do have their metal. We never

1 touch it.

2 Q. Tell me about the metal fence.

3 A. It's in my property. Then I put my
4 fence two feet inside my property not to touch. We
5 never touch the fence of the School.

6 MR. IRENE: Am I missing a fence on the
7 Survey?

8 MR. GITTO: Based on the Survey, you are
9 showing one fence. There is a wood stockade
10 fence.

11 THE WITNESS: So there is a fence right
12 here.

13 MR. IRENE: Is it there on the Survey?

14 A. No. It's not on the Survey. It's never
15 marked because it is the School. Their fence is
16 there. We never touch.

17 MR. IRENE: Is there anything else
18 that's on your property that is not on this
19 Survey?

20 A. No.

21 MR. IRENE: I am not trying to be
22 facetious, Mr. Almeida, but that was the whole
23 purpose of the exercise was to make sure
24 whatever was here was accurately reflected on
25 the Survey. Up to this point, it sounds like

1 that was the case, but now we find there is a
2 fence that was not shown on the Survey. We
3 need to confirm there is nothing else on the
4 Survey that is not shown on this Survey.

5 MR. LIEBERMAN: Just to answer his
6 question, my understanding, it was omitted
7 because they didn't own it. It was the School
8 fence, but it shouldn't have been on there,
9 because it's on their property. So it should
10 have been on theirs.

11 MR. IRENE: I don't know which is which.
12 I only see one, but okay. Everything else, all
13 of the other structures that exist on your
14 property are shown on the Survey?

15 MR. ALMEIDA: Yes, shown on here.

16 MR. IRENE: Alright Great. Thank you.

17 MR. ENGEL: In the back of the property,
18 there is also going across the back outside of
19 what's marked as your property line, it also
20 shows a wood stockade fence. It appears to be
21 from the Survey, the bottom right corner of it
22 outside of your property line. Is that -- does
23 that Survey accurate reflect the fact --

24 MR. LIEBERMAN: This is where it says
25 15-foot wide sanitary sewer easement, is that

1 where you are referring?

2 MR. ENGEL: Yes, that side of the
3 drawing. Right above that going vertical on
4 the drawing is a wood stockade fence that looks
5 to be outside of the solid black line that is
6 your property line; is that accurate?

7 THE WITNESS: No, it's not accurate.
8 Our fence follows exactly the darker mark as it
9 shows on the Survey.

10 MR. ENGEL: Okay.

11 MR. GIGLIO: Right, that is correct.
12 The smaller line to the left of it is where
13 your property really ends.

14 THE WITNESS: Yes.

15 MR. GIGLIO: The fence is on the outside
16 of the property?

17 THE WITNESS: No. No. This fence where
18 it shows the wood stock fence.

19 MR. IRENE: The smaller line to the left
20 that you are referring to is the side of the
21 15-foot wide sanitary sewer system. So we
22 don't know about the fence. That's why I
23 suggested earlier they are going to confirm.
24 If, in fact, the Board sees fit to grant the
25 relief, it has nothing to do with the fence.

1 One of the conditions of approval, I would
2 suggest, and it's up to the Board, as I would
3 say, that all fences that are owned by the
4 Applicant will not encroach outside of his
5 property, unless he obtains a license or
6 easement from the adjoining property owner. We
7 leave it at that.

8 Q. We are going to get it cleared up.
9 We've given the Board Members a picture of the
10 playhouse which is marked as A-7. Would you describe
11 that playhouse for the Board? In other words, how is
12 it configured? Is there trees?

13 A. Our idea was to build a small playhouse
14 around keeping the tree where it was. That is the
15 height we could do it.

16 MR. GIGLIO: I'm assuming the playhouse
17 is outside. Are you applying for a variance
18 relief to keep it there or are you proposing to
19 move it to make it conform?

20 MR. LIEBERMAN: That was just spotted by
21 the Planner in the recent letter that we got.
22 We are requesting a variance for the two feet.

23 MR. ENGEL: Is that documented on paper
24 anywhere here or are you verbally adding to the
25 discussion now?

1 THE WITNESS: We are.

2 MR. LIEBERMAN: We are. We are Noticing
3 under the provision.

4 MR. IRENE: There is a catchall
5 provision in the Notices and there was one in
6 this Notice as well for things that come along
7 during the proceeding that no one had
8 anticipated. So, I mean, if it's the kind of
9 thing where you think it would be a material
10 thing that they should Notice the neighbor on,
11 that is up to you.

12 MR. ENGEL: I don't know how it could
13 not have been anticipated since the Survey
14 of the property clearly shows it outside of the
15 allowed setback area.

16 MR. IRENE: I think the issue is the
17 allowed setback area would be a minimum of 10
18 feet, but it's based on the height and they
19 didn't pick up the height. I am not excusing
20 it. I am simply, if you're asking me how do I
21 assume it came about, that's probably how it
22 came about.

23 MR. VENEZIA: We don't know if this is
24 an accurate plot plan. We are knocking holes in
25 it.

1 MR. ENGEL: If I might interrupt the
2 proceedings, I think, I just summed up what my
3 thoughts are, okay? I mean, I have no problem
4 with the contingencies, as Mr. Irene has laid it
5 out, should the Board, under the proofs, see fit
6 to grant the variance. My major concern is
7 there are certain documents, such as a plot
8 plan, such as aerial photos which purport to be
9 in the property's current state which are
10 clearly incomplete, missing items and not really
11 giving us an idea of what it is we are giving
12 variances on, okay? I accept your descriptions,
13 okay, that you've testified to. I have no
14 problem with that. I am an engineer. I make my
15 decisions based on what I see and what has been
16 officially presented in the record, you know,
17 for our consideration. Right now, we've got a
18 Survey property which, by your own admission, is
19 incomplete and not accurate as regards to fence
20 placement, as regards to the proposed garage
21 placement. It's incomplete in that it does not
22 show dimensions of the property lines, which is
23 important for us to consider as far as setbacks
24 go.

25 The playhouse was not previously

1 mentioned in the documentation, although I
2 accept that legally it could be brought up as a
3 verbal item now and the aerial photo, even
4 though it's marked as 2019, is clearly years out
5 of date as it does not show --

6 MR. GIGLIO: Or merged because the Auto
7 Zone was put up last year.

8 MR. ENGEL: It's not accurate and
9 up-to-date. Don't know why. Why is
10 inconsequential. With all of this, it is very
11 difficult for us to accurately and fairly
12 consider. We understand. We appreciate that a
13 lot of preparation has gone into this so far.
14 You've been waiting a lot. We've had to defer
15 this a couple of times. I understand that. But
16 in order for us to give you a fair assessment,
17 we need some of this stuff to be revised,
18 accurate and up-to-date. That's my feeling
19 right now. I find it hard to really give an
20 objective evaluation.

21 MR. GIGLIO: Credence.

22 MR. ENGEL: If the stuff I am looking at
23 and referring back to as I listen to your words
24 doesn't reflect what you described.

25 MR. LIEBERMAN: I understand that.

1 MR. ENGEL: I don't know how the rest of
2 the Board feels. I hate to sound harsh, but I
3 am inclined to ask that we, you know, defer any
4 further discussion on this until we see more
5 accurate up-to-date Survey and photography. I
6 don't know, how does the rest of the Board feel?

7 MS. WIDDIS: Excuse me. Can I say
8 something?

9 MR. IRENE: Only if Counsel wants to
10 call you up.

11 MR. LIEBERMAN: It's Ms. Widdis for the
12 record.

13 MR. IRENE: Ms. Widdis, you understand
14 you are still under oath. Before we let Mr.
15 Almeida go, though, just so we don't forget, the
16 wood shed is going to be removed, correct?

17 MR. ALMEIDA: Correct.

18 MR. IRENE: Ms. Widdis, you are under
19 oath.

20 MS. WIDDIS: As far as, we've been out
21 there multiple times, so everything I showed on
22 here is correct. I know, you know, they don't
23 know, he said that he spoke with the guys. I'm
24 sure he did and stuff, but, you know, sometimes,
25 too, when they go put the stake in, if it's not

1 staked out, they don't follow exactly where it
2 is, something could be pulled, something could
3 have been incorrect. We have points. I have a
4 hundred points and everything I put on here is
5 correct. As far as the fence, sometimes, you
6 know, if you're not doing it, you don't really
7 understand.

8 MR. ENGEL: But if it's not staked out
9 then wouldn't it be, forgive my ignorance
10 because I don't know how the business works,
11 wouldn't it be your responsibility to get it
12 staked out if you wanted to prepare a Survey
13 that is accurate?

14 MS. WIDDIS: Well, our Survey is
15 accurate. This is what's there. This is what
16 we picked up when we went out there. Yeah, the
17 fence is probably over in accordance to this
18 plan. Maybe he misunderstood in the field. We
19 didn't stake it out for the fence. Nobody asked
20 us to stake it out. Usually, they go out and
21 put stakes on the line like every 50 feet as
22 needed.

23 MR. IRENE: If it turns out that that
24 northern property line, the rear property line
25 is not accurate, and I think the assumption is

1 that it is and that the fence encroaches
2 outside. If it turns out that the northern
3 property line is where the wood fence is then
4 this conforms to the rear yard setback.

5 MR. ENGEL: Yes, but we don't know that.

6 MR. IRENE: I understand. What I am
7 saying is, if, in fact, the request for the
8 variance is at the nine feet that is being shown
9 at this plan, okay, that is the worst case
10 scenario. It's either there or better. The
11 other thought would be, if it's that much of a
12 problem for the Board Members, you may want to
13 hear the testimony from the other witnesses
14 about what it's adjacent to. It's apparently a
15 commercial parking lot. If you're still upset
16 with the one-foot setback deficiency off the
17 side line and the two-foot setback deficiency
18 off the rear line, you can deny the relief and
19 he can either relocate it or he could take a
20 foot off the top of the structure to make it no
21 greater than 10-feet high and he would conform
22 to the setback. It's entirely up to the Board.
23 If you want them to come back as a result of
24 that then that is the Board's call.

25 MR. ENGEL: You know, I don't want to

1 absolutely deny them the relief, because it
2 could be that once they get all of the paperwork
3 in order, the Board would see fit that this is
4 something reasonable to grant. I would prefer
5 that they come back with accurate stuff because
6 that way we give you guys the fairest chance
7 possible to have your requested relief granted.

8 MR. IRENE: That is entirely up to the
9 Board. You could also, if, in fact, assuming
10 for the moment this is accurate and if you were
11 inclined to grant the relief, you could grant
12 them on the condition that they confirm that
13 those are the numbers. Remember, if you give
14 them a setback of nine and they end up being
15 eight, they are going to get kicked back.

16 MR. GIGLIO: Exactly.

17 MR. IRENE: So it is entirely up to you.

18 THE WITNESS: The playhouse doesn't have
19 a foundation, so, I mean, it could easily be
20 moved.

21 MR. IRENE: I don't know that the
22 Applicant wanted to hear you say that. If that
23 is the case, we may not have much of a basis for
24 the relief.

25 THE WITNESS: It doesn't have a

1 foundation. Even when we picked up the
2 elevation, because we get it to the corner of
3 the houses. I think the garage was the effort,
4 so they took the elevation on each side of the
5 playhouse at the ground, but it's four feet --

6 MR. IRENE: Mr. Chairman, do you want to
7 take a few minutes and break and let Counsel
8 speak to his client and see what they want to
9 do? One issue may be if that can be made to
10 conform? We are spending a lot of time on the
11 playhouse. If the Board wants to proceed on
12 these plans, if you don't want to proceed then
13 we don't want to go around in circles anymore.
14 If you do want to proceed then we can get into
15 the merits.

16 MR. VENEZIA: I want -- prior to, I want
17 to talk to Ms. Widdis. What is your license
18 credentials?

19 MS. WIDDIS: I don't have any license.
20 I've been working in the field, approximately,
21 four years preparing the plans, auto-cad and
22 doing pretty much everything and going out in
23 the field. I've been in the business for
24 40-plus years. I've been reading blueprints
25 since I was 14 pretty much.

1 MR. LIEBERMAN: The document is sealed
2 and it's by a Surveyor. There does seem to be a
3 question as to the fence line on the northern
4 side.

5 MR. VENEZIA: As Mr. Irene said, let's
6 take a five-minute break and come back in five
7 minutes.

8 Break from 8:45 p.m. to 8:49 p.m.

9 MR. VENEZIA: Roll call?

10 MS. DEGENARO: Robert Venezia?

11 MR. VENEZIA: Here.

12 MS. DEGENARO: Michael Schulz?

13 MR. SCHULZ: Here.

14 MS. DEGENARO: Scott LaMarca?

15 MR. LAMARCA: Here.

16 MS. DEGENARO: Paul Giglio?

17 MR. GIGLIO: Here.

18 MS. DEGENARO: Greg Malfa?

19 MR. MALFA: Here.

20 MS. DEGENARO: Mark Engel?

21 MR. ENGEL: Here.

22 MR. IRENE: Okay. Counsel, we are back.

23 MR. LIEBERMAN: Okay. Thank you. I
24 talked to my experts and my client and this is
25 how I would like to proceed, if the Board would

1 be willing to entertain the application in this
2 light and nexus. In terms of the fence, we will
3 move the fence if it's trespassing, because I
4 can't tell you if it is or isn't. If the Board
5 was inclined to approve this and if it was
6 subject to us moving it to where it doesn't
7 trespass, we certainly would do that because we
8 have to anyway. We can't break the law. We
9 can't have the fence trespass. That is as to
10 that issue.

11 As to the playhouse, we would agree to
12 either have it conform with the law or take it
13 down. That is basically it. So if that is, you
14 know, a condition, we could be willing to do.
15 It's not that important to my client and we
16 would do that if that's what the Board wanted if
17 that was okay.

18 As to the, as to the pool house, I did
19 want to put on the planning testimony. I have a
20 Planner here to go over the variance relief
21 that's requested which concerns the height issue
22 which we haven't talked about and that is how
23 this whole thing started. If the Board is
24 willing to hear testimony, I know the Board
25 isn't telling me how to do their vote, but if

1 they would be willing to hear testimony along
2 those lines, I would like to proceed.

3 MR. IRENE: That is your application.

4 MR. SCHULZ: Just to go back to your
5 comments --

6 MR. LIEBERMAN: Yes, sir.

7 MR. VENEZIA: I have no problem.

8 MR. SCHULZ: If the fence in the back is
9 wrong, it will be reset where it should be
10 reset. Number 2, that playhouse, if there is
11 violation for setbacks, the playhouse will be
12 removed.

13 MR. LIEBERMAN: Or amended.

14 MR. IRENE: So they are not asking for
15 relief for the playhouse.

16 MR. SCHULZ: Okay.

17 MR. IRENE: If, in fact, the Board sees
18 fit to grant the relief with regard for the
19 height of the cabana or pool house structure,
20 one of the conditions in the Resolution of
21 Approval will say, the Board is not granting any
22 relief for the playhouse. The playhouse has to
23 be made to conform or removed.

24 MR. LIEBERMAN: If the Board were
25 inclined to grant relief along those lines, we

1 would be happy with that.

2 MR. GITTO: If I could add something?

3 MR. IRENE: Sure. Please.

4 MR. GITTO: If the Board were so
5 inclined to approve the application, would a
6 revised as-built Survey depicting what the
7 location of the playhouse and the fence --

8 MR. IRENE: Yeah, my suggestion would
9 be, if we get to that point, they would have to
10 confirm that if the playhouse remains that it
11 conforms and they would have to confirm the
12 relocation of the fences if they need to be
13 relocated. So that would all have to be done in
14 the as-built to show that nothing is required.

15 MR. VENEZIA: So a new Survey.

16 MR. IRENE: Yeah, a final, final.

17 MR. LIEBERMAN: A final, final Survey.

18 MR. IRENE: The alternative would be,
19 they simply pull those fences in all of the way
20 and they eliminate the playhouse entirely. I
21 don't know if, at that point, you would need it,
22 because the playhouse is gone. If it's going to
23 conform, I'm sure Mr. Miller will want to see
24 the zoning permit application, he will want to
25 see it conforms. Either conforms or remove,

1 okay? So, yes. You have a Planner.

2 MR. LIEBERMAN: Yes.

3 Justin Auciello, sworn.

4 DIRECT EXAMINATION BY MR. LIEBERMAN:

5 Q. Sir, by whom are you employed?

6 A. Coffone Consulting Group.

7 Q. You are a licensed Planner in the State
8 of New Jersey; is that correct?

9 A. Yes.

10 Q. How long have you been doing that?

11 A. I've been licensed for 23 years and it's
12 current and active.

13 Q. And have you been recognized as an
14 expert before any land use Boards in New Jersey?

15 A. Hundreds. Well, I'm sorry. On hundreds
16 of occasions in 18 Counties.

17 MR. IRENE: You've appeared before this
18 Board?

19 THE WITNESS: About four or five times.

20 MR. IRENE: Will the Board accept Mr.
21 Auciello's credentials?

22 MR. VENEZIA: I have no problem.

23 MR. AUCIELLO: Thank you.

24 Q. You are here to provide planning
25 testimony concerning the pool house; isn't that

1 correct?

2 A. Correct.

3 Q. And the pool house requires a C2

4 variance; is that correct?

5 A. Correct.

6 Q. Would you go over the criteria in the
7 Municipal Land Use Code and in the Local Zoning
8 Ordinance and give an opinion within a reasonable
9 degree of certainty as to whether the variance should
10 be granted or not, please?

11 A. Yes. Absolutely. As the Board knows,
12 we are here tonight for a variance for the pool house
13 height. It was constructed at a height of 17.6 feet,
14 whereas, in the R10 zone, the maximum height is 15
15 feet. I think it's important just to state for the
16 record this is a use that is accessory use. So a
17 pool house is a permitted use in the zone. We're not
18 here for the use aspect. We are here for the height.

19 I think it's also important to reiterate
20 for the record, from the planning standpoint, the
21 surrounding area, obviously, the pool house is
22 towards the rear of the property so the house is
23 towards the south. To the west is the sports field.
24 To the north is a commercial property and a parking
25 lot and to the east is a residential property.

1 So within that context, I believe that
2 the benefits of this application or the variances do
3 outweigh the detriment and I would like to proceed
4 under the flexible C criteria. Again, the subject
5 property is located at the end of Lake View Avenue.
6 It's towards the end of the neighborhood. I think
7 that the de minimis height that exceeds the maximum
8 15 feet, in my opinion, is de minimis in the context
9 of the area and also of the property. So the zone,
10 of course, also envisions this type of use as
11 accessory.

12 My opinion, as a planner, I think the
13 height, even though we do require the variance, it
14 does not violate the provisions of light, air and
15 open space and I also believe that despite the height
16 there will still be a sufficient space on this
17 property.

18 Pools, pools are also a neighborhood
19 norm, so I certainly don't think the pool and the
20 pool house really are out of character. Also, as you
21 saw from the architectural plans, the height exceeds,
22 you know, this is a pitch roof, so the violation area
23 is a relatively, you know, small percentage of the
24 total surface area. The pool house is also mostly
25 shielded by the house and right to the east is a

1 residential property. So, you know, I really don't
2 see this rising to any level of substantial
3 detriment. The design, of course, is quite
4 attractive. It's a barn-type design. I think it
5 fits in with the surrounding. It's certainly not out
6 of character the with surrounding. With that said, I
7 believe we advance Criteria C, Criteria G and
8 Criteria I of the Land Use Law, Municipal Land Use
9 Law. So that is a positive criteria.

10 The negative criteria, it's showing of
11 whether or not the proposal will present a
12 substantial detriment to public good and whether the
13 proposal will present a substantial, will impair the
14 intent and purpose of the Master Plan Zone Plan and
15 the Zoning Ordinance. As I had previously said, I
16 certainly don't think that the granting of this
17 variance would lead to a substantial detriment to the
18 public good.

19 I think, again, the height is
20 appropriate in the context of the layout of the
21 property and its surroundings, as I said, in the
22 positive criteria. There really isn't much of a
23 consequence here in the height in relationship to the
24 surroundings. So with respect to the second prong of
25 the negative criteria, whether or not this variance

1 will impact the Zone Plan, the Zoning Ordinance,
2 again, the accessory use is permitted in the zone.
3 We are here for the height. And I certainly don't
4 think that we are with the height that exceeds the
5 height today, we are not really going to fracture the
6 zone plan. This structure does have a residential
7 appearance and I believe, in my opinion, it's of low
8 impact.

9 So I think, you know, to conclude, the
10 benefits of this application certainly outweigh the
11 detriments and I don't see, you know, certainly think
12 that we do, you know, advance the purposes of your
13 zoning as well.

14 Q. Okay.

15 MR. LIEBERMAN: Mr. Irene, I just want
16 to make sure, I am not going to ask the expert
17 to provide testimony as to the garage, right?
18 That could be handled by acknowledgment on the
19 record that it's not connected to the other
20 structure; is that correct?

21 MR. IRENE: My understanding, from the
22 testimony of Ms. Zuckerman, is that the
23 garage is going to be detached.

24 MR. LIEBERMAN: That's correct.

25 MR. IRENE: And as a result, no one is

1 asking for any relief for the garage and,
2 apparently, it conforms.

3 MR. LIEBERMAN: That was my
4 understanding, too.

5 MR. IRENE: As long as it conforms, it
6 is okay. If it doesn't, you are going to be
7 coming back.

8 Q. Your opinions are within a reasonable
9 degree of certainty; is that correct?

10 A. That is correct, yes.

11 MR. LIEBERMAN: I don't want to take any
12 more testimony.

13 MR. VENEZIA: I have a comment and a
14 question also. You know, the 17.5 looking at
15 the neighborhood, the elevation a bit from the
16 other street to the east of it.

17 THE WITNESS: Halsey.

18 MR. VENEZIA: Will take it away. I
19 mean, it's 17.5. Well, it shouldn't have been,
20 but it's in backyards. It's not blocking any
21 house. You put it in the best words that I
22 could have put it on there, I am concerned with
23 the residential appearance that you are talking
24 about and I am sure we are going to hear some
25 more testimony on this, but it looks like a

1 house, you know, sitting area, den to a cellar,
2 recreation, a bath-and-a-half, a sink area that
3 can easily be converted. I am just so concerned
4 that this is a second -- a two-family house.

5 MR. IRENE: So one of the issues that we
6 have is a definition of a dwelling unit. So, in
7 this case, this pool house or cabana or whatever
8 you want to call it is a detached structure. It
9 has space which you call the living room or
10 recreation room, it has space where you could
11 put a bed, right? It has a sanitation
12 facilities, bathroom and it appears to have some
13 sort of kitchen area. We didn't get details
14 whether it was cooking facilities. On one plan,
15 it looked like it had a center island stove.
16 You are testifying it is an accessory structure.

17 THE WITNESS: Correct.

18 MR. IRENE: You are testifying the
19 Applicant is not intending to use it as a
20 separate dwelling unit which he couldn't without
21 D variance relief.

22 THE WITNESS: Correct.

23 MR. IRENE: And my understanding was,
24 permits were issued for the structure for the
25 pool house on the plans, but the only thing that

1 threw you to us was it was built too high.

2 THE WITNESS: Correct.

3 MR. IRENE: Assuming all of that is the
4 case, and someone can correct me if that is
5 wrong, but assuming all of that is the case,
6 generally, what the Board would do in this case
7 based on your testimony, it's simply going to be
8 used as an accessory structure can't be used as
9 a separate dwelling unit. If it were, the
10 Applicant would need a D1 use variance relief
11 for a second principal dwelling. The Board
12 would normally just so that there is no issue
13 with Mr. Almeida ever sells it in the future
14 nobody thinks they got a separate cottage or
15 apartment back there require a Deed restriction
16 indicating that it is a single-family dwelling
17 up front and you have this accessory structure
18 pool house which is accessory to the principal
19 dwelling. It is not a separate dwelling. Does
20 anybody have any objection?

21 MR. LIEBERMAN: We've agreed to that.

22 MR. AUCIELLO: Yes.

23 MR. VENEZIA: Is there anyone in the
24 audience that wants to say anything on that part
25 Deed restriction or the appearance of a

1 residential appearance, that it is a pool house.

2 MR. LIEBERMAN: For the record, my
3 client is right here. Sir, Mr. Almeida, you do
4 agree that you will sign the Deed restriction.

5 MR. AUCIELLO: Yeah, 100 percent.

6 MR. LIEBERMAN: Indicating this can't
7 ever be used for dwelling purposes and can only
8 be used as a pool house.

9 MR. IRENE: Does that address your
10 concern, Mr. Chairman, that is the way the Board
11 has handled it in the past.

12 MR. VENEZIA: Any other interested
13 parties? Any questions? Mr. Miller.

14 MR. MILLER: West Long Branch Zoning
15 Officer. I just want to know why was it
16 constructed higher than the 15 feet that was
17 approved?

18 THE WITNESS: I will defer to my
19 attorney or our attorney.

20 MR. IRENE: I don't know if Mr. Auciello
21 could answer that. Is the contractor here?

22 MR. LIEBERMAN: I did bring the
23 contractor here in case we needed him. I mean,
24 I anticipated the question.

25 MR. IRENE: Paul Kulpak.

1 Paul Kulpak, sworn.

2 MR. IRENE: Do you trade under a name?

3 MR. KULPAK: No, under my name.

4 DIRECT EXAMINATION BY MR. LIEBERMAN:

5 Q. Thank you. Sir, you are a contractor;
6 is that correct?

7 A. Yes.

8 Q. And you were the contractor retained by
9 Mr. Auciello to construct, among other things, the
10 pool house; is that correct?

11 A. Yes.

12 Q. And did you construct anything else at
13 that site as well?

14 A. No.

15 Q. It appears to be that the building was
16 constructed in a manner that the Board considers to
17 be over two feet above what the zoning allows for and
18 would you be able to explain to the Board how it came
19 to be that way?

20 A. Came to be that way when we were digging
21 the foundation and we hit water at about four or five
22 feet down and couldn't go any deeper. There is just
23 no way to do it. And we poured the foundation
24 according to the blueprint eight feet tall and then
25 built the building on top of it and the building on

1 top of it is 15 feet and that is what I was going by,
2 by the 15-foot margin of the tallest part of the
3 building. We didn't realize the foundation was going
4 to push it out two-and-a-half feet more than it was
5 supposed to.

6 Q. So, in other words, when you did this,
7 you believed that you were not building it in a
8 matter that was inconsistent?

9 A. No.

10 Q. So it was an accident?

11 MR. ENGEL: Consequential to the fact
12 that you hit water sooner than you might have
13 expected to?

14 THE WITNESS: Oh, much.

15 MR. VENEZIA: How deep is that cellar?

16 THE WITNESS: It's eight feet. The part
17 of it is eight feet. Most of it is at four.

18 MR. VENEZIA: Is the length of the
19 whole --

20 THE WITNESS: The cellar is at four
21 feet, yes. Just in the very center it's eight
22 feet and it's, I think, maybe a 10-by-10 area.
23 It is a wine cellar.

24 MR. IRENE: What is in the four-foot
25 section? Is it like a crawl?

1 THE WITNESS: Like a crawl space.

2 MR. SCHULZ: I got two questions. Are
3 you licensed by the State of New Jersey?

4 THE WITNESS: Yes.

5 MR. SCHULZ: Do you have your number on
6 you?

7 THE WITNESS: I have it on my phone. I
8 can give it to you.

9 MR. SCHULZ: You are licensed by the
10 State of New Jersey.

11 THE WITNESS: I am.

12 MR. SCHULZ: The other question is, when
13 you were building this, were there times the
14 building inspector came over there and said it's
15 too high? I just can't understand how you built
16 it to 17.6 and there is no inspections.

17 MR. KULPAK: I had all of my
18 inspections.

19 MR. SCHULZ: So again, how did you get
20 to 17.6? I don't understand it. Mr. Miller,
21 can you explain that this gentleman said he had
22 inspections, but here we are six months later
23 it's complete. At some point in time, it was in
24 violation.

25 JAMES MILLER, sworn.

1 MR. LIEBERMAN: So we asked the same
2 question, by the way.

3 MR. IRENE: Mr. Miller is our Zoning
4 Officer. He has been sworn. Do you want to
5 answer the question, Mr. Miller?

6 MR. MILLER: Yes. I will have to
7 consult with our construction officer. When I
8 received the complaint, that is when I addressed
9 the issue.

10 MR. SCHULZE: When did you address the
11 issue? Like, let's say, what month? Was there
12 more building after you addressed the issue?

13 MR. MILLER: It was around April 11,
14 2019.

15 MR. SCHULZ: April 11th.

16 MR. MILLER: Yes.

17 MR. LAMARCA: How far was the project,
18 do we know, how close was it finished?

19 MR. MILLER: It was shingled at the
20 time.

21 MR. LIEBERMAN: It was done.

22 MR. SCHULZ: I don't understand.
23 Somebody could complete a project that is
24 illegal after the fact there is a stop work
25 order.

1 MR. IRENE: You know, the people who are
2 doing the inspections may be relying upon the
3 numbers that the professionals are supplying to
4 them.

5 MR. GIGLIO: I agree.

6 MR. IRENE: They are not out there with
7 a tape measure. They rely upon the fact that
8 somebody is giving them a set of plans saying
9 it's 15-foot tall and if they don't build it to
10 15-foot tall and somebody does an as-built and
11 it's 17.6 therein lies the problem.

12 MR. VENEZIA: When did we find out it
13 was 17.6? In April?

14 MR. MILLER: When I first did my
15 inspection, it appeared to be 20-feet high.
16 Once we got the as-built that's when it was
17 discovered it was the height.

18 MR. IRENE: When you hit water, Mr.
19 Kulpak, and realized you couldn't go down as far
20 as you wanted, if you don't shrink the building,
21 doesn't that mean you are lifting everything up?

22 MR. KULPAK: Yes.

23 MR. IRENE: Didn't you think that was
24 going to change the height?

25 THE WITNESS: No. I was looking at the

1 structure of the building and it says it's 15
2 feet from the plate to the ridge.

3 MR. IRENE: Right.

4 MR. KULPAK: And that was my
5 understanding for whatever the height was
6 supposed to be.

7 MR. IRENE: Right. If I lifted the
8 plate up two feet, isn't that going to lift the
9 height?

10 MR. KULPAK: There is nothing to tell me
11 how high up the foundation could be. The
12 foundation is supposed to be eight feet on the
13 outside.

14 MR. IRENE: Right.

15 MR. KULPAK: The foundation got pushed
16 up, but it was still eight feet.

17 MR. ENGEL: Sounds like a
18 misunderstanding or miscommunication where the
19 15 feet started.

20 MR. IRENE: You don't measure it from
21 grade?

22 MR. KULPAK: No. I was going by the
23 blueprint.

24 MR. IRENE: If you took the blueprint
25 that said we have a 15-foot tall structure and

1 lifted up three stories, are you still 15-foot
2 tall?

3 MR. KULPAK: It's still on top of the
4 foundation.

5 Q. So, sir, did you believe that you
6 started measuring at the top of the foundation
7 wherever that was?

8 A. Yes.

9 Q. Is that what you are saying? That was
10 his belief.

11 MR. LAMARCA: So you didn't build the
12 foundation, correct? The mason came?

13 MR. KULPAK: No. The mason did.

14 MR. LAMARCA: You just figured his
15 height was set so you were going to build your
16 15-foot building on top of it?

17 MR. KULPAK: Correct.

18 MR. GIGLIO: And I bet it was a single
19 pour, right, where you pull the walls away.
20 Single pour floating foundation waterproof.
21 Done. Done in one day?

22 THE WITNESS: Yes.

23 MR. SCHULZ: Was Pat's Construction
24 involved in this and was Monteforte Architect
25 involved in this?

1 MR. LAMARCA: Well, Jimmy drew the
2 plans, right?

3 MR. SCHULZ: Yes? No?

4 MR. LIEBERMAN: I will get you an
5 answer.

6 MR. IRENE: It looks like what exists
7 now is different than the initial plan that we
8 have.

9 MR. LIEBERMAN: This is Mr. Almeida for
10 the record. Why don't you answer that question?

11 MR. IRENE: You understand you remain
12 under oath, Mr. Almeida?

13 MR. ALMEIDA: Yes. So Monteforte did
14 the drawings and Pax Construction did the mason.

15 MR. SCHULZ: During the framing, did
16 Monteforte inspect it?

17 MR. ALMEIDA: No, they did not. So they
18 relied on the approval of every inspection we
19 have from Long Branch, so they came and
20 inspected the construction and they gave us
21 approval to go next step.

22 MR. IRENE: Was the structure
23 constructed in accordance with the Monteforte
24 plans? It looks like it's a different
25 structure.

1 MR. ALMEID: No, it was. It's exactly.

2 MS. ZUCKERMAN: It's not clear on
3 Monteforte's drawings where it's taken from.

4 MR. LAMARCA: The problem is nobody
5 shoots heights. Once the foundation is in, they
6 build the building and nobody is shooting a
7 height to check it.

8 MS. ZUCKERMAN: The top plate looks the
9 same as grade on his drawings. You can't tell
10 the two apart. It's not clearly labeled.

11 MR. LIEBERMAN: Does the Board have any
12 other questions of this witness?

13 MR. IRENE: Was your question answered,
14 Mr. Miller?

15 MR. MILLER: Yes, it was.

16 MR. IRENE: Thank you. Any interested
17 parties have any questions of Mr. Kulpak? Let
18 the record reflect no response.

19 MR. LIEBERMAN: We were expecting a lay
20 witness, but the person isn't here right now.

21 MR. IRENE: Any interested parties? Any
22 interested parties that wish to comment? Let
23 the record reflect no response. Mr. Miller,
24 anything further?

25 MR. VENEZIA: I would like to call Mr.

1 Miller up on a few things.

2 MR. IRENE: You were sworn, Mr. Miller,
3 right? You understand you are still under oath?

4 MR. MILLER: Yes.

5 MR. VENEZIA: Expedite this a little
6 bit, Mr. Miller, how many accessory buildings
7 are allowed on a property?

8 THE WITNESS: Two accessory buildings,
9 excluding the garage.

10 MR. VENEZIA: The garage is not counted.

11 MR. MILLER: Right.

12 MR. VENEZIA: Right now there is --

13 MR. MILLER: There is three accessory
14 structures. The pool house --

15 MR. VENEZIA: We've already --

16 MR. MILLER: -- the shed and the
17 playhouse.

18 MR. VENEZIA: We've talked about taking
19 away the shed. That will get them down to two.
20 The property lines --

21 MR. GIGLIO: The garage conforms.

22 MR. VENEZIA: -- the property lines, do
23 you see a problem back there? Are they abutting
24 against the parking lot as detailed in this plot
25 plan?

1 MR. MILLER: I do agree that the fence
2 needs to be moved within the property lines, but
3 no.

4 MR. VENEZIA: Is there any other
5 concerns that you have on this?

6 MR. MILLER: No. I think we addressed
7 everything that I had.

8 MR. VENEZIA: Any other questions?

9 MR. SCHULZ: The shed would come down,
10 so that once the shed comes down, it would be
11 conforming, but the amount of structure is
12 there.

13 MR. MILLER: Yes. They did apply for
14 the zoning permit to comply with the shed.

15 MR. SCHULZ: They have to, right.

16 MR. MILLER: Yes.

17 MR. IRENE: Mr. Miller, while we have
18 you, do you know if any variance relief had been
19 granted for the dwelling prior, because I see it
20 looks like we have a deficient side yard
21 setback.

22 MR. MILLER: I would have to look into
23 the file.

24 MR. IRENE: You are not aware offhand.
25 It may be pre-existing, non-conforming. We

1 don't know. Obviously, nothing being proposed
2 today is affecting the dwellings because there
3 is no exacerbation. I was just curious because
4 looking at the Survey, Plot Plan from Mr.
5 Goddard, it shows a deficient side yard setback
6 on the western side.

7 MR. MILLER: Yes.

8 MR. SCHULZ: Mr. Miller, I have another
9 question for you. Do you know if a fence permit
10 was created for the fence they installed?

11 MR. MILLER: Yes, it was.

12 MR. SCHULZ: If it's incorrect --

13 MR. MILLER: We are not in the position
14 to determine where the property lines are. It
15 wasn't brought to our attention until we got an
16 updated Survey and that's when it was brought to
17 our attention.

18 MR. SCHULZ: If this fence has to be
19 moved, do they have to get another fence permit?

20 MR. MILLER: We can update the zoning
21 permit that was applied in the last two weeks.

22 MR. IRENE: Mr. Gitto said it would be
23 prudent if you feel fit to grant the relief to
24 comply with the Survey.

25 MR. GIGLIO: Quick note, I don't know if

1 something can be taken on the side, but the
2 gentleman explained how field hockey fence does
3 encroach on this property. I don't know if
4 somebody can notify the school system to have
5 that checked because if that is true it might be
6 nice to get that fixed, so it's straightened out
7 in the future. Just a side note.

8 MR. IRENE: Well, I think he also
9 indicated it's there because the width of the
10 field. I don't know how long that's been there.
11 He may not care.

12 MR. GIGLIO: I am being fair on both
13 ends.

14 MR. IRENE: If he doesn't care, they
15 have a right to leave it.

16 MR. CAMASTRA: He is okay. I appreciate
17 it, Paul.

18 MR. GIGLIO: I have a daughter and so
19 does Mr. Malfa who plays field hockey there and
20 we happen to know about that a lot. If that is
21 off that much, I don't think it's going to
22 affect anybody.

23 MR. VENEZIA: I have two concerns that
24 we want to address from the Board Members prior
25 comments. One is the drainage because of the

1 plan, as Mr. Schulz said, prior to that the
2 field hockey was a swamp and we were concerned
3 with drainage somewhat.

4 We have, in the past, had the person or
5 the Applicant put a small dry well in to let the
6 water go at the two down spots on the side of
7 the field which would be, what, that would be
8 the north side of the building?

9 MR. IRENE: West side.

10 MR. VENEZIA: West side of the building
11 is to have two areas where the water deposits
12 and is dissipated at a lower level. It's simple
13 things. It is to put a small dry well in.

14 MR. LIEBERMAN: You mean, basically, a
15 drain?

16 MR. ALMEIDA: I did drainage already on
17 the side of the house that borders with the
18 field. I did the drainage. We divert the water
19 in a way that doesn't bother the field and
20 whatever water goes from my property to the
21 field it is natural. It is rainwater. That is
22 it. And we have the fence with the trees and
23 the landscape like prevents the water to go on
24 the field.

25 MR. IRENE: When was that done, Mr.

1 Almeida?

2 MR. ALMEIDA: That was done in 2017,
3 when we built the pool.

4 MR. IRENE: Was that plan submitted with
5 the permits, so that somebody could look at it?

6 MR. ALMEIDA: Yeah.

7 MR. GITTO: I haven't seen a plan.

8 MR. ALMEIDA: That was done when we did
9 the pool. That was a pool company.

10 MR. SCHULZ: I got a question on the
11 pool house. It is showing the downspouts. They
12 go no place. That's what I am talking about.

13 MR. ALMEIDA: You are talking about.

14 MR. SCHULZ: The pool house. How many
15 downspouts are on the pool house?

16 THE WITNESS: There is three.

17 MR. SCHULZ: Three, two in the back and
18 one in the front?

19 MR. ALMEIDA: Yes.

20 MR. SCHULZ: What I am asking that water
21 somewhere there be tanks installed to catch the
22 water and not just run.

23 MR. ALMEIDA: Not just run. We can do
24 that. For that purpose, we did not do it. It
25 runs on my property and this made it on the

1 property before it goes to the field.

2 MR. GITTO: Since you are installing a
3 616-square foot garage, could you also install
4 one that would mitigate the garage?

5 MR. ALMEIDA: Oh, yes. Yes.

6 MR. LAMARCA: At the same time.

7 MR. GITTO: Once they updated their
8 Survey and provided a design for Resolution of
9 Compliance, we could review that?

10 MR. VENEZIA: What will we call that
11 when we put that in a Resolution?

12 MR. GITTO: I would say a dry well to
13 mitigate the increase in runoff. Increase in
14 the impervious surface.

15 MR. VENEZIA: Address Mr. Engel's
16 concern earlier about what you were mentioning.
17 Are you okay if we get a new plan and everything
18 has to conform?

19 MR. ENGEL: As long as the requirements
20 for the revisions are part of the condition for
21 if we grant the relief then I am fine with that.
22 As far as the roof height itself goes, yeah,
23 obviously, mistakes were made in planning it,
24 but I accept the fact that a two-and-a-half foot
25 overage is not damaging to the neighborhood.

1 MR. VENEZIA: Especially on a dead end,
2 last house adjacent to a field.

3 MR. ENGEL: Yeah. Right. With the
4 amount of trees and stuff, I don't think a
5 two-and-a-half foot roof is going to. Sand
6 boxing my remarks to just the roof and stuff, I
7 have no problem with granting -- I have no
8 problem with granting variance relief for the
9 height of the roof.

10 MR. IRENE: And the setback. They are
11 tied together. The height of the pool house
12 roof and the setback with all of the conditions
13 that we discussed, so we are talking about the
14 playhouse being relocated to conform or be
15 removed, a condition that the fences will all of
16 the encroachments will be removed, they will be
17 relocated or the Applicant will obtain either a
18 license or an easement from whoever's property
19 is being encroached on to allow them to remain.
20 We mentioned the playhouse. There will be a dry
21 well system installed for the pool house and the
22 garage is going to be submitted on a drainage
23 plan for review and approval by the Board
24 Engineer.

25 We also are going to remove that wood

1 shed. There is going to be a confirming Survey
2 done to show all of these things have been
3 achieved and is there anything else.

4 MS. ZUCKERMAN: Deed restriction.

5 MR. IRENE: Deed restriction. We don't
6 want to forget about that one. A Deed
7 restriction to confirm that the pool house is an
8 accessory structure and will not be used as a
9 separate dwelling unit.

10 MR. SCHULZ: Environmental report. I
11 want an environmental report.

12 MR. IRENE: Okay. The report from the
13 Environmental Commission. Not an environmental
14 impact statement. What the checklist originally
15 required.

16 MR. MALFA: Can I just ask a question?

17 MR. IRENE: Sure.

18 MR. MALFA: I don't know if I can direct
19 this to Mr. Almeida. Do you have any problems
20 with flooding at all on the property?

21 MR. ALMEIDA: We do have one problem.
22 The parking lot, you know, where our neighbor,
23 so it floods my pool when it rains a lot because
24 they don't have any drainage there. So the most
25 of the water you might see on the field, it's

1 from the parking lot because it's, you know,
2 asphalt and it's just coming out.

3 MR. MALFA: Understand. The reason I am
4 asking is because I know being on that field
5 before when it moderately rains or maybe even
6 light rains, it floods. The field drain floods.
7 Obviously, being very close to the lake, to a
8 water table, so now when you start digging holes
9 and then you start putting things in those
10 holes, the water has got to start running off
11 somewhere else.

12 The reason I am asking is because now
13 you have a cellar or a basement, a pool that was
14 dug, now the garage is like --

15 MS. ZUCKERMAN: Slab-on-grade.

16 MR. MALFA: Hopefully, the dry well will
17 be enough. Again, I know it floods there. Just
18 the disturbing of the water table was kind of my
19 concern and where is it going to go? And again,
20 I guess, you know, the environmental report
21 might shed more light on that.

22 MR. IRENE: If I can make a suggestion,
23 rather than mandating a dry well, why don't you
24 just provide a grading and drainage report
25 subject to review and approval by the Board

1 Engineer? This way, if he looks and says, you
2 know the dry well isn't going to work because
3 the water is going to come up instead of go
4 down, they can propose a swale or grate or
5 whatever they want. That way, we're not locking
6 it into something that may or may not work. You
7 propose what you think will work, let him look
8 at it and bless it.

9 MR. LIEBERMAN: That is what I would do.

10 MR. IRENE: Is that the motion, Mr.
11 Engel?

12 MR. ENGEL: Yes.

13 MR. IRENE: Is there a second?

14 MR. LAMARCA: I will second.

15 MR. IRENE: As Mr. Engel stated it,
16 granting the approval with the conditions.

17 MR. LIEBERMAN: Sir, could I stop you
18 for a second?

19 MR. IRENE: Sure.

20 MR. LIEBERMAN: There was a question
21 raised, before you vote, and I just want to let
22 him get the answers.

23 MR. MILLER: Clarification for the
24 proposed two-car garage, is that going to be for
25 commercial use or residential use?

1 MS. ZUCKERMAN: Residential use.

2 MR. LIEBERMAN: Mr. Almeida, it's
3 residential use.

4 MR. ALMEIDA: It's residential use.

5 MR. LIEBERMAN: No commercial?

6 MR. ALMEIDA: No commercial.

7 MR. MILLER: Are you satisfied?

8 MR. LAMARCA: The garage has all of its
9 approvals, right?

10 MR. IRENE: They are not asking for
11 relief. He doesn't require relief, doesn't have
12 his approvals yet, doesn't require any from us.

13 MS. DEGENARO: Robert Venezia?

14 MR. VENEZIA: Yes.

15 MS. DEGENARO: Michael Schulz?

16 MR. SCHULZ: Yes.

17 MS. DEGENARO: Scott LaMarca?

18 MR. LAMARCA: Yes.

19 MS. DEGENARO: Paul Giglio?

20 MR. GIGLIO: Yes.

21 MS. DEGENARO: Greg Malfa?

22 MR. MALFA: Yes.

23 MS. DEGENARO: Mark Engel?

24 MR. ENGEL: Yes.

25 MR. IRENE: It carries. Thank you.

1 Anything that's been marked that we don't have
2 please leave with Chris Ann. Mr. Chairman, we
3 have several Resolutions tonight.

4 MR. CHAIRMAN: I am going to lead off
5 with the Turlecsky Resolution for the approval
6 of bulk variance relief on the fence. Did
7 everyone have a chance to review? Any questions
8 on it? Corrections or additions? Motion?

9 MR. ENGEL: I will move to accept this
10 motion as written.

11 MR. GIGLIO: I will second it.

12 MS. DEGENARO: Robert Venezia?

13 MR. VENEZIA: Yes.

14 MS. DEGENARO: Scott LaMarca?

15 MR. LAMARCA: Yes.

16 MS. DEGENARO: Paul Giglio?

17 MR. GIGLIO: Yes.

18 MS. DEGENARO: Mark Engel?

19 MR. ENGEL: Yes.

20 MR. VENEZIA: Second Resolution is a
21 bulk variance for Stephen and Kerry Bray about a
22 pool and it was on 30 Community Drive. Did
23 everyone have a chance to review that?

24 MR. ENGEL: Yes, sir.

25 MR. VENEZIA: Any questions? A

1 discussion? Comments?

2 MR. ENGEL: No, sir.

3 MR. VENEZIA: Can I have a motion?

4 MR. GIGLIO: Accept the motion.

5 MR. GIGLIO: I will second.

6 MS. DEGENARO: Robert Venezia?

7 MR. VENEZIA: Yes.

8 MS. DEGENARO: Scott LaMarca?

9 MR. LAMARCA: Yes.

10 MS. DEGENARO: Paul Giglio?

11 MR. GIGLIO: Yes.

12 MS. DEGENARO: Mark Engel?

13 MR. ENGEL: Yes.

14 MR. VENEZIA: The third and final one

15 for this evening is the denial of the

16 application of the Jengo on the premises of 68

17 Locust Avenue in West Long Branch. Did everyone

18 have a chance to read that? Any additions,

19 corrections, comments? Seeing none and hearing

20 none, does anyone want to make a motion?

21 MR. ENGEL: I will move.

22 MR. IRENE: No, you can't. You voted

23 the other way. It's only those people who voted

24 to deny the application and I am looking at

25 Chris Ann's notes. So Mr. Venezia and Mr.

1 LaMarca, Mr. Giglio. Ms. Hughes is not present
2 tonight. So those three, did anyone make a
3 motion to adopt that?

4 MR. LAMARCA: I will make a motion to
5 adopt the Resolution.

6 MR. VENEZIA: I will second it.

7 MR. VENEZIA: Yes.

8 MS. DEGENARO: Scott LaMarca?

9 MR. LAMARCA: Yes.

10 MS. DEGENARO: Paul Giglio?

11 MR. GIGLIO: Yes.

12 MR. VENEZIA: We have one thing to talk
13 about is the Minutes, the review of the Minutes
14 for last month.

15 MS. DEGENARO: Got hammered with the
16 time in between and she said she'll have this
17 meeting and the November meeting done for us for
18 the next meeting.

19 MR. VENEZIA: Is there anyone here that
20 is not going to be here next month? We have two
21 that won't be here.

22 MR. IRENE: If Mr. Engel moves up to
23 fill the alternate or fill the vacancy.

24 MR. IRENE: Remember, Chris Ann is going
25 to remember, everybody, you have to be here half

1 hour early. The re-org is 7. So we don't
2 forget, one other matter, if I may, on the
3 Gabbay matter, Mr. Falvo's application, they
4 dropped off -- Mr. Gabbay pro se handling
5 himself dropped off a form of complaint with
6 Chris Ann that does not look like it was filed
7 with the Superior Court, but I believe they have
8 since filed it. I am simply going to ask for
9 authorization from the Board to defend that
10 matter assuming it goes forward. What was
11 dropped off with Chris Ann was an un-filed
12 complaint. I think they filed it.

13 MS. DEGENARO: Yes. I think I emailed
14 column east.

15 MR. IRENE: The complaint you got didn't
16 have any exhibits.

17 MS. DEGENARO: It did have exhibits.
18 The exhibits were the things in the plan.

19 MR. IRENE: I need to know what you got,
20 without discussing it, because then we have to
21 go into closed session and litigation can I
22 simply get --

23 MR. ENGEL: I authorize our Board
24 Attorney to --

25 MR. GIGLIO: I second that.

1 MS. DEGENARO: Robert Venezia.

2 MR. VENEZIA: Yes.

3 MS. DEGENARO: Michael Schulz?

4 MR. SCHULZ: Yes.

5 MS. DEGENARO: Scott LaMarca?

6 MR. LAMARCA: Yes.

7 MS. DEGENARO: Paul Giglio?

8 MR. GIGLIO: Yes.

9 MS. DEGENARO: Greg Malfa?

10 MR. MALFA: Yes.

11 MS. DEGENARO: Mark Engel?

12 MR. ENGEL: Yes.

13 MR. IRENE: We just want to add that to
14 the Minutes the Board authorized Mr. Irene to
15 defend the Gabbay matter. That is all I have,
16 Mr. Chairman.

17 MR. VENEZIA: I think that is it.

18 MR. IRENE: Motion to adjourn? All in
19 favor?

20 Hearing ends at 9:40 p.m.

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