

**TOWNSHIP OF MOUNT OLIVE
PLANNING BOARD**

Public Meeting
Thursday, September 9, 2021 at 7:00 pm
Remote/Virtual Meeting

In accordance with Township Ordinance # 26-09 the Mount Olive Planning Board is authorized pursuant to N.J.S.A. 40:55D-25(c)(2) to hear all variance applications including the six variance categories set forth in N.J.S.A. 40:55D-70d.

MINUTES

Public Meeting / Remote Virtual Meeting of the Mount Olive Planning Board of September 9, 2021 commenced at 7 pm.

The Pledge of Allegiance was recited.

Open Public Meetings Act Statement was read into the record by Ms. Strain, PB Secretary

Roll Call

Present: Mr. Scapicchio, Mr. Forlenza, Ms. Mott, Mr. Mania, Mr. Nelsen, Mr. Ottavina, Mr. Batsch, Mr. Ouimet (arrived at 7:10 pm)

Excused: Mr. Schaechter, Ms. Natafalusy, Mr. Weiss

Board Professionals in attendance were:

Present: Chuck McGroarty, PP/AICP, Board Planner
Michael Vreeland, PE, Board Engineer
Walter Lublanecki, PE, Traffic Consultant
Susan Crawford, Esq. Board Attorney
Mary Strain, Board Secretary

Excused: Edward Buzak, Esq. Board Attorney

Audio and video technology and platform.

Mr. Scapicchio: Does anybody have any Committee Reports? Seeing none, we'll move on.

Meeting Minutes

August 12, 2021 Meeting Minutes

Mr. Scapicchio: We have meeting minutes of August 12, 2021 which was a public meeting.
Can I get a motion?

Ms. Mott: I'll make a motion to approve the August 12, 2021 public meeting minutes.

Mr. Scapicchio: We have a motion by Kim, do we have a second?

Mr. Nelsen: Second.

Mr. Scapicchio: Second by Dan Nelsen. Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes

December 17, 2020 Meeting Minutes

Mr. Scapicchio: Thanks, Mary. We also have meeting minutes of December 17, 2021, which was a public meeting.

Mr. McGroarty: I think, Mr. Chairman, that's a typo since we're not there yet.

Ms. Strain: Oh, I'm sorry.

Mr. Scapicchio: What should it be, Chuck?

Mr. McGroarty: 2020, I believe.

Mr. Strain: 2020, yes. I'm sorry.

Mr. Scapicchio: Okay, sorry.

Ms. Strain: My fault.

Mr. Scapicchio: That's okay.

Mr. Scapicchio: Can I get a motion to approve the minutes of December 17, 2020?

Mr. Batsch: So moved.

Mr. Scapicchio: John Batsch made the motion. Can we get a second?

Ms. Mott: I'll second it.

Mr. Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes

Resolution

Mr. Scapicchio: Thank you, Mary, we have one Resolution on the agenda tonight, and it is PB 19-14, which is the New Jersey Foreign Trade Zone Venture LLC, and this Resolution is to memorialize the denial without prejudice of the applicants request to modify various conditions of approval in Resolution number PB 19-14 relating to the development time limitations. Can I get a motion for that?

Mr. Mania: I'll make that motion, Mr. Chairman.

Mr. Scapicchio: John Mania made the motion. Can we get a second?

Mr. Nelsen: Second.

Mr. Scapicchio: And Dan Nelson made the second. Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes

Appeal

PB 21-08 Jonsahow, LLC, 50 Main Road, Block 5400, Lot 7

Mr. Scapicchio: Thank you, everybody. We have an appeal of some escrow fees by an applicant. Chuck is the applicant in this meeting?

Mr. McGroarty: Yes, Mr. Chairman, I see Mr. Buckley. Sam Buckley, I assume he's here for this matter.

Mr. Scapicchio: Can we bring him up?

Mr. McGroarty: Yes.

Mr. Scapicchio: Hello, Sam. You're muted.

Mr. Buckley: Sorry about that. How are you?

Mr. Scapicchio: Okay, that's okay. Thank you. Okay, I don't know about anybody else on this Board, but I have never been involved in all of my years on an appeal for escrow fees. So I'm going to lean on Susan Crawford. And Susan, can you sort of lay this out for us?

Ms. Crawford: Of course, Mr. Chairman. This is a dispute of an escrow account fee dispute under the Township Code Section 550-17. Whenever there's going to be a charge against an applicant's escrow account, the applicant is notified of the intended withdrawal. And within 10 days of receipt

of that notification, the applicant may object to the intended withdrawal by making the objection in writing and requesting a hearing before this Board to rule on the escrow fee dispute. And that's what happened in this case. The applicant made a timely objection in writing and requested the hearing. Under that same provision of the township code. This Board is tasked with ruling on the dispute by the determination of whether it's a contested charge and is reasonable. It's a reasonableness standard. So, you'll hear from the applicant. You can hear any response from the...in this case Lublanecki Engineering the invoice that is actually being disputed.

Mr. Scapicchio: Okay, thank you, Susan. Sam, I guess we should probably start off with you because you're making the appeal. So why don't you tell us what your thoughts are and your concerns? And we will listen to you.

Ms. Crawford: Mr. Chairman, excuse me. I don't mean to interrupt, since it is a hearing. Mr. Buckley should be sworn.

Mr. Scapicchio: Okay. You want to take care of that, Susan?

Sam Buckley was sworn in for the record.

Mr. Buckley: Sam Buckley at 11-B Park Place in Flanders.

Ms. Crawford: Thank you.

Mr. Scapicchio: Thank you. All right, Sam. Floor is yours.

Mr. Buckley: You should have with you a letter that we wrote to the Board.

Mr. Scapicchio: I have it, and I'm certain the other members have it as well.

Mr. Buckley: Okay. I don't mean to take the Board's time on this, but I do appreciate you're hearing us out on it. This is in conjunction with the application for Peacock Run, and we spent time with the engineer and planner beforehand in pre-meeting meetings and talked about what we might need for the application, et cetera. Traffic really never came up. And on the morning of the hearing, we received this report from the traffic engineer. Literally the day, the morning of the night of the hearing. So...you know...I don't know what would happen if we supplied a report to your team on the day of the hearing, I'm pretty sure it probably just wouldn't be even recognized, right? So we got this and never had traffic come up before. And not only did we receive it awfully late, it really was a non-issue. It was like something about a sightline that was gleaned over during those meetings. And the other thing that struck me as weird was our meeting was actually delayed by a month because of a technicality. I think we had misstated the zone or something in our original announcement to the people within 200 feet. So we had postponed the meeting by a month. And really, this report probably should have been received a month earlier versus the morning of our meeting. So, it's not a tremendous amount of money, it's about 850 bucks, but we found it a little bit odd that we would get charged for that.

Mr. Scapicchio: I thought it was \$825, Sam.

Mr. Buckley: I'm sorry.

Mr. Scapicchio: My report says 825. Is that correct or am I wrong?

Mr. Buckley: I was just rounding.

Mr. Scapicchio: Okay, round down next time. Sam, do you have anything else to add?

Mr. Buckley: No, sir.

Mr. Scapicchio: All right, Walt, do you have any thoughts? Anything you want to say?

Mr. Lublanecki: Well, yes, thanks, Mr. Chairman. Well, as you know, unfortunately, I got into this late. I received a memo from Mike, Township Engineer, deferring to me on a couple of items. One was the site distance from the driveway, and since my name was mentioned on that, I felt I had to at least...at least address it. I ended up getting that memo. Again unfortunately, a misunderstanding, whatever, I got that memo on Monday. I did go back and forth with emails with Chuck on how we should review it. I think on that Monday, I ended up getting a full set of plans so I could take a look at everything. And I did have one...I did have one comment, and that was just to show the sightlines coming out of the driveway. Actually, I had two comments. One was very simple. It was just a matter of a little bit of striping and signing that I did not see on the plans, which I would consider a minor comment. The site distance comment really, really asks for more information. As per...as we always do, ask for the sightlines to be shown on the plans. And unfortunately, they did not get that memo until the morning of the hearing. One thing was mentioned in the August 30th letter was that I had no testimony at that meeting at all. And I think that's again, that's because the applicants engineer agreed to comply with my letter. And since my letter was really still looking for some information on the sightlines, I really don't have any comment on the sightlines until I saw them. But again, I felt that they should be on the plans again. Very unfortunately, we...you know...we submitted this later.

Ms. Crawford: I apologize for interrupting. I didn't swear Mr. Lublanecki in. So Mr. Lublanecki, the testimony that you just gave or will continue to give was the truth, the whole truth and nothing but the truth. So help you, God.

Mr. Lublanecki: Yes.

Mr. Crawford: Thank you, Mr. Lublanecki.

Mr. Scapicchio: Thank you, Susan. Thank you, Walt. Walt, anything else to add?

Mr. Lublanecki: No...inaudible.

Mr. Scapicchio: All right. Walt...

Mr. Buckley: Can I just ask a quick a quick question.

Mr. Scapicchio: Sure.

Mr. Buckley: Is it normal...how do...how do the township's consultants normally get engaged? Is that is this is this normal protocol? Because again, if...I'm just trying to learn as I go along here. I'm not sure if that's typical protocol or does somebody from the Board normally ask for it? Is it the engineer or the planner? How does that work?

Mr. Scapicchio: Well, Sam, when you ask for protocol. I had this question, and I'm not sure it's the same question you're asking, but I'm going to throw it out there anyway. Walt, who in the township has the authority to instruct you to either look at or not look at applications?

Mr. Lublanecki: As I understand it, Chuck does.

Mr. Scapicchio: Chuck does.

Mr. McGroarty: No, let me...no. Well, for practical purposes and certainly in this case, I did, because typically it's the Chairman's call. And in this case, the...Mr Weiss was not participating in this hearing, so I couldn't reach out to him. I know that Mr Scapicchio was chairing this hearing at that time. But when Walt contacted me that Monday, he said he...and because he was...because Mike and his report deferred to Walt's expertise on a couple of questions, Walt asked me, what should he do? I thought...not that I can authorize him to do it, but I agreed 100 percent that he should do a report. Because otherwise the Board might wonder why Walt had not responded when he was specifically identified. And that his expertise is a traffic engineer. But for protocol purposes, typically when we...Mike Vreeland and I will review an application for completeness. If we have concerns or if there are waivers requested from certain elements, that will always be brought to the Board for its decision. But typically, we would ask the Chair at the time after our review...you know...whether Walt would be involved or Dr. Keller. I don't know if there's other professionals that we would call upon.

Mr. Scapicchio: All right, thanks, Chuck. Any Board Members have any questions, thoughts or comments. Seeing none. I would like to make a suggestion. And my suggestion is that I would request, respectfully that Sam Buckley, the applicant and Walt Lublanecki have a conversation and see if you folks can come to some sort of agreement and work this out. And I would have no problem with carrying this appeal process to the next meeting in the hopes that you two professional people can work this out between yourself and not put the Board Members in a situation where they have to make a decision...at this point. I want to give you that opportunity first.

Mr. Buckley: Is that an opportunity or a hot potato?

Mr. Scapicchio: Excuse me?

Mr. Buckley: Opportunity or hot potato?

Mr. Scapicchio: I'll say, you know what, Sam? I say it's an opportunity

Mr. Buckley: I'll take.

Mr. Scapicchio: It may not work. It may not...I'm sorry...it may not work out, but it may work out. So that's the request that I'm making to you two folks. So either you want to accept that or you don't and you want us to vote on it tonight. It's your choice.

Mr. Buckley: I'm always happy to have a dialogue with anybody.

Mr. Lublanecki: Walt, are you in favor of that as well?

Mr. Lublanecki: Yes, same here. I'm in favor of that. I do want to bring up another...the other issue, though, is the comment that I did make in that in my report, will they also be complying with that comment to show us the sightline or show the Board the sightlines? Would this be part of our discussions?

Mr. Buckley: That is my understanding of something that we're working with our engineer on for complying with virtually everything that the Board asked us to do that night.

Mr. Lublanecki: I'm definitely open to a dialogue.

Mr. Scapicchio: Okay, so Susan, you've heard my recommendation, the applicant and the professional who works for the township have agreed. Do I have the authority to handle it this way?

Ms. Crawford: Yes, you do. Chairman, I don't see anything that precludes that. And as you indicated, if it's necessary to revisit this at a future hearing, it can be placed on the agenda. That's not a problem.

Mr. Scapicchio: Is it something that we need to put on the agenda this evening or...?

Ms. Crawford: No, there's no notice requirement for this.

Mr. Scapicchio: No notice requirement. Okay, so when is our next meeting, Mary?

Ms. Strain: October 14th...

Mr. Scapicchio: October 14th. I would think that that should be enough time for the applicant and the engineer to work this out one way or another. Whether it does or not, we can hear it on the 14th and we...

Mr. Buckley: We can thumb wrestle for it. We'll do something,

Mr. Scapicchio: Guys work it out. We're all here to make love and make everybody happy. Please try to work it out.

Mr. Buckley: All right. Thank you very much.

Mr. Scapicchio: Thank you. Walt, thank you.

Mr. Lublanecki: Thank you, Mr. Chairman.

Mr. Scapicchio: Okay. All right, Chuck, we don't need Sam on here anymore, do we?

Mr. McGroarty: No, I think he has left. Mr Buckley disengage himself. So that's helpful.

Mr. Scapicchio: Board Members think that's a good idea? I see some heads nodding.

Mr. Mania: That's a good idea, Dave.

Mr. Scapicchio: Thank you.

Extension Request

PB 19-12 Kalashian, Kraig, 15 East Forest Road, Block 4118, Lot 44

Mr. Scapicchio: We have...we have PB 19-12 which is Kraig Kalashian which is a variance for a single family home at 15 East Forest Road. They requested an extension to October 31, 2021. Can I get a motion?

Mr. McGroarty: Mr. Chairman, let me just jump in. We had that...at the very last minute today after discussing this with Susan, we had it on the agenda, we took it off. I apologize. You had not seen that. We did get the extension request from that applicant and it was not...I actually thought it was carried to this evening's meeting. It was not. They never did notice. I'm sorry they would have to re-notice. So you don't have to really act on it unless there's some objection to the extension. They've asked for some more time to finish their plans. They will have to notice and once they do, we'll have them on a future meeting.

Mr. Scapicchio: All right. Chuck is the applicant on this Zoom meeting?

Mr. McGroarty: I don't believe so. I don't believe we told them it was necessary to appear and I don't see anyone that I recognize.

Mr. Scapicchio: Okay, very good.

Mr. McGroarty: So, if the Board has no objections that...we're granting them the extension of time, we'll see them in October presumably.

Mr. Scapicchio: So, we have to take no action, right, Chuck?

Mr. McGroarty: Susan, is that correct?

Ms. Crawford: Correct.

Development Application

PB 21-11 Chmiel, Kazimierz, 24 Camp Pulaski Road, Block 400, Lot 5

Mr. Scapicchio: Okay, good. All right. We have two development matters. The first one is PB 21-11 which is Chmiel, Kazimierz...hopefully I said that correctly, which is a bulk variance for 24 Camp Pulaski Road which is Block 400, Lot 5. I had a conversation with Chuck today and there's a lot of different issues going on with this property. And Chuck, would you please give the Board and myself an overview of the situation here on this property, please?

Mr. McGroarty: Yes, Mr. Chairman, I actually issued a second report, which is dated August 30, 2021. The applicant has this report, the applicant and its professionals. The first application that we got and it continues to be part of this application is a proposal to build a freestanding garage that will need a variance for a side yard setback. It also needs a variance given its proximity to a stream which crosses the property, which I go into in the report. While this application was unfolding, we went out. I went out with the Board of Health. I'm sorry, the Health Department Staff and I discovered that there was a pavilion had been constructed on the property. A photo is in my report. There were no permits issued and such. So we gave the applicant the opportunity to incorporate that matter into this hearing as well instead of me sending a violation notice. And the pavilion by virtue of its proximity to the stream likewise needs a variance. There is also a driveway which the base course appears to already be in. I've been on the property and it certainly appears that way to me, and it is reflected in some of the photographs you see. The driveway does not meet the 5 foot separation from the side property boundary, as is required in the zone. That is treated as an exception, which is as you, the Board knows, similar to a variance, but not exactly the same, but it has to be addressed. But the primary issue here, I think, is... I attached a memorandum to my report from Susan Downer, the Chief Environmental Health Specialist with the Health Department, and I've had conversations with the applicant's architect, who is here this evening, in the past about this. But the Board, if you've had a chance to see the memorandum, it's quite brief. It has four bullet points and Susan's position, which is endorsed by her supervisor, Trevor Weigle, the Health Officer. They object to the application, so before perhaps we get too far along into the testimony, if you don't have the report in front of you, I'll tell you what the four bullet points are. The first one is that the site plan does not show all the components of what she calls the Presby advanced septic system. Quite frankly, I'm not sure we need to see all that. That's so the Health Department can evaluate the characteristics of the septic system unless Mike disagrees. I mean, we don't typically see all those kinds of details. But I think the remaining three are important. What she is calling a gazebo, I call the pavilion. The next bullet point says proposed gazebo appears to be located on top of vent line to outlet vent as per Septic System As-Built Plan dated March 9, 2021. So, in other words, and I know this from Susan's explanation to me, this gazebo...they raised the question whether it's in fact located on top of the vent line for the septic system, and that's a problem for them. Third bullet point proposed new asphalt driveway appears to be located on top of the corner of the septic field, and it certainly does appear that way on the plans. And it also says the septic field was not designed for vehicular traffic. A layer of stabilization fabric in between the system...sand and cover material was not depicted and she goes on about that. And that, in fact, is the case on the architectural plans. The portion of the driveway crosses not only the corner of the active septic field but reserve field as well, which is not permitted. And that is her last point. Proposed new asphalt driveway appears to be located on top of the septic reserve area. Again, referring to the architectural plans of July 20...July 30, 2021. And so the Health Department's position consistently since this application has come in...because I first raised it to them when I saw it, I said...I asked if a driveway can be permitted on top of a septic field or reserve field. Based on my experience, it cannot. But I asked those folks who are the experts, and they said absolutely not. So this matter has not been resolved yet. I actually spoke with Susan Downer today by phone from the office, and I asked her had she heard from the applicant's experts and worked this out, and she said, no, she has not. So just to bring this to the Board's attention, we...of course, the applicant has to deal with the variances that are involved here and the exception. But there's an issue here. Typically, we would...perhaps the Board would defer to other departments or outside agencies, subject to approval and so on. But the location of the garage and in fact the base of the existing driveway going all the way to the back of the property is a key component, seems to me of what the applicant is looking to do, which is put a garage in the back and to gain access to it, he needs to put a driveway in and the driveway happens to interfere with the septic field.

Mr. Scapicchio: So this is the applicant or his professionals included in this meeting at this point. Can we bring them on board?

Mr. McGroarty: I can. I see, I believe the architect and I believe also the engineer. Let me bring those gentlemen up. Mr Lasota is the architect, and I believe Mr Roselli is the engineer.

Mr. Scapicchio: Who's Adam Lasota?

Mr. McGroarty: Mr. Lasota is the architect he can identify himself for you. And Mr. Roselli, who was on his way up here is, I believe, the engineer who designed the septic system.

Mr. Lasota: That's correct, Chuck.

Mr. Scapicchio: Susan, can you swear both of those folks in for us?

Adam Lasota was sworn in for the record.
Rob Roselli was sworn in for the record.

Mr. Scapicchio: Adam, why don't you begin?

Mr. Lasota: Thank you so much, Mr. Chairman. So, Adam Lasota, registered architect here in the state of New Jersey and also in the State of Pennsylvania. And my address is 1355 East Susquehanna Avenue in Philadelphia, Pennsylvania.

Mr. Scapicchio: Thank you. And what do you have to add to this application?

Mr. Lasota: So the biggest concern is...I know the biggest concern that Chuck had mentioned is in regards to the septic field and the how we can design the driveway in order to not interfere with the system. And of course, I would like to bring in Rob Roselli he's the professional engineer who was the engineer who designed the original septic system and can be able to provide his expert testimony in regards to how we can be able to pave over the septic system without interfering with the performance of that septic system.

Mr. McGroarty: But Mr. Chairman, if I may just for a moment I don't believe...I know Susan will...I don't know if we qualified him yet.

Ms. Crawford: No, we haven't.

Mr. McGroarty: But I don't see the applicant here. Is the applicant with us tonight? Adam do you know?

Mr. Lasota: No, he's not on tonight because of the language barrier and he asked that I be on his behalf. Does he need to be on the call?

Mr. McGroarty: I'll defer to our attorney.

Ms. Crawford: I would think so.

Mr. Lasota: If you like, if you like, I can try to get him on pretty quickly. I know he's standing by and he's available. I just wasn't sure if he needed to be on or not. So because...let me give him a quick call.

Mr. McGroarty: I don't know if...

Mr. Scapicchio: Susan, in the meantime, can you qualify the engineer, Rob Roselli?

Ms. Crawford: Yes, Mr. Roselli, if you could...inaudible.

Mr. Roselli: Excuse me?

Ms. Crawford: Can you give us some background in your licenses and your experience in the field of engineering?

Mr. Roselli: Yes, my name is Rob Roselli. I'm a registered professional engineer in New York, New Jersey and Connecticut. And I've designed multiple septic systems in New York and New Jersey throughout my career.

Inaudible

Mr. McGroarty: We're getting interference. Is everybody hearing that?

Mr. Scapicchio: I am too.

Mr. McGroarty: Is someone typing?

Ms. Crawford: Mr. Roselli...

Mr. Scapicchio: Okay, Susan, should we wait for the applicant to come on before we hear testimony from their engineer?

Ms. Crawford: Yes.

Mr. Scapicchio: Okay.

Mr. Lasota: I just spoke to him, and he is coming on now, so just give them another five minutes and he should be on.

Mr. McGroarty: Will he be appearing both visually and by way of audio?

Mr. Lasota: I believe so. He's going to try to connect right to the Zoom call and do both, at the very least, audio.

Ms. Crawford: Well, if he's going to give testimony, we will need to have the visual as well.

Mr. Lasota: Okay. Because of the language barrier, too, I think he's going to want to defer to myself and Mr. Roselli to be able to provide our expert testimony.

Mr. Scapicchio: Susan, is that okay with you?

Ms. Crawford: If the Board doesn't have any questions that only the applicant is able to answer.

Mr. Scapicchio: Okay, let's see what happens when he comes on.

Mr. Lasota: Thank you so much.

Mr. Scapicchio: You're welcome.

Mr. Lasota: Thank you so much everyone for your patience.

Mr. Scapicchio: Mary, I show two blocks of you, one with a picture and one with just your name on it, on my screen.

Ms. Strain: I had to leave and come back. It was like my internet wasn't working. I don't know. Sorry.

Mr. Scapicchio: Okay. Now it's gone.

Ms. Strain: It's gone? Okay.

Ms. Crawford: So while we're waiting, let me just finish asking Mr Roselli, are your licenses in New Jersey current and in good standing?

Mr. Roselli: Yes.

Mr. McGroarty: I wonder if, Mr. Chairman, if they're going to be a while, maybe move on to the next applicant and come back?

Mr. Scapicchio: Good suggestion. Is the next applicant in the room?

Mr. McGroarty: Yes, but I see Adam is back on the screen, I don't know if he's had any luck with his client.

Mr. Lasota: I gave Kaz the password to the Zoom call, so he should be popping on.

Mr. Scapicchio: All right. So Adam, we're going to move on to the next application. Why don't you get that worked out with your client?

Mr. Lasota: Great.

Mr. Scapicchio: And we'll get back to you.

Mr. Lasota: Thank you so much, Mr. Chairman.

Mr. Scapicchio: Fair enough. Okay, Chuck, we can lose Adam on this meeting now.

Mr. McGroarty: Mr. Chairman, I'm going to not do that since I did that last time and lost someone for the whole night and...

Mr. Scapicchio: Okay.

Mr. McGroarty: ...painful memories of that, so let me just move on to...we have the next applicant who is here.

Mr. Scapicchio: Okay

PB 21-05 Reci, Endri, 41 Smithtown Road, Block 2200, Lot 9

Mr. McGroarty: Let me get my report on that. So the next applicant is...this is Endri Reci. I'm not sure I'm saying that correctly, and I believe. This is Amanda Reci.

Mr. Scapicchio: That's not Amanda, is it?

Mr. McGroarty: Apparently not. Would you unmute yourself, please?

Inaudible

Mr. Reci: Hello?

Mr. McGroarty: Yes, Mr. Reci, but we heard a lot of noise behind you.

Mr. Reci: I'm sorry. I'm at a wedding venue. I'll try to step away a little further. I'm sorry.

Mr. McGroarty: Can't make this up.

Mr. Scapicchio: You have a variance meeting, and you're at a wedding.

Mr. Reci: Yes, I mean...you got to do what you got to do.

Mr. Scapicchio: You should have postponed it.

Mr. Reci: Three days we pushed. I don't want to push my luck.

Mr. Scapicchio: We're all volunteers here. You should have pushed it off. We want your undivided attention.

Mr. Reci: It's all right.

Mr. Scapicchio: All right. Are we with you? Your name's not Amanda, is it?

Mr. Reci: No, I'm on my wife's phone because my phone is currently almost dead.

Mr. Scapicchio: All right, so your name is...what is your first name?

Mr. Reci: Endri.

Mr. Scapicchio: Endri. Okay. All right. We're...the next development application is PB 21-05, Endri Reci which is a variance for a deck. And Chuck, I'm going to ask you to go through your report because I understand that no zoning permit was issued. In fact, I think you told me today that one was denied, but they also built this deck without building permits. So can you go through your report to bring the Board Members up to date?

Mr. McGroarty: The applicant is Mr. Reci is located at 41 Smithtown Road, it's actually a corner property at Sand Shore and Smithtown. There is a tax map excerpt on the report. You can see that there in the R4 zone district. And you're right, Mr. Chairman, the applicant did build a...what he called a floating deck. But I'll go into that...I have a comment on that in the report, but it's a deck approximately 6 to 5 to 6 feet off grade or above grade. It aligns with the back of the house. And because this is a corner property, this lot, which is Lot 9 and Block 2200. It has two front yards. One from Sand Shore and one from Smithtown. And the ordinance then treats the other two property boundaries as side yards. So I denied a request to build a deck because it did not satisfy the side yard setbacks. However, the deck was built, and Mr. Reci was given the choice of either filing for variance to this Board to see if the Board...to see if that would work. If not, we would pursue violation against this property owner in Municipal Court. So the variance here is for an encroachment into the side yard. Twelve feet is required. We don't have an exact...we have a survey, but it's not exactly clear. But my reading of the survey indicates that it's 7 feet plus or minus to the side yard setback. So 12 feet required, 7 feet is proposed. Now, again, the applicant has called this a floating deck. I'll show you some photographs, two photographs, actually. For all intents and purposes, it's connected to the house. It's not a separate deck out attached to an above ground pool, as one might think of when you think of a quote floating deck. But if that's the case, if it is a floating deck, then he has a different kind of variance, which is it has to be a minimum distance from the house. It would have to be 10 feet...10 feet back from the house, which of course, it is not that abuts the house. So unless Mr. Reci wishes to dispute this and he has every right to do so, we're treating it as an attached deck, meaning a 12 foot setback to the side yard.

Mr. Scapicchio: Thanks, Chuck. Susan...

Mr. McGroarty: I'm sorry, Mr. Chairman. I, as I do typically in the report, I lay out the statutory criteria under the Land Use Law as to what would be necessary for the applicant to address...to persuade the Board that a c variance is in order.

Mr. Scapicchio: Understood. Susan, we need to swear Mr. Reci in?

Endri Reci was sworn in for the record.

Mr. Reci: Endri Reci (E N D R I R E C I), 41 Smithtown Road, Budd Lake.

Ms. Crawford: Mr. Chairman?

Mr. Scapicchio: Thank you, Endri. Endri, you did get a copy of Chuck McGroarty's report?

Mr. Reci: I did. Question just so I guess...I mean, so we're on the same page here. Free floating. Is that referring to as if the deck is attached to the house at all?

Mr. Scapicchio: I mean, I think the definition of free floating is it's not attached to anything, it's just sort of floating out there by itself.

Mr. Reci: Yes, no, it's not at any point it doesn't attach to the house. So at the level where the deck is, that is pretty much as high as concrete on the house...the foundation. So there is no attachment to it. It's just, I mean, it's next to the house. But like I said, it's not attached to the house at all.

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Did you see the pictures that Chuck McGroarty put in his report?

Mr. Reci: I did, yes.

Mr. Scapicchio: I'm looking at this one view of a picture, which is a view of the southerly end of the deck and the house. And at least, at least in the picture, it looks like it is attached.

Mr. Reci: It's very close. It's right against it, but it's not attached in the sense of like being a screwed or bolted on to the foundation or the house in any matter.

Mr. Scapicchio: So it touches the house, but it's not bolted to the house?

Mr. Reci: Correct. Touching? Maybe a quarter of an inch. But...

Mr. McGroarty: Mr. Chairman?

Mr. Scapicchio: Yes.

Mr. McGroarty: If I may?

Mr. Scapicchio: You may.

Mr. McGroarty: The reason why I raised it in the report was to give ample time for the applicant to take issue with me, which he has every right to do. It's the wrong variance. That he's seeking tonight. Because I said right in the report, if it's going to be treated as a structure which is not attached to the house, it's an accessory structure which needs 10 feet separation from the house.

Mr. Reci: Yes, I'm not...not really...I wasn't sure how that worked out or what I exactly had to do there. So, that's my mistake there. But the other thing is now. Now, would it be better for me to attach it to the house because moving it 10 feet back wouldn't really work because the house is so far set back into the yard.

Mr. McGroarty: You're getting ahead of yourself, you're getting ahead of yourself, Mr. Reci. First of all, the deck is already built. We'll deal with that subsequently. But I think you're getting ahead of yourself. You're asking this Board for advice on which way to go for the deck. You put the deck up. You have the variance. I think you need to either address it tonight or perhaps this has to be noticed for a different variance.

Mr. Scapicchio: Chuck, what type of variance would it have to be if it was a deck that's attached or floating, as he says?

Mr. McGroarty: If it is what's called a floating, although that my inspection of it looked, I didn't see that it was bolted, but it certainly physically... I don't know how you can say it's not attached, but if it's not attached, an accessory structure needs a 10 foot separation from the house, from the principle structure. So obviously, in this case...well, it would appear obvious, at least based on my site inspection. And you can see in this photograph there's inches or fractions of an inch separation from the house, not 10 feet.

Mr. Scapicchio: So, Chuck and I'm also looking at your report and you're sort of making the suggestion that if he wanted to go for the c-2 variance, which you don't recommend, he would need the assistance of professional planner. Is that's true?

Mr. McGroarty: Well, I typically say that Mr. Chairman, for particularly for homeowners. I mean, a c-2 variance in my view of the world...a very rare occurrence. I don't think someone who doesn't have experience with Land Use Law and as a planner would really want to be in a situation of giving testimony for c-2 variance. So that's why I say that. And then I draw the applicant's attention to the c-1 criteria for a variance.

Mr. Scapicchio: Endri, how would you like to proceed?

Mr. Reci: I'm not actually quite sure. I don't understand most of the whole the c-1, c-2...I mean, as far as however it is built, whatever he recommends.

Ms. Reci: If we attach it to the house.

Mr. Reci: No, you cannot attach, it's already...

Mr. McGroarty: Wait, wait, you can't have someone else speaking if they're not...

Mr. Reci: Yes, I'm sorry. So I mean, however, it's currently built, whatever way would be best. You know, whatever route would be best.

Mr. Scapicchio: Well, that's a decision that you're going to have to make. It's not a decision that we make.

Mr. McGroarty: If your testimony is it is not attached in any shape, way or form to your house, it just looks like it is, then then you need a variance to have an accessory structure that is not 10 feet separated from the house.

Mr. Reci: Okay.

Mr. McGroarty: So then you may need a variance for the side yard setback, depending on the height of the...of the deck.

Mr. Reci: I believe it was 2 feet high almost.

Mr. McGroarty: Tonight is not the night for that.

Mr. Reci: Okay.

Mr. McGroarty: If you're...if you're coming in front of us tonight now...even though you've had the report, you're saying...and my report was August 30th, so we've been out there. But if you're saying that you in fact want to argue it is a freestanding deck, then you need a different kind of variance.

Mr. Reci: I mean, well, I think I submitted that to you when we first talked that it was free floating, free standing.

Mr. McGroarty: And I denied you.

Mr. Reci: Yes, but...I mean, so what I'm saying is I thought we were under agreement that we were going for that kind of variance, that it was free standing. I mean, again, you check that out, you thought it was otherwise so. I was aware that that's what we were going after or at least going that direction again, I'm not too sure of how many different directions we can go here. I'm not, you know, familiar with the variances and all that.

Mr. Scapicchio: Endri, it's your application. You have to tell us how you want to move forward.

Mr. Reci: So as he recommended a free floating within...you know...10 feet.

Mr. Scapicchio: Chuck is not recommending anything. Chuck is simply telling you what the options are.

Mr. Reci: Whatever that option was, I don't know which one was called, c-1...or c-2...no it wasn't that....

Mr. McGroarty: No, let's do this, Mr. Reci.

Mr. Reci: Yes.

Mr. McGroarty: I mean...this...the problem comes from the fact that you went ahead and built the deck anyway, right? We were talking about a structure that wasn't there already. This would be a lot simpler, but you have a structure...you have a structure that's there. And if your position is that it's not attached to the house, you have to re-notice for a different setback variance. I will tell you tomorrow, if you wish what that is, I'll tell you right now it's 10 feet from the house. You need to tell me tomorrow, not here...what height...

Mr. Reci: Yes, I know.

Mr. McGroarty: ...what the height of the deck is. And I will tell you if you need a side yard variance as well, and then you do have to re-notice again and come back...unless Susan feels that, that that's out of line.

Ms. Crawford: No, I don't. I mean, if the notice, I haven't seen the notice on this application, but if it's not the appropriate notice for the variance for accessory structure or a free floating deck, then notice is not adequate and it needs to be re-noticed in addition to the potential second variance, Chuck, that you mentioned.

Mr. Scapicchio: So, Endri, do you want to talk to Chuck tomorrow and maybe carry this and re-notice?

Mr. Reci: Yes, that's fine. Chuck, is it possible that I can call you over this or about this or...?

Mr. McGroarty: You can always call me my number is on my report. I don't know if we'll carry it, then Mr. Chairman, if...but in the event that it is considered an attached structure. Mr Reci, you're here tonight. You've already noticed, I think, twice the first time we asked you to be noticed, it wasn't actually...you're already here tonight. Mr. Chairman, if you bear with me one second, you're really adamant that it is a floating deck and you don't want to proceed on the variance for an attached structure.

Mr. Reci: Yes.

Mr. McGroarty: All right, I'm going to come out then with the construction official and verify to his satisfaction that it is in fact not attached.

Mr. Reci: So I'm sorry. Just interrupt real quick when we're talking about free floating, free standing, it is. We're talking about a screw going into the house attached to the house in any manner whatsoever.

Mr. Scapicchio: That's up the construction official.

Mr. Reci: Okay. Well, I mean, as far as free floating...you know...free standing, as far as I'm aware of the definition that it's not attached. So as far as that goes, yes, it's not attached. I'm standing with that.

Mr. Scapicchio: All right. So you're going to go for a c-2 variance then. Is that correct?

Mr. McGroarty: Not a c-2. It's well, it will be the applicant's decision as to whether to pursue a c-1 or c-2 variance.

Mr. Scapicchio: Okay.

Mr. McGroarty: But the nature of the infraction is that the deck now needs to be 10 feet from the house as a quote, freestanding or free floating structure. So we don't have a definition, by the way, in our ordinance for free floating.

Mr. Scapicchio: But I think the applicant has testified that it is free...it's floating, it's not attached to the house. So...

Mr. McGroarty: So it's insufficient distance...insufficient distance.

Mr. Scapicchio: Why don't you reach out for Chuck in the next day or have a conversation and determine the direction you want to go in and come back to this Board. We want to work with you. We want to try to give you what you need, but we need to follow the rules and we need to have the record as clear as possible.

Mr. Reci: Of course. Yes, sir.

Mr. Scapicchio: So having said that, Susan, do we need to carry this? How do we deal with this application at this point?

Ms. Crawford: I'm going to ask Chuck. I mean, essentially with the...inaudible...can we still consider the same application, carry it and get an extension I think we might need or...Chuck...

Mr. McGroarty: Yes, whatever...yes, that's not a problem. And then they would be noticed for the other variance, right?

Ms. Crawford: Right. Unless you regard it as a completely different application because the change in variance, but we're dealing with the same deck.

Mr. McGroarty: Right. I don't think we need to do that. I think that would be necessary.

Mr. Scapicchio: So, does that mean we want to carry this?

Ms. Crawford: Carry it, and I think we may need an extension? Mary would know.

Mr. Scapicchio: Mary?

Ms. Strain: Yes, they do need one till October 31st. If you put them on in October because it's good to the...

Mr. Scapicchio: 10-31, is the agenda clear that night or clean that night for us?

Ms. Strain: Chuck, we have three things on October 14 and two things on October 21. Do you want to go into November?

Mr. McGroarty: Let me say this. I would say no, this deck is in violation. It's been in violation for many months, maybe over a year. I think it's time to get this thing resolved either one way or the other. I would suggest, Mr. Chairman, we put it on the October 21 after the Hunkele matter and before the East Forest Road matter.

Mr. Scapicchio: Sounds good.

Mr. McGroarty: And Mr. Reci, you will have to re-notice even though we're carrying it. And if you don't re-notice in time for that meeting, I will issue a summons.

Mr. Reci: Okay.

Ms. Crawford: Mr. Reci, do you consent to an extension on your application to October 31st?

Mr. Reci: Yes.

Mr. Scapicchio: 21st, right? Mary?

Ms. Strain: We're going...the extension will be till October 31st to the end of the month.

Mr. Scapicchio: 31st okay.

Mr. McGroarty: And the meeting will be the 21st.

Ms. Strain: I'll email you tomorrow. Okay, sign it and return it back, please.

Mr. Reci: I...for me?

Ms. Strain: Yes.

Mr. Reci: Yes, fine.

Ms. Strain: I'll email you, just sign it and send it back.

Mr. Reci: Okay.

Ms. Strain: Thank you.

Mr. Scapicchio: And Endri, try to come prepared when you come back next time so we can...you know...help you out as best as we possibly can.

Mr. Reci: Yes, yes, sorry, it's just bad timing. But I couldn't push another day because I already missed two opportunities before.

Mr. Scapicchio: Okay. All right, so you're good with the direction that the Board is going in with you, right?

Mr. Reci: Yes. And I'll...I'll talk with Chuck, possibly tomorrow and will square it away and continue from there.

Mr. Scapicchio: Thanks. Go back to the wedding. Enjoy your dancing.

Mr. Reci: Thank you.

PB 21-11 Chmiel, Kazimierz, 24 Camp Pulaski Road, Block 400, Lot 5

Mr. Scapicchio: All right. That'll bring us back to PB 21-11 which is a bulk variance for 24 Camp Pulaski Road. It looks like we have the architect here. We have the engineer here. I don't see Kazimier...

Mr. Lasota: Kazimier is an attendee.

Mr. McGroarty: Okay, let me look.

Mr. Scapicchio: Okay.

Mr. McGroarty: All right, then.

Mr. Lasota: He's standing by with video and also audio.

Mr. Scapicchio: Chuck is going to try to get him on board now.

Mr. Lasota: Thank you.

Mr. McGroarty: Are you sure? Are you sure...there he is. Okay.

Mr. Lasota: Yes. Kaz, you might just have to unmute then turn on the video.

Mr. McGroarty: Will you please unmute.

Mr. Lasota: Kaz?

Mr. Chmiel: Yes?

Mr. Lasota: Oh, there he is. Can you turn on your video, please? There's no...there's no button on there for the turning on the video.

Mr. McGroarty: That's why we get these instructions in advance, actually to avoid this kind of stuff. Would you please unmute and put your video on?

Mr. Lasota: There...I see the audio is on, can we just... there he is. There we go. Perfect. Thank you.

Mr. Scapicchio: Okay. So I believe when we left off waiting to get the applicant on in this meeting, the engineer Rob Roselli, was going to testify. About his work on this project. Rob, you want the floor?

Mr. Roselli: Sure. I mean, I did speak with Susan Downer briefly last week about this project and...you know...we went through it a little bit. And...you know...if it does...if the variance does pass, which is obviously a separate subject, I'm going to have to submit a new septic plan and make the appropriate changes. Now, as far as the concern about the system being underneath the driveway, these systems do have...there is a specification and a cross section that does apply where it

could be placed beneath the asphalt driveway. Now the issue is that the system was already built without that condition, so the system would have to be retrofitted where the current system, where it is underneath the driveway and as far as the expansion area goes...or the reserve area. You know...that would be built from scratch or that could...that could be built on anything...asphalt section. Obviously, it's a lot easier to build it up front...you know...build it going in, knowing the appropriate asphalt section, but it is...the bottom line is it is possible to do. Now the other issues...you know...with the gazebo being on top of one of the vent pipes, I'm going to have to go out and double check that. And that's about it, I mean, that's the...those are the major issues that she pointed out and that we discussed a little bit...you know...when I did speak with her last week.

Mr. McGroarty: Mr. Chairman, may I ask a question?

Mr. Scapicchio: You certainly can.

Mr. McGroarty: Mr. Roselli, I spoke with Susan Downer today. I think you heard me say that earlier and but rather than me run into the potential of giving hearsay or whatever testimony. You see her report, her memorandum of August 25. You have a copy of that?

Mr. Roselli: Yes, I have it right here.

Mr. McGroarty: And they're making it clear that they disagree with you. Now, that's why we had urged you folks to work this out before you got to a Board Meeting. The Board...the Planning Board doesn't concern itself with the details of a septic system, except in this case where the applicant is asking for certain improvements which impact the septic. Health Department is saying they cannot be on the septic field. And I'm certainly no expert at all in this matter, but they're saying it can't be. Why haven't you or why cannot you sit down with the Health Department, work that out first before this matter comes in front of the Board? This has been going on for a number of months now.

Mr. Roselli: Well, I thought, I mean, I don't know. I mean, that's...to answer your question. The Health Department is not the manufacturer, and the manufacturer said that it's acceptable that there is an acceptable alternative or solution to put in these systems beneath an asphalt parking lot or driveway.

Mr. McGroarty: Is it consistent with the town's ordinance under the Health Department regulations? It is the Health Department's position. It is not.

Mr. Roselli: Well, if the Health Department's position that it is not then...you know...then I have to obviously have another conversation with them and discuss that. The manufacturer says it is okay. It may not be. They may not be knowledgeable of that. I thought I discussed that, but that was kind of just...

Mr. McGroarty: But I think what it comes down to...but I think it comes down, Mr. Chairman, if I may. I think what it comes down to in this case is you may be...again, I have no idea, but you may need some kind of relief from the local ordinance, not unlike what is being asked for the zoning issues to come. From health regulations, it's their position that the ordinance doesn't permit it. If the manufacturer is...can persuade them that the system can function just fine under the driveway. That's something you really should work out with them first, don't you think? Then...you know...whether that means appearing in front of the Board of Health to get some kind of relief, I don't know exactly

how they do it, but wouldn't that make more sense than going through all the variance testimony first? Because you also said you're not sure about the gazebo, either. You haven't had a chance to look into that.

Mr. Lasota: Well, Chuck, Mr. Chairman, were Rob's recent drawings submitted and also seen by Susan at the Health Department?

Mr. McGroarty: Yes.

Mr. Lasota: And just see that cross section that Mr. Roselli is referencing?

Mr. McGroarty: I gave I...yes...I provided to Health Department the plans you gave us, which are Mr. Roselli plans, which are revised August 2, 2021, one Sheet.

Mr. Lasota: Okay, thank you.

Mr. McGroarty: And Susan has them.

Mr. Scapicchio: I guess to Adam and Rob and Chuck and Susan, I'm going to chime in now, but I think that there are so many issues going on with this property that I think you have to work those out with the Health Department and any other appropriate organization before this Board spends our time listening to the variance requests. And I think you would be in a better position if you have dialogue with the Board of Health and any other professionals within the township that can help you bring this to more of a conforming application. If I can say that. So I guess the question is to the applicant, Mr Chmiel. Whether he wants to move forward tonight or does he want his professionals to try to work these or iron these details out with the Health Department and in any other organization within the township that they need to speak to?

Ms. Crawford: Yes, Chair, that actually, if I may, that's appropriate. The Board, as you did, has indicated...inaudible...prefer that the applicant resolve some of the outstanding issues with the Board of Health. Ultimately, the applicant can decide whether to follow that...or the applicant can choose to proceed and present its application, knowing what the Board's view is with regard to the outstanding issues. And if the applicant is inclined to opt to try to resolve the outstanding issues with the Board of Health first, the matter could be carried to a future date and revise plans if that's appropriate, be resubmitted to the Board. But it is up to the applicant to decide how it would like to proceed knowing the Board's position.

Mr. Scapicchio: Adam, do you want to talk to your client? It seems that you're sort of like the spokesman for him. Inaudible. You want to want to confer with him and see what...

Mr. Lasota: Yes, Mr. Chairman. Let me give him a quick call and...

Mr. Scapicchio: You can talk to him right here.

Mr. Lasota: Okay. Kaz, I think it's best that we follow the Board's recommendation and that we do have another dialogue with the Health Department in regards to the septic system before we share the rest of the matter with the Board.

Mr. Scapicchio: Does he agree?

Mr. Chmiel: Yes.

Mr. Lasota: Yes.

Mr. Scapicchio: Did he say yes?

Mr. Chmiel: Yes.

Mr. Scapicchio: Very good. Good, good idea.

Mr. Lasota: Thank you. Thank you, Mr. Chairman.

Mr. Scapicchio: Mary, when do we want to carry this to?

Mr. McGroarty: I think November...

Ms. Strain: November 18th.

Mr. Scapicchio: And I guess to the applicant and the applicant's professionals that are here, is that enough time for you folks to iron out these issues with the township?

Mr. Lasota: Yes, Mr. Chairman. Yes, it is.

Mr. Roselli: Yes.

Mr. Scapicchio: All right. And November 18th is okay with your applicant?

Mr. Chmiel: Yes.

Mr. Scapicchio: Okay. Do they have to do any further noticing?

Ms. Crawford: No, but Chairman should announce that the matter will be carried to November 18, 2021 using the Zoom platform. All that information will be available on the website.

Mr. Chairman: Okay, well, you just did that for me. Thank you.

Mr. McGroarty: And we'll need an extension.

Ms. Strain: Yes, I'll email that tomorrow morning. Okay?

Mr. Lasota: So we just have to sign the extension, but no need to re-notice, correct?

Ms. Crawford: Correct.

Mr. Lasota: Beautiful. Thank you so much.

Mr. Scapicchio: We just want to try to help you out, but you need to dot the I's and cross the T's.

Mr. Lasota: Thank you for giving us the extra time and we will cross our T's and dot our I's. So when you hear us on November 18th, we can proceed forward with this application.

Mr. Scapicchio: Thank you very much. Have a great night.

Mr. Lasota: Thank you so much.

Ms. Crawford: To the applicant if there are any revised plans, if they could be submitted to the Board at least 10 days prior to the next hearing.

Mr. Lasota: So the 10 days...10 business days or 10 calendar days?

Ms. Crawford: Mary?

Mr. McGroarty: Let's be on the safe side. Ten is the minimum, 10 business days, but please get it to us even earlier.

Mr. Lasota: We will try to get them as soon as we can. Absolutely. But we will meet that deadline at least 10 business days prior.

Mr. Scapicchio: Thank you, gentlemen, have a great night.

Mr. Lasota: Thank you so much to everyone at the Board. Talk to you on the 18th in November.

Mr. Scapicchio: Very good. Is there any more business in front of the Board? Any Members have any comments or thoughts? If not, I'll ask for an adjournment motion.

Mr. Mania: So moved.

Mr. Scapicchio: So moved, second?

Mr. Mott: I'll second it.

All In Favor: Aye.

Meeting Adjourned at 8:06 pm
Transcribed by: Mary Strain


Signature


Planning Board Meeting date approved