

**TOWNSHIP OF MOUNT OLIVE
PLANNING BOARD**
Reorganization Meeting & Public Meeting
Thursday, January 14, 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

Reorganization Meeting & Public Meeting / Remote Virtual Meeting of the Mount Olive Planning Board of January 14, 2021 commenced at 7:00 pm.

The Pledge of Allegiance was recited.

Open Public Meetings Act Statement was read into the record by Mary Strain, Board Secretary.

Ms. Strain: The first item on the agenda is the swearing in of the members. Ed, should I turn this over to you? Is Ed here?

Mr. McGroarty: Ed is here.

Mr. Buzak: I'm here. I was having trouble with my audio. So, I using earphones to see if I can get on the regular computer. Thank you.

Ms. Strain: For swearing in of the members, should I turn it over to you or would you like me to give a brief explanation?

Mr. Buzak: You can give the explanation, Mary.

Ms. Strain: Thank you. Because of the remote/virtual zoom meeting, the Municipal Clerk administrated the Oath of Office to the following members: Brian Schaechter, John Mania, Dan Nelsen, Paul Ottavinia, and Joseph Ouimet. They have been sworn and they may take their seats. Now I'm going to do roll call.

Roll Call

Present: Mr. Scapicchio, Mr. Schaechter, Mr. Forlenza, Ms. Mott, Ms. Natafalusy, Mr. Mania, Mr. Ottavinia, Mr. Batsch, Mr. Ouimet, Mr. Weiss

Excused: Mr. Nelsen

Board Professionals in attendance were:

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

Nomination for Chairman

Motion: John Mania Nominate Howie Weiss
Seconded: Kim Mott

Motion to Close: Brian Schaechter
Seconded: Paul Ottavinia

Roll Call:

Brian Schaechter	Yes
Ken Forlenza	Yes
Kim Mott	Yes
Catherine Natafalusy	Yes
John Mania	Yes
Paul Ottavinia	Yes
John Batsch	Yes
Joseph Ouimet	Yes
Howie Weiss	Yes

Nominations for Vice-Chairman

Motion: John Mania Nominate Brian Schaechter
Second: Paul Ottavinia

Mr. Weiss: Do I hear any other nomination?

Motion: Brian Schaechter Nominate David Scapicchio
Second: Catherine Natafalusy

Mr. Weiss: Any other nominations? Let me close it for nominations. I don't believe...it's been a long time since we've had...

Mr. Schaechter: I'll make this easy, Mr. Chairman. I will pull my name from the nomination.

Mr. Scapicchio: Brian, I was just going to say the same thing. I had it last year. Brian, if you want it, you are certainly welcome.

Mr. Schaechter: Dave, I hate change.

Mr. Weiss: Brian has opted out. We have a nomination for David. It's been seconded and I see no other nominations. Mary, roll call.

Roll Call:

David Scapicchio	Yes
Brian Schaechter	Yes
Ken Forlenza	Yes
Kim Mott	Yes
Catherine Natafalusy	Yes
John Mania	Yes
Paul Ottavinia	Yes
John Batsch	Yes

Howie Weiss Yes

Nomination for Planning Board Secretary

Motion: Brian Schaechter Nominate Mary Strain

Second: David Scapicchio

Mr. Weiss: Any other nominations? I see none. Let me close it for nominations. Mary,
roll call please.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Nomination for Planning Board Attorney

Motion: David Scapicchio Nominate Ed Buzak

Second: John Mania

Mr. Weiss: I see no other nominations. So, let me close it for nominations. Mary, roll
call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Nomination for Planning Board Engineer

Motion: Catherine Natafalusy Nominate Mike Vreeland of Van Cleef

Second: John Mania

Mr. Weiss: Any other nominations? I see none other so let's close the nominations.
Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes

John Mania	Yes
Paul Ottavinia	Yes
John Batsch	Yes
Howie Weiss	Yes

Nomination for Planning Board Planner

Motion:	Brian Schaechter:	Nominate Chuck McGroarty
Second:	David Scapicchio	

Mr. Weiss: Any other nominations? I hear none, I see none. Mary, roll call please.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Nomination for Planning Board Environmental Consultant

Motion:	John Batsch	Nominate Habitat by Design, Dr. Jeff Keller
Second:	John Mania	

Mr. Weiss: Just to in case the record wasn't clear, it was Habitat by Design, specifically Dr. Jeff Keller. So, that's been made and seconded. Do I see any other nominations? I see none. Let me close the nominations. And Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Nomination for Traffic Consultant

Motion:	John Mania	Nominate Walter Lublanecki
Second:	David Scapicchio	

Mr. Weiss: Do I see any other nominations? And I don't...let's close the floor for nominations. Mary roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes

Ken Forlenza	Yes
Kim Mott	Yes
Catherine Natafalusy	Yes
John Mania	Yes
Paul Ottavinia	Yes
John Batsch	Yes
Howie Weiss	Yes

Mr. Weiss: And as we get off of this, I do want to welcome everyone back. I think that Mount Olive is extremely fortunate to have such great professionals with us. And certainly as a Chairman, I tend to speak to a lot of folks publicly, and I'm constantly praised for the level of our professional services. So hats off to Walt and Mike and Chuck and Ed and his team is, of course, Dr. Keller will be joining us. So I look forward to another year with your support and guidance. And I think we're in good hands with the team that we've assembled. So thank you all. Let me move on with our agenda, to the Adoption of the 2021 Meeting Dates. We will had a chance to look at that for review and check for conflicts. I didn't see any kind of comments, but if someone would please move this 2021 Meeting Date Schedule.

Resolution Adoption 2021 Dates

Motion: David Scapicchio
Second: John Mania

Mr. Weiss: Did anybody see any conflicts or have any comments to make? Seeing none, roll call, Mary.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Official Newspaper

Motion: David Scapicchio The Daily Record
Second: John Mania

Mr. Weiss: Any other comments? Seeing none, I'll close it. Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes

John Batsch
Howie Weiss

Yes
Yes

Rules of Procedure

Mr. Weiss: All we have on the agenda next the adoption of the Rules of Procedure. We've been mailed that and everyone has had chance to review it. Will someone please move this?

Motion: David Scapicchio
Second: John Mania

Mr. Weiss: I think there was a little bit of conversation. Catherine, you and I chatted a little bit about it. I think now might be a good time to see if anyone else has a similar opinion. If you'd like...

Ms. Natafalusy: You mean about just maybe putting in something where it says public meeting, maybe referencing changing language to reference the zoom...potential zoom meetings. You know, we've changed notices and other compliance resolution and stuff. So, I wasn't sure if we should insert that in this as well.

Mr. Weiss: Yes, I gave an opinion, Catherine that was only that...it was just that, an opinion. Ed, maybe I'll turn to you. Is it important? Because my comment back to Catherine was that if we're going to be an optimist, this is a short term thing and short term could be a year. Could be, too. But ultimately, we will get out of this Zoom world and maybe get back live again. And if we make a change here, we'll have to change it back on the other side. What do you think? Should we make the change to include language about virtual meetings?

Mr. Buzak: Well, what I'm thinking is that perhaps it makes some sense to...put in some generic language to make reference to remote meetings, but not necessarily...you know...during this period, just in general that the Board may conduct remote meetings. Because I think it may be something that we would think about perhaps in the future because of conditions or availability of people and so forth, that we would change something to a virtual meeting now that we see that we could do them and they work relatively well.

Mr. Weiss: Do you think that would work for let's say a winter snowstorm. We could still hold our meeting?

Mr. Buzak: Well, I think that's what I'm thinking.

Mr. Weiss: So perhaps, Ed, maybe you could look at the language and we could table it the next week. Kind of just come up with some generic language when appropriate, the Planning Board may use a virtual meeting and not even reference zoom because one day there could be a different product out there.

Mr. Buzak: Sure, yes, I think we'll do to it more generically. I can see what I can come up with and present to the Board.

Mr. Weiss: So then let's table this for just a week and kind of minor...but Catherine, thanks for picking that up. I can always count on you to find those things that we overlook, but make sense.

Ms. Natafalusy: Thank you.

Mr. Weiss: Okay, so let's move on now to our committee appointments.

Committees

Mr. Weiss: We have a few different committees. The first one that we're going to look at is the Ordinance Committee. This year, as Chuck had mentioned, we're going to most likely get into a Master Plan review so that the Ordinance Committee will be certainly looking at that. And so last year we had four people on there. There's no reason why we can't have four again, even though our agenda says three. But we can certainly do four. Do we have any volunteers to sit on the Ordinance Committee?

Ms. Natafalusy: I'll volunteer again.

Mr. Weiss: John Batsch had nodded. And so we're going to let John and Catherine...will certainly sit on that committee. I will add my name to that committee. There's three. Is anyone else interested?

Ms. Strain: Dan is on the committee, but he's not here today.

Mr. Weiss: Okay, I guess we can reach out to him under separate cover to find out if he's interested. I didn't hear from him at all about his expressing an interest. So, right now we have Dan wants to join. Then we'll adjust that later. Okay, the next committee is a Street Naming Committee. I'm sure we will have plenty of work to do with the upcoming...well maybe not this year, but you never know with some of the plans that we have in front of us. So, that's a committee I've been on for a long time. I'll certainly continue to sit on that committee. Last year it was Joe and Brian. Is anybody else like to volunteer their time?

Mr. Mania: I would like to volunteer for that, Howie.

Mr. Weiss: Okay, so I see Ken raised his hand.

Mr. Forlenza: Yes, Howie.

Mr. Weiss: I missed that. So, we have John, Ken...Joe, was that you as well?

Mr. Ouimet: Yes, sir.

Mr. Weiss: And Brian.

Ms. Natafalusy: That's five.

Mr. Weiss: That's five. I can step down officially and just provide guidance from the outside...from the cheap seats. If that's okay. Let me just make a note. So, we have Ken, Joe,

Brian and John Mania. Open Space Committee, Kim that was yours last year. Would you like to continue that?

Ms. Mott: Yes, I would.

Mr. Weiss: Okay. Anybody else?

Mr. Ottavina: I'm interested in that.

Mr. Weiss: Okay, so Paul, we'll add you to the Open Space Committee. Kim, if you could do me a favor, just bring Paul up to speed offline, just let him know what you're doing when you're meeting and some of the functions that you guys are doing

Ms. Mott: Sure.

Mr. Weiss: Paul, I appreciate that. Thank you, Kim. We have Board of Education. Brian, you've been our liaison when needed.

Mr. Schaechter: Yes.

Mr. Weiss: You'll continue. Thank you very much. We did have what we call the Site Inspection Review Committee. We had a conversation this week that perhaps it's best that we disband such a committee as we prove to each other during the General Development Plan when a site is that important to visit. It seemed to be more important that everybody gets to review the site. Having a committee...you know...I think we all learned a lot from being out there and the fact that we are able to do it in small groups. We thought maybe disbanding the committee, but inviting everybody from the Planning Board to walk the site when it's appropriate. And as long as we don't create a quorum that we don't have to notice. So my recommendation is to abandon the Site Inspection Review Committee unless anybody feels otherwise. So I see nothing, no response, so let's let us disband that committee and I believe we've addressed them all. Is that correct, Mary?

Ms. Strain: The Environmental Commission?

Mr. Weiss: Oh, I'm sorry. There's a couple of things we have, obviously, the Mayor's Appointee, Ken, you're obviously going to continue to be the voice for the mayor.

Mr. Forlenza: Yes.

Mr. Weiss: John Mania, welcome back as the council liaison. And Catherine, you were representing us at the Environmental Committee, will you continue to do the same?

Ms. Natafalusy: Yes.

Mr. Weiss: Catherine. Okay, that sounds like you're doing it with a lot of love and enthusiasm,

Ms. Natafalusy: How exciting.

Mr. Weiss: Okay, I think we hit them all now. Thanks for that, Mary. Let's continue.

Resolutions

Resolution appointing the Planning Board Planner as Chuck McGroarty, Township of Mount Olive, Director of Planning

Motion: David Scapicchio

Second: John Mania

Mr. Weiss: Any conversation? Chuck, now is your chance...alright, closed for discussion. Mary, roll call.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Resolution authorizing the award of Non-Fair and Open Contract for professional services to The Buzak Law Group for legal services, Habitat by Design for environmental consulting, and Lublanecki Engineering for traffic consulting services.

Mr. Weiss: We can wrap those into one motion? Correct, Ed? You're muted. But I think I read your lips. You said yes.

Motion: David Scapicchio

Second: Brian Schaechter

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

Resolution authorizing the award of Fair and Open Contract for professional services to Van Cleef Engineering Associates for engineering services.

Motion: David Scapicchio

Second: John Mania

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes

Ken Forlenza	Yes
Kim Mott	Yes
Catherine Natafalusy	Yes
John Mania	Yes
Paul Ottavina	Yes
John Batsch	Yes
Howie Weiss	Yes

Mr. Weiss: And so that concludes the business at hand for our Reorganization Meeting. Ed, do we technically have to roll out of the reorgs meeting into a public meeting, or we can continue.

Mr. Buzak: We can continue as all part of one agenda and one notice. So, I think we can continue.

Mr. Weiss: Okay, perfect. I think originally I saw two agendas. But that's fine. I know we've done this last couple of years. We originally had three developmental applications on our agenda this evening.

Development Application

PB 20-04 ZL Construction, LLC, 33 Netcong Road, Block 3106, Lot 19

Mr. Weiss: The first one PB 20-04 ZL Construction, LLC here for a variance at 33 Netcong Road, Block 3106, Lot 19. That applicant asked to be carried. But I think what we're going to do, is we're going to remove them from the agenda and have them re-notice when they're ready. They've been...they've been on the schedule for a bit and it's almost not fair for those in the public to make plans to keep on coming out, only to be canceled and not heard, sometimes at the last minute. So I think one of the things we can do to be fair would be to allow the applicant to re-notice and then reapply and waive the fees for application. We can certainly do that. Don't charge for the new application, but I think it's the right thing to do, to have the applicant re-notice when he's ready and we'll go forward at that point.

Mr. Buzak: Mr. Chairman, my only concern with that is that we have a deadline for action on January 31st, and if we carry the application to an uncertain date, that's fine...you know we do that all the time and require re-notice...but the clock continues to run and then we have to keep chasing the applicant. For example, now we have to get an extension beyond July...beyond January 31st. So, given that I'm a little bit concerned with this and I'm wondering if an alternative would be to dismiss the application, as you know, I mean, in case the rest of the Board didn't check their emails over the last hour or so. The planner or our planner has attempted on several occasions to try to find out the status of this application. You will recall that we had already had one of these two lots that were on the agenda that were purchased at the same time. And it was denied. There was some indication, I think, from discussions that Mr. McGroarty had...informal discussions that the application is going to be withdrawn. Efforts were made, I believe, by phone calls and emails as to what's happening with the application. And finally tonight, at 4:00 or 5:00 o'clock, we got a request for an extension. I'm sorry for an adjournment. So I'm concerned about leaving that hanging out there, Mr. Chairman. So the other alternative and again, this is up to the Board, is to dismiss the

application without prejudice to say, as you did, that if they refile the application at some point in the future or maybe within a time period...you know give it three months...or they file it within three months, there will be no new application fees or any new other fees. And this point it's off the agenda. And because the other thing, as you well know, Mr. Chairman, again, is that we have a pretty busy agenda and there's things we don't carry to meetings because this is on the agenda. And then it turns out that...oh, we're going to take it off. So anyway, that's just an alternative I throw out there, Mr. Chairman, for the Board's consideration and your consideration, if you're so inclined.

Mr. Weiss: I tend to agree with you the fact that we don't have...we won't have the clock ticking. Let us...let me take your advice on that one, unless anybody from the Planning Board think otherwise, and we will have them reapply. I think a three month deadline, if they want to reapply, we could waive their fees...for the application fees. But let's do that and the word again, we're going to call this...inaudible...

Mr. Buzak: And the motion would be then to dismiss application PB 20-04 ZL Construction for lack of prosecution, without prejudice to their refile the application. If they refile it within 90 days or three months. And maybe we should just set a date by the by the end of May, March, or at the end of April. Again...inaudible...before they file by a certain date, fees will be waived, application fees will be waived. If not, then they can still refile. But they have to repay the fees.

Mr. Weiss: Okay, so let me look for a motion to be made to dismiss this application, giving the applicant through March 31st to reapply and we will waive his application fees if his applicant is back in by March 31st.

Ms. Natafalusy: I'll make the motion.

Mr. Weiss: Thanks, Catherine.

Mr. Schaechter: Second.

Mr. Weiss: Thank you, Brian. Any conversation, any comments. Okay that being said, let's take roll call on that one.

Roll Call:	David Scapicchio	Yes
	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes
	Howie Weiss	Yes

PB 20-11 Keinan, Yoram, 6 Bartley Chester Road, Block 6900, Lot 19

Mr. Weiss: I'm just going jump, Ed, real quick on the agenda to the applicant PB 20-11 which is Keinan, Yoram...Yoram Keinan for preliminary and final site plan for a d1 variance, the

property is located at 6 Bartley Chester Road, which is Block 6900, Lot 19. That application, if anyone from the public is here, will be carried until next Thursday, January 21st 7:00 pm. No further notice will be given. We will hear that application at that point. Mary, just a quick question. Have you heard back from the applicant?

Ms. Strain: No, I have not.

Mr. Weiss: He's scheduled as of now to be carried. This applicant...this application will be carried until next Thursday, January 21st, 2021 at 7:00 pm during through the same process, this virtual meeting, 7:00, no further notice.

Ms. Strain: The attorney did give us an extension to February 28th.

Mr. Weiss: Okay, perfect.

Ms. Strain: So, that's the deadline for action.

Mr. Weiss: And kind of just kind of echoes Mr. Buzak's comments. We had three applications on our agenda. Two of them were canceled rather late. And it leaves us with one application. We're happy to hear it, except we have a very busy schedule, and we possibly could have put somebody else in there.

PB 20-19 Collins, Shelly & Shawn, 18 Rolling Hills Drive, Block 4111, Lot 11

Mr. Weiss: But either way, let's introduce our lone development application for the evening, which is PB 20-19 Shelly and Shawn Collins here for a variance on their property at 18 Rolling Hills Drive, Block 4111, Lot 11. Catherine, I think you were going to step down.

Ms. Natafalusy: Yes, please. If you can drop me to a participant, I'll just watch from the audience.

Mr. McGroarty: I'll do that. And Mr. Collins is being promoted.

Ms. Natafalusy: Thank you.

Mr. Weiss: Okay, and Mr. Collins, welcome. Do you have anybody else with you that needs to be brought up?

Mr. Collins: My wife is going to pop and say hi.

Mr. Weiss: There you go. So, let's do this, let's swear you both in. That way it gives you the opportunity to both have input in this application tonight.

Mr. McGroarty: Mr. Chairman, Give me one second, please. I'm going to ask Dane, who was with us, I think, to try to change Catherine's status here. I'm not really sure how to do that. I think Dane is still with us.

Mr. Weiss: I don't know. I don't see Dane.

Mr. McGroarty: He's in on...here he is. Dane, can you do that for me then?

Inaudible

Mr. Westdyk: I think I have to demote...I think I have to remove you and then you'll have to sign in using the link on the website.

Mr. McGroarty: Yes, that's all I see is remove on there, right?

Mr. Westdyk: Yes, there's no real way to demote you because you were invited as a panelist.

Inaudible

Ms. Natafalusy: Can I just mute myself?

Mr. Westdyk: Sure.

Ms. Natafalusy: Okay.

Mr. Westdyk: You know if the problem is you just don't want to take up real estate on the screen, you can mute yourself and stop your video as well.

Mr. Weiss: I think we understand. Catherine has been around long enough to understand. She stepped down and won't be adding any comments and I inadvertently call on her if I see her again, go up so.

Mr. Westdyk: I'm going to drop off. So you guys have real estate on the screen.

Mr. McGroarty: Thank you, Dane.

Mr. Westdyk: No problem.

Mr. Weiss: So, let us do this. I've introduced the application. Looks like Mr. and Mrs. Collins are here. And if you can, I'm going to have Mr. Buzak swear you both in.

Mr. Buzak: And Mrs. Collins, can you move a little bit closer to your husband so I can see your face?

Shawn Collins and Shelly Collins were sworn in for the record.

Mrs. Collins: Shelly Collins, 18 Rolling Hills Drive, Budd Lake, New Jersey, 07828. The spelling of the last name is C O L L I N S.

Mr. Buzak: Thank you, Mrs. Collins.

Mr. Collins: Shawn Collins, 18 Rolling Hills Drive, Budd Lake, New Jersey, last name

COLLINS.

Mr. Weiss: And just for the record, for anybody who's not aware of where your address is, it is in what they call Country Oaks Development. And so we have maps. The Planning Board has been given reports and we've had an opportunity to review what you wanted to do. So tonight, Mr. and Mr. Collins, what I'm going to do is just... I want you to explain to the Planning Board what you'd like to do, what brought you here tonight, and maybe some of the actions that you've done in preparation of this hearing.

Mr. Buzak: Mr. Chairman, if I might, before we begin that, I just need to get some notice items taken care of. This was... notice in this case was a little bit different from what we normally have... fully compliant with the statute, but typically the notice is done by certified mailings that are sent out and the receipts are checked and so forth. However, applicants have the right under the statute to provide that notice personally, by personal service. And it appears from some of the materials that I have received that Mr. Collins has done that with a number of his or virtually all of his neighbors and just utilize the certified mailings for these utility companies and others who are not his neighbors, so to speak. In order to just confirm jurisdiction for the Board, Mr. Collins, you are under oath. And I'd just like to ask you a few questions, if I might, so that we can get it on the record and hopefully we can proceed. You submitted and let me just get a copy of it here. You submitted an affidavit of service in which you said that you served the individuals on December 12th and I noticed that on the certification that was attached the list of property owners and some of those were served on other dates... they were served on the 13th for the most part, but there were a couple that looked like they were served or one at least served on the 4th of January. So perhaps you can tell me, how did you serve these, first of all, forget about the individuals. Just tell me, what was the mechanism that you utilized?

Mr. Collins: I beat the streets. So, Sunday and I started in the morning and went to my neighbors, who usually are around Sunday mornings and went through and knocked on the doors and gave them a letter on what we were doing. I got their signatures. And then came back, went again around 2:00 to see if I missed... obviously I've missed some people because some people weren't home and got a few more. And then went again that evening and got the last few signatures that we needed, with the exception of one who was not home, which I got obviously a couple of weeks later.

Mr. Buzak: Okay... is that your testimony under oath that all of the people, the individuals that were individual properties that were listed in the list you received from the Tax Assessor were served, as you just described?

Mr. Collins: Yes, sir.

Mr. Buzak: Okay. With that, Mr. Chairman, I believe Mary checked the balance. That is the certified mailings. I looked at them quickly. They looked okay to me. I did not see the actual notice itself. But I understand that that was submitted. That is the paper notice and I assume that that was found to be accurate based upon the relief that was sought. If all of that is true, then the Board would have jurisdiction to hear the case and the applicants can proceed to answer your questions. Mr. Chairman.

Mr. Weiss: Thank you, Mr. Buzak. Okay so, Mary, everything lines up on your end as well.

Ms. Strain: Yes, everything is good.

Mr. Weiss: All right. So therefore we're fine. We can move forward. And what I'm going to do then is I'll repeat my comment to you, Mr. and Mrs. Collins, we've read the reports. We've looked at the maps. What I would like you to do is help us create a record by telling us what you'd like to do, what you have done in advance, and what's bringing you here tonight in front of the Planning Board.

Mr. Collins: Well, first, Happy New Year and thank you guys for listening. We appreciate it. We've been in this community for about 12 years and we've done pretty much everything we possibly can. We have a nine year old son. As parents, everything we do is based on what our children want. So our son loves to swim. He is a fish by nature. So next thing for us is to get a pool. So we first thought to sell and move out of the complex and buy a property with the pool, or do we stay where we love and put a pool in our backyard? So that's kind of where we are.

Mr. Weiss: Okay, so the need for the pool, you obviously came up with a plan, you came into zoning to get appropriate zoning applications and were told what?

Mr. Collins: So we came up with the plan of the pool that we wanted and then we were instructed as far as how much coverage we could cover for our property. And so then based on the original plan, we scaled that back to try to address the requirements of Mount Olive.

Mr. Weiss: Okay, so maybe I'll throw some good land use language in here to help your story as I see it. Apparently, your property, you were exceeding the allowable lot coverage. And I know that your first response upon communicating with our Planning Department was that you took a very responsible position and you cut back your plan. You downsized it slightly to try to conform to the best of your ability to try to meet the standard. It appears that after all these changes, the one variance request...and Chuck if I'm wrong, certainly, fill me in, it seems like the one variance request that you need is, is the zone...the zone allows for 30 percent lot coverage and you're coming in requesting what's now only 34 percent, which is a nice reduction from what your original plan called for. That number doesn't really matter. I don't see it. But regardless, you've made some changes to your plan, your understanding of what the zoning is all about, and you're requesting a variance from the lot coverage from 30 percent allowed to 34 percent proposed. Is that pretty accurate?

Mrs. Collins: Yes.

Mr. Collins: Couldn't not have said it better.

Mr. Weiss: Well, thank you. And Chuck, that pretty much summarizes the variance requests for this application tonight, right?

Mr. McGroarty: Yes.

Mr. Weiss: So we have the plans, and I think maybe for the benefit of the Planning Board because we're excited when...you know...our neighbors and our residents and our friends and family do nice things. Why don't you tell us what you're going to do here on the property?

Mr. Collins: Well, we're going to put the pool in and we're going to put a walk...a walkway around the pool, which would be stamped concrete and that's about it. The rest of our property is grass, which I love to attend. So...you know...we're looking forward to enjoying our summer because summers are busy. I'm on the Board for football and baseball, so we don't go anywhere. So we're looking forward to it.

Mr. Weiss: When I look at the plans as an opinion, it doesn't look like this is an overly large Olympic sized swimming pool. It's a kind of a free form shape. I guess we can call it a kidney bean shape, it seems to fit in nice according to what I'm looking at. Your property has an existing wood deck that's not going to be altered at all. Well, there's one issue that I do want to chat with you about is the shed. There happens to be shed in that south...what we call that the southwest corner of the property.

Mr. McGroarty: Southeast.

Mr. Weiss: I'm sorry, southeast corner of the property. I don't know. I think you addressed it and I told Mr. McGroarty that that was there when you bought the house.

Mr. Collins: Correct.

Mr. Weiss: I think the idea here is to come in and make everything right just based on the drawing. It doesn't appear to be a conforming shed, which would mean you need a variance for that shed. Chuck, am I opening up a can of worms, or is that something that should be addressed?

Mr. McGroarty: Well, I raised it in the report. I honestly...they didn't notice a variance for the shed. I think the shed, if it's possible, should be shifted to at least the minimum 5 foot setback.

Mr. Weiss: Okay, and so when I look at your property, Mr. and Mrs. Collins, is it...is there a way to take that shed and move it? What would be maybe 3 1/2 feet...3 almost 4 feet?

Mrs. Collins: Going back?

Mr. McGroarty: Away from side...away from the side yard.

Mrs. Collins: I don't think any of them...because every house in Country Oaks Estates has them. So when we bought them, I don't know if they were cemented in. I mean, we can definitely check to see if it's movable and if it's movable, I don't see why we wouldn't be able to ensure that that happens. However...

Mr. Weiss: Let me ask you...

Mr. Collins: Yes, we bought the property with a variance...I mean with a...you know...with it that there, so...

Mr. McGroarty: Yes, they put it in without... whoever the prior owner is, put it in with no approvals. I think I told you that.

Mr. Weiss: And perhaps that should have been picked up by perhaps your closing attorney. Regardless, that brings us here today. Chuck, I don't have a copy of the notes or maybe Mary, in the notice does it mention things about addressing any other business that might come up along the way. Obviously, they didn't notice for a variance for the shed. Is it sometimes a generic notice that will address any other business that happens to come up?

Mr. McGroarty: I don't have the notices, Mr. Chairman.

Ms. Strain: I'm looking right now.

Mr. Weiss: Okay.

Ms. Strain: It says the applicant will also apply for such variance and or exceptions as may be required upon analysis and testimony regarding the plans at the public hearings.

Mr. Weiss: Mr Buzak, does that give us the language to be able to address the variance request or a variance request by this Board to move to address the shed?

Mr. Buzak: Well, normally, Mr. Chairman, that language is used when people are unaware of the fact that there are... there's needs... a need for a variance. This was something that has existed for a while, although I think it's fair to say, other than after having been advised by Mr. McGroarty, the applicant was unaware that this deviation existed. Mr. Collins or Mrs. Collins, do you remember when you had the conversation with Mr. McGroarty about that shed? Or Chuck, do you remember when that took place?

Mr. McGroarty: Well, I don't know if I had the conversation. It's in my report.

Mr. Buzak: Okay. All right. Is that the first time that this... and this is directed to the Collins'... is that the first time that you became aware of that issue?

Mr. Collins: Yes.

Mr. Buzak: Okay. Mr. Chairman, given that testimony, Chuck's report is dated December 31, 2020, revised on January 7, 2021, I guess, as a result of the reduction in the impervious area. But the both of those dates are after the applicant provided notice to everyone except for one person, which was... who was served on January 4th. So I think, Mr. Chairman, given that and given the fact that most of the notices had already been provided by that time, I think that the Board could take the position that the omnibus language that Mary just read is adequate for the Board to consider granting a variance or granting the variance, if so requested by the applicants.

Mr. Weiss: Okay. Ed, thank you for that opinion. So I guess we're going to... we can just go back, circle around a little bit. Your request is you need to expand upon your allowable building coverage of 30 percent lot coverage from 30 to 34. And I know you've made some changes to your plan, but have you considered other ways to come in and make a conforming plan, for example, is it possible... would it be possible for you to perhaps install a smaller swimming pool or

any other thing that you have done...we need to address the fact that maybe something, like I said a smaller swimming pool or a reduced patio? Some of those things, tell me why that would or would not work.

Mr. Collins: Well, we went to fairly the smallest pool we could pick that would fit our backyard. Inaudible. So we scaled back to, like I said, the relatively small pool we could get. I guess we can start there. We scaled back from the seated patio area by the pool to just now just a walkway area. So we did that. On the...we do have a sidewalk way path that was there. That's on the survey. There's no longer there and that's 30 plus inches wide and almost 50 feet long. And that is no longer there. So I'm going to assume we're already considering that and remove that but...

Mr. McGroarty: I didn't consider that in the coverage by the way. I excluded that from the coverage.

Mr. Schaechter: Chuck, pavers aren't part of coverage are they?

Mr. McGroarty: Yes, they are, but I excluded it because Mr. Collins had said they had removed that.

Mr. Schaechter: Well...you know...as I sit here and I'm looking at the plans, I'm going to suggest coming off the deck into the steps. At some point, I want to put cement or some sort of paver path in between the wood deck steps and the pool, you might as well just go back up to the coverage amount and do it now. So you don't have to come in front of us again. Just giving you...you know...just giving you a suggestion here, because you will be back. You'll get grass in the pool. We see it all the time.

Mr. McGroarty: Are you suggesting that they increase the impervious, Brian?

Mr. Schaechter: From what they are asking, yes. They going...I hate it when homeowners make a mistake and then they're going to come back to us at a later date and go...you know...okay. I mean we're working off a survey from 2010, so they're probably correct. Shed was there. Get what you want. Ask for what you want and do it the right way.

Mr. Weiss: I'm going to kind of trying to build a story here, and ultimately the applicants going to need to testify to the positive and to the negative criteria. I can jump ahead and ask you some simple questions as it relates to the negative criteria. I don't want to want to confuse you, but you have the obligation to prove the negative and negative means that your plan will have no negative impact on the community. So it may be a simple question as we address the negative criteria is with this swimming pool that you plan on putting in, would it would it take from the zone? Right now, you're in a residential zone. Would putting in a swimming pool negatively affect the zone plan? Would it be a detriment to your neighbors?

Mrs. Collins: Absolutely not.

Mr. Collins: No.

Mrs. Collins: We actually...5 years ago we had put in a fence around our whole premises of our property because we did have a small dog. We made an investment of a \$7,000 fence that

we're actually having removed to put up the required fence on the site. And we're even going up an additional foot. So the required allotment of the 5 feet, we're going 6 feet. So it's to privacy. So there's no disturbance on both sides of our neighbors which we have outstanding relationship with both...our entire community, we do. And then even on the front, we're raising it from the 4 that we have now to the 5. So I don't see that the pool would be a disturbance or any type of negative impact for any of our neighbors. If anything, it would be a positive

Mr. Weiss: Let me ask you a question. In Country Oaks, are there other homes with swimming pools?

Mr. Collins: Yes, there are.

Mr. Weiss: So, you're basically telling us that your swimming pool will not substantially impact the intent and the purpose of the zone plan?

Mr. Collins: No,

Mr. Weiss: I don't disagree. I think negative criteria is clearly obvious in this case. I just struggle...Brian, I hear you. I'm not sure it's not our position to testify, but I'm just struggling with the positive criteria and how we go about helping the applicant make their case as from a land use basis. I'm not really sure. I know in the past we've turned to see two, if you remember the one with the staircase in the middle of the yard...that made good sense. But I don't think it applies here. Chuck, any direction on the positive...how to address the positive criteria?

Mr. McGroarty: I think...you know...I certainly don't want to argue against anyone having a swimming pool, enjoying other amenities on their property. The ordinance today actually is...

Inaudible

Mr. Weiss: Chuck, I think we're losing you. We'll try it again.

Mr. McGroarty: Yes.

Mr. Weiss: Okay, I think I lost you when you said the ordinance today.

Mr. McGroarty: Yes, I'm not on the screen. I don't know what happened. There we are. The ordinance today...the zoning in place today is actually more restrictive. So what we do, what we're allowed to do, as I indicated, we go back to the zoning that was in place when Country Oaks was approved. And the maximum total coverage per lot is 30 percent. Now, Mr. and Mrs. Collins came in with a pool and the patio around it at 37 percent. They did make an effort to cut that back to now it's the 34 percent range, again, excluding that walkway along the side. As far as the positive goes. I don't know if it fits any of the criteria, but it certainly doesn't fit the criteria in any obvious way to me. But I think there are some other pools in the area, several of which I'm aware of in all 3 of which that I'm aware of, you see variances in the past. And my review of the files indicates that all 3 are at least were approved, no more than 30 percent. So then whether they're larger today, I don't know. People tend to do things, so I think the 34 percent is I think the applicant has made a good faith effort to bring it down to a reasonable size for the property. I mean, that's the best I can offer. Mr. Chairman, I would agree with you. I don't think it's a c2 variance though.

Mr. Weiss: And I think I've noted that from the beginning. And I believe to every member on the Planning Board, we always appreciate the applicant coming in and identifying the problems as we note them, and to do something to mediate, to mitigate the problem. We just we came to a point we're at 34...you know...we could all see that that's really not a lot. And no, I don't think anybody here who sits in front of you has a problem with a swimming pool or even has a problem with 4 percent over the allowable zone. But we're just trying to create a record that's consistent with land use. And I know that I probably didn't ask you, but tell me a little bit about your property. Is it...is there a slope at all in the property? I'm kind of reaching here...

Mr. McGroarty: Mr. Chairman, I can tell you it's a pretty flat piece of property. It's typical for the lots that are in Country Oaks in terms of size. There are no particular restrictions except for a storm inlet on the westerly side of the property. It's just...inaudible...what you feel is best, but there are standards and that you just have to decide how you feel, how far from those standards you go.

Mr. Weiss: Let me just throw a little bit of everything then. I see, your wood deck. The size seems to be kind of appropriate to the size of the house. Is there any way when you look at the wood deck, is there any way to shorten that deck a little bit?

Mr. Collins: So like I mentioned before, we've done everything, so we replaced that deck, we did not increase it, but we spent \$20,000 on a brand new deck. So, again, we've got everything to improve the value of our property. And the only thing really that's left is putting in a pool. Of course, we do not want to sell and move to a different community because we love our community. We've been here and we love our neighbors. And again, we're very active in Mount Olive. Like I said, I'm a Board Member for football and baseball. So, yes, no, we're not...reducing the deck would not be a choice we want to make.

Mr. Weiss: Okay, listen, I think the obligation of the Planning Board is to try to address every bit of option that's out there. I suppose that the increasing of the value of your property, although we don't really ever get involved in the financial end of this, might be a positive thing for the community and a whole. You know, if every house had a beautiful pool and a deck and if their yard looked like yours and maybe the prices would go up and it would become favorable to everybody. But again, that's not an issue of the Planning Board as to address, just kind of throwing it out there. So short of any other comments from the Planning Board where it was 30 percent is allowed. You're at 34 percent. It is...you've maxed out based on your testimony. You have done everything possible to mitigate that and at the 4 percent is about where you're at. Not proper English, but that's about where you ended up. So I suppose we can just leave it there and have the Planning Board vote on it based on the fact that they're comfortable with that 4 percent or not. I still think we need to identify the conversation and talk more about the shed. We want to conform it. Did sound like Mr. Buzak said we could...we could grant a variance. I would like to think, and I don't know that a shed of that size is most likely not on a concrete slab. And perhaps maybe we can ask you to move it 4 feet or so...Chuck, it looks like it's about a foot and third, but...

Mr. McGroarty: It's less than a foot at one corner, yes.

Mr. Weiss: Right. I see point seven. So, is that...would that totally disrupt your back yard to move it out 4 feet from the fence?

Mr. Collins: Would it totally disrupt it? No, but the yard isn't big to begin with and now you're now you're moving that in...you know...we went with the smallest pool possible so we can utilize our backyard to the best of our ability. And again, now you're taking...you know...inaudible...if that's going to make or break it for us to get a pool. And that's what we have to do, obviously. But...inaudible...that does consume space and we're trying to utilize as much as we can for as long as we can.

Mr. Weiss: I think the idea is to have the conversation about alternatives and moving the shed away...if you feel that it will deter from the environment you're creating, then you're entitled to that opinion. And that's the opinion we want to hear. We don't necessarily have to like it. That's your opinion. That's how you feel. And the Planning Board is here to listen to what's best for you. You know...members of the Planning Board, how do we feel about the shed, and we could if we if we had to grant a variance for them...you know...it's not 5 feet from the property line. Any opinions on that?

Mr. Schaechter: How far is it from the property line? Are we talking almost about foot?

Mr. Weiss: It's about 16 inches on one side to 8 inches on the other side.

Mr. Schaechter: There's a fence there, too, right? Separating the two yards?

Mr. Collins: Yes.

Mr. Schaechter: And the fence is how far off the property line...on the plans, you can't really tell.

Mr. Batsch: What is what is directly on the opposite side of the shed and the neighbor's property?

Mr. Collins: A tree.

Mr. Batsch: Trees?

Mr. Collins: A tree and a shed.

Mrs. Collins: And their shed.

Mr. Batsch: So really it's not impeding on any view of the neighbor's property?

Mr. Schaechter: ...I mean, their shed is in about 10 feet. I've got the Google...the satellite image. It's looks like their shed is in about 10 feet off the property line...over your fence.

Inaudible

Mr. Weiss: The Collins' shed?

Mr. Schaechter: No. The Collins' shed is on the fence. The neighbor shed which is on that same...it actually is right opposite their shed. But it's within...about 10 feet off the property line from...maybe more.

Mrs. Collins: They have another shed on the other side.

Inaudible

Mr. Schaechter: So they have another...inaudible...but they don't have any...there's no property...they have property next to them...there's no house. It's an empty lot.

Mr. Forlenza: Right, however, Mr. Chairman, I would...I would think that that should easily movable. A shed that size. That would be my opinion.

Mr. Mania: I wouldn't think there would be concrete under.

Mr. Buzak: Mr. and Mrs. Collins, do you know what the floor of that shed is? You've been in it obviously is a concrete floor, is it a block floor, is it a wood floor...

Mr. Collins: No, it's a wood floor. I don't know if it's on a slab or not, but I know it's a wood floor.

Mr. Buzak: Wood floor. Okay, is the shed directly on the ground or is it up on blocks...

Mr. Collins: No, it's on the ground.

Mr. Buzak: It's flat on the ground?

Mrs. Collins: That's why I'm saying, moving that after most likely being there for over 20 something years.

Mr. Collins: Well, for us, it is like you mentioned...it would hinder what we're trying to accomplish for our backyard. You know...it's seating area, this and that, bringing it...I know 4 feet doesn't sound like a lot, but again, the...inaudible...so moving that around...that size shed around, doesn't implead what we're trying to accomplish.

Mr. Weiss: But we have to find a happy medium because what we're trying to accomplish is conformance with the zone and the bulk standards, and so we have to meet some kind of happy medium. It didn't sound like the Planning Board is too concerned about the 4 percent. I'm looking for some opinions from the Planning Board about the shed.

Mr. Forlenza: Well, how is...Mr. Chairman, Chuck, just a quick question then, and I wasn't sure, did you include the paver walkway as impervious or not, you made a comment before, I wasn't sure.

Mr. McGroarty: On the western side, I did not. I excluded it.

Mr. Forlenza: Excluded, okay, not included.

Mr. Schaechter: The two houses on Tall Oaks that have...that look like their backyard is taken up by patio. They have to be over 30 percent.

Mr. McGroarty: Here's the problem. I've checked them. There's 2 on Tall Oaks. And each of those received variances from the Zoning Board of Adjustment when it was in place. One was in April of 2019 and the other was in 2003. No, yes, no, I'm sorry, the one of them got a variance in 2019...I'm sorry. One of them got a variance in 2006 and that was to exceed the coverage of 20 percent so that the more restrictive standard was applied back then. The ordinance had not changed. So...inaudible...pool up to 27 1/2 percent. The other one on Tall Oaks got a zoning permit from the zoning officer at the time back in 2003 for 28 percent coverage. Guess at that point they were applying the new ordinance. And then there's another one on Rolling Hills Drive that got a variance to go up to 31 percent that was in...I don't even know when that was. I don't have that date here. Now, as I said before, I've seen those aerials as well. This would not be the first time that people get approved, not the Collins' here I'm talking about, but other people get approvals and then they add to it later. And...you know...unless we're constantly...well, I wasn't here anyway, so I don't know what happened. But unless someone is checking that or...you know...we're not in people's yards all the time either so people can add stuff and the town would never necessarily know about it until there are times like this when they come in front of the Board. Again, not talking about Mr. and Mrs. Collins here. I'm talking about these other pools. So that's the only information I can offer on those.

Mr. Schaechter: But when we talk about negative criteria and positive criteria, and you look at the neighbors and what the neighbors have done, whether they've exceeded the...I'm not telling anybody should break the law or exceed the variance, but we have no clue what...we know what they were approved for, we don't know what they're going after. I just think it's...you know...it is ridiculous to...inaudible...people when their neighbors are...just by looking at the aerials, these are over 30 percent. Inaudible. Then as a town, we don't go after those people. You're the violations officer and you don't go after these people. You know it's wrong.

Mr. McGroarty: Wait a minute, wait a minute. I'm the Zoning Officer as well I don't make a habit of going of making raids on backyards to find out areas of pool. I wouldn't even have that information. If people are not going to comply with the approvals that they get, at some point that they may have to suffer the consequences. For example, when the property is sold, oftentimes now we're asked for all the permits that were issued and sometimes this causes problems. You know, it's up to the Board.

Mrs. Collins: If I could just interject, I apologize for interrupting. That really has been our biggest thing is that we're here in Mount Olive. We've been here, we're residents, we're taxpayers we're involved heavily. We don't ever want to move, our son is only in the 4th grade, however, we want it. And again, I would never throw neighbors underneath the bus. To each his own. And if they decided to get a permit and not get the variance, that is completely up to them. We're here in front of all of you to do the right thing by...we had a larger pool. We did. We brought it down to as much possible that deems the purpose of having a pool. We're here to get the variance because we don't want to do things illegally, which I know numerous of homes in this property and all over Mount Olive that don't meet the requirement. But again, I'm not there to talk about them. We're here to talk about us. And as Chuck said, if we ever do, in fact, sell in Mount Olive, I never want to

run the...be in the situation where we did something illegal, which numerous of people they choose to do that, we're choosing to follow the rules, be by the books, be in ordinance with the town and follow the rules of what you all of what we require as residents of Mount Olive. So that really...you know...you bring up a very good point, Chuck.

Mr. Weiss: Let me just kind of chime in for a little bit. I don't believe that anybody on the Planning Board is objecting to your request for a 34 percent lot coverage. I think that seems to be...my opinion, only my opinion and it will certainly call for a vote. It seems to be you've given us the proofs that we wanted. It might not be 100 percent watertight, but I think in this case, I think the argument has been made. I believe and I started by my introductory comments, you made a great effort to reduce the problem. And that goes a long way. I don't think that's really the issue. The issue is what are we going to do if we're going to make this a conforming or certainly a project that has approval, we can't look past the shed. And I know it's a minor issue and I know we're talking 3 feet, but in my mind, that is the only open issue that we need to discuss.

Mr. McGroarty: I have a suggestion. Maybe, if Mr. Buzak is comfortable with the fact that they have...that the notice would incorporate the potential for a variance. I don't know. Is this a little bit different from, I think, the way we do things, but if you were to grant the variance on the condition that Mr. and Mrs. Collins investigate whether the shed can be moved without damaging the structure, since it predates their ownership of the property, and you can either rely upon their good faith in doing that or you can or I can go out to the property with one of the township employees and go out. And check that with them. And if enough to shed can be moved, if not 5 feet, at least perhaps several feet from the property line, if it cannot be damaged. If in moving it causes it to be damaged, that may be considered at this situation, perhaps a hardship. That's a consideration that I don't know what other kind of compromise other than just staying the shed has to be moved.

Mr. Buzak: I think if I if I might, I was looking at the statutes as Chuck was talking, and while again, it's not necessarily within all 4 corners, the statute does talk about it in the c1(c) variance by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property to the structures lawfully existing there on. Strict application would be resolved in peculiar and exceptional practical difficulties. Now, I'm not suggesting the structure ie: the shed is lawfully existing there. I think it's been established that there's no variances that it was it was installed not by the Collins but by their predecessors or their predecessors without a permit. I think that when you read the first part of that statute, an extraordinary and exceptional situation uniquely affecting a specific piece of property, normally that applies to conditions on the property. But no, I suppose the Board can look at it broadly and say, well, a condition of this property is that the shed exists and it's been there, it was there when they bought the property and it's been there since they bought the property. And again, under the circumstances here, that may be an adequate basis for the Board to consider granting a variance. And if you want to add the conditional variance that Chuck just talked about to have perhaps the Collins advise the Board or advise the zoning officer regarding the potential to move that shed. That may be something to consider. I think one of the other things to recognize, however, is that the Collins... the testimony from the Collins has been that moving the shed will cause to conform. That is 5 feet off the sideline, will have, in their view, a detrimental effect on the use of the balance of the property given now the installation of the pool and now the proximity of this shed that will effectively cut off another 5 feet or most of their backyard between the pool and where the shed is. I think that's something for the Board to consider and perhaps not necessarily a...inaudible...the condition that that Chuck has as asked for, because I'm not sure that

the Collins would necessarily want to do that. And they might just as soon get rid of the shed at that point. As opposed to having it...you know...I don't want to say smack in the middle of their backyard because it wouldn't be, but it would certainly, from their perspective, have had a detrimental effect to them. So I think...I guess what I'm saying is in a very roundabout way, that I think the Board should consider granting the variance without the condition, because if they're going to move the shed, it's going to just cause other problems. And if you don't want to grant the variance, then don't grant the variance and then they have to get rid of the shed or move it. That's it. I wouldn't put the condition on it.

Mr. Schaechter: Is it possible that we put a condition that if we grant the variance that this shed can stay where it is? And then if and when it does need to be replaced, or they feel it needs to be replaced, it has to be replaced in a conforming spot.

Mrs. Collins: I like that.

Inaudible

Mr. Buzak: I think that can work. You know, usually variances run with the land. But under the unique circumstances here, I think such a condition would be appropriate and perhaps make everybody more comfortable.

Mr. Weiss: I think that's a very, very workable solution and with the understanding that if anything is to go wrong with the shed, as Brian noted, it would be replaced if that's what you choose to do to conform with the bulk standard. And the only thing we could do is create a record to say, we hope that your best judgment prevails because it would be very difficult for anybody in the town hall, anybody who's on this meeting, to be able to determine if you replace that shed or not. So I think we're all working here very open and honest with each other and the Planning Board. And I think we've gone a little bit too long. But the 34 percent doesn't seem to be a problem. But again, when we work a piece of property, we want to make sure that it's correct when we're done with it.

Mrs. Collins: Respectable.

Mr. Weiss: And so you've given us testimony, though we might not like to hear it. But again, I asked the question. You've given me an answer. You told me that moving the shed would interfere with the environment that you're trying to create. You've already made some major concessions. I don't have a problem with any of that. And I think what I want to do, unless you had anything else to say, I think we could wrap this up, maybe let me open it to the public. But before I do that, Mr. and Mrs. Collins, if you have any other comments, feel free. It looks like you have nothing more to add, which is excellent. Let me see...

Mrs. Collins: No, other than I mean everybody's been really wonderful down with the paperwork and helping us and the communication and the delivery of communication and patience has been outstanding. So thank you all who have been a part of this and have helped us along the way with email, phone call, communication. We do appreciate it.

Mr. Weiss: Well I certainly think that your willingness to make some changes helped that whole thing, even though I'm real proud of the staff that we have and are there to support you. Let

me let me turn to the public. If anybody from the public has any comments, I'm looking I don't see anybody with a hand raised. And therefore, I'm going to close it to the public. I'll turn to the Planning Board to see if anybody in the Planning Board has any questions. And I see none, and so therefore, let's look for someone to make a make a motion to approve this application, including some of the language that there be really no condition with the understanding that when the...if the date comes with the shed needs to be replaced, it will be replaced in a conforming manner to the bulk standards.

Mr. Scapicchio: I'll make a motion that we approve PB 20-19 with some language in that Resolution that addresses the concern, Howie that you brought up about the shed. And at some point that shed will have to be replaced. And...you know...once they start living with that pool, they're going to realize they may very well need a bigger shed to store everything that goes along with the pool.

Mr. Mania: I'll second it.

Mr. Weiss: Thank you, John. And Dave, that's spoken like a real pool owner.

Mr. Scapicchio: I am. I love it.

Mr. Weiss: Okay, and just to read...just one last comment that the variance request in this application is...is coverage from 30 percent allowed and the applicant is asking for 34 percent. That is the extent of the variance that we're granting. With that being said, the motion...

Mr. McGroarty: Mr. Chairman?

Mr. Weiss: Yes, Chuck. Go ahead.

Mr. McGroarty: You're granting for the shed as well. Are you not?

Mr. Weiss: I suppose technically you're 100 percent correct. We are.

Mr. Buzak: Yes.

Mr. Weiss: We are granting a variance for the shed with the understanding that that's the shed that's there now. Correct?

Mr. Buzak: Yes, correct.

Mr. Weiss: So it doesn't mean that if this...anything happens and I certainly hope nothing does, but God forbid something happens, you're not going to have the opportunity to replace a new one in exactly the same spot where this one is. Kind of like a billboard, but not your issue for tonight. Yes, we will. Thank you, Chuck. We will be granting a variance also for the shed to be in that location where it is. And I think that kind of sums it up. And so we have the motion. David, you're okay with amending that to show with the variance for the shed as well?

Mr. Scapicchio: I'm fine with that.

Mr. Mania: John?

Mr. Mania: I'm fine with that.

Mr. Weiss: All right. So motion made, any other comments? I see none. Mary, roll call.

Roll Call:

David Scapicchio	Yes
Brian Schaechter	Yes
Jeb Forlenza	Yes
Kim Mott	Yes
John Mania	Yes
Paul Ottavinia	Yes
John Batsch	Yes
Joseph Ouimet	Yes
Howie Weiss	Yes

Mr. Weiss: So, I thank you, Mr. and Mrs. Collins, for your diligence in handling this matter. And one thing this Planning Board will never be accused of is not being thorough so that every application big, small and different. And, you know, it probably went a little bit longer than you anticipated. But we address some of the things and I think we're in good shape. So thank you and good luck. I think we're in good shape.

Mrs. Collins: Thank you all for your time.

Mr. Weiss: Pleasure.

Mr. Mania: You're welcome. Enjoy your pool.

Mr. Weiss: The process is in about a month. Mr. and Mrs. Collins, we're going to sign we're going to pass the Resolution that will memorialize this conversation, this meeting. Once you get the copy of that signed Resolution, you can then go apply for building permits or anything else you need. So hopefully the timing is right. You'll have the pool and in the spring and you'll be splashing by the summer.

Mr. Collins: Sounds good.

Mrs. Collins: Thank you very much.

Mr. Weiss: Thank you. Thank you both. And have a good evening. Good luck with your project.

Mr. Collins: Thank you.

Mr. Weiss: That concludes our agenda for the evening. I have nothing else. Obviously we're on for next Thursday. So if anybody else has anything to say, if not, we'll ask for a motion to adjourn. Catherine, you're back on. So if you have anything to add, otherwise...Ken, go ahead. Sure.

Mr. Forlenza: Howie, I just want to thank you for your leadership and another continued year of your...you know...everything that you do for this Board. And without it, I don't know where we would be. So, greatly appreciated in your leadership.

Mr. Weiss: Ken, thank you very much. I kind of make it up as I go. As you can tell, it is truly it's a pleasure of mine. I truly enjoy what I do and thanks to everyone for their support. I know sometimes we get a little long in the tooth. But I'm glad we address this particular situation like we did. Anybody else?

Ms. Mott: I'm going to make a motion to adjourn.

Mr. Weiss: Thank you, Kim.

Mr. Scapicchio: Second.

Mr. Weiss: Second, by...who was that?

Mr. Scapicchio: David.

All in favor: Aye.

Meeting Adjourned at 8:24 pm

Transcribed by: Mary Strain

Mary Strain
Signature

July 15, 2021

Planning Board Meeting date approved: