

**TOWNSHIP OF MOUNT OLIVE  
PLANNING BOARD**

Public Meeting  
Thursday, June 11, 2020 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 June 11, 2020 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. Schaechter, Mr. Forlenza, Ms. Mott, Ms. Natafalusy, Mr. Mania, Mr. Nelsen, Mr. Ottavina, Mr. Batsch, Mr. Ouimet, Mr. Weiss

Excused: Mr. Scapicchio

**Board Professionals** in attendance were:

Edward Buzak, Esq., Board Attorney

Chuck McGroarty, PP/AICP, Board Planner

Mary Strain, Board Secretary

Excused: Michael Vreeland, PE, Board Engineer

Mr. Weiss: For the record, Dan, you were muted. John Mania, you were muted. John Mania, you are still muted so did not hear your attendance. So we didn't hear your attendance, although you are here. Let's move right into resolutions.

**Resolution**

PB 19-26 Soliman, Nader & Mona, 14 Courtney Drive, Block 5300, Lot 55.18

Mr. Weiss: We have one on the agenda this evening, which is PB 19-26 which is for Nader and Mona Soliman for their property at 14 Courtney Drive, Block 5300, Lot 55.18. We all have a copy of that resolution. Would someone please make a motion?

Mr. Schaechter: I'll make that motion for PB 19-26 Soliman, Nader and Mona or Nader and Mona Soliman.

Mr. Nelsen: I'll second that.

Mr. Weiss: Thank you, Brian. Thank you, Dan. Any comments, questions? Seeing none, Mary, roll call.

Roll Call: Brian Schaechter Yes

Kim Mott	Yes
Catherine Natafalusy	Yes
Dan Nelsen	Yes
Joseph Ouimet	Yes

**NJSA 40:55D-31 Capital Review**  
Mount Olive Township, Board of Education  
GeoDome Project

Mr. Weiss: Our first item on the agenda is the NJSA 40:55D-31 Capital Review from the Mount Olive Township, Board of Education here to discuss their plans for the GeoDome. At this point, Dane, will you bring in representative from the Board of Ed.

Mr. Westdyk: Who would that be?

Mr. McGroarty: Anthony Gianforaro.

Mr. Nelsen: Anthony is not the attorney.

Mr. Weiss: No, Anthony is the engineer.

Mr. Weiss: I don't know if they have an attorney with him. They probably don't. Start with Anthony and see who he has.

Mr. Weiss: Okay. Anthony, are you there?

Mr. Gianforaro: I am here. I don't know if you can hear me. I know Gail Libby is also in the meeting, as well as Matthew Gianforaro. I don't know if you can see them. I'll just jump right in if that's okay as long as everyone can hear me.

Mr. Weiss: We can hear a little bit of a static.

Mr. Westdyk: Anthony, do Gail and Matthew need to participate or speak?

Mr. Gianforaro: They may want to, I'm not sure.

Mr. Westdyk: If they do, they can raise their hand on the bottom. And I can allow them to speak.

Mr. Gianforaro: Okay, great. Thank you very much.

Mr. Westdyk: You're welcome.

Mr. Gianforaro: I know Chuck sent you a rendering, which I also have up on a computer here. I apologize for not being exactly sure how to move this around so you could see it. But real briefly we are proposing a...what is called a GeoDome, say geodesic structure that looks like a greenhouse. What I'll try to do real quick is...

Mr. Westdyk: I can actually share my screen, I have it up on...well, you should be able to share your screen as well on the bottom there Anthony.

Mr. Gianforcaro: Well, the problem is...

Mr. Westdyk: It's a different computer...

Inaudible

Mr. Weiss: Anthony, hold on for one second. We all have that same picture that you were going to show us.

Mr. Gianforcaro: Okay.

Mr. Weiss: So if we need something, I'll let you know but I saw what looks like you're going to refer to the rendering and we all have that.

Mr. Gianforcaro: Okay.

Mr. Weiss: We have a copy of that. So you can go ahead....

Mr. Gianforcaro: Great. First, I want to explain what the use is going to be. They will be growing plants that they're actually going to grow vegetables and serve them in the school. In addition to the plants, they will have an aquaponics setup, which is a combination of raising fish and plants at the same time. The aquaponics will be able to grow 1,350 to 2,160 heads of lettuce per year and produce 215 pounds of fish per year. So it's going to be a combination of the students learning and the students being able to run it. In addition, in combination with the food service people, we met with them. And they're going to be part of this also where...when certain things are grown and ready, they'll bring them in. Obviously, they're not going to grow for the entire serving of the entire student body, but they will be able to share some of their vegetables that they grow inside the building. The building is approximately 42 feet in diameter. It is about 60 feet from the edge of the existing high school building. It's about a 115 feet back from the sidewalk. The rendering that you see, I just want you to be aware that for presentation purposes, there is a fence in the back on the back of the sidewalk. We didn't draw the fence so you could see the dome a little bit better in the rendering, but it's about 115 feet back. The height is 16 feet, 6 inches off the ground. It's about 1,400 square feet. There'll be five lights in the dome that will be on occupancy sensors. So it won't be lit all night. Obviously, when anyone is in there...you know...the lights will be on. We're running water, obviously, and we're running just two circles of electricity. We also have...we will be having solar fans that will cool the unit in the summer months. Inside the dome, there will be a big tub of water and it will be on the north side of the dome. The north side of the dome is insulated. And what happens is when the sun comes in, it heats that water. So that will produce somewhat of a controlled climate. They'll be able to, again, they'll turn the fans on if it gets too hot. But in the spring and fall, when it starts to get cold at night, the dome itself will maintain some form of temp...you know...temperature so that these plants can grow. And the fish can grow. That's basically all I have. Again, it's a...it's a pre-manufactured building, and we anticipate it being installed before hopefully school starts in September and all the kids are back.



Mr. Weiss: Anthony, I just have one question. When I look at the placement and I know it's a rendering but from my experience at this facility, is that about where the entrance to the track and to the football stadium is?

Mr. Gianforcaro: The entrance is just behind it. In other words, you walk past the dome and you'll make a right hand turn to go into the entrance of the athletic complex.

Mr. Weiss: Okay, so currently, like during the whole football game, there were a couple of sheds that act as ticket sales offices. That's not going to interfere with that.

Mr. Gianforcaro: No, no. We should have drawn the ticket. . . I think there's a little person walking on the sidewalk with a ticket. But no, it's not going to interfere with it. We had a survey done and it wasn't picked up when the rendering was done.

Mr. Weiss: Okay, if that's where it is, but I'll take your word for it. Another question is the panels. . . are they. . . that's glass panels?

Mr. Gianforcaro: Yes.

Mr. Weiss: Resistant to vandalism?

Mr. Gianforcaro: Yes. I mean, they're. . . it's not just like clean glass or tempered glass. No, it's a more of an acrylic. Yes, if someone takes a sledgehammer, obviously they can crash it. But. . . you know. . . someone decides to throw a small rock at it. No, it won't break.

Mr. Weiss: Okay. And I know you mentioned some lights, are the lights on the outside for security?

Mr. Gianforcaro: No, the lights will be on the inside.

Mr. Weiss: Any outdoor security lights?

Mr. Gianforcaro: I don't think we are proposing anything. My understanding is no. We're not going to have any outside lights. We really don't believe that the students should be in there. The only time possibly would be maybe a back to school night. But other than that, there really shouldn't be any need to go in there at night.

Mr. Schaechter: This is very similar to the dome that's at West Morris Central. Right?

Mr. Gianforcaro: It is. It's larger, but it's very similar. Exactly.

Mr. Weiss: Does anybody else have any questions for Anthony?

Mr. Nelsen: Yes, I have a couple. Anthony, do you have an approximation of the cost of this geodesic dome?



Mr. Gianforcaro: I think the bid was about \$135,000. I could look it up and get you an exact number. I just don't remember off the top of my head.

Mr. Nelsen: And you...you are...I don't know if you're designing this or you're following in the footsteps of...inaudible.

Mr. Gianforcaro: It's designed in combination with a manufacturer who manufactures these buildings.

Mr. Weiss: Okay. Anything else?

Mr. Nelsen: No, that should do it. Thank you.

Mr. Weiss: Anybody else from the Planning Board?

Mr. Buzak: I have a question.

Mr. Weiss: Go ahead, Ed.

Mr. Buzak: When this is constructed, is it prefabricated where they come with the dome already assembled or is it all assembled on site?

Mr. Gianforcaro: It's assembled on site. It comes with like a big puzzle. And there's all...everything is numbered. So you put Number 1 joint next to Number 1 and bolt it together. And Number 2 goes next to Number 2. Everything comes out pre-numbered to make it an easier installation.

Mr. Nelsen: I had actually, Anthony, I actually worked on one of these structures at the Jacob Javits Convention Center.

Inaudible

Mr. Weiss: Anybody else?

Mr. Batsch: Yes, I have one quick question, Howie.

Mr. Weiss: Go ahead, John.

Mr. Batsch: Anthony...or two questions, actually. Is their supplementary...I guess... emergency power to keep the fish alive if there's been extended period of time for no power?

Mr. Gianforcaro: We actually don't have it hooked up to a generator. I mean, it's something that we can add in the future. But as of right now, we don't have it. What we...this school, the high school does have an emergency generator. If we want to add that later, we would run a circuit from the high school over to this. I mean, it uses very, very little electricity. I think it uses less than 10 amps. So it wouldn't be a big circuit, but we would have to bring that over from the high school. We're going to get the power out of the bathroom building right adjacent to it.

Mr. Weiss: Sure.

Mr. Batsch: All right. Thank you. One other question. Is there supplementary heat there for the spring and fall?

Mr. Gianforcaro: No, it's the growing season. So we're purchasing the dome from...is located in Colorado. And no, they don't supply supplementary heat. The sun hitting that water body inside the unit will keep it warm enough.

Mr. Batsch: Thank you.

Mr. Gianforcaro: I mean...if we find we can always add it in the future. But no, it's not intended to have supplementary heat.

Mr. Weiss: Okay. Thank you, Anthony. Anybody else from the Planning Board?

Mr. Forlenza: Yes. Mr. Chairman, this is Ken. I got one question for you, Anthony? I'm looking at the blueprint drawing. It looks like there's only one door. Is that it?

Mr. Gianforcaro: There's actually two. Let me...there's two...actually the rendering...the rendering shows the two doors, but they're not going to be in the position that it's on the rendering...it's twisted around there. One is facing perpendicular directly to the school. Another one is facing more towards the...let's say the parking lot, if you would. But there are two doors in the building.

Mr. Forlenza: Oh, yes, I guess...if you look really close, you can see the one it's facing towards the stadium.

Mr. Gianforcaro: On the rendering, you mean?

Mr. Forlenza: Yes, on the rendering.

Mr. Gianforcaro: Right. It's really...the one that's facing the parking lot is where it's shown. The one that's facing the stadium is actually going to be flipped to the other side, making it easier to traverse from the building over to the dome.

Mr. Forlenza: Yes, that makes sense.

Mr. Weiss: Yes. Anybody else? All right. I see nothing else from the Planning Board. Ed, do we open it to the public?

Mr. Buzak: Yes, we should open it for the public.

Mr. Weiss: Okay.

Mr. Westdyk: If someone from the public wishes to speak on the bottom of your window of your Zoom meeting, there's a raise your hand, just click, raise your hand and we will allow you to speak.

Mr. Weiss: And so...Dane, help me with this, I don't see any hand raising.

Mr. Westdyk: No one has risen their hand. So I will say that no one should speak.

Mr. Weiss: Let me close it to the public. At this point, Ed, we don't need...we don't need to take a vote? Correct?

Mr. Buzak: The determination that has to be made is whether or not the...I'm sorry how this plan relates to the Master Plan that we have. And secondly, whether the Board has any recommendations to make. All of that is non-binding. The first part is just the determination. And I don't know if Chuck has had an opportunity to take a look at that. I assume he has. And I would assume that it's not inconsistent with the Master Plan in that area.

Mr. McGroarty: Right. I agree.

Mr. Weiss: Okay.

Mr. Buzak: So no recommendation, then the Board just has to deal with the fact that it is not inconsistent with the Master Plan. So someone should so move based upon the Planner's recommendation. And we should take a roll call vote. And that should then be reflected in a letter that should go to the Board so that they have that in their file.

Mr. Weiss: Okay. So Chuck has said that there's no inconsistency with the Master Plan. We have no recommendation. And so if I ask for roll call, a yes vote would agree with that, the fact that there's no inconsistency and we have no input. So that being said, would somebody please make a motion?

Mr. Schaechter: I'll make a motion for NJSA 40:55D-31 Capital Review, Mount Olive Township, Board of Education.

Mr. Nelsen: Second.

Mr. Weiss: Thank you, Brian. Thank you, Dan. Alright. So any comments, any comments or concerns from the Planning Board? Seeing none, Mary, roll call.

Roll Call:	Brian Schaechter	Yes
	Ken Forlenza	Yes
	Kim Mott	Yes
	Catherine Natafalusy	Yes
	John Mania	Yes
	Dan Nelsen	Yes
	Paul Ottavinia	Yes
	John Batsch	Yes



Howie Weiss: Yes

Mr. Weiss: Anthony, thank you very much, and I know you have your team with you, so thank you all for being here in the event we had other questions.

Mr. Gianforcaro: And we want to thank you. The only thing I would ask just before we leave the meeting. I think we're going to need the letter to give to the Building Department in order to get a building permit. So can we just reach out to the Planning Board Secretary in a couple of days?

Mr. Weiss: Yes. You could reach out to Mary. Mary...

Mr. McGroarty: I'll take care of it.

Mr. Weiss: Mary and Chuck will take care of that.

Mr. Gianforcaro: Okay. Thank you. Good luck with your meeting

Mr. Weiss: Thank you very much.

## **Development Applications**

### PB 19-21 MCS Builders, LLC, 11 Springdale Terrace, Block 3700, Lot 61

Mr. Weiss: Let us move on to our developmental applicants tonight. The first one is PB 19-21 MCS Builders, LLC. Here for a variance on 11 Springdale Terrace, Block 3700, Lot 61. I'm sure Mr. Selvaggi is ready to address the Board. And if you recall, this is carried from December of 2019 and I'm sure Mr. Selvaggi will tell us what's happened since then. I think there was a small issue that's been addressed, but I don't want to take Mr. Selvaggi's thunder and possibly take away some of his billable hours as we'd like to say so.

Mr. McGroarty: Dane, would you promote him, please?

Mr. Westdyk: Yes. He's getting connected now.

Mr. McGroarty: Okay.

Mr. Westdyk: Michael, you need to unmute yourself and if you have a camera, you wish to activate it, you can activate it.

Mr. Selvaggi: Alright. Okay. Thank you, guys. It's a...I miss you. It's been a long time. We as you guys recall, I think Mr. Buzak had mentioned it earlier in November. We had talked about this project and the unfortunate situation the applicant found himself. The application was filed by the applicants ostensibly looking for variance relief for side yard and life coverage. And then it kind of spiraled or went sideways because as Chuck properly pointed out in his report of November 20th, the lot was landlocked. There was no access to a public street except maybe an old paper street, which had long since been vacated. And the Board seemed sympathetic to their plight and the

conversation kind of evolved into what the reality was, the clients were parking at the end of the street and walking into the property. And then a question arose as to whether there would be problems with allowing that arrangement to continue because of potentially on-street parking restrictions from the municipality. So, you know, in furtherance of that issue, I wrote to the township attorney, we received a letter which I know Chuck has in the file, and I trust he shared it with you that there were no restrictions. So they can park there and walk through. The good news which has happened is I was able to successfully file a claim with the title company. And I know the title company has assigned an attorney who's had some communications with Mr. McGroarty about doing what he believes they may be able to do as a minor diversion with the DEP. As you recall, the property that the applicant would have to crossover from the end of the street to get to his home is owned by the municipality, which unfortunately, sometime in the mid to late 80s, this lot was then put on the ROSI for the township, which makes it much, much more difficult to work out an easement or grant some other...you know...even subdividing it off. So I believe at this point, I mean, we had Jessica Caldwell run through the planning testimony and the access I mean, not that...you know...we would want or hope the fire trucks would have to drive across the property. But really from the edge of the street to their property, it's basically lawn area. So there's nothing inhibiting emergency vehicles from getting there. There has been an existing and I think in Mr. McGroarty's report, again, there's a paver sidewalk, if you will, from the end of the cul-de-sac to the lot. So...you know...and the clients were hoping to be able to lawfully access that area in order to bring in supplies and build what started this whole thing, a very modest addition to this house. It was like 600 square feet. But again, I think the Board was...you know...wanted to make sure that...you know...if they were going to do this, the parking of the vehicles on the street. Now, understand...you know...you can't park there. And in the winter months, there's going to be snow and things like that, which the client understands. And he's tried to make arrangements with some of the other owners along the street where they could park their car...you know...if it was going to be snow covered. So, I think that kind of summarizes where we're at and the additional information that we were hoping to try to get in November, and it got carried, I think, till March. And then and in fact, I think this was the day we were supposed to meet that night, the night that...you know...everything got shut down.

Mr. Weiss: And it looked like...so Michael, tell me from when we basically last met, we had the open issue of getting the approval from the township.

Mr. Selvaggi: That's right.

Mr. Weiss: Because when I saw the letter from Susan Sharpe, it kind of removed any doubt that there's a concern from the municipality. And my thought was that once we cleared that issue, then we're ready. You're basically...you've summed up...you've made your presentation. You've given your testimony that this was the remaining piece of the puzzle. Is that accurate?

Mr. Selvaggi: I believe that's accurate. Mr. Chairman.

Mr. Weiss: And Ed, is there any...do you recall is there any other open issue that we needed to address?

Mr. Buzak: I just have one that was raised actually by a comment that Mr. Selvaggi made, and that is that he recognizes that they cannot park during snow or ice. And he said that his clients



had gone out to try to make arrangements, but did not indicate what those arrangements were or whether they had made arrangements. And is that still an issue and how is that going...

Mr. Selvaggi: I don't believe it's an issue. I think most of the neighbors...there's nothing formal. But they basically said, look, if you got to dump your car into the parking lot...into our driveway, you can do that. So...

Mr. Buzak: Do we...do you have your applicant here? Because we really should get something on the record if they're here...as opposed to.

Mr. Weiss: But, you know, Ed, let me ask you a question. In this case, the law doesn't point these folks out. I mean, any resident of the township can park on the street and must be off the street in a snowstorm. We don't necessarily have to have anything from anybody else. It sounds like Mr. Selvaggi said that his clients are aware of what the ordinances are and it's kind of they're taking it in their own hands that if they don't move their car during a snowstorm, they're subject to the violations. I'm almost wondering, does it really matter? They're just like anybody else in the township, they have to follow the parking rules during a snowstorm.

Mr. Buzak: Well, I think they do. I think that's correct. I was just following up on a comment that was made.

Mr. Selvaggi: Yes. And they're...unfortunately, this format was...to be candid, this was a younger couple and everything else. I don't think they had the ability to get this on because we had sent them the information. And I'm looking at the participants here at the meeting...

Mr. Weiss: Yes, they are not here.

Mr. Selvaggi: Yes, they're not there. So I know my paralegal, this afternoon was trying to coach him through...you know...between the language...that that issue and just the technology. You know, because the last e-mail from my paralegals, they said they don't know they can do it, but do they need to be? So...you know...I'm trying to hope that you guys do that, but they are aware of what the restrictions are. And I don't disagree with the Chairman and Mr. Buzak. I would recommend for their benefit as well, that if the Board was going to take positive action, that that condition be included in the Resolution. So I can make sure that when I point that out to them, they're well aware of what their obligations are.

Mr. Weiss: Ed, does it satisfy your concerns?

Mr. Buzak: Yes, we can make that...we can make that a condition. The other item Mr. Selvaggi referred to is the title issue and the reaching out to the title company, apparently to Mr. McGroarty regarding a, as you call it, a minor deviation. Is that to allow for the walk that is on township property?

Mr. Selvaggi: My understanding is the gentleman's name is...inaudible...he's an attorney, I believe, from I believe from Bergen County. I'm, actually I have my other computer open. I'm just trying to get his email. But he was talking about at least with me and I don't I know with the



municipality being shut down and...you know...you guys, trying to get back up to speed. I don't know if he's... I know he's reached out to Chuck. I don't know if he's.

Mr. McGroarty: Yeah, we've talked. He and I've talked.

Mr. Selvaggi: Yes, so, I mean, he was trying to see if he could get something wide enough, maybe even get a vehicle in there.

Mr. McGroarty: Well, let me tell you, my thought would be and I haven't had a chance... I was telling Mr. Selvaggi today...the other attorney and I have been missing each other, although he sent me some information. I would support and urge him to see if he can get that entire front lawn to be part of this property. It serves no purpose as part of the townships property for the ROSI...when that was put on the ROSI, the people who did it should have paid a little bit more attention to what was going on, because that tract of land really is Tulip Park. And that's really all it needs to be in the ROSI, so I'm going to see if he can get that whole lawn area off the ROSI and whatever legal process is required. Let it go to 11 Springdale Terrace. Then they can mow it, they can maintain it, and they can operate it as a real house. That's their front yard. They can have a driveway and have everything that a normal house would have. So that's the goal here. I would say if we can get that whole grassy area, the patch right in front of that house, we're going to do it.

Mr. Buzak: Okay. But we don't...I don't think we need to make that a condition of this. I was curious as to what it was to see if we had to address it here. I don't think that we can because we don't know what's going to happen with that. And the Board should be aware that any approvals that it gives, it will allow the applicant to go forward with whether or not there is some resolution of this issue, A, to get it off the ROSI and B, if it's off the ROSI, then the township can consider what it wants to do, if anything. Right now with it being on the ROSI, the township's hands are really tied. But I want to make it clear that an approval of this application will allow the applicant to go forward, irrespective of what happens with that.

Mr. Selvaggi: And in my conversations with the other attorney, your Resolution, he felt, would be helpful in making his pitch to the DEP because...you know...he thought he could use that to show that there was an oversight and that something needs to be done. And you as a municipality kind of recognized that as well. So I'm hoping for the clients that it can get done because, I mean, they really, this has been really rough on them because I just don't think they appreciate what the situation is and then they're worried about it. So...you know...at least tonight will be a good start when I call them and let them know that they're going to at least be able to walk over there and not worry about it.

Mr. Weiss: Okay, and Chuck, from your end, are there any open issues? And I'm only asking because at the original meeting I wasn't present. I did end up reading the transcripts. I just want to make sure from housekeeping and that we have everything that we need because there's been some time lapse between meetings.

Mr. McGroarty: I have no further issues and we have everything we need in terms of the paperwork and the plans.

Mr. Weiss: Catherine?

Ms. Natafalusy: My notes...we talked about the shed that crosses on to the township property. I don't know if that was addressed.

Mr. Selvaggi: We would agree to relocate that.

Mr. McGroarty: I think it's already been moved.

Mr. Selvaggi: Yes, I think they did. Yes.

Ms. Natafalusy: Okay, thank you.

Mr. Weiss: Anything else? Okay, well, it sounds like there's no open issue from the legal end or from the planning end. Does anybody from the Planning Board have any questions for Mr. Selvaggi? And so I see none. Let's open it to the public. Dane, I'll turn to your help again. If there's anybody from the public that has any questions. Anything about the application in general, now is a good time to ask the question. Make a comment. Give us your opinions. And I'm not seeing any.

Mr. Westdyk: No. No one wishes to participate.

Mr. Weiss: Okay, so let me close it to the public. And at that point, let me turn to the Planning Board and, I'm going to ask the Planning Board if we can make a motion for Application PB 19-21 MCS Builders LLC to approve the variance request.

Mr. Buzak: There are multiple variances, Mr. Chairman. There's a front yard setback variance which will maintain the existing front yard. It'll just encroach for a longer distance because the frontage will stay the same. There is an encroachment into the rear yard of setbacks of 7 feet and 12 and 13 feet, respectively, depending upon where you are. There's a building coverage, a slight building coverage variance there's 20 percent permitted and this would...the addition would raise it to 20.3 percent. Of course, if subsequently they acquired more property from the township, that variance would go away. But right now, as I said, this approval would allow them to go forward irrespective of what happens. There's the variance, the fourth variance is a variance to allow the construction of this structure or the expansion of the structure not having frontage on an existing street. Again, that's the current condition. Let me just like...there may be one more...and there's a side yard variance, I believe. Chuck, is that changing or did I cover that already? I have front yard, rear yard coverage...

Mr. McGroarty: That's it. I mean...those are the variances. Right.

Mr. Buzak: Okay. So, that Mr. Chairman, would be the motion to approve those variances subject to the normal conditions. The shed has been taken care of. There'll be a provision here that there's no determination made on the application. And these are from my notes from the last time. No determination of the board as to the right of the applicant to utilize any township property. And that's it.

Mr. Weiss: Okay, and, of course, the condition that we just spoke about that the applicant is certainly aware of the parking restrictions. There's no township ordinance for parking.

Mr. Nelsen: I will make a motion to approve PB 19-21 with conditions and the variances that Mr. Buzak has set forth.

Mr. Weiss: Thank you, Dan. We have a second?

Mr. Schaechter: I'll second.

Mr. Weiss: Brian, thank you very much. Any comments from the Planning Board? Any concerns? I see none.

Ms. Strain: I'm sorry, Brian was absent at that meeting.

Mr. Weiss: I'm sorry?

Ms. Strain: Brian seconded that?

Mr. Weiss: Brian seconded that.

Ms. Strain: He was absent at that meeting.

Mr. Schaechter: I take it back.

Mr. Weiss: Thank you, Mary.

Ms. Natafalusy: I'll second it.

Mr. Weiss: Thank you, Catherine. So motion made by Dan, seconded by Catherine. I saw no comments, concerned. So, Mary, let's do roll call.

Roll Call:

Kim Mott	Yes
Catherine Natafalusy	Yes
John Mania	Yes
Dan Nelsen	Yes
John Batsch	Yes
Joseph Ouimet	Yes
Howie Weiss	Yes

Mr. Selvaggi: Thank you very much.

Mr. Forlenza: Mary, you missed me on the roll call.

Ms. Strain: I'm sorry. Were you absent on meeting, December 19?



Mr. Forlenza: No, I was there.

Ms. Strain: You were there?

Ms. Natafalusy: He's listed on the agenda.

Ms. Strain: I'm sorry. Can I do the roll call again?

Mr. Buzak: Yes, you can. You don't have to do it all over again. You can just ask Mr. Forlenza.

Ms. Strain: Okay. Ken Forlenza?

Mr. Forlenza: Yes. Thank you, Mary.

Ms. Strain: Thank you.

Mr. Weiss: That would have been funny if Ken abstained.

Laughter

PB 20-01 Huber, Corey, 6 Ruggiero Way, Block 4403, Lot 3

Mr. Weiss: Let's move on. We have our next application is PB 20-01 Corey Huber here for a variance at his property located at 6 Ruggiero Way, which is Block 4403, Lot 3. At this point looks like Mr. Huber is being brought on as a panelist.

Mr. Westdyk: There you are.

Mr. Weiss: Okay. Welcome, Mr. Huber.

Mr. Huber: Thank you.

Mr. Weiss: I think what we're going to do at this point is have the attorney swear you in.

Corey Huber is sworn in for the record.

Mr. Buzak: Can you please state your name and address spelling your first and last name?

Mr. Huber: Sure. Corey Huber (C O R E Y H U B E R) at 6 Ruggiero Way.

Mr. Buzak: Thank you, sir.

Mr. Weiss: All right, welcome. Welcome this evening, Corey. So we have copies of photographs and everything that's submitted. The Planning Board is aware of what you want to do. And I think what we need to do is create a record. So I want you to explain to the Planning Board,

talk to us about the present situation, what's currently there and what you want to do and why. We'll move this conversation into seeing if you could make those proofs, as noted in Chuck's report.

Mr. Huber: Sure. So first off, a massive thank you to the Board for hearing me and your agility and flexibility to make this happen virtually. I appreciate it. So current situation, we moved into the house last July. When we moved in we saw basically the way the property was laid out. So we have pretty substantial slope from the front of the house to the back and from the north side to the south side of the lot. Because of the slope of the property, the front of the property, the grade is at regular level as it goes back. Obviously, you're talking about a second story exit from the house, which are doors that come out of the kitchen. There is an existing deck structure there today, a very, very modest one, one that struggles to accommodate a barbecue grill sideways. If I can be really honest and because of the height of the existing structure, quite a massive staircase that extends down far out into the rear yard, actually much farther than the rear set back variance that we're discussing today. In order to create a bit more usable outdoor space for ourselves, we would like to construct a new deck, one that would remove the existing structure, both the deck and the staircase. The deck would be approximately 31 feet by 16 feet at the deepest point. Twelve feet at the most shallow point. And rather than a very large staircase extending back into the property again, we would actually have that staircase wrap around the west side of the house where it's coming...the grade of the landscape is coming back up. So it's nowhere near as long of a staircase. So that's what we're looking at today. And here for the variance, hopefully approval to extend just a few feet above the 40 foot rear setback line.

Mr. Weiss: I don't think...I'm just looking, I see the staircase jutting into the rear yard setback. I don't think I saw any plan, an alternative that you were proposing for the new staircase. Come back and just tell me again. I'm now looking at your survey. Tell me how you want to propose the new staircase.

Mr. Huber: Sure. So on the survey, hopefully, that you're looking at. You should see a short staircase along the west side of the house running parallel from the house, which would run from the back of the house towards the front of the house.

Mr. Weiss: Okay. I see that. And currently, that's not there. Correct?

Mr. Huber: No, no, it's a bit faint because the way that the drawing was made up, the new existing deck structure is over the old deck structure. So, again, you'll see kind of a small landing area with a large staircase that sticks out into the rear yard.

Mr. Weiss: Yes, I see that. Okay, hold on, let me just switch gears. Okay, and if anybody has questions from the Planning Board, just let me know. So, okay, so we see there that, you know what you wanted to do and now you're asking for a variance because the new deck you're proposing is going to extend again...tell me how far into the rear yard setback.

Mr. Huber: Chuck and I had it calculated somewhere between two and three feet over the line.

Mr. Weiss: Okay. So when we addressed these type of situations, and I'm sure you saw it in Chuck's report, there is an obligation by you to make a couple of proofs, positive criteria, and

then we'll jump into the negative criteria. I suppose, in this case, and there's no particular order that if I jump over to the negative criteria, I think that's much easier for you. I want you to tell us a little bit about the neighborhood, as you see in Chuck's report 4.2, tell us about that if you were to get this variance relief. Tell us if there would be any kind of substantial detriment to the public good, if it will impact the zone, if it will change the quality of lives of any of...your neighbors.

Mr. Huber: Okay, no problem. So we're located in the Morris Chase community. The replacement of the initial builds to the houses is pretty common here. And you see decks of all shapes and sizes. Those that are on the interior of the community usually have about a 20 foot setback variance so they have to respect that. Whereas we backup to the church-owned property in a mature woods line. So we've got...inaudible...the size of the deck is, it's fairly common given the community. Over the last year, I've gotten close with the neighbors on both sides, both to the east or west...yes, the east and the west side of me. They signed off. They were very much okay with this. And we actually happened to be members of the church that we back up to. They as well have not expressed any concerns. We have not yet come across any complaints. The housing...inaudible...approved the construction. So everything seems to be a go there.

Mr. Weiss: Okay, and I'm sure I don't think I have to ask Chuck, but certainly a deck in a residential zone, would you agree if I say that it does not impair the intent of the zone by putting in a deck on your house that's kind of consistent with the zoning in a residential neighborhood. Would you agree with that?

Mr. McGroarty: That's to Corey? Not to me, right?

Mr. Weiss: Yes, to Corey.

Mr. Huber: Agree, no detriment.

Mr. Weiss: So I think with that testimony, Mr. Huber, and Mr. Buzak tell me if I'm wrong. I think Mr. Huber kind of proved the negative criteria. Would you agree with me, Mr. Buzak?

Mr. Buzak: Yes, I think that the testimony that he's provided allows for the Board to consider that the negative criteria has been satisfied.

Mr. Weiss: And Chuck, I should ask you this question from a planning perspective.

Mr. McGroarty: Well, I guess the question is, what is the encroachment of three feet, two to three foot encroachment into the rear yard setback, would that have an adverse impact on the overall zone plan? I don't know if it creates a precedent. I don't know if it causes a problem at all. I mean, we may see...I don't recall if we had any deck variances in Morris Chase. But it's certainly...in terms of scale is not...it's not a very significant encroachment.

Mr. Weiss: Ok, so things to think about. Let's then turn it over to the positive criteria. And so, Mr. Huber, you have the same obligation to the Planning Board to talk about the positive criteria as you're coming in front of us for this variance. And so really, what I need you to explain to me, and I know I heard you tell us, but now I need you to kind of tune it up a little bit and keep it in



in our planning language as to what...of these criteria is in effect that you need these extra two to three feet on your deck.

Mr. Huber: Sure, sure. So I'll do my best to keep it in the language. First timer into this process. So based on the variance report that Chuck sent over...I see the criteria for...inaudible...you know, to the best of my abilities, if I look at c(1)(a) here, which is around exceptional narrowness you can see from the survey. It's not possible on either side of the house, which means we're talking about the rear yard. If we look at c(1)(b) and the topographical conditions, as I mentioned...you know...the landscape with the slope in two directions here from the west side to the east side and from the south side to the north side, don't really allow for much of a usable space at ground level, which means you're talking about some type of an elevated structure which needs to be there by code anyway because of the doors that are present to walk out doors of the rear. You know...inaudible...family common for a deck at 31 by 16 when you're trying to accommodate things like furniture...

Inaudible.

Mr. Weiss: Wait hold on one second. There seems to be some kind of audio problem. I need you to come back and say some of that over again.

Mr. Huber: Okay, can you hear me now?

Mr. Weiss: Yes, that's a lot better.

Mr. Huber: Sure, okay. So as I said, from the topographical standpoint...

Mr. Weiss: No, there's some kind of interference.

Mr. Huber: Okay, so with the slope of the property from the west side to the east side and from what would be the north side...or the south side to the north side, something at ground level just isn't really quite possible. So you're talking about an elevated structure, which would be a deck which needs to be there by code anyway because of the rear exit from the house, the doors that exit the house. And so the size of the decks at 31 by 16, again, is fairly common, especially if you're trying to accommodate some kind of a dining table or outdoor furniture along that same line there. So...you know...it was our hopes that, as Chuck mentioned, with the scale of being close to three feet would not be overly detrimental to any kind of issue. As I said, we back up to not necessarily another building structure, per say, but the rear mature tree line of the church by nature, unbuildable property.

Mr. Weiss: My concern is this, that the Planning Board. I think it's our obligation to try to see...we're trying to make all of our structures conforming. And you presently have a deck that is...I'm looking at pictures of it. So I do see the shape. The question I have for you is. I know you want to go out and you're saying only two to three feet, is that really going to make a difference. And I'm asking that question. I know you're downplaying it. But on the same hand, do you need...can you build the deck and get enjoyment from the deck without bumping it out and asking for a variance? I understand your concern about the topographical concern under that one section. Hold on, I'm going to go back to Chuck's report. But you already have a deck and the topography of your

land doesn't seem to affect the deck. It's not like the topography makes you put the deck somewhere where it absolutely can't otherwise conform. Yes, you have a steep slope, but the height of the deck kind of accounts for that. And you're clearly able to build a deck. Now you want the deck to be a little bit bigger. And I'm kind of waiting to hear, why?

Mr. Huber: Sure, Mr. Chairman. It all translates into, again, usability. We've looked at the decks of a couple of neighbors who are on the interior side. So they only have the 20 foot setback. We've looked at the size. We've looked at the usability. We've spoken to others who have more shallow decks around, putting in a dining table and chairs on both sides. And you're trying to back up while you're sitting down. So, going through the expense of building the deck, we wanted something that was going to maximize usability.

Ms. Natafalusy: Can I ask a question?

Mr. Weiss: Yes, Catherine, please.

Ms. Natafalusy: So what would be the size of the deck if you conform to the setbacks?

Mr. Huber: I think it would be roughly the same width, but the depth at the deepest part would come down to around 12 to 13 feet. And then where the jog is, where it comes out of the house, it would shrink down to about seven, eight feet.

Ms. Natafalusy: Okay, so next door to you, the people have a deck, next door to you. Right, on the north side of your property?

Mr. Huber: On the north side? No, the north side would be the church. So the...

Ms. Natafalusy: No, no that would be the...

Mr. Huber: Okay.

Ms. Natafalusy: If you are looking at your survey, let's just say...

Mr. Buzak: The north side is to the right, south is to your left.

Ms. Natafalusy: Right.

Mr. Buzak: West is the church...

Ms. Natafalusy: Number 4 Ruggiero has a deck. They got a permit for it and it sits within the setbacks. Can you not do the same thing again? It looks like it's probably about 30 feet.

Mr. Schaechter: You can see in the picture, Catherine.

Ms. Natafalusy: Excuse me?

Mr. Schaechter: In the pdf that he sent, one of the proofs PB 20-01, you can actually see it. If you look beyond his deck, there is another deck behind it.

Mr. Weiss: Brian, can you put that picture up?

Mr. Schaechter: Sure, there you go.

Ms. Natafalusy: I don't see.

Mr. Schaechter: Hold on.

Ms. Natafalusy: Okay.

Mr. Schaechter: See it?

Ms. Natafalusy: No, there's another deck on the other side that the people got a permit for.

Mr. McGroarty: Whose deck is...whose deck is this? Is this Corey's?

Ms. Natafalusy: Yes.

Mr. Schaechter: This is Corey's deck.

Mr. McGroarty: How do you even access your grill?

Mr. Huber: There's a door behind that jog but as you can see the grill is the only thing that fits up there. We can't even have a table up there.

Ms. Natafalusy: Brian, if you're looking at his deck from the ground, this house to the left of him has a deck that they got a zoning permit for that sits within setbacks and did not require a variance.

Mr. Schaechter: I'll have to pull it up on Google...Google Maps.

Mr. Buzak: Well, while we're waiting with that photograph of Mr. Huber....using the concrete platform at the bottom of the stairs, which is going to be gone. Can you give us an estimate as to...you see halfway up the stairs, there was a wider piece of support...right there. Can you give us ideas? Is that 16 feet? Is that 14 feet?

Mr. Huber: Sure, sure. That sits almost exactly to where the deck would extend to.

Mr. Buzak: At the 16 feet maximum from your house. Is that correct?

Mr. Huber: That's correct.

Ms. Natafalusy: Could you...inaudible..., Ed? I'm sorry.



Mr. Buzak: Yes, where Mr. Schaechter has the arrow...pointing...on the stairs...that is approximately where the 16 foot deck would go out to if it were 16 feet. Is that right, Mr. Huber? Did I understand you correctly?

Mr. Huber: That's absolutely correct, yes.

Mr. Buzak: And if it were 13 feet, it would be further up that...exactly. Again, these are just eyeballing it. But right now, there's a substantial encroachment into the rear yard with the steps, not with the deck, but with the steps.

Mr. Huber: Right. So if the deck built, as designed as you're looking at it were built, you'd actually remove that set of steps and your total structure that would be...over the setback would be a lot further in than the current steps extend today.

Mr. Buzak: Right. And behind you is a buffer. And the church. Is that correct, sir?

Mr. Huber: That's correct. You may have a picture of that as well, it's just a mature tree line.

Mr. McGroarty: Mary, you sent those pictures around. When did you sent those?

Ms. Strain: I sent them last week, and I sent them again today.

Mr. McGroarty: Today?

Mr. Buzak: Wait...sir, Mr. Huber. This is Ed Buzak asking the question. I have a photograph that shows a playground area. And then it looks like there's the buffer behind it. Is that playground area...there's a slide, a couple of swings. Is that in your...yes...that picture. Is that in your rear yard?

Mr. Hubert: That is the rear yard, yes.

Mr. Buzak: Rear yard.

Mr. Huber: And you can see the swings that there had to be customized to accommodate the slope in the yard there.

Mr. Buzak: Okay. And the church is behind that buffer. Is that correct?

Mr. Huber: Technically, no. The rectory is if you're looking at this photo, the rectory is actually to the right behind 4 Ruggiero Way. The church is not there. It's just the tree line directly behind me.

Mr. Buzak: Okay, I'm sorry. Thank you.

Mr. Nelsen: I was, Mr. Chair. I was by there today. And I, I believe, if I'm not mistaken, Mr. Huber's property where Mr. Huber's house is set back a bit further than his two neighbors on

the north or south side of his house. And I guess that pushes him back into those setbacks a little more than in the other houses on the sides.

Mr. Weiss: That might be able to explain why the house to the right or left was able to build the deck that's conforming. Is that right, Catherine? Is that what you think?

Ms. Natafalusy: According to their survey. Because I filed an OPRA with the Planning Department to see this. Their set back there...their house is setback 41 feet. Mr. Huber's house is setback 42.3 feet. So it's about a foot.

Mr. Schaechter: I have a question. Then maybe I can share my screen again. Hold on.

Mr. Weiss: Go ahead, Brian.

Mr. Schaechter: Why couldn't you just extend the deck out behind the rest of the house instead of going out towards the backyard? I'll show you. Why couldn't you come with the deck...make it conforming all the way across? Again, gives you a bigger deck that way.

Mr. Huber: Sure, it's something that we discussed quite a bit with the builder and it relates back to again, if you look at the deck on 4 Ruggiero, Steph Recchia...we looked at his deck and we talked to him about the build process, extending further towards what would be, as you mentioned, the north side that extends further into that jog out where it's incredibly narrow. As I said, it doesn't really accommodate much in terms of usable space. You wouldn't be able to get any furniture or anything really much there. And...you know...the deck that you build outside of that jog out at the deepest is 16 feet is going to be usable area for a dining table...this type of accommodation.

Mr. Schaechter: So where the jog out is to where...where the end of the deck is, that would be 12 feet. You can't get a dining table in 12 feet, is that what you're saying?

Mr. Huber: You also have the chimney there. So any further I extend, I then hit the chimney structure, which goes even further into what would be the deck structure.

Mr. Schaechter: That'll be a 10 foot...or however big the chimney is...no, you're right. It's about 7 feet.

Mr. Weiss: And I'm not sure if you could see, I'm moving my mouse over this area where it says 16 feet.

Mr. Schaechter: Well, hold on.

Mr. Weiss: Oh, Brian, you have to do it.

Mr. Schaechter: It's my screen.

Inaudible

Mr. Weiss: Again, I'm not trying to redesign your deck. But I know you're trying to get the most usable space. I can't tell from the survey, how much more to the south, you could build the deck that goes out 16 feet, which is a sizable deck.

Mr. Huber: I can't, because then I have the 20 foot setback variance from that southern side, which we had to make sure we didn't extend past when we put the stairs coming off of that side.

Mr. Buzak: The stairs are right at the 20 foot...

Mr. Weiss: Oh, I'm looking at the wrong...

Mr. McGroarty: Wait, wait, wait. Let me jump in here. You see the dotted line there along that edge.

Mr. Buzak: Yes.

Mr. McGroarty: That's an easement. So, from that dotted line over to the property boundary it's a 15 foot wide utility easement. Nothing can go in there. So regardless of setbacks, nothing can go there.

Mr. Weiss: And then the setback is the largest where the staircase...the proposed staircase that basically fills in the remainder of the side yard setback by the...

Mr. McGroarty: Here's the other thing, Mr. Chairman, the deck has to stay within the building envelope, which is why he's here for the variance to the back. So to the side, he can't go any further out to the south.

Mr. Weiss: I got you. I see that now that there's a bunch of dotted lines. Basically, the entire house fills up the building envelope.

Mr. McGroarty: There's about four feet. Well, he has written as four feet, about four feet on out to the edge of the building envelope on the south side.

Mr. Weiss: And that's where the staircase is going to go.

Mr. McGroarty: That's what he's proposing, yes. Yes.

Mr. Weiss: I know we address these type of issues very often, and it just it causes kind of I don't know, I don't know what the right word is. Frustration, perhaps. I mean...you know...you bought a new home and you want to try to maximize the outdoor space. And then the question becomes for us is...you know...we have to live by the language, the positive criteria is kind of troubling me in that I know you want it, but we have to try to come up with a way to justify the variance in a way other than you'd want more space, if you know what I mean. I'm just trying to be open minded. I don't know if anybody else from the Planning Board has any concerns or any comments.



Mr. Batsch: Mr. Chair?

Mr. Weiss: Yes, go ahead. John.

Mr. Batsch: In this case...I mean...the rear setback is against the wooded lot. If it was another house there or property of a neighbor, it may have more of an impact than it has right now, just against a wooded lot that's probably never going to be built on.

Mr. McGroarty: Well, that's the church property.

Mr. Batsch: Yes, correct. But...you know...the fact is, it's not a neighbor's house. It's not.

Mr. McGroarty: No, no, I know, but it's not a vacant lot.

Mr. Batsch: Correct: I changed that terminology. It's a wooded lot.

Mr. Weiss: And it's funny. It's a double edged sword because we can sit here and say, come on, it's only two feet. Who's going to notice it? To the naked eye, you really can't tell where the building envelope ends and...you know...where it's supposed to be. But on the same hand, it's only two feet. Why do we have to...why do you need a variance for two feet? And that's kind of the dilemma that we're dealing with.

Mr. Schaechter: Mr. Chairman, did they need a variance for the stairs to go into this setback?

Mr. Weiss: Well...you know...it's interesting, I spoke to Chuck...I had a similar question, and Chuck, tell me if I'm not having repeating our conversation. Before I was aware, Corey, that you were going to move the staircase to the side. You know...I asked Chuck about that staircase and he said yes, that staircase as it is now...inaudible...into the rear yard setback. But we kind of...for the lack of a better word looked the other way on the staircase. That was kind of the conversation that I had prior to my understanding that that would be removed. So actually, the Planning Board considering say, well listen, we're going to remove that tremendous encroachment, make a compromise and we're going to move that staircase so that it conforms with the side yard setback rather than encroaching into the rear yard setback. I'm just not sure the Planning Board feels about that.

Mr. McGroarty: Mr. Chairman, let me just say, though, I did say that, but I, we tend to look, if it's a couple of steps down, I will say I don't know if there was a zoning permit issued for that deck that's up there today. It was before I got involved in doing the zoning permits. But I would not have issued a zoning permit for that desk as it exists today with the steps going as far back as they did. If it was only the stoop or a couple of steps, maybe. But I would not have issued a zoning permit.

Mr. Weiss: Let me ask you a question. Thank you for that, Chuck. Corey, the deck that's currently there, did you buy your home with that deck on it?

Mr. Huber: I did sir.

Mr. Weiss: And did you buy the home from the builder or were you the second owner?

Mr. Huber: Second owner.

Mr. Weiss: The reason I'm asking that question is because the deck in one of the photographs, in Photograph Number Two, as we pointed out in the distance, looks to be an identical type of deck. So I'm wondering if the builder built those decks.

Ms. Natafalusy: That's what I thought.

Mr. Weiss: You know...maybe that's what he provided and figured he could get away with it.

Mr. McGroarty: Yes, that's very possible and...you know...shame on the inspectors who were out there when that was happening.

Mr. Weiss: So I think from a positive note, Mr. Huber is offering to get rid of that obstruction as we look at it and make it conforming, and I kind of like that. I'm trying to figure out how we can use that to his advantage as we look to somehow come up with a compromise on this.

Mr. Ottavinia: Hey, Howie? This is Paul, can you hear me?

Mr. Weiss: Yes, I got you, Paul.

Mr. Ottavinia: If I may, so only because I built my own house and I built my own deck. And also, I have some sympathy because, Mr. Huber, did not build the house, probably didn't even know where the setbacks were when he bought it and probably said, oh, hey, you know what? We'll buy this house and we'll put on a bigger deck. And didn't know the builder stretched the limits of the setbacks with the house itself. I have some sympathy but on the other hand again because I built my own deck. Fourteen feet, like its fine. Fourteen feet is fine for a table and chairs. Would 16 be nicer? Yes, of course. But 14 is fine. So I don't know exactly where 14 feet would fall or is where the setback...I know he wants 16. So, I don't know. And I also agree with what you said. Like, we're actually reducing how far it goes. Actually, we're going get rid of that staircase or actually bring it in. It just feels like to me, a solid compromise would be like 14.

Mr. McGroarty: Just one thing, note that on the northerly side. If my...I don't have my scale with me but I scaled it off before, from the house out to where he proposes it, would be 12 feet in depth. So, any reduction on the 16 foot side to the south will bring that further in also. So rather than 12 feet in depth on the north side, the deck will be...whatever it is, I mean, if it conforms it would be around 10 feet in depth.

Mr. Weiss: Well, Paul, I appreciate what you're saying, but it's really not the Planning Board's position...

Mr. Ottavinia: I understand.

Mr. Weiss: ...to tell Mr. Huber what is enjoyable and what's not. We have to look at it... I'm trying to be sympathetic to what he needs for the family. But at the same time, I have to take into account exactly what you said. Are we still enjoying a deck at 12 feet or in this case, about 14 feet, at its max. I know, at its minimum, on the northern side, it's probably eight or nine feet, like Chuck said, we don't have the number. But...you know...I don't want to tell this to you how to use this deck or how to enjoy this deck. But I look at it like that could be where you put your grill and you have a 14 foot deck for probably 10 feet.

Mr. McGroarty: I have a thought, Mr. Chairman.

Mr. Weiss: Go ahead, Chuck.

Mr. McGroarty: You know, I mean, I know it's, we're trying to like see if this can fit into those c1 type of criteria, it may or may not. And I usually don't support a c2 type variance. I think they should be used sparingly and sometimes they're not. But I think in this case, maybe a c2 variance rather than the hardship type of c1 variances may fit better. And I'll tell you why.

Mr. Weiss: Okay.

Mr. McGroarty: At least for your consideration. We have a deck that was built. We don't know if it got permits. We assume it got a building permit. But it certainly didn't get a zoning permit, as far as I know. It has a staircase that extends deeper into this setback than the proposal that we have in front of us. And so would it be a...would it advance the purposes of zoning if this sort of arrangement were made that those steps, which encroach so much into the setback, are removed. And in turn, the deck is essentially squared off. And it would present aesthetically something a little more pleasing, perhaps to the area. And again a c2 variance cannot just benefit the owner. But I think it may be a more appropriate response to what the zoning should see out there, which is not to have these steps go deeper into the rear yard apart from just having it more functional to have it closer to the house.

Mr. Weiss: Chuck, I think that's a very good suggestion. Then there becomes a benefit, like you said, not so much to Mr. Huber, but just to the eye visually it's much more pleasing to have those staircase just jot around to the side. I just...you know...I sit there and we do a lot of these and I'm struggling with the positive criteria under c1. And I think without your comment, I don't see how I could be in favor of this. But as a compromise and...you know...we don't have to tell everyone on the Planning Board, land use is a lot of compromise. And so if we move this to a c2 variance with the understanding that we're going to get rid of the...what I'm going to call the eyesore of the staircase into the rear yard setback, that might be a very nice compromise. I'm really just not in favor of granting variances because you'll like it better if that's what you want better. I guess...you know...with all due respect, like I said, I'm not telling you what you can or should have. I'm just trying to keep it in perspective to land use.

Mr. Huber: Now, I understand and I thank you and appreciate all the different perspectives. If it helps at all, it's basically a mirror image or a very...the same basic design as the neighbor at 4 Ruggiero, that that's where we got the idea to wrap the stairs up the side of the house again to better secure topography and to remove some of the encroachment, the extreme



encroachment from the existing staircase. So from kind of let's call it an aesthetic or conformity standpoint, it's the same as what the neighbor has there.

Ms. Natafalusy: Except that extends into the setback?

Mr. Huber: Right, because, as you mentioned, his house is a bit closer to the front road so he had a bit more space there.

Mr. Weiss: Anybody from the Planning Board have any other kind of input? I kind of like the direction that Chuck kind of opened our eyes to. Anybody? Okay, Mr. Huber, do you have any other comments or input that you want to give us?

Mr. Huber: No, sir. Just again, thank you for hearing me out tonight.

Mr. Weiss: Mr. Buzak, do you think anything else needs to be brought up?

Mr. Buzak: No, Mr. Chairman, I think we've covered all of the angles that we cover as we're dealing with the issues that are important for us.

Mr. Weiss: So from a technical standpoint then, Chuck, do...tell us how we incorporate the c2 variance? Do we need to make a change?

Mr. McGroarty: No. No, it's just that the proofs would be....no, I don't want to put words in the applicant's mouth, but I guess what I'm saying is, instead of the Board, considering this is one of those C1 type of variances which are really more related to hardship to the specific conditions of the property, the c2 used to be called and I guess sometimes it still is, a more flexible kind of variance. And so if you're on the positive criteria side, you'd be considering the c2 variance. And of course, you've already discussed the negative criteria. But for the c2 variance on the positive side, it would be for the things that you mentioned a moment ago, Mr. Chairman, the aesthetic improvements, the removal of this more severe encroachment into the rear yard setback.

Mr. Weiss: I agree with that 100 percent. That being said, really no conditions to be added to this application, correct, Mr. Buzak?

Mr. Buzak: Yes. Other than the standard ones that I would just add to what Mr. McGroarty has said, that the other prong of that, so to speak, is that the benefits of granting that deviation, based upon the criteria that Mr. McGroarty set forth outweighs the burdens that it creates. That is the encroachment into that set back area. So I think that that's the balance...two prongs of the flexible c.

Mr. Weiss: Okay, so that being said, does anybody from the Planning Board have any other comments or questions for Mr. Huber? And I see none. Let me open it to the public. If anybody from the public has any questions, concerns or opinions, I don't think there's a few people on and I can't tell if anybody from the public has any questions. I don't see any, Dane?

Mr. Westdyk: Nope.

Mr. Weiss: Okay, good. So let me close it to the public with that point. Let me ask the Planning Board if they would make a motion on this application.

Mr. Nelsen: I will make a motion to approve Planning Board 20-01.

Ms. Mott: Second that.

Mr. Weiss: Okay. So Dan and Kim, on the second, thank you very much. Any comments? That being said, Mary, roll call.

Roll Call:

Brian Schaechter	Yes
Ken Forlenza	Yes
Kim Mott	Yes
Catherine Natafalusy	No
John Mania	Yes
Dan Nelsen	Yes
Paul Ottavinia	Yes
John Batsch	Yes
Howie Weiss	Yes

Mr. Weiss: I'm going to vote yes and I just want to make a comment that originally I was not going to approve this because I don't see a hardship. And so, again, we talked about a little bit. I know that's what you want and what you prefer, but it doesn't really work in our world. The compromise coming to this is a really nice way that we're able to make this happen. And I think that is a benefit, so like we said, not only to you, but the neighborhood. I mean, I think it will be aesthetically more pleasing. And I think at the end of the day, it will be better...it will be better off when you make the change. And for that reason, that's why I'm voting yes. I'm going to ask you to do...inaudible...and that's got nothing to do with your application. I see that obviously your address is Ruggiero Way. I want you to do a little homework, do a little research to find out about Mr. Frank Ruggiero, who the road is named for. He was a great man. And if you could learn a little bit about it, I think you realize that you live on a very special street. And I think most of us here in the Planning Board remember Frank very well. And that was truly our honor to name your street after Frank. So if you have any questions, I'm sure Mr. Mania will be very happy to help you learn a little bit about Frank. They were very good friends, if I remember. Correct, John?

Mr. Mania: That's correct, Howie.

Mr. Weiss: Enjoy it. It's nice to know a little bit about the history on the street that you live on.

Mr. Huber: Thank you. Thank you very much. And again, thank you so much for hearing me tonight and the flexibility. All I heard was that he was a former mayor and a very well-liked man within the community. And, Mr. Chairman, I'll do you one better when we finish the deck, I'd be happy to have you over for a couple of adult beverages to further educate me.

Mr. Weiss: Perfect. And we'll bring some of the other members with us to join in on the education.

Mr. Buzak: But not a quorum.

Mr. Weiss: No, of course not, of course not. Most of the members on the Planning Board don't like to have a couple drinks...inaudible...Anyway, Mr. Huber, good luck. Look what's going to happen in about a month. I think this time next month or so we'll have a Resolution. Once that's approved, get your building permits and start your construction and you can keep in touch with Chuck and Mary in their office.

Mr. McGroarty: Mr. Chairman, I'm going to see if we can...if the Construction Office is willing to grant him a building permit before a Resolution is drawn up. I mean, it is still a risk to him. It's just people are a little sensitive to the fact that...you know...since March 17, we haven't had meetings and the Governor's restrictions against construction of certain limits of things. People are trying to get things done for the summer. Ed, do you see any problem...in the burden, if there is a burden or that the harm would be on the applicant if there's an appeal?

Mr. Buzak: I think, I think that's true, Chuck. And just to that, Mr. Huber understands and the Board has approved your application tonight. The drafting of a formal Resolution, only those people who voted in favor of the action can vote. So it's simply a memorialization to put it into more formal word what the Board has said, but the approval is actually granted tonight, which would open the possibility that Mr. McGroarty just said that the construction official can or may issue a permit, but it should be made clear that if that's done and for some reason...highly unlikely, but for some reason, the Board does not approve that Resolution, then you're proceeding at your own risk or will likely have to remove whatever has been constructed. So that's up to you if the construction officials is willing to grant the permit.

Mr. Huber: Understood. Thank you.

Mr. Weiss: Thank you, Mr. Huber. Tonight as we wrap up an agenda, we have no other development matters on the agenda. I just I'm looking ahead to next week. We have Outfront Media, should be fairly simple. Shouldn't take long, and I think the other one I haven't really looked at it, but I think we're getting better at this. And it should go smooth. So we'll get back together next Thursday. As we go, Chuck and Mary and...we'll keep in touch with when the building is open. And hopefully we can come back and start having our meetings live and in person.

Mr. McGroarty: Before you go.

Mr. Weiss: Yes.

Mr. McGroarty: Well, a couple of things. Mary, sent out today, I believe you sent out today, a tentative schedule, plus all the applicants, the applications that are still pending. I will mention we have another deck variance. We have two on July 9<sup>th</sup>, two variances, one of which may be off. So we have room. We can put someone else on it. But Mr. Selvaggi had asked me about the General Development Plan application, at least to get started on that. And we right now, we have July 16 open at the moment. So I would suggest we put that application on that night. I've also got...we



have a site plan now for Peter Hunkele, his property on Goldmine Road. He wants to put up a third building. So it's not necessarily a complicated application, but, well it's going to involve a minor subdivision and there are variances. So we may want to if the Board is willing to put that on July 16th also, which means that the General Development Plan gets perhaps an hour. That's a big plan. That's not, we're not going to finish that in one night anyway.

Mr. Weiss:                You know...my thought on this. That's going to be a fairly complicated application. And maybe, let's wait, a week, 10 days, two weeks, Chuck. Maybe we'll get some direction from Andrew as to when the building can open.

Mr. McGroarty:        Because they're getting....I just want to tell you, he's telling me I don't know if this is for public disclosure or not, but he didn't tell me not to. I guess the Rockefeller Group has some contractual arrangements to start the hearings at a certain point. Of course, they had expected to start them back in January. So if that helped. I don't honestly, I don't really think the building is going to be open anytime soon. What I've heard is that when the building reopens to the public, it will be appointment only. And as I've mentioned before, right now, it's the number of people...I don't know...I don't want to guess.

Mr. Weiss:                Okay. So perhaps, maybe we'll have a conversation offline, but perhaps if it's wrong, Rockefeller Group needs to technically start their application. Let's try to keep it...I don't want to say simple...but let's try to keep the initial testimony to manageable levels, because, like I said, not everybody has multiple screens. And if we need to look at maps, I suppose we could mail them out. But we're talking about big maps and it's a big expense for Mary to mail them.

Ms. Natafalusy:        We already have them, Howie.

Mr. Weiss:                Oh, you're right. We picked them up. Scratch that, we all have them.

Mr. McGroarty:        But I was thinking that if we did have them on the July meeting, they would not get the whole night. It would only get, say, an hour and then Hunkele gets an hour or an hour and a half, whatever it may be. The General Development Plan is a very big application and they are going to have a number of experts. We have a lot of things to discuss about that. So I think that's one that's better handled in sort of increments at these hearings.

Mr. Buzak:                The only other thing that I want to mention is that while we all have the plans, the public will not have the plans and they so far, I believe do not have access to hard copies of the plans. They will be put online and they will be accessible. But because of the complexity of the application and the size of the plans and so forth, I think there's going to be some difficulty with the public following along, because while we certainly have to follow along, the public has the same right to do that. So we have to just keep remembering that when we do these kinds of applications, while we are the primary players here, particularly in that kind of application, the public is an important component of that. And we need to just make sure that they're not shortchanged in any way as they go along...

Mr. Weiss:                Maybe a follow-up to that, Ed. Dane, were we working on putting the plans on the website?

Mr. McGroarty: These are. These have. The General Development Plan.

Mr. Weiss: Maybe that's the answer for the public, Ed.

Mr. Buzak: Well, it is. It is. But...you know...maybe when you get as old as I, your eyesight is not as good as it used to be. When you're looking at the plans on the screen, even though you have double computers, you can have your own screen and blow it up. But otherwise, you're dependent upon the applicant and the engineer putting up the screen, as Brian did, and using the pointer and hoping that you could see everything.

Inaudible

Mr. McGroarty: I mean, these are three separate tracts of land, the General Development Plan. So we're going to be bouncing around to three different tracts of land, looking at plans. So...and that's just the overall plan, which is really what I was talking about, to get started to get down into the subdivision plans for each site. Each of the three tracks is going to be a lot more complicated.

Mr. Westdyk: And in that...if it's on a web site, if it's on a Web site, you can download it which you can and it's in a large enough format you could bring it to on a thumb drive or even email it to Staple's and have them print you out a copy if you prefer a hard piece of paper in front of you rather than multiple screens. So there are multiple ways to skin the cat, so to speak, and still be able to, I think, accomplish what you want as far as public access.

Mr. Weiss: Has there been much public interest at least contacting your office, Mary or Chuck?

Mr. McGroarty: No, not on the General Development Plan.

Mr. Weiss: Well, we just have to be ready for anything. I suppose we can discuss it more next week. But I agree with you, Chuck. Let's get it started. I think that date in July is fine.

Mr. McGroarty: I'll talk to you tomorrow then.

Mr. Weiss: Okay, you

Mr. Mania: I'll make the motion.

Mr. Schaechter: Second

All in Favor: Aye.

  
Signature

October 8, 2020  
Planning Board Meeting Date Approved