

Minutes of the Zoning Board of Adjustment Public Meeting of Wednesday, March 25, 2015

Present are Mr. Bucco, Mr. Falco, Mrs. Friedman, Mr. Phillips, Mr. Phelps, Mr. Byock

Also present are Marc Leckstein, Esq., Leckstein & Leckstein, Anthony Abbonizio, CME Associates, and Martin Truscott, T&M Associates

Absent are Mrs. Anderson, who is ill, and Mrs. Gotell, who did not call.

Mrs. Friedman moves to accept the minutes of the January 28, 2015 Reorganization and Public Meetings, seconded by Mr. Phillips, and on voice vote all members agree.

Memorialization of Resolution **V14-111/Rios, Applicant and Property Owner: Ricco and Jocelyn Rios, 102 Irongate Lane, Block 71, Lot 1, Variance** request to construct a 21 ft. x 9 ft. covered front porch; variance required for building coverage, is summarized into the record by Mr. Leckstein. Mr. Falco moves to memorialize, seconded by Mrs. Friedman.

Yes: Mr Bucco, Mr. Falco, Mrs. Friedman, Mr. Phillips, Mr. Phelps, Mr. Byock

No: None

Abstain: None

New Business, **V 15-101/Air Plus Trampoline Sports, Inc., Applicant: Air Plus Trampoline Sports, Inc., Property Owner: Hillcrest Development, 111 Highway 35 at County Road, Block 227, Lot 1, Block 231, Lot 1, Variance** request for second façade sign, 117 sq. ft., where one sign is permitted and can be no larger than 75 sq. ft., on building located in the LI (Light Industrial) zone).

Mr. Leckstein states, at the request of the applicant's attorney, this application is carried to the April 22, 2015 public meeting with no further notice, pending receipt of the noticing and affidavit of publication.

Mr. Bucco moves to carry with conditions, seconded by Mr. Falco, and on voice vote all members agree.

Continued Business, **V14-110/Schwartz, Applicant and Property Owner: Avram Schwartz, 24 Inglewood Lane, Block 110, Lot 54, Use Variance** request to install a 6 ft. fence in second front yard (Van Brackle Road) within a planting easement as well as a telephone and sanitary sewer easement, in the R75/PC zone, where 6 ft. fences are not permitted in a front yard area. **This application is carried from the January 28 Public Meeting for the Board Engineer to meet on site with the applicant for measurements.**

Mr. Leckstein said we left off essentially concluding this application except for the question of the exact location of the fence. Mr. Abbonizio was to go out and check out the correct location for the property.

Mr. Abbonizio states he went out and met with the applicant, reviewed the location of adjacent existing fences. Based upon the setback of the sidewalk, the fence should be put 7 ft. off the sidewalk, which would put the fence in front of the trees existing on his property by about a foot. One of his recommendations is, if the Board approves this application, is that he saw a drainage pipe installed without prior approvals, and the Board should require it be removed and the property regarded.

Answering Mr. Falco, Mr. Zeller says it is going to be a solid vinyl fence, and offers to show pictures of the proposed fence on his cell phone, which Mr. Leckstein says cannot be done.

Answering Mr. Bucco as to the distance from the front property line on West Prospect to the proposed fence location, Mr. Zeller says is more than 25 ft. Answering Mrs. Friedman, Mr. Zeller says there is no line of sight issue.

Answering Mr. Leckstein whether there is a gate where the driveway is, Mr. Zeller says there is a gate now and a gate is proposed.

Mr. Leckstein says the fence is proposed along Garden Place, and asks Mr. Abbonizio if there is a sight issue. Mr. Abbonizio has not seen this application.

Mr. Leckstein swears in the Board's professionals.

Mr. Bucco asks the distance from the curb on Garden Place to the existing fence; Mr. Zeller replies he is within 2 ft. Mr. Bucco is concerned if they ever had to side the house; but the fence would be moved in that case and then put back.

Mr. Bucco says where the existing fence is now, and where the curb is, it says on the survey it is .35 ft. Board members feel that might mean 3.5 ft. off the property line, but Mr. Zeller does not believe it is that much.

Mr. Bucco is concerned if sidewalks were to be put in. Mr. Zeller says there is no sidewalk on his side of the line. Answering Mr. Bucco, Mr. Zeller says Garden Place is a dead end street.

Mr. Byock says it just seems so close to the curb; with a chain link fence line of sight is not an issue, you can see thru it, but with a 6 ft. privacy fence that close to the curb, if anyone is at the far end driving up, they will not see you until the car is actually poking out beyond the fence. He says it seems like it from the pictures (Exhibit A-2). He thinks the fence has to be back further than where the chain link fence is.

Mr. Zeller replies his fence is not in the line of sight.

Mr. Falco says the concern is someone backing out of the driveway, they can't be seen. Right now you can see with the chain link, but if you have a 6 ft. high privacy fence, and you are backing out of the driveway, you can't see what is on the street until you are just about in the street.

Mr. Byock says it would be the same if a car was driving down the street, you would not see it backing out of your driveway. With the chain link it would be visible, but not with a privacy fence.

Mr. Bucco says also a danger to someone riding a bike down the street. Mr. Falco says we would worry about someone riding their bike down the street, you backing into them because you don't see them.

Mr. Bucco asks if the applicant is also going to have a 6 ft. high gate; Mr. Zeller replies it will be a 6 ft. high gate, but the top foot of the fence will have lattice, but he can't show

the cell phone picture. He does not think it will be a problem pulling out of the driveway, even with the gate that will open in.

Answering Mrs. Friedman, Mr. Zeller says neither the fence or gate part of the fence will have any pillars.

Mr. Byock asks if the applicant wanted to put the fence where it is but was able to move it back 3 or 4 ft. more, would that work. Mr. Zeller responds his property is 50 ft. wide, so 4 ft. cuts into the usable property.

Mr. Byock asks if he could pull it in at the driveway part, he doesn't know how many feet, and then angle it back out, so it goes back to where it was. It is not idea, he knows, but he is worried about that one time. Mr. Zeller says if he moved it back further he would not be able to put a car in the driveway. Answering Mr. Bucco, Mr. Zeller says he if he moved it back 4 ft., he would not be able to pull a car in and close the gate. Mr. Bucco says the gates should close in and not out; Mr. Zeller says they will not close beyond the curb line. They will not open to the street. Now that he thinks about it, the fence may now be 5 ft. from the curb line. The gates he has right now are 5 ft. and they swing both ways and do not go past the curb line. \

Mr. Byock, says instead of the privacy fence, is there something that can be seen thru at least on the two sides of the driveway because he is worried you will not see anything until you are backed out of the driveway.

Answering Mr. Phelps, Mr. Zeller says he understands what the Board is talking about but does not personally think anything is in the line of sight to be an issue if the Board were to go and look at it. It is probably hard to tell from the pictures.

Answering Mr. Bucco's, Mr. Abbonizio says the fence appears to be very close to the curb now, based on the survey.

Answering Mr. Phelps, Mr. Zeller says from West Prospect and Garden there is no privacy at all in the backyard. You can see the entire backyard from both streets.

Mr. Bucco, pointing on the survey (Exhibit A-1) asks how far from the applicant's backyard to the house next to the applicant; Mr. Zeller replies there is a driveway there, so it has to be at least 10 or more feet. The Board, looking at the applicant's pictures (Exhibit A-2) can see the shadow of the garage and driveway adjacent to the applicant's property.

Mr. Bucco asks if the applicant measure the distance from the curb to the existing fence; Mr. Zeller replies it is at least 4 ft., possibly more.

Mr. Byock would prefer the engineer to go out and look, which Mr. Leckstein says if the Board wants that they can request it.

Mr. Bucco explains to the applicant there is a need for the Board to ask these questions in order to make an informed decision. The applicant says he understands.

Answering Mr. Leckstein, Mr. Zeller says he just got married, bought the house a year and a half ago and moved in last year, and they plan on having children, and want more

privacy and security from people driving up and down; you can see everything that goes on in his yard. West Prospect has a lot of traffic; Garden Place does not. You can see the entire yard via West Prospect. Every house on Garden does have residents in it. He is concerned with both streets; the higher the fence the more privacy he has, a place to raise his children, have them run around the backyard.

Mr. Phelps says looking at the pictures he has no privacy from his neighbors to the left, who Mr. Zeller says are looking down on him.

Mr. Phelps shows Mr. Abbonizio the pictures presented by the applicant (Exhibit A-2).

Mr. Phelps asks the applicant if he has considered any other type of fence, based on what the Board has brought up about safety. Mr. Zeller says this is the only kind of fence he has considered, just a privacy fence.

Mrs. Friedman does not think the height is an issue, just the line of sight, which the Board agrees.

Mr. Abbonizio says where the fence is now is about 22 ft. of driveway. Typically parking stalls are 18 ft. long. If the fence is pushed back 3 ft. it allows them 18 ft. of driveway to pull his car in and close the gate. It would give you an extra 3 ft., so when he opens the gate he can actually bring the car out and see what is there. He could angle the fence, but he doesn't feel it is necessary because he can get his car beyond the fence line to see what is coming in either direction. There is no sidewalk on his side, so you are not worried about pedestrians or kids riding their bikes on the sidewalk. It is essentially for him to come out of the driveway to see what is coming down the line.

Answering Mrs. Friedman, Mr. Zeller would prefer to go straight with the fence and not angle it because it would look better if it goes straight. While he is not adverse to moving it back that far, he has a truck that is longer than 18 ft., a full size F150 cab, and the truck would not fit in 18 ft. He parks his truck in the driveway right now; when it closes it is about a foot from the front of his truck.

Mr. Byock asks, since we are not talking about a main road, if it would be possible to put three 4 ft. panels on each side, having a lower fence so he can see. Mr. Zeller does not think it would look right; he is willing to move the fence back a foot because he knows his truck fits and the doors can open outward. Any further in, he cannot park his pick up truck in the driveway. Because of the snow, he backs his truck in in the winter. His line of sight is fine pulling out. He does not park in the driveway much, except in winter when cars have to be off the street for plowing purposes. His wife parks her car inside the garage. His truck does not fit in the garage.

Mr. Leckstein reminds the Board it has to consider the next person living in the house who might not have a truck. He explains to Mr. Zeller once the fence is there and he sells his house, that approval goes to the next person.

Mr. Byock suggests, instead of putting a gate in front of the driveway, move the fence down to the driveway, then move it up closer to the garage. Leave an entrance close to the garage so you can walk thru to the driveway and to the other side. Without the fence and gate right in front of the driveway, it might give a line of sight.

Mr. Falco asks if we have a problem here or is it ok. Mr. Abbonizio says he can't say there will never be a problem, it only takes one car. The fact it is a dead end...

Mr. Phelps asks about the property next to his neighbor; Mr. Zeller says it is property from 57 9 Matawan Avenue, he believes.

Mr. Byock says since the applicant said he just got married and they plan on having kids, his children could be coming up that driveway. What happens if he is backing out and doesn't see them. Mr. Zeller responds they will not use the driveway as an entrance.

Mr. Bucco says if he pulls his truck in, the new fence goes right where it is, the doors open it will hit the truck and not be able to close the gate, which Mr. Zeller agrees. Mr. Bucco suggests if he puts a gate so it slides; Mr. Zeller said he could put it on tracks, he is not opposed to that. Mr. Bucco said he backs the truck in, he has 4 plus ft. off the curb now.

Mr. Byock asks if we approve this and something happens to someone as the applicant is backing out, are we liable. Mr. Leckstein said "no," the Zoning Board is not held liable for its decisions. That is in every resolution we do. It does not mean you should not act as if you weren't, you should be doing things in the best interests of everyone, but there is no liability on our part. It is solely on the applicant.

Answering Mr. Falco, Mr. Zeller believes his driveway is 10 ft. or 11 ft. wide. He says he thinks the opening is 12 ft. The gates are 5-1/2 ft. and with the posts it comes out to about 12 ft. The gate sits into grass, so the concrete ends and the posts are a couple of inches off. He has a telephone pole that blocks your view more than the gates would, more than the fence would. Mr. Falco says it is an open chain link fence now you can see thru. Mr. Zeller says his fence was there when he bought the property, so he is not exactly sure of the specs.

Mrs. Friedman suggests the whole fence be see thru with slats, for privacy, except for the gate. Mr. Phelps says even if the fence is solid, he still has to open the gates. Mr. Leckstein says she is saying it could be the area around the gates.

Mr. Phelps asks about the applicant installing mirrors, not on the telephone pole but on posts with mirrors on them, which would give a view of what is coming down the street. Mr. Zeller asks if this would be an alternate to the sliding gate, which Mr. Phelps says "no." Mr. Zeller is not opposed to the sliding gate. Mr. Phelps says he needs to find a way to see out into the street before he comes out, that would alleviate the safety concerns. Mr. Zeller says he thinks a sliding gate would be enough. The windshield of a car isn't 10 ft. , so you would be able to see as you nose your car out, as long as the gates are not going out into the road.

Mr. Phelps asks if any line of sight issues have been corrected by mirrors. Mr. Zeller says the only issue with that is in the winter time with snow and ice. Mr. Phelps says you could clean it off. Mr. Zeller does not think mirrors would help at all; in 99% of the time someone would not look at a mirror to see if someone is coming down the street. He would guarantee everyone sitting on the Board or in the audience, it would be the last thing. You might look the first couple of times, but then forget about it. Accidents happen in parking lots all the time, sometimes with or without mirrors. Accidents happen at the banks all the time with mirrors. This is from his experience. Mr. Phelps says it is a

precaution, better than nothing. Mr. Zeller says it is a precaution but he does not think it will help or benefit the person pulling out of the driveway.

Mr. Leckstein says the problem it is obvious the Board is concerned about this. You have to come up with something; Mr. Zeller thinks the sliding gates are fine; he understands with the gates going out they are blocking the whole curb line. If you put the gates on rollers there is more than enough room to pull out, stop at the curb line and look both ways. He also has a telephone pole there, and the front vehicle door is past the fence line, so he still has the telephone pole blocking his view to the left. He gets out of his car now to close the gate, and he would do that later; the gates would not automatically close.

Answering Mr. Phelps, Mr. Zeller rarely parks in his driveway unless it snows. He and his wife park on the street.

Answering Mr. Falco about moving the sliding gates back 1 ft., which Mr. Zeller says he would be fine with that.

Mr. Zeller says being proposed is a sliding gate on the Garden Place side moved back 1 ft., giving him about 21 ft. if he were to park in the driveway.

Mrs. Friedman moves to grant the variance with conditions that it is a sliding gate and back 1 ft. from Garden Place, and getting a new survey, seconded by Mr. Bucco.

Yes: Mr. Bucco, Mr. Falco, Mrs. Friedman, Mr. Phillips, Mr. Phelps

No: Mr. Byock

Abstain: None

Continued business, **V14-105/Jaffrey, Applicant and Property Owner: Ferkhanda Jaffrey, 477 Angel Street, Block 225, Lot 2, Use Variance** request to convert single family home into a two family home with the addition of a second story, on property located in the R 100 single family residential zone. **Jurisdiction was accepted on this application at the September meeting; the application was carried without further notice from the October thru January meetings without further notice.,**

Mr. Leckstein marks as Exhibit A-1 a survey prepared by Thomas A. Finnegan, Land Surveyor, dated September 20, 2002; marked as Exhibit A-2 is a floor plan showing proposed first and second floors.

Marked as Exhibit B-1 is the 7/21/14 review letter of CME Associates. Marked as Exhibit B-2 is a review letter of T&M Associates, dated 9/28/14.

Marked as Exhibit A-3 is a letter from the Matawan Aberdeen School District presented tonight by Mr. Kalma, which Mr. Leckstein reads into the record: The letter is Dated September 9, 2014, To *Whom It May Concern: This letter is to verify that Ms. Jaffery's daughter S.S. is a student in our district and receives services through our Special Services Department.*

Ms. Jaffery's daughter is in our program and receives a variety of services to support her needs. One of her most significant delays is in the area of functional communication. Ms. Jaffery plays a vital role in working with S.S. at home to reinforce and generalize the skills worked on in school by our team of educators. Support and follow up at home is vital for the success of our students and helps to facilitate improved communication skills. Such skills need significant practice and reinforcement in order to become mastered and generalized across settings.

Please let me know if I can be of further assistance.

Sincerely (signed and typed) Cristina B. Olsen

Mr. Leckstein swears in the Board's professionals as well as the applicant, Ferkhanda Jaffrey.

Answering Mr. Phelps, Ms. Jaffrey says she has been an instructor at the night high school for the last five years. The batches are all evening batches, meaning she has to leave her daughter, who is autistic and has down syndrome. She lacks speech all together. She can sit in one corner for hours, not asking for food or water nor says she has to go to the bathroom. With whatever limited vocabulary she has, she can only communicate with her mother (the applicant). Due to circumstances, Mrs. Jaffrey has had to be out of the home and does not return until 10 p.m. This has been going on for four or five years now. She has to leave her with babysitters. The more she realizes her condition, the more introvert she becomes. According to the teachers, and she says the district is doing a good job, but all her "D" numbers show she has potential but she never opens up with anyone but her, and she thinks that is how she will always be. She is her navigator and only source of hope....

Mrs. Jaffrey is interrupted by her attorney, Fred Kalma, who asks if the applicant actually went with her daughter to the school to see if Ms. Jaffrey's presence would actually help her daughter communicate. Ms. Jaffrey says she did, but her daughter is kind of withdrawn. As the teachers left the room, she and her daughter were left in the room to see how she would relax. According to the teachers observing outside the door, she was a little better in Ms. Jaffrey's presence than without her presence. She is a motivational force for her. She can read, she has the potential, the book system for autism is working for her, but the teachers will not find out because she is mute in school. At home she makes her read a book she reads it to her, and she is the only person who has ever heard her voice. Even going with her dad over the weekend, he has never heard her voice, never heard her say "hi." Ms. Jaffrey is the only person that can break the barrier, whatever the barrier is.

Answering Mr. Kalma, Ms. Jaffrey says school officials feel it is better for the child to be in the home environment. She wants to build a second floor to rent out, giving the applicant some financial flexibility.

Mr. Kalma calls Robert Kee, who is sworn in by Mr. Leckstein, and states he is a licensed planner in the State of New Jersey.

Under questioning by Mr. Kalma, Mr. Kee has marked as Exhibit A-4 an aerial from the Monmouth County Planning Board depicting the location of the site where the applicant lives and the surrounding neighborhood along with the existing zone boundaries. Each

photograph has a line going to it showing the relationship to the proposed site. The property is known as 4797 Angel Street, Block 225, Lot 2, within 300 ft. of Route 35 north and sound bound. Mr. Kee shows Cliffwood Avenue, saying that is the next block over from the applicant. The property fronts on Angel Street, the existing zone boundary line between the HC zone (showing the area) and the R 100 zone, runs along Pengel to Cliffwood to Pond Street over to the front of the applicant's property. the properties around, behind and back. There is an isolated R100 zone in this section bounded by Cliffwood Avenue, Route 35. Angel Street comes down and dead ends, and Pengel comes in and deadlines past the location. The firehouse is located directly across the street from the proposed site. Within a 200 ft. radius of the property itself in the R 100 zone, there are no vacant properties left in that section of town. One of the lots in the zone is the firehouse itself, which sits in the middle of the residential section.

Mr. Kee says there are three conforming 100 x 100 lots with structures on them, and nine residential units, single family, that are on undersized lots. Right across the street is an existing two family house adjacent to the firehouse, on an undersized lot. Immediately adjacent to that property is the HC zone, with a two family structure in that zone. Answering Mr. Leckstein, it is directly across the street in the R 100 zone and directly across the street to an angle in the HC zone. Mr. Kee points to his exhibit showing these structures. Mr. Leckstein asks if Mr. Kee knows how they became two family homes, and he does not.

Mr. Kee says immediately to the east or right of the two family, looks like a vacant bank on the intersection of Angel and Route 35, within 150 200 ft. of the property. Going across Angel Street across Route 35, is a kiosk bank site. Adjacent to that is a strip center facing on Cliffwood Avenue, the rear with parking facilities, pointing to his exhibit. Further south on 35 is the A&P shopping center, a stones throw away. Immediately adjacent to the applicant's property is a single family house in the R 100 zone on an undersized lot. There is another house facing the side street, pointing to exhibit, single family home on an undersized lot.

To give a full picture, normally from the HC to the R 100 zones you would have a transition area, or smaller, multifamily residential units until you get into the R 100 zone. This property is located so close to the HC zone, and there is no zone permitted. Development in the area are on undersized lots, indicating past history of construction of the houses, smaller size lots. He believes the uniqueness of the situation, the development taking place adjacent to it and across the street, there would be no effect on the neighborhood, and it is a very unique situation with the property, location and zone.

Mr. Kee, answering Mr. Phelps question about an issue with the parking, as described in the engineer's review letter, that parking may not be suitable for a two family house, Mr. Kee shows a picture of the structure, with a one car garage and driveway that can hold two vehicles, so you have parking for three vehicles. They are proposing an additional parking space adjacent to the landscaping and widen the existing driveway. Mr. Phelps asks about the impervious coverage mentioned in the letter; Mr. Abbonizio says they would have to look at it to determine the coverage on the lot, but the property is being impacted. Typically the garage is eliminated for parking because it is primarily used for storage. Parking is preferred in the driveway, so the driveway would have to be able to hold the four parking spaces, exclusive of the garage.

Answering Mr. Bucco, who says if you make it a two family, you don't want a car underneath the first floor, Mr. Abbonizio says you are having two different families; how do you divvy up the driveway?

Mr. Leckstein reminds the Board this is a use variance application, and the applicant needs five positive votes, and the reason it is a use variance application is that two family homes are not permitted anywhere in Aberdeen. This is something the Board has to take into consideration; it is just not a question of whether or not they can structurally support the second residence on the property or they can get the use variance to get that second residence.

Answering Mr. Phelps about the two multifamily residences, one in the R 100 and one in the HC zone, Mr. Leckstein says the Board is being asked to take that into consideration, and they can if that is the norm in the air, that that is what they believe based upon that testimony. The Board should take into consideration you don't know why those exist; they could preexist the zoning ordinance. Mr. Kee says the one in the HC zone appears to be a new structure, less than ten years old, pointing to his exhibit, which shows separate driveways, separate garages. Mrs. Rescorl believes the one adjacent to the highway was before the Board years ago and got a Certificate of Nonconformity, proving it had been used as a two family prior to zoning rules. It might have been in connection with a subdivision creating the former Two River bank lot. Mr. Leckstein reminds the Board if it predates the Ordinance you cannot take away the use, they are allowed to continue it with the Certificate of Nonconformity, of which the Board has had a few of them.

Mr. Truscott, addressing Mr. Kee, and referring to his September 8, 2014 report, says he gave testimony and his opinion about this affecting the surrounding neighborhood, but could Mr. Kee give some testimony on site improvements that may occur in terms of landscaping. You talked about the driveway, but what else. Mr. Kee says nothing is proposed at this time.

Mr. Truscott says the survey shows a deck, a pool, a patio; are they remaining? Mr. Kee says that is left up to the applicant. Mr. Kalma says it is all going to remain.

Mr Truscott said he did not hear testimony about special reasons and purposes of Municipal Land Use Law; since this is a use variance, it should be spelled out how this application addresses those special reasons and meets the purposes of Municipal Land Use Law.

Second, there has been testimony on the negative, how it affects the public good, but he has not heard testimony how this may impact on the zone plan, and that could be a basis for the Board's decision.

Also under "D" variances, you have to reconcile this application with the Master Plan, in terms the Master Plan deems this an R 100 single family area; what has changed, is something different in terms of the Master Plan or has the neighborhood changed. There has already been testimony about two two family homes in the immediate area, one in the same zone and one in another zone. We heard testimony that there are possibly other preexisting two family homes grandfathered in by Certificates of Nonconformity, but this is an undersized lot in terms of lot area and lot width, and the applicant is basically proposing to doubling the density from one to two family on an undersized lot. Additional testimony needs to be provided addressing the positive and negative criteria.

Mr. Leckstein says while this is a use variance that runs with the property, and while Ms. Jaffrey's story is unique to her, if she were to sell the property, her situation would no longer exist, but it could still be a two family home.

Mr. Kalma says a condition of approval would be that if Ms. Jaffrey sells her home, it would revert back to a single family home use. Mr. Kalma agrees to make this as a deed restriction as well as a condition of approval.

Answering Mr. Byock's question about how parking will work on this property if the application is approved, since he did not understand the testimony about providing additional parking on the property, Mr. Kee says he did consider one space in the garage. There presently exists a two car parking space in the existing driveway and on a bit of the side yard. There is a small landscaped area off the front porch, entering the house, and they propose a two car wide driveway in this area, so they would have two, two car wide driveways without the use of the garage, similar to what is across the street.

Mr. Leckstein asks if Mr. Kalma would extend the condition and deed restriction to say the home must be owner occupied, in the event Ms. Jaffrey is not deceased and not selling the property but decides to move away and keep this as a two family rental property. Mr. Kalma agrees to this be included in a deed restriction.

Mr. Abbonizio, answering Mr. Leckstein's question that six bedrooms would only have four vehicles, says it is actually based on RSIS. He says there is a logistics issue with the property being a two family with the parking situation, the yard, the pool and the deck; typically those are the things that come into play when there is a two family. That is one of the reasons a lot of towns don't like two families because of those extra things on a property.

Mrs. Jaffrey, answering Mr. Phelps, says she has lived there since 2002; her daughter will be 12 next week.

Mrs. Friedman says while she sympathizes with the applicant, there is just not enough what she sees as a standard that we have to consider the need for it. She can appreciate the extra income, but doesn't think that meets the standard. Is there anything else she can show that would meet the standards.

Mr. Leckstein says the applicant's personal hardship is not a reason for the Board to grant a D-1 use variance legally.

Ms. Jaffrey says it is not about spending time with her than money, because she wants to be with her, she wants a normal life, but unfortunately due to the circumstances she does not have a job that is ideal for her. If she was an ordinary, typical child, maybe she would have proceeded further, but being her mother, it is very difficult seeing a young girl growing up so deficient, and the only person she opens up to is her mother, and the mother is not there for her because of the circumstances. She does not know the rules, zoning or protocol, but she is here basically on humanitarian grounds, and whether that counts or not, it is a fact. The only way it will work for her daughter is to spend more time with her, since she is the only person she opens to. She is worse than worse.

Mrs. Friedman replies that she understands the situation and sympathizes with her, but she is not providing the information necessary to grant the use variance. Mrs. Jaffrey says it is based more on empathy than sympathy.

Mr. Kee says in regard to the D 1 use variance, it should be granted due to the location within the zone. The zone boundary is the center line of the street for the Highway Commercial Zone. There are two existing two family homes, though he doesn't know how long they have been there, and development within the area does not always meet the R 100 zone requirements.

Answering Mr. Leckstein, who asks Mr. Kee if one of the problems here that Mrs. Rescorl noted she believes at least one of those houses predates the Zoning Ordinance, so doesn't this Board have to presume the Township Council, when they carved out the zoning district, made a determination they did not want two family homes in the zone, Mr. Kalma responds that it is consistent with the character of the zone. Mr. Leckstein replies that the Township Council made an affirmative decision to change the character of the community by eliminating two family homes from the zone.

Answering Mr. Phelps's question to Mrs. Rescorl, she does not believe there have been any other applications for two family homes in the area.

Mr. Kalma says there is an application for multifamily on Cliffwood Avenue; Mr. Leckstein says every application is based on its own merits, and there are a lot of considerations going on with that application, but he does not believe this application can be compared to that application. Mr Phelps says that application has not been heard yet, so it has not been declined nor approved. Mr. Kalma says the Board did grant the use variance on that application, but Mr. Leckstein says that use variance is conditioned upon site plan approval. It could go to naught.

Mr. Byock asks about the sewer and water lines; do we need to know if they need connections for the second family, or how many people can live there. Mr. Leckstein says it is important to know that, and we need to know if the Board were to grant the approval, with the condition it go back to a one family home in the future, how would that take place. The entry to the second floor, according to the plans, is from the first floor. Mr. Kalma replies the same stairwell inside the front door, on the first floor plan, you go up the stairs and there will be an entry to the second unit. Mr. Leckstein says it will have plumbing for bathroom and kitchen for six people, which Mr. Kalma says it is a mirror image of the first floor. Mr. Leckstein asks how conversion to a one family would work; Mr. Kalma says you wouldn't have to do anything. Mr. Falco says you would have to make two apartments into one apartment. Mr. Kalma says there would be two doors separately locked, so you take one door out, say the downstairs door. Mr. Falco asks about a kitchen upstairs; Mr. Kalma asks how many Italians have a summer kitchen, and there would be a deed restriction for anyone buying the property would know. Mr. Falco says we wouldn't know until the house changes hands what is going on there. Mr. Abbonizio says the responsibility to police would fall to the Township, which one of the reasons we don't have these is so the Township does not have to chase and police these kinds of things.

Mr. Bucco says he owns a two family home, built in 1902, bought by him in 1983, he receives a notice in the beginning of the year for an up to date certificate of occupancy. His two family is owner occupied. If you do not return the form within a month, someone will be there checking on it. He says it is just like a dog license. Mr. Falco says some towns only require a new CO with change of tenant. Mr. Bucco says if you change your tenant in July and do not inform them, you get fined. The owner is the ultimate person responsible, but it is policed thru paperwork, filing, things on record.

Mr. Abbonizio asks if there is potential for a sublet, where you sign the certificate for the year of the residents, and then rent it to someone else. Mr. Bucco says the Ordinance requires the exact name of all tenants who live there. Mr. Leckstein says the point is it still falls on the town to police it to make sure it is accurate information. Mr. Bucco says as a two family homeowner in this Township, he just wants to give the people an idea how it works.

Mr. Leckstein says there is no one in the public who wants to be heard.

Mr. Byock says his question on plumbing still stands, should we know something about that. Mr. Leckstein suggests if the Board is inclined to deny to application, there is no need to go into that because it becomes irrelevant. If the Board is inclined to approve the application, then the Board should know that information. Mr. Bucco says they would have to apply for permits for electrical, plumbing. Mr. Byock says his concern is will someone go out and look to be sure the work is done correctly.

Mr. Abbonizio says if they are required to have two sewer connections, they would also need two water meters, and this issues would have to be addressed if the application is approved and before moving forward. This would be a condition of approval.

Mr. Phelps tells the Board they are voting on whether or not, based on testimony, this single family home can be turned into a two family home, not so much as to how that will happen. As the applicant presented her case, there are two other two family homes in the immediate area, and her request to convert to two family is for humanitarian reasons. The question is has she met the requirements of the regulations in order to grant the D1 variance.

Mr. Falco, addressing Mr. Truscott, asks if the applicant has answered his questions for special reasons. Mr. Truscott replies he did not hear any testimony in regard to Municipal Land Use Law, nor does he think there was adequate reference to the Zone Plan and how it would impact the Master Plan.

Mrs. Friedman moves to deny the application based on the fact she does not believe the legal requirements have been met, seconded by Mr. Phelps.

Yes (to deny): Mrs. Friedman, Mr. Phillips, Mr. Phelps

No: Mr Bucco, Mr. Byock Abstain: Mr. Falco

The application is denied.

The Board takes a recess; upon continuing the public meeting, note that all members originally present are still present.

New Business, **SP14-503 (rev/3)/241 Cliffwood Properties, LLC, Applicant and Property Owner: 241 Cliffwood Properties, LLC, 255 Cliffwood Avenue, Block 183, Lot 11.01**, Applicant seeks **Site Plan** approval with **Variiances**, to construct 62 multifamily townhome market ratable units, ten (10) of which will be COAH rental units, in six (6) buildings, on the above captioned property, located in both the R100 single family residential and Neighborhood Commercial (NC) zones. The existing home and business and accessory structures will be demolished. In addition to the townhomes

and COAH rentals, the applicant proposes parking facilities, landscaping, site lighting, stormwater management facilities and utilities. Use Variance approval was granted by the Zoning Board in November, 2014, subject to site plan approval. **Variiances** required for Minimum Side Yard Setback (one/combined) 10 ft./72 ft. required in the R 100 zone, 10 ft./20 ft. required in the NC zone and 25 ft./50.8 ft. proposed; Density: 8 townhouse units per gross acre (31 units). whereas 62 units proposed equaling 13.9 units per acre; Setback from Railroad Right of Way 100 ft. required in APT/TH zone, 34.9 ft. proposed; Building Spacing: Window Wall to Window Wall: 60 ft. required in APT/TH zone, 50 ft. proposed; Recreational Area: 200 sq. ft. per unit (13,200 sq. ft. or 10,000 sq. ft. minimum required in APT/TH zone, 11,478 sq. ft. proposed; Floor area for two (2) bedroom Townhome 1000 sq. ft. required, 775 sq. ft. proposed; Signage setback 25 ft. required, 5.7 ft. proposed.

Mr. Leckstein marks as **Exhibit A-1** the application package; marked as **Exhibit A-2** is a map of survey of Lot 11.01, Block 183, prepared by Richard Karl Heuser dated August 1, 2014; **Exhibit A-3** are architectural dated October 7, 2014, last revised November 11, 2014, prepared by Robert S. Larsen, of the firm Chester, Ploussas, Lisowsky Partnership, LLC; **Exhibit A-4** is an Environmental Impact Statement prepared by Noel Barnett, P.E., of Stonefield Engineering, dated November 14, 2014; **Exhibit A-5** is the Preliminary and Final Site Plan prepared by Noel Barnett, Stonefield Engineering, dated November 18, 2014; **Exhibit A-6** is the Traffic Impact Letter Report, dated November 18, 2014, prepared by Charles D. Olivo, P.E., PTOE, of Stonefield Engineering; **Exhibit A-7** is an email from Aberdeen Police Sgt. Matthew Lloyd, Traffic Safety Officer for Aberdeen, dated December 22, 2014; **Exhibit A-8** is a review letter dated January 13, 2015, from the Aberdeen Township Environmental and Shade Tree Advisory Board; **Exhibit A-9** is a letter from Salvatore Alfieri, Esq., dated January 15, 2015, completed "Final Major Subdivision and Site Plan Checklist;" **Exhibit A-10** is the revised Environmental and Shade Tree Advisory Board letter of January 20, 2015; **Exhibit A-11** is a review letter from Public Works Director, Robert Brady, dated January 22, 2015; **Exhibit A-12** is the engineering review letter dated February 19, 2015 from Anthony Abbonizio, CME Associates; **Exhibit A-13** is the planning review letter from Martin Truscott, T&M Associates; **Exhibit A-14** is a letter dated March 12, 2015 to the Aberdeen Environmental and Shade Tree Board from Noel Barnett of Stonefield Engineering; **Exhibit A-15** is a colorized version of the site plan dated November 18, 2014, last revised March 12, 2015, prepared by Noel Barnett, Stonefield Engineering; **Exhibit A-16** is a Landscape Plan last revised March 12, 2015, prepared by Noel Barnett, Stonefield Engineering; **Exhibit A-17** are architectural dated October 7, 2014, last revised March 12, 2015, prepared by Robert S. Larsen of the firm Chester, Ploussas, Lisowsky Partnership, LLC; **Exhibit A-18** is the Landscape Replacement Spreadsheet undated, received by the Zoning Board March 13, 2015, and prepared by Stonefield Engineering, LLC; **Exhibit A-19** is the letter of March 18, 2015 from the Aberdeen Township Shade Tree Advisory Board to Noel Barnett of Stonefield Engineering, **Exhibit A-20** is an amended review memo from Bob Brady, Director of Public Works for Aberdeen Township dated March 20, 2015; **Exhibit A-21** is the resolution from the Board of Adjustment for the bifurcated use variance approval dated November 12, 2014; **Exhibit A-22** received tonight is the letter dated March 24, 2015 from Noel Barnett of Stonefield Engineering and Design written to the Shade Tree Advisory Board.

Mr. Alfieri has marked as **Exhibit A-23** a second review letter from Martin Truscott of T&M Associates dated March 20, 2015.

Mr. Leckstein says there was a petition submitted by the Homeowners Association of the Orchards at Aberdeen. Legally the Board cannot review a petition because you cannot cross examine the petition, but representatives are here who will be able to speak. Her advises the Board to disregard the petition. Homeowners can read the petition but not read the names because they can only represent themselves. Everyone has to come up and speak for themselves.

Salvatore Alfieri, Esq., attorney for the applicant, has Mr. Leckstein swear in Robert Larsen, a licensed architect in the State of New Jersey. Under questioning by Mr. Alfieri, Mr. Larsen refers to Exhibit A-15, the colorized site plan, and asks that a single board be marked as **Exhibit A-24**. This board represents four separate color elevations, the color rendered elevations submitted as part of the submitted package. It says March 25, 2015, and he states that he prepared this board.

Mr. Larsen, referring to Exhibit A-1`5, says six separate buildings are proposed, anywhere from 8 to 15 units in a single building, one along Cliffwood Avenue, and along the perimeter to the east, south and west, and along the green two buildings centered in the middle of the site. They are proposing 62 units, 52 market townhouses consisting of two bedroom, 2-1/2 baths; the balance of 10 units are COAH affordable units. The market rate units are proposed to have 1,300 sq. ft. one car garage and one car driveway, and the affordable units are proposed at 10, a mix of three one bedroom, four two bedroom and three three bedroom. They would like to comply with UHAC requirements that state two one bedroom, six two bedroom and two three bedroom. There will be no change to the footprint provided. They are interchangeable. They chose to please the Board with whatever affordable mix is required. Mr Leckstein says in the use variance it was stated one, two and three bedrooms are required. Mr. Larsen says they are proposing ten affordable units, in pairs of two over a flat, within the same footprint, he can achieve either two two bedroom, a one and a three bedroom, but complying with COAH requirements, it says he should have a max of 20% ones and 20% threes, which would be six two bedroom, 2 one bedroom, and 2 three bedroom. The two one bedroom units are approximately 755 sq. ft., and the two bedrooms are 900 to 955 sq. ft., and the three bedrooms are 1,100 sq. ft. They are spread throughout the site in four of the six buildings, namely Buildings 1, 3, 4, and 5.

Referring to the building elevations, Exhibit A-24, Mr. Larsen says on top is a colored rendering of the front elevation, showing the typical front of some of the market townhouses and the affordable units on the right. He does not think the affordable units are discernable. He is proposing a high quality vinyl in collaboration with different types of clapboard or shake styles, accents of color, PVC composite trim, which is low maintenance, as well as stone veneer on the various facades. Below the front elevations are the two sides; to the left is the affordable condition and on the right is typical end of one of the market townhouses. The lower elevation is the rear along Cliffwood Avenue; they have tried to put some architectural detailed interest and color, so it is not seen as a lesser finished elevation even though it is the rear of Building No. 1.

Mr. Phelps, questioning the applicant the original plans showed 66 units, and you are proposing 62 now. Mr. Alfieri says the original density approval was 66 units, the original submission for site plan was 66 units, but there was a subsequent submission at 62 fourteen days ago. Mrs. Rescorl says the Board's plans are marked "revised 3," showing the proposed units. In order to meet various buffer standards and the detention basis, they revised the plans to 62, making the buildings smaller, but keeping the ten COAH units. Their professional will go into detail at the next hearing. .

Mr. Phelps, questioning Mr. Larsen's testimony that the affordables will be harmonious with the other units, asks if there is that much difference. Mr. Larsen says they will not be discernable in the elevation, so not only have they interspersed them they have not made different architecture, they are treating them with the same stone, vinyl color, architectural character as the rest of the development.

Answering Mr. Falco's question whether the interiors will be different on the COAH units vs. the market units, Mr. Larsen believes they will be consistent with the market product.

Mr. Leckstein says as part of the use variance approval there are going to be three two bedroom units. That was a prohibition for the non COAH units, there can be no three bedroom units.

Answering Mrs. Friedman's question, given the size, these townhouses seem pretty small, given the quantity trying to fit in this area, so how marketable will they be. Mr. Larsen says he is also a licensed land planner, and he does housing throughout the state, and most of his projects have seen a noticeable reduction in product size, be it an apartment or townhouse. Buyers are more interested in something smaller, more modest, especially the entry level of buying, whether you have been renting or entering the market again. It should allow his client to be agile in selling them, and it has been his experience that a reduced size product is more attractive to renters and buyers. Big stuff has become less popular in his experience as a planner and architect.

Opening the meeting to the public, Mr. Leckstein advises them the only questions can be asked have to do with the testimony of the architect.

Wahid Shibli, 8 Treeview Lane, Cliffwood, is sworn in by Mr. Leckstein, and says his concern is the traffic. Mr. Phelps tells him this is questions for architect only. Mr. Shibli says you see the map, there is only one outlet onto Cliffwood Avenue, with two cars per unit for 62 units, that is 124 cars. Mr. Phelps again says he has to talk only about the architecture, not traffic.

Mr. Leckstein advises the public we will get to site plan and traffic testimony at another meeting.

Mr. Alfieri asks to carry the application to the April 22 public meeting. Mr. Phillips moves to carry the application without further notice to the April 22 public meeting, seconded by Mr. Falco, and on voice vote all members agree.

Mr. Leckstein again advises the public if there are people here who signed the petition and are not here tonight, those people need to come out to the next meeting, so the Board can ask them questions.

Mr. Phelps says they understand everyone has the same concerns so they got together and signed a petition. Each resident can come up and read the petition, but the Board prefers to hear each person's concern.

Mr. Leckstein explains they cannot speak on behalf of someone else, unless the homeowner's association hires an attorney to speak on behalf of the association. Each person does not have a right to say why someone else signed a petition, even if it is for security reasons as Mr. Shibli says. You can only testify as to why you signed the petition. No one can speak on behalf of someone else unless you are an attorney, that is the law.

Meeting adjourned.

