Minutes of the Aberdeen Township Zoning Board of Adjustment Public Meeting of Wednesday, March 23, 2016

Present are Mr. Apostolou, Mr. Bucco, Mr. Falco, Mr. Phillips, Mr. Phelps

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

Absent are Mr. Byock, Mrs. Friedman and Mr. Forgione

New Business, **SD15-301/Ellen Homes, Inc., Applicant and Property Owner: Ellen Homes, Inc., 287 Cliffwood Avenue, Block 183, Lot 7, Minor Subdivision, Use Variance and Variances** to subdivide existing Lot 7 into two single family residential lots. The preexisting nonconforming dwelling on proposed Lot.7.01 is to remain, however, this dwelling is a two story attached dwelling, with a common wall, and the second dwelling is located on Lot 9. Proposed Lot 7.01 requires variances for Lot Frontage 100 ft. required, 57.99 ft. existing and provided, Lot Width 100 ft. required, 72.32 ft. existing and provided, Front Yard Setback 35 ft. required, 3.2 ft. existing and provided, Side Yard Setback 10 ft. required, 0 ft. existing and provided. Variances required for proposed Lot 7.01 are Lot Frontage and Lot Width, 100 ft. required, 75 ft. provided for each, located in the R 100 single family residential zone. **Note this application is carried from the March 9, 2016 Public Meeting, which was cancelled.**

Mr. Phelps states at the request of the applicant, this application will be carried to the May 11, 2016 Public Meeting, with no further notice. Mr. Bucco moves to carry, seconded by Mr. Phillips, and on voice vote all members agree.

New Business, **V15-115/Corlito, Applicant and Property Owner: Donna Corlito, Dba Donna Doolittle's Pet Sitting, 76 Cypress Lane, Block 68, Lot 4, Use Variance** to maintain a pet sitting operation out of her home, where such business is not a permitted use in the R 75/PC single family residential zone.

At the request of the applicant, this application will be carried to the May 11 Public Meeting with no further notice. Mr. Falco moves to carry, seconded by Mr. Phillips, and on voice vote all members agree.

Sara Talgo asks if the applicant has to give a reason why this is being carried. Under questioning by Mr. Leckstein, she says she lives at 240 Pennington Road, Freehold, NJ, she does not own property in Aberdeen nor was she noticed on this application. She wants to ask questions for her daughter, but Mr. Phelps tells her she cannot ask questions for her daughter.

Gina Picarello, 296 Pewter Court, Old Bridge, states she was not noticed for this application, nor does she own property in Aberdeen. She states she is the one who made it known Donna needs a license to run her business. Her son is there with uncaged animals…Mr. Phelps interrupts saying this is not the venue for what she is asking. Mr. Leckstein says to answer Ms. Talgo and Ms. Picarello's questions, the applicant needs a use variance, which requires five members of the Board to vote on the application. There are seven members of the Board, but only five are here tonight. The applicant would need every single yes vote in order to pass, so she has the right to say she wants a full Board or more than five to vote on my application. That is why she chose not to go forward tonight. It happens all the time.

Mr. Phelps tells her she can come to the May 11 meeting. Ms. Picarello says she is here because her one year old son is in a dangerous environment in the kennel she is running. She explains her son is in that home with uncaged animals; it is not a day care facility. He is there with his father.

Mr. Leckstein explains her mother cannot speak for her, but if she wants to come back to the May 11 meeting she is welcome to do that and state her concerns.

Mr. Falco states the homeowner received a violation running a dog care business without a permit, and that is why she has made application to the Board.

Lorraine Perlman, 440 Lloyd Road, Aberdeen, NJ, starts to give testimony about this application; Mr. Leckstein says she cannot give testimony at this time. The hearing is scheduled for May 11, she can be present to give testimony at that time. Answering her question, Mr. Phelps says she can bring a lawyer.

New Business, **SP16-501/H&D Shah Coffee and Donuts, Applicant: H&D Shah Coffee and Donuts Corp., Dba Dunkin Donuts, Property Owner: Future Land Investment, 189 Highway 35, Block 226, Lot 1.01, Site Plan approval as condition of Use Variance** granted under V15-109 to redevelop a former bank building into a Dunkin Donuts and Baskin Robbins establishment with drive thru and by pass aisles. A 148 sq. ft. addition on the rear of the building is proposed in addition to construction of a refuse area, parking, lighting, signage and landscaping on property located in the Highway Commercial (HC) zone. **Variances** required for (1) Minimum Lot Depth 150 ft. required, 106 ft. existing and proposed; (2) Minimum Front Yard Setback 50 ft. required, 42 ft. existing and proposed; (3) Minimum Gross Floor Area 3,000 sq. ft. required, 2,388 sq. ft. existing and proposed; (4) Two roof mounted, illuminated signs proposed on the Highway 35 building side, one for each business name, and the Angel Street façade exhibits one sign board with both business names, and variances required for number of attached signs per façade and total area of attached signs; (5) The Highway 35 sign requires a variance from roof mounted signage, but below the ridge line, where signs are permitted attached to the building façade; (6) Variance required for 36 sq. ft., 15 ft. high pole mounted identification sign 5 ft. from the right of way of Highway 35 where 20 ft. minimum is required; (7) Variance required for two additional free standing signs proposed as part of the menu board/ordering station, one 15 sq. ft. and approximately 6 ft. high and the menu/ordering board is approximately 53 sq. ft. and 7 ft. tall, where the Ordinance permits one free standing sign; (8) Variance required for the informational/directional sign over the drive thru canopy, 6 ft. long, 7 inches high, topped by 5 inch high letters spelling “Order Here”, where 2 sq. ft. maximum is permitted for directional/informational signage. **This application is carried from the March 9 Public Meeting, which was cancelled.**

Dante Alfieri, Esq., attorney for the applicant, states this Board granted a use variance and tonight they are here for site plan approval as a condition of the use variance and they were suppose to be back in December for the next hearing date on the site plan. Mr. Leckstein says when we approved the use variance in November, Salvatore Alfieri, Esq. withdrew the bifurcation and made it the same application. This has now been carried over to March because the applicant was not ready. It is a continuation of the same application. His concern is who was present on the Board for the use variance, because there has been no resolution of approval. It is a continuation of the original hearing, so if Board members not present for the use variance did not listen to the tapes, they cannot vote on this application.

Mrs. Rescorl suggests considering it a anew application and have them request the bifurcation be reinstituted. Mr. Alfieri agrees to this, and he is fine with this procedure. A resolution will be prepared for the use variance separate from any site plan approval.

Mr. Leckstein marks as Exhibit A-1 the site plan prepared by Marc Leber, P.E. of East Point Engineering, dated January 6, 2016, revised February 24, 2016; Exhibit A-2 is an architectural plan dated January 11, 2016, prepared by Gary Kliesch, AIA, GK&A Architects, PC; Exhibit A-3 is a Trip Generation Report dated February 22, 2016, prepared by Marc Leber of East Point Engineering; Exhibit A-4 are the as builts dated December 18, 2015, prepared by James C. Witt; marked as Exhibit A-5 is t he lighting plan for Two River Community Bank prepared by May 9, 2003, revised January 30, 2004, by Jerome Lang of Maser Consulting; Exhibit A-6 is the truck turning plan dated January 16, 2016, prepared by Marc Leber of East Point Engineering. Marked as Exhibit B-1 is the review letter from T&M Associates, prepared by Martin Truscott, dated March 4, 2016; marked as Exhibit B-2 is the CME review letter dated February 10, 2016, prepared by Anthony Abbonizio.

Mr. Alfieri has an email from Dunkin Donuts regarding the size of the delivery trucks, dated March 21, 2016, to Sal Alfieri and Marc Leber from Mr. Shah, his client; this is marked as Exhibit A-7. It is forwarding an email from Tony DeMarco***, stating they will be able to service this location at 189 Highway 35, Aberdeen, NJ 07747 (No. 354728) with no issues. They will service this location with a trailer less than 40 ft. in length. Please contact me with any questions……There*** is a divisional email from Mr. Shah to Tony dated March 21, 2016, that says…***Good afternoon, Tony, thank you very much for your prompt response. I would appreciate if you could please send me separate emails reference the stores because I have to testify at the Planning Board. Thank…*** Another email dated March 21, 2016 from Mr. DeMarco to Mr. Shah***…we are all set with a small trailer less than 40 ft. We will be able to service this location without issue…***

Hemant Shah is sworn in by Mr. Leckstein, and states he is the owner of the Dunkin Donuts. He is involved in the email chain, and Tony DeMarco is the route supervisor for Dunkin Donuts, a corporate employee, but is not here tonight.

Under questioning by Mr. Alfieri, Mr. Shah says he has several Dunkin Donuts. He has nine in this area, one in Old Bridge, Aberdeen. They can deliver in smaller trucks two or three times a week rather than one time a week, and they can come in off hours.

Mr. Shah says Mr. DeMarco is a route supervisor. Dunkin Donuts can deliver either a 40 ft. truck or smaller. The normal delivery process is one time a week. The hours of delivery will be off peak hours, from noon to 4 p.m. Mr. Shah says this can be a condition of approval if the Board were to approve this. He will also agree no tractor trailers or vehicles less than 40 ft. coming on site. If there is ever a vehicle more than 40 ft. Mr. Leckstein says he will be in violation.

Answering Mr. Falco if they come once a week, what about the donuts. Mr. Shah replies they come daily from Freehold in a small truck, not a tractor trailer. The other truck comes with their supplies, coffee beans, cups, lids, everything they need to operate the store, except for the donuts.

Answering Mr. Bucco, is it all nonperishables, no food. Mr. Shah says coffee beans, and other products, but no donuts.

Answering Mr. Falco about what hours the other incidental trucks would come to the site, Mr. Shah says the donuts would come in the truck at 4 a.m. That is when they open the store.

Mr. Leckstein reminds the Board that in the use variance approval, the hours of operation are going to be 4:30 a.m. to 11 p.m., but deliveries will come at 4 a.m. with the donuts from Freehold. Mr. Leckstein says the testimony is there would be employees there from 4:30 a.m. to 11 p.m. Mr. Shah says they have a key to open the store. Hours of operation are from 5 a.m. to 10:30 p.m.

Mr. Leckstein says we need to know the size of the truck the donuts come in. Mr. Shah says it is a small truck, 14 or 15 ft. Mr. Shah says there are so many routes the truck stops at, it has to be that size. Mr. Bucco says maybe to be safe let's say not larger than 16 ft., and that would be a condition of approval.

Mr. Leckstein asks if the applicant can tell Dunkin Donuts Corporate that this is the only type of truck that can come to my site. Mr. Shah says there are different sizes of trucks. Mr. Alfieri asks Mr. Shaw who do you request from Dunkin Donuts Corporate that you can only have specific size vehicles; i.e. for the donuts, 16 ft. or smaller. Mr. Shah says they will accommodate that request without any problem. Mr. Leckstein says we will make as a condition of approval he must submit to this Board a contract or written legal agreement between him and Dunkin Donuts stipulating to this fact, and what the size of the trucks will be. Mr. Shah says it is a separate entity that makes the donuts, not Dunkin Donuts. The company that makes the donuts, Jersey Shore CML, is not owned by Mr. Shah nor Dunkin Donuts. You can join and have this company make your donuts, or you can make your own donuts. If he chooses to get frozen donuts, he can then make them himself. They are approved by Dunkin Donuts. Mr. Shah says donuts come from this company, donut supplies come thru Dunkin Donuts, ECP. Mr. Leckstein says if he gets a contract between him and Dunkin Donuts, stating no truck larger than 40 ft. will ever come to his site. Mr. Alfieri asks if on letterhead would suffice because he cannot guarantee they would give a contract. Mr. Shah suggests an email, which Mr. Leckstein says is not a legal document.

Mr. Leckstein swears in the Board's professionals.

Mr. Abbonizio says his concern is we have an email from ECP, but two years from now when Tony has moved on, and this email is lost in paperwork, you will have a tractor trailer delivered to the site with no place to go to get off Route 35, make the circulation and get back onto Angel to 35. From the town's point of view it will be protected to know you have something that says you will have less than a 40 ft. truck because of your circulation ability. It might work great the first year, then everyone forgets about it, and a 53 ft. tractor trailer shows up with delivery. They probably have multiple Dunkin Donuts, they put it in the truck, and deliver it along the site. That truck will try to get in off Highway 35, and traffic will be blocked.

Mr. Alfieri argues that Mr. Shah already testified that Dunkin Donuts agrees to provide a truck that will be less than 40 ft. in length. Mr. Leckstein says Mr. Shah cannot bind Dunkin Donuts; he is not Dunkin Donuts. He has no power to make Dunkin Donuts do anything. He only has power over his individual store. Part of this application will be we need something from Dunkin Donuts, more than an email because Mr. DeMarco is not here to testify, there is no one here from Dunkin Donuts to say this is how Dunkin Donuts is going to operate, and this is what we are going to do.

Mr. Alfieri says if it is the Board's opinion they want someone from Dunkin Donuts to provide testimony relating to he truck size for deliveries, they can accommodate that request, but would request the hearing be carried to a later date so they can schedule that. Mr. Leckstein recommends to the Board they do that, and in the interim, they speak to someone at Corporate and Jersey Shore to come up with a legal agreement that will solidify this. Tony's email does not mean anything ten years from now. Mr. Alfieri cannot speak for Dunk Donuts, but he will request to carry the meeting and have someone from Dunkin Donuts to testify; the Board can ask their questions of that person and see how that person feels about the Board's requests. Mr. Leckstein says Dunkin Donuts has to be aware of what the Board is asking before they come to the meeting.

Answering Mr. Bucco, Mr. Shah says he did testify he was the owner of Dunkin Donuts on Route 34 and Broad Street, Matawan. Parking is difficult he says. Deliveries are made by a 53 ft. truck.

Mr. Abbonizio says the other issue with the trucks is there is no loading zone, which is required. Mr. Alfieri says Marc Leber, the applicant's engineer, will provide testimony on that issue. Mr. Abbonizio says no matter the size of the truck, there is no place for them to unload.

Answering Mr. Apostolou whether the store proposed on Route 35 would be on the same route as the store on 34 with deliveries from Dunkin Donuts, Mr. Alfieri says Mr. Shah does not have personal knowledge of that. Mr. Phelps suggests that question of same delivery routes be asked of Dunkin Donuts.

Answering Mr. Falco whether a 40 ft. truck could be handled at the site, Mr. Abbonizio says without putting a template on it, it probably could. They did submit a truck circulation plan for a truck of that size, and it does appear to work.

Marc S. Leber is sworn in by Mr. Leckstein, and states he is a licensed engineer and planner in the State of New Jersey, employed by East Point Engineering. Mr. Leckstein notes he did testify at the prior hearing for the use variance.

Mr. Leber states he has worked for all kinds of franchises, the closest to this might be Taco Bell, Dunkin Donuts and Seven-Elevens in urban, suburban and rural areas. A lot of the sites, whether located mid block or on a corner would typically get deliveries from a company named McLane, a food distributor. They use 53 ft. tractor trailers. He has never been to a site that had a loading zone for a 53 ft. tractor trailer. Some of the mid block sites have no in or out for a truck to enter their site. This is a corner site, and in worse case scenario, a 40 ft. truck can get in and get out, but the idea here is practically a truck will enter from Angel Street, referring to a new exhibit, marked Exhibit A-8, which is a coloring of Sheet 3 of 5 of the site plan dated February 24, 2016. The deliveries will enter from the side street, Angel Street, pull into the site, park in a vicinity that he points to on his exhibit, where the six stalls are located, and it is a drop delivery. The guys have hand trucks and keys, they go inside, drop the stuff, drop the paper work, and go back out the door, getting in the truck and going out to Route 35 via a right turn. The deliveries take under ten minutes. This is what happens in real life, and it works in the real world on sites such as this. You have mid block Seven Elevens, McDonalds, trucks park in the drive thru lane, never any issues with it, and he has worked in over 100 municipalities. For this particular project, this is how the delivery process will operate.

Mr. Leber says there was a comment about the ability of fire trucks to circulate the site, and they submitted a turning template for a trash truck, which is about 30 ft. in length. From dealing with fire departments, if there were an incident at the site, a truck will not pull up to the side of the building and park a half a million dollar fire truck there. Similar to a delivery truck, they would come in off Angel Street, park in an area (shows on his exhibit), block off the street, and do what they have to do. Once the situation is addressed, they would exit to Route 35. The only large vehicle to go around the back of this building would be the trash truck because the trash enclosure is located behind the building on the south side.

Answering Mr. Leckstein, whether large trucks ever stop in Dunkin Donuts, Mr. Leber says they could not go thru the drive thru because the truck would smash thru the canopy. Mr. Shah says the largest vehicle would be similar to a Suburban. Mr. Leber says even if you rent a UHaul and don't normally drive a truck, there is a sticker inside the truck on t he dashboard that warns you about going thru a Dunkin Donuts drive thru because the truck is too high for the clearance part. So if you are a weekend driver of a truck, you will see the warning on the dashboard not to go thru a drive thru because you will crash thru the overhead canopy. Answering Mr. Leckstein whether it says Dunkin Donuts, Mr. Leber says it has a picture that implies it is a donut shop. Mr. Shah says no trucks higher than 9 ft. can go thru the drive thru.

Addressing the T&M report of March 4, 2016, Mr. Leber refers to No. 3, Parking, last line…***change from an office use to restaurant does trigger the requirement for a loading space***, he hopes he has addressed that sufficiently; the justification is the type of delivery and the time it takes place, talking about a ten minute duration, two to three times a week, practically speaking this is how it functions on hundreds of other sites similar in use to this one. He does not think it a detriment to not provide a loading space.

Answering Mr. Phelps that deliveries are made between 12 Noon and 4 p.m., aren't parking spaces going to be used by customers where it is proposed for the trucks to stop, Mr. Leber says those are off peak hours, so it is possible a customer would not be parking there. Most of the business conducted at Dunkin Donuts is thru the drive thru.

Answering Mr. Leckstein what happens if delivery comes in and cars are parked there, Mr. Leber says he waits.

Mr. Abbonizio says the Board should also consider the fact that the circulation areas are also the fire lanes. From the fire official it is striped out as no parking, fire lane, but if you are going to have a delivery truck park there, it will be blocking the fire lane. The point of having a loading zone is to prevent trucks from blocking either pedestrian traffic or commercial traffic for emergency service.

Answering Mr. Leber, Mr. Abbonizio says a delivery truck could be parked there and then a fire breaks out. Mr. Leber says in the real world they park, deliver and leave.

Answering Mr. Apostolou that Mr. Leber heard the testimony a 53 ft. truck would not work at this location, Mr. Leber says that is correct.

Mr. Leber asks that we mark as Exhibit A-9 a circulation sketch, not previously submitted to the Board or its professionals. Mr. Leckstein asks what is Exhibit A-6, which Mr. Leber says is a truck turning plan. There is a difference between the two

exhibits. He clarifies that Exhibit A-9 is the truck turning plan for delivery vehicles while Exhibit A-6 is the truck turning plan for the trash vehicles. Exhibit A-9 will be submitted to the fire official for review and comments.

Mr. Leber explains at the top of Exhibit A-9 is Route 35, known as a WB 40, which is ASHTO standard vehicle size. ASHTO is a set of guidelines utilized when they prepare plans such as this. It shows coming off Route 35 onto Angel Street, making a right turn into the property and continuing to make a right turn back onto Route 35. The heavy black liens indicate either the limits of the trailer overhang or the wheel itself. When they did the plans they ensured that neither of those lines where the cab or trailer drive up sidewalks or things like that. Shown is a 40 ft. vehicle, which is the limit. Anything larger than this vehicle cannot access the site. Mr. Falco says looking at this, no one can get in or out of the site if the trailer is in place. Mr. Leber says to address that, if you look back at the site plan, the primary access point for customers to this property is actually on Route 35, the circulation pattern is counter clockwise around the building, where they can exit right out onto Route 35. Mr. Falco says Angel Street would be blocked, which Mr. Leber says is fine for ten minutes because 99% of the traffic coming in off of Route 35 by a right turn. If they are making a right turn to get in and exiting out to Route 35, for ten minutes if they can't exit to Angel Street, they can make a right turn onto 35 and then a right to Angel Street if they have to go that way. Mr. Falco says both sets of parking spots would be blocked and, realistically, the fire truck will come in from Angel Street. They will not go down Route 35 to Old Bridge and make a U Turn and come all the way back up to the site. The tractor trailer could hit a car, that could be the emergency.

Mr. Leber says he is testifying the delivery truck will be there two or three times a week, for ten minutes, so is he saying in that ten minutes the building will go on fire on one of those occasions. Mr. Falco responds the tractor trailer could be the emergency, he could hit a car, a person. Mr. Phelps says if he is parked there and the engine went on it and he couldn't move, that is another scenario.

Mr. Leckstein says you can't predict a fire, so you have to prepare for all occasions for a fire.

Mr. Falco says all the details need to be straightened out and they need to come back with answers. He says the Board members depend on their professionals, including the fire official, to give them information so they can make a decision.

Mr. Abbonizio says another item of concern is the width of the bypass lane is undersized. If it is a 45 degree parking, it requires an 18 ft. bypass lane, if it is 30 degree parking, it is a 15 ft. bypass lane, and they currently have 10 ft.

Mr. Apostolou moves to carry the application to the May 25, 2016 Public Meeting with no further notice, seconded by Mr. Falco, and on voice vote all members approve.

Note that Mr. Truscott leaves the meeting.

New Business, **V16-103/Hanrahan, Applicant and Property Owner: James Hanrahan, 10 Dolan Avenue, Block 257, Lot 1.01, Use Variance** to erect 6 ft. fence in second front yard (Sinnet Place), where 6 ft. fences are not permitted in a front yard area in the R 75 single family residential zone.

Mr. Leckstein explains to the applicant about the five votes necessary for a use variance approval, and there are only five members present. The applicant has the right to carry the application, requesting more Board members to be present. Mrs. Hanrahan asks if the Board says no is it an adjustment to the variance; Mr. Leckstein says no the application would be denied. Because of the issue pointed out by the Public Works Director, Mr. Phelps and Mr. Falco feel it should be carried. Perhaps the engineer should review the application. The applicant prefers to go forward.

Mr. Leckstein swears in James Hanrahan and Marissa Weber, both owners of the property.

Mr. Phillips, addressing Mr. Hanrahan, says he has 24 ft. by the garden; is that the length of the garden or curb to the fence. Mr. Hanrahan says that is the length of the fence running along Sinnet Place. He is going to bring it up another 16 ft. to where the three X marks are, midway to the house.

Mr. Leckstein marks as Exhibit A-1 the survey of the property dated August 29, 1995, prepared by Eugene Amdon, Azimuth Land Surveying Co., Inc. Marked as Exhibit A-2 are a series of 12 photographs taken by Mr. Hanrahan, including pictures showing the cars backing out of the driveway, submitted tonight, making it a total of 16 photographs in Exhibit A-2.

Mr. Hanrahan shows the Board where he wants to put the proposed fence. There is a fence there that is off the property line. Mr. Hanrahan did not understand the 13 ft. on his survey, he thinks it might be from the curb to the house. Mr. Falco says the pictures do not represent 13 ft. to the curb. He did not understand the survey, he thinks it is 13 ft. from the house, and 6 ft. to the curb. From the porch area it is 13 ft. to the end of the property, according to the survey, and 14 ft. in the back from the edge of the house to the property line.

Marked as Exhibit A-3 is the March 17, 2016 memo from Joseph Clementi, Acting Public Works Director, which indicates concerns over sight distances backing out of the applicant's driveway.

Mr. Leckstein reads into the record Mr. Clementi's memo….***Regarding the fencing proposed for variance at the subject property. Please consider the following: (1) The sight distance while backing a car out of the driveway needs to be reviewed and considered by the Board; (2) Corner sight distance at Dolan and Sinnett with distance from fence to front house line stated as 30 feet, no comment. No other comments.***

Answering Mr. Phillips, Mr. Hanrahan says the side of his house is the only house on Sinnet; Ms. Weber states no one actually lives on that street. She says no one else would be backing out. There are two dead ends.

Answering Mr. Bucco, Mr. Hanrahan says there is hardly any traffic on that road unless they are lost. Mr. Phillips says that might change once the adjacent property is developed at the train station, although Sinnet is not involved in the redevelopment per Mr. Abbonizio.

Answering Mr. Leckstein, Ms. Weber says Sinnet connects Harrison and Dolan Avenues, and Harrison and Dolan are dead ends. Mr. Leckstein says someone could drive around Dolan, get to Sinnett to get to Harrison. Mr. Hanrahan agrees, and Mr. Leckstein says it is

not a true dead end. Answering Mr. Phelps, there are residences on Harrison, but it doesn't make sense for those people to come around, but it is a possibility. Ms. Weber said she took into consideration that they could back out.

Mr. Abbonizio, after speaking to the applicant, says he asked the applicant if he objected to catty cornering that corner section of fencing, because if he did that and had the additional 6 ft. from the fence to the curb he will able to see backing out. The applicant is agreeable to catty corner back if the Board feels that is in the best interests of the public driving down their street. He will catty corner it by 2 or 3 ft.

Mr. Leckstein and the applicant agree to catty corner at the 90 degree angle, you would cut that corner off with two 45's, or Mr. Abbonizio says he could extend it with having a 6 ft. section of fence coming across. This approval will be subject to sign off by the Board engineer. The applicant agrees to this condition.

Answering Mr. Leckstein, Mr. Hanrahan says they want the fence for privacy and safety and security for future children that they hope to raise in town. The fence will be wooden stockade as indicated in the picture. There are many homes in the neighborhood, including Ms. Weber says on the corner with 6 ft. fences.

Mr. Falco moves to approve the application with conditions, seconded by Mr. Phillips.

Yes: Mr. Apostalou, Mr. Bucco, Mr. Falco, Mr. Phillips, Mr. Phelps

No: None Abstain: None

New Business **V16-105/Conroy, Applicant and Property Owner: Erin Conroy, 125 Arlington Avenue, Block 178, Lots 1 and 13, Use Variance** to erect 6 ft. fence in second front yard (Delaware Avenue), where 6 ft. fences are not permitted in a front yard area in the R 60 single family residential zone.

Mr. Leckstein advises the applicant they need a use variance and have the right to wait til there are more Board members present. The applicant wants to proceed.

Mr. Leckstein marks as Exhibit A-1 an undated survey; marked as Exhibit A-2 are a series of five photographs depicting the property as it is today, taken by Mr. Rodriguez.

Mr. Leckstein swears in Erin Conroy, owner of the property, and Henry Martinez, not a property owner but the applicant's husband.

Answering Mr. Phelps, Ms. Conroy wants the fence for privacy and security.

Answering Mr. Leckstein, Ms. Conroy says there is no fence on their property presently, both neighbors have fences. Mr. Rodriguez says the indicated 6 ft. stockade fence on the survey belongs to their neighbor. They are proposing a fence on Delaware Avenue, which they consider their backyard. The front of their property is on Arlington Avenue.

Mrs. Rescorl reminds the Board of a prior application for the Delaware Avenue property that was denied by the Board years ago to build a single family home. The applicants were given this survey by that applicant's attorney when they bought the house. There is only one house on the lot, facing Arlington Avenue. They purchased the undeveloped lot facing Delaware Avenue, which was sold by the Township to a prior owner, and they

want to enclose the Delaware Avenue part of their property, which is part of their rear yard. They have two front yards now, Arlington Avenue, the true front yard, and because what they consider their rear yard fronts on Delaware Avenue, so that is a second front yard and cannot have a 6 ft. fence without a use variance.

Answering Mr. Leckstein, Mr. Martinez says they own Lot 13, facing Arlington Avenue, and Lot 1, facing Delaware Avenue.

Answering Mr. Phillips, Mr. Martinez says the neighbor has a 6 ft. vinyl fence, and they would like to make an extension of that, attaching it to the neighbor, same style, white vinyl fence.

Mr. Martinez says their house is not shown on the survey; Mr. Leckstein realizes this is the old survey from the prior application of Mr. Baumgardner, and Arlington Avenue and the house is not shown on this survey.

Mr. Leckstein explains the Board application of Mr. Baumgardner, who bought the lot from the Township, sold it and Mr. Baumgardner came in to build a two story dwelling, it was denied, the Board was sued, and it was upheld in court. The applicants bought the lot from Mr. Baumgardner to add to their property. The applicants' house is not shown on this survey. The 6 ft. stockade fence was proposed by Mr. Baumgardner and is shown on this survey but is not erected. Ms. Conroy says they want to run the length of the lot on Delaware and the sides of the Delaware Avenue lot til they meet up with the fence adjoining their neighbor. Answering Mr. Bucco, there are no driveways involved. There will be a gate as shown on the Delaware Avenue side.

Mr. Leckstein says when the Board denied this application, one of the things the board said this should not be a separate lot and should merge with an adjacent lot, and that is what has happened. He is surprised they were allowed to close with this survey, not even showing the existing home as part of their property. Ms. Conroy says they do have a survey of the Arlington Avenue property.

Mr. Martinez does not know the exact distance but believes he will be more than 10 ft. from the curb. Right now it is just an empty lot on Delaware Avenue and there is a curb cut but they are not using that.

Jackie Hughes, 148 Delaware Avenue, Cliffwood, is sworn in by Mr. Leckstein, and states she is next to the empty lot. She has no problem with them putting up the fence. Her father purchased adjoining lots from 178, 1, 2, 3. The empty lot is 3 and she is paying taxes on it. It is 41 x 59. Her father put an addition on the house. She knows the size of the lot. There is a tree there. Referencing the picture, and her tree goes past the property line. Is the applicant's survey going past or coming to the tree. Mr. Leckstein says the proposed fence is not going past the tree, he is not going on her property. Ms. Conroy says she has contacted the person who did her Arlington Avenue survey and asked him to do a new survey showing all the property.

Mr. Phelps says as a condition of approval the applicants will have to get an updated survey of their property, and the applicants agree. The applicants will show the proposed fence on the new survey.

Mr. Martinez spoke to Richard Heuser who said he would come out in about a week to put in stakes. Mr. Leckstein says he should be able to do a survey if he did the survey for the main house, he should be able to include the Delaware Avenue lot. That will be a condition of approval.

Mr. Apostalou moves to approve the application, seconded by Mr. Phillips

Yes: Mr. Apostolou, Mr. Bucco, Mr. Falco, Mr. Phillips, Mr. Phelps

No: None Abstain: None

New Business, **V 16-107/Mallett, Applicant and Property Owner: Art Mallett, 149 Idlewild Lane, Block 56, Lot 12, Variance** to install a 21 ft. round above ground pool with a 5 ft. x 13 ft. attached deck and maintain an existing 8 ft. x 12 ft. shed. Proposed pool is 8 ft. and 6 ft. to house where 10 ft. minimum required, and 4 ft. to side property line where 10 ft. minimum required. Existing shed is 2 ft. to side property line where 3 ft. is required, and 1 ft. to rear property line where 3 ft. is required, on property located in the R 75/PC single family residential zone.

Mr. Leckstein swears in the applicant, Arthur Mallet, who states he is the owner of the property.

Mr. Leckstein marks as Exhibit A-1 a survey dated May 31, 2002, prepared by P&M Surveying, Inc., Gary Paparozzi, NJLS; marked as Exhibit A-2 is the same survey showing the proposed pool and deck drawn in; marked as Exhibit A-3 is a series of photographs taken by the applicant with the proposed pool drawn in on some of the photographs.

Mr. Leckstein says this application is also to maintain the existing shed, and he noticed for same. Mr. Mallett realizes the shed is in a sanitary sewer easement, and acknowledges if the Township has to access the easement he would have to remove the shed and replace it at his expense after the Township repairs the easement. He acknowledges this as a condition of approval.

Mr. Mallett says he wants to keep the shed for storage as they keep their car in the garage, leaving no place to put the other stuff. The pool is a request of his 9 and 11 year old children, giving them something to do in the summer months.

Answering Mr. Phelps, there is no electricity in the shed and he does not intend to put in any electric. This will be a condition of approval. There is also no plumbing in the shed. The shed has been there since 2002, when they moved in. He built it himself.

Answering Mr. Phelps, Mr. Mallett says his pavers will have to be removed for installation of the pool. The pool will be an above ground pool.

There is no one from the public to testify on this application.

Mr. Bucco moves to grant the approval, seconded by Mr. Falco.

Yes: Mr. Apostalou, Mr. Bucco, Mr. Falco, Mr. Phillips, Mr. Phelps

No: None Abstain: None

Memorialization of Resolution **V 15-116/Randazzo and Ciprianno, Applicant and Property Owner: Nichole Randazzo and Isabella Ciprianno, 14 Avalon Lane, Block 14, Lot 11, Variance** request to install a 20 ft. x 44 ft. steel wAll in ground pool, in second front yard (Line Road), 39 ft. from property line, where accessory structures are not permitted in the front yard; maintain existing 6 ft. chain link fence in second front yard (Line Road) where fences are not permitted in front yards in the R 75/PC zone, is summarized into the record by Mr. Leckstein. Mr. Falco moves to memorialize, seconded by Mr. Phillips.

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

No: None Abstain: None

Memorialization of Resolution **SP15-507/New York SMSA Limited Partnership dba Verizon Wireless, Applicant: New York SMSA Limited Partnership dba Verizon Wireless, Property Owner: Regent Shopping Center, Inc., 1121 Highway 34, Block 87, Lot 36, Minor Site Plan and Use Variance application with Waivers** to install a small network node communications facility, comprised of three roof top wireless antennas (telecommunications facility), and supporting equipment, on an 18.5 ft. high roof top of an existing one story building, located on the northerly portion of the subject property, in the Regional Commercial (RC) Zone, is summarized into the record by Mr. Leckstein. Mr. Falco moves to memorialize, seconded by Mr. Phillips.

Yes: Mr. Apostalou, Mr. Falco, Mr. Phillips, Mr. Phelps

No: None Abstain: None

Mr. Leckstein updates the Board on SP14-503 (rev [6]/241 Cliffwood Properties, 255 Cliffwood Avenue, Block 183, Lot 11.01. He was contacted by Mr. Alfieri, the applicant's attorney, who indicated his client would like to return to the Board and propose a redesigned site plan showing 52 units with 10 of the units being affordable housing. He will be coming back, making a motion to try to reopen the case and suggest an alternate plan. We don't know when he will be returning. Mr. Leckstein will not do a resolution of denial, pending him coming here and making his motion to reopen. He will have to renotice to do that and he understands that. Answering Mr. Falco about the Board's concern of the proximity to the railroad, Mr. Leckstein told Mr. Alfieri that is a concern of the Board, and he will have to deal with that when he comes in. Mr. Bucco says they have made that an ugly site and they shouldn't have, being they were denied.

Meeting adjourned.