

ROCKAWAY TOWNSHIP  
BOARD OF ADJUSTMENT  
TUESDAY, MAY 16, 2023  
COMMENCING AT 7:30 P.M.

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IN THE MATTERS OF: ) TRANSCRIPT OF  
) PROCEEDING  
PUBLIC HEARING )  
BOA #22-22 )  
MAROGI )  
20 Johnson ROAD )  
BLOCK 40301 Lot 2 )  
"C" VARIANCE )  
-----

B E F O R E: ROCKAWAY TOWNSHIP BOARD OF ADJUSTMENT  
THERE BEING PRESENT:

- JASON SMOLINSKI, CHAIRMAN
- DOMINICK NICASTRO, VICE CHAIRMAN
- JAMES LOFTUS, SECRETARY
- TIMOTHY SCHERWA, MEMBER
- SUSAN ROYEK, MEMBER
- KATEY PLATTS, MEMBER
- CAROL LUCAS, MEMBER (ABSENT)
- ADAM LUSARDI, ALTERNATE MEMBER 1 (ABSENT)
- DOUGLAS STOWBRIDGE, ALTERNATE MEMBER 2 (ABSENT)

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A L S O P R E S E N T :

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DAVID NOVAK, P.P., AICP, Board Planner  
PETER TEN KATE, P.E., Board Engineer

**LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.**  
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1 (Whereupon, this the transcription of  
2 the Audio File for the May 16, 2023 Meeting of  
3 the Township of Rockaway Zoning Board of  
4 Adjustment Meeting regarding the matter of  
5 Application BOA #22-22, Marogi, 20 Johnson  
6 Road, Block 40301, Lot 2, "c" variance  
7 beginning at 7:01:13 on the digital counter.)

8 1. Call to Order

9 MS. KAHN: Rockaway Township Board of  
10 Adjustment, May 16, 2023.

11 On the record.

12 CHAIRMAN SMOLINSKI: All right.

13 This meeting of the Rockaway Township  
14 Board of Adjustment is called to order. This meeting  
15 is held pursuant to the New Jersey Open Public  
16 Meeting Act.

17 Notice has been properly posted and  
18 filed with the municipal clerk of the Township of  
19 Rockaway, mailed to all those persons requesting  
20 notification and provided to The Citizen of Morris  
21 County on February 8, 2023 and The Daily Record on  
22 February 7, 2023.

23 Notice of the paper was via email and  
24 formal action may be taken this evening.

25 MS. KAHN: Mr. Smolinski?

1 CHAIRMAN SMOLINSKI: I am present.

2 MS. KAHN: Mr. Loftus?

3 MR. LOFTUS: Here.

4 MS. KAHN: Mr. Scherwa?

5 MR. SCHERWA: Present.

6 MS. KAHN: Mr. Nicastro?

7 VICE CHAIRMAN NICASTRO: Here.

8 MS. KAHN: Ms. Royek?

9 MS. ROYEK: Here.

10 MS. KAHN: Ms. Platts?

11 MS. PLATTS: Here.

12 MS. KAHN: Mr. Bell?

13 MR. BELL: Here.

14 MS. KAHN: Mr. Ten Kate?

15 MR. TEN KATE: Here.

16 MS. KAHN: Mr. Novak?

17 MR. NOVAK: Here.

18 CHAIRMAN SMOLINSKI: That's what we

19 have?

20 MS. KAHN: That's it.

21 CHAIRMAN SMOLINSKI: Okay.

22 (Whereupon, all rise for a Recitation

23 of the Pledge of Allegiance.)

24 CHAIRMAN SMOLINSKI: Okay.

25 First order of business approval of the

1 minutes of April 18th and May 2nd.

2 Do them in order.

3 MALE BOARD MEMBER: I make a motion for  
4 the 18th.

5 CHAIRMAN SMOLINSKI: Do we have a  
6 second for the approval of the minutes of the 18th?

7 MS. PLATTS: Second.

8 CHAIRMAN SMOLINSKI: I got a second.

9 All in favor?

10 (Whereupon, Mr. Loftus abstains and all  
11 other present members respond in the  
12 affirmative.)

13 CHAIRMAN SMOLINSKI: All right.

14 How about the 2nd?

15 Jim, you're out.

16 MALE BOARD MEMBER: No.

17 CHAIRMAN SMOLINSKI: I'll make a motion  
18 to approve them.

19 MALE BOARD MEMBER: Second.

20 CHAIRMAN SMOLINSKI: I need a second.

21 All in favor, minus Jim.

22 (Whereupon, all present members respond  
23 in the affirmative.)

24 CHAIRMAN SMOLINSKI: All right.

25 Minutes are approved.

1 Any correspondence, Ms. Murray?

2 MS. PLATTS: No.

3 CHAIRMAN SMOLINSKI: Okay. At this  
4 point in time I'm going to open it to the public for  
5 any matters not on tonight's agenda.

6 (No response.)

7 CHAIRMAN SMOLINSKI: Seeing none, I'm  
8 going to close it.

9 We'll go to regular order of business,  
10 I guess I'll move -- that's all right. We got a  
11 resolution for escrow and something else, we'll move  
12 that to the end.

13 So there's no committee reports.

14 No other matter.

15 So we'll go right to BOA 22-22, the  
16 continuation of Marogi, 20 Johnson Road, Block 40301,  
17 Lot 2.

18 MR. KOHUT: Good evening, Mr. Chairman,  
19 Members of the Board, Happy Mother's Day to everybody  
20 -- all those who celebrate.

21 Andrew Kohut, K-O-H-U-T, of Wells  
22 Jaworski Liebman, 12 Route 17 North, Paramus, New  
23 Jersey, here on behalf of David and Rachel Marogi,  
24 20 Johnson Road, Block 40301, Lot 2.

25 The last time we were here, I think you



1 reviewed whether this property constitutes a corner  
2 lot. I'm not going to regurgitate all the testimony  
3 -- all the analysis I provided, but I -- just that it  
4 was based on the definition of street and the  
5 situation that this -- that surrounds this property,  
6 this is actually an easement and it allows access to  
7 two other lots.

8 It's not a street under your  
9 definition, and, therefore, this can't be a corner  
10 lot. That's the gist of it.

11 I know that you did receive some  
12 correspondence in the last couple of days from the  
13 borough engineer on that.

14 I'm sure you'll review that --

15 CHAIRMAN SMOLINSKI: Township.

16 MR. KOHUT: Township engineer, I  
17 apologize. Thank you.

18 They -- well, I'll just say found they  
19 found that based on strict interpretation of the  
20 code, it's not a street as well (inaudible) have  
21 correspondence.

22 But I -- I think that's -- that's our  
23 position. This is an interior lot and this would be  
24 guided based on that -- on those standards.

25 MR. BELL: No, I did communicate with

1 you earlier today, I indicated that we did not have a  
2 full board, but you still wanted to proceed anyway  
3 this evening.

4 MR. KOHUT: I see that there's six  
5 members here today, so we're going to move forward at  
6 this time and then we'll see if -- I'm hoping we get  
7 to the actual merits of the application and then  
8 we'll see where that stands at the end and we'll make  
9 a decision.

10 MR. BELL: And I guess the board has  
11 had an opportunity to review the -- considerable  
12 amount of time that's been expended in connection  
13 with this matter with Mr. Novak, Mr. Ten Kate, with  
14 Allison Ferrante, myself, as well, at -- in looking  
15 at this particular issue.

16 And we've gone through, and I want to  
17 make it part of the record:

18 "This office continues to," that is the  
19 engineering office -- "additional research on  
20 the matter specifically as it relates to the  
21 township's definition of a corner lot and a  
22 street.

23 "According to the Township of Rockaway  
24 Municipal Code, Chapter 54-4.1, definitions, a  
25 corner lot is defined as a lot at the junction

1 of and having frontage on two or more  
2 intersecting streets. A corner lot is also a  
3 lot bounded on two or more sides by the same  
4 street.

5 "A street is defined as any street,  
6 avenue, boulevard, road, parkway, viaduct,  
7 drive or other way, which is an existing  
8 state, county or municipal roadway, which is  
9 shown upon a plat heretofore approved pursuant  
10 to law, which is approved by official action  
11 as provided by this chapter, or which is shown  
12 on a plat duly filed and recorded in the  
13 office of the county clerk or the recording  
14 officer prior to the appointment of a planning  
15 board and the grant of such board of the power  
16 to review plats, and includes the land between  
17 the street lines, whether improved or  
18 unimproved, and may comprise pavement,  
19 shoulders, gutters, curbs, sidewalks, parking  
20 areas and other areas within the street  
21 lines."

22 She goes on to add:

23 "Considering the above, this office  
24 conducted the following research with the  
25 following results.

1                   "According to Chapter 54-36, an  
2                   official map is established for the township  
3                   which is titled Official Map, Township of  
4                   Rockaway, and dated November 1995."

5                   Is -- is there a reason why you're  
6                   standing up?

7                   MR. HANTMAN: I'm just waiting for you  
8                   to finish so I (inaudible) to my...

9                   MR. BELL: All right.

10                  "To date, neither an electronic copy  
11                  nor a hard copy of the reference map have been  
12                  located.

13                  "Review of the related  
14                  Ordinance No. 95-24, which is attached," and  
15                  I'm going to ask that this memo be part of the  
16                  record, "reveals no relative information on  
17                  the matter. No official map has been located  
18                  either online, within the township's  
19                  Municipal eCode 360, or in hard copies of  
20                  previous years' municipal code books."

21                  I'm telling you, when we talk about an  
22                  exhaustive search, Erin, Shelly, Allison Ferrante  
23                  spent considerable time searching the clerk's  
24                  resolutions Ordinance Books from 1994, '95 and '96;  
25                  revealed no official action specifically related to

1 the adoption of the official map referenced in the  
2 Township's Municipal Code, Chapter 54-36.

3 A hard copy of an official map of the  
4 Township of Rockaway was located.

5 However, it is dated May 1990, not  
6 November 1995, as currently referenced in the  
7 Municipal Code Chapter 54-36.

8 The May 1990 Official Map is referenced  
9 and located within the 1991 Master Plan which is  
10 attached as part of her memo.

11 Upon review, Van Dien Lane does not  
12 appear to exist on the May 1990 official map as the  
13 surrounding roads; i.e., Notch Road, Davenport Road,  
14 Sunset Road, Johnson Road, et cetera, are identified.

15 Minutes from the July 13, 1992,  
16 planning board, which is also attached as part of  
17 this document, the adoption of the 1991 Master Plan  
18 containing the May 1990 official map. Van Dien Lane  
19 does appear on a map that contains an index of roads  
20 within the township. This map was last revised in  
21 January 2012 and July 2012.

22 Neither a resolution nor an ordinance  
23 taking official action on this map in 2012 was  
24 located in the clerk's office.

25 While the subject Van Dien Lane appears

1 to be referenced in each of the adjoining deeds,  
2 either by name or proposed road, new road or one-half  
3 of 25-foot road, conveyed for road purposes only, it  
4 does not appear to meet the strict definition of a  
5 street as defined by the township's ordinance.

6           Thereby, the subject property does not  
7 appear to meet the definition of a corner lot.

8           So the board professionals have  
9 reviewed that. It becomes a question for this board  
10 in determining whether or not it is a street or not.

11           And for your -- for the board, it  
12 should be -- has to look at the ordinance definition,  
13 the factors in favor of determining it's not a  
14 street. It's not on a recorded plat. It is not  
15 recited in the subdivision deed based upon a  
16 board-approved subdivision. It is not shown on the  
17 approved subdivision map. It is not shown on the  
18 recorded subdivision map. It is not shown on any  
19 official map approved by the Township Council.

20           There is no record of it being  
21 dedicated to the township. There is no record of it  
22 being accepted or even considered by the township.

23           The township does -- does not maintain  
24 it or pave it, factors in favor of it determining  
25 whether it's a street, it is shown on a map of

1 streets prepared by the engineering department. It  
2 is referenced in recorded deeds. It has been plowed  
3 by township's trucks.

4 And that's a decision for this board to  
5 make.

6 Is there something I'm missing,  
7 Mr. Hantman?

8 MR. HANTMAN: Yes, something that the  
9 --

10 MR. BELL: Will you please identify  
11 yourself for the record?

12 MR. HANTMAN: My name is Allen Hantman,  
13 Offices of Morris and Hantman, it's in Denville,  
14 64 Diamond Spring Road.

15 I'm here representing Mr. Wright, who  
16 is a person, interested party, with this particular  
17 issue, specifically this particular issue.

18 And I think there's something that's  
19 missing both from that analysis and in what the board  
20 is being asked to consider, and that is this: As  
21 part of the application process, every building  
22 permit that has been issued has to front on an  
23 approved street or an application made to this board  
24 from Section 36 of the Municipal Land Use Law which  
25 allows a building to be created not attached to an

1 approved street.

2 And then this board determines whether  
3 or not there's proper access, whether there's  
4 emergency access.

5 You have, under description of the  
6 properties before you, two lots that are behind this  
7 lot on Van Dien.

8 Both of those were constructed within  
9 the last ten years, the last one two years ago.  
10 Application was made by the -- to the town for a  
11 building permit, and the determination was made by  
12 the building department that this fronted on an  
13 approved road.

14 The only road it could be is Van Dien.  
15 There is no other one.

16 MS. PLATTS: Do you have that  
17 application and that response that you're  
18 representing?

19 MR. HANTMAN: I have the person who did  
20 it, he talked about --

21 MS. PLATTS: Well, I'm just wondering  
22 --

23 MALE BOARD MEMBER: No.

24 MS. PLATTS: -- if you have the  
25 documents, yes or -- you don't have the document?



1                   MR. HANTMAN: I have -- no, I don't  
2 have the particular document.

3                   MR. BELL: And that was done  
4 administratively; is that not correct?

5                   It was not done before this board.

6                   MR. HANTMAN: No, it doesn't come  
7 before the board because a determination is made that  
8 this fronted on an approved road. And that's the  
9 same application that was made for the adjoining  
10 property next door, both of those whose addresses are  
11 on Van Dien.

12                   If you look at your approved list,  
13 there are two notices for people on Van Dien. You're  
14 saying or you're being asked to say Van Dien doesn't  
15 exist, but --

16                   MR. BELL: I'm saying it exists, but  
17 it's for this board to determine whether or not it's  
18 a street.

19                   MR. HANTMAN: Well, what else could it  
20 be?

21                   MR. BELL: A lane. It could be a  
22 right-of-way.

23                   MR. HANTMAN: But if you look at your  
24 own definition, it's any kind of a way.

25                   It doesn't have to be a street per se,

1 it's any kind of road, highway, what -- or other way.

2 MR. BELL: But it's never --

3 MR. HANTMAN: So they're supposed --

4 MR. BELL: But it's never been adopted  
5 by the Township Council of the Township of Rockaway.

6 MR. HANTMAN: It wouldn't be if it was  
7 done before -- see, if you have any history of Green  
8 Pond, lots in this area were created by the owner,  
9 1946, '47. There was no zoning ordinance. There was  
10 no board. There was no ability to get an approval.

11 And towns did not accept roadways at  
12 that time. We're talking about way back before.

13 So this property that was created, and  
14 we have the original creation of it, by a lady  
15 drawing a box and saying I'm giving you this and the  
16 deed description.

17 And that description has this roadway  
18 in it.

19 And it has that in the diagram that she  
20 drew --

21 MS. PLATTS: So if --

22 MR. HANTMAN: -- has the road.

23 MS. PLATTS: So is it your position  
24 that if a road is defined in a deed that that makes  
25 it an official road and that that meets the

1 definition in our ordinance?

2 MR. HANTMAN: What I'm saying is that  
3 the town determines --

4 MS. PLATTS: No, no, no, you just said  
5 it's in a deed.

6 So it's your position --

7 MR. BELL: Can you put your microphone  
8 on?

9 MS. PLATTS: -- if it's --

10 MR. BELL: Just --

11 MS. PLATTS: Is it your position that  
12 if it is referenced as a road in a deed, that that's  
13 satisfactory to meet the definition of road for the  
14 municipal ordinance?

15 MR. HANTMAN: If the deed precedes  
16 zoning and planning and the opportunity to dedicate,  
17 yes.

18 MS. PLATTS: Where is that in our --  
19 where is that in our ordinance that if there was  
20 property that was dedicated prior to our zoning  
21 ordinance.

22 I guess my point to you is, we're  
23 confined to the law as it's written. And what you're  
24 suggesting is that the board consider an alternate  
25 definition based on practicalities.

1                   We are obligated to follow the law.  
2                   And all we're doing is reviewing analysis of that law  
3                   by our professionals.

4                   And I don't believe that the law  
5                   permits the type of considerations that you're  
6                   suggesting.

7                   MR. HANTMAN: I disagree with you. I  
8                   think the law absolutely --

9                   MS. PLATTS: Well, clearly you --  
10                  clearly you disagree.

11                  MR. HANTMAN: The law absolutely allows  
12                  you to make a determination based on stuff that was  
13                  prior to it.

14                  And then the definition you talked  
15                  about talks about stuff not being done and created  
16                  prior to the existing plats. That's what -- within  
17                  that definition.

18                  MS. PLATTS: But couldn't the town have  
19                  made the decision to take official action and  
20                  determine what roads it could choose to put on its  
21                  official maps? I mean --

22                  MR. HANTMAN: It is on the map. That's  
23                  the problem.

24                  If you look at the map --

25                  MR. BELL: But the map has never been

1 adopted.

2 MS. PLATTS: It's not -- it's not on  
3 the adopted -- map as adopted, and that's the  
4 definition.

5 We're just reviewing the --

6 MR. HANTMAN: That's --

7 MS. PLATTS: -- we're just reviewing the  
8 ordinance.

9 MR. HANTMAN: The map was adopted by  
10 ordinance in 1995.

11 It was adopted as part of the zoning  
12 ordinance.

13 It can be and was adopted by reference.  
14 And she says I can't find that map.

15 So you don't know what that map showed.

16 MR. BELL: Well, neither do you.

17 MR. HANTMAN: Well, I don't have to.

18 MR. BELL: Well, you're -- you're  
19 challenging the definition of the professionals  
20 who've done -- I'm going to tell you, they spent more  
21 than 40 hours or more going through every single  
22 planning board application, every single zoning board  
23 application that dates back to the last century.  
24 They've gone through every minute. They've gone  
25 through every resolution of the Township Council.

1 They have spent an ordinate -- an inordinate amount  
2 of time trying to determine what is going on here.

3 And I'm going to have to defer to  
4 Mr. Novak and Mr. Ten Kate as well.

5 MR. HANTMAN: With all due respect, two  
6 things I don't see anywhere; the county also has a  
7 map of streets for Rockaway Township.

8 MR. BELL: They checked the county as  
9 well.

10 MR. HANTMAN: And that county map shows  
11 this road.

12 MR. BELL: Never adopted by the  
13 Township Council.

14 MR. HANTMAN: It can't be adopted by  
15 the --

16 MS. PLATTS: It's not a county -- it's  
17 not a county road.

18 MR. BELL: It's not a county road  
19 either.

20 MR. HANTMAN: But it's -- the county  
21 map of the -- of the streets of Rockaway Township.  
22 That's exactly what it's called.

23 If you go online and go to the county  
24 and find the street maps, they will have one for each  
25 municipality that they have adopted.

1                   It was done by their source, by their  
2 friends, by their people, and that map shows this  
3 street.

4                   MR. BELL:    But usually --

5                   MR. HANTMAN:  Just because --

6                   MR. BELL:    -- for the county to adopt  
7 something, as you and I both know, it has to begin at  
8 this board or the Township Council first.

9                   MR. HANTMAN:  It was done  
10 independently.

11                   They do it for all --

12                   MS. PLATTS:  So if Morris County says  
13 Smith Street is a road in Rockaway, Rockaway is bound  
14 to enforce what the county does without --

15                   MR. HANTMAN:  Not necessarily --

16                   MS. PLATTS:  -- our input?

17                   MR. HANTMAN:  Not necessarily.

18                   MS. PLATTS:  Well --

19                   MR. HANTMAN:  But here's your map --

20                   (Simultaneous Speaking.)

21                   MS. PLATTS:  That's not what our  
22 municipal ordinance requires --

23                   MR. HANTMAN:  -- your -- your street --

24                   MS. PLATTS:  -- and that's why.

25                   MR. HANTMAN:  -- map has the same thing

1 on it.

2 Your street map shows this street.

3 MS. PLATTS: It's not whether there's  
4 any map of Rockaway that shows the street.

5 The law is an official map, and that's  
6 why we're referencing adoption.

7 I don't disagree. But we -- that's why  
8 I keep going back to the law.

9 We're bound to follow the law.

10 MR. BELL: Follow the ordinances.  
11 We're bound by the ordinances of the Township of  
12 Rockaway.

13 MR. HANTMAN: I don't disagree.

14 I will show you, the map that is  
15 presently the street map is signed off by the  
16 township engineer every year, up until the time of  
17 the new engineer.

18 So that for 20 years, there's a map,  
19 each one initialed by year, by the existing township  
20 engineer.

21 I think you have to find out what that  
22 map was.

23 And there's no reference to it, no  
24 comment.

25 And it's easy enough to find out



1 because the last engineer who dealt with it still  
2 lives in town and, in fact, is a member of the  
3 planning board.

4 MR. BELL: I believe he was consulted  
5 as well by Ms. Rydan --

6 MR. HANTMAN: If it is, I haven't seen  
7 anything -- any reference to it.

8 If you tell me that was done --

9 MR. BELL: I believe that that was --

10 MR. HANTMAN: I'll believe you, but I  
11 haven't seen it.

12 I went through the file today.

13 MR. BELL: (Inaudible) Mr. Novak,  
14 because I believe that was part of the conversation  
15 that we had in -- in Allison's office, that she had  
16 consulted with the prior engineer as well.

17 MR. NOVAK: You know, I don't recall,  
18 Mr. Bell, one way or the other.

19 But I think...

20 So we have a street map out in the  
21 hallway that identifies Van Dien Lane.

22 We also have an older Master Plan  
23 document that does not identify Van Dien Lane.

24 What we are looking for, what this  
25 board needs to do is determine whether or not this

1 travel way meets the definition of street pursuant to  
2 that definition.

3 And, again, I just want to go over what  
4 the Municipal Land Use Law identifies with this,  
5 because it does complement the township definition.

6 It is:

7 "An existing state, county or municipal  
8 roadway."

9 Well, we don't have any evidence that  
10 the municipality has adopted this roadway.

11 "Or which is shown upon a plat  
12 heretofore approved pursuant to law."

13 I believe township staff looked for  
14 that type of plat, they were not able to find that  
15 plat.

16 MR. BELL: Correct.

17 MR. NOVAK: "Which is approved by  
18 official action as provided by this act."

19 By official action, what township staff  
20 researched and looked for was ordinance documents or  
21 actions by the Township Council, not by the planning  
22 board, not by the zoning board in this regard, but  
23 Township Council. That's that official action.

24 And then the fourth would be:

25 "Which is shown on a plat duly filed

1           and recorded in the office of the county  
2           recording officer," prior to which is --  
3           "prior to the appointment of a planning board  
4           and the grant to such board of the power to  
5           review plats."

6                        Again, no plat was found at the county  
7           level.

8                        So those are the four categories of  
9           street that are defined by the Municipal Land Use  
10          Law.

11                       This board needs to come to a  
12          determination about whether or not you feel  
13          comfortable, provided with the information that's  
14          been submitted and reviewed so far, whether or not  
15          Van Dien Lane meets that definition of street.

16                        Because what we are trying to do is  
17          come up with the most appropriate approach to view  
18          this application because the variances will  
19          ultimately depend on whether or not that is a  
20          right-of-way or an easement.

21                        The other confusing factor in this is  
22          that both -- the deed that was submitted refers to a  
23          conveyance.

24                        Unfortunately it doesn't say it was  
25          conveyed as a roadway, as a right-of-way or as an

1 easement.

2                   There's a lot of ambiguity in this, and  
3 this board needs to decide whether or not you have  
4 enough information to say you know what, this is a  
5 corner lot.

6                   MR. BELL: Or you may defer action and  
7 do a site visit; request additional information from  
8 the municipality, which I don't think that there is  
9 any more.

10                   I know, maybe I can ask Erin about the  
11 research that was conducted in connection with this  
12 as well.

13                   MS. PLATTS: Allison Ferrante and I, we  
14 spent numerous hours reviewing old files from the  
15 '70s.

16                   We did not find a plat or a map that  
17 referenced Van Dien as far as a subdivision or  
18 anything like that.

19                   We do have an extensive map list within  
20 the township. And there was -- we went through it,  
21 it's pages long, and there was nothing on that list.

22                   We went back to old minutes from the  
23 '90s. There's nothing in regards to the subdivision  
24 or lane or -- of Van Dien in the minutes.

25                   We -- and then we -- we -- our clerk

1 also contacted the county to see if there was any  
2 maps filed with the county for this particular plat  
3 and there was nothing on file there. 'Cause  
4 typically when you do a subdivision with the planning  
5 board, it's either -- the file -- maps are -- the  
6 filed maps are on file with the county, and there was  
7 nothing.

8 MR. HANTMAN: With all due respect,  
9 there's no question that these lots were created  
10 before any zoning and planning litigation.

11 We have the document creating it in  
12 1948. That's before any of this was created.

13 So the things you're looking for after  
14 things were created won't exist. This was already  
15 created before. It existed already. There were  
16 houses on it. They were sold. There was a roadway  
17 designed by the person who did it without any  
18 municipal controls. It was prior to.

19 That's why you can't find it after. It  
20 was already done. It existed. People lived there.  
21 There were homes built.

22 And that's all that was required in the  
23 '40s is for someone to draw it on and put it into the  
24 deed.

25 There was none of the systems that

1 you're looking for.

2 They didn't exist.

3 MR. KOHUT: They didn't record maps in  
4 the 1940s?

5 MR. HANTMAN: No.

6 MR. KOHUT: Yes, they did.

7 MALE BOARD MEMBER: Yes, they did.

8 MR. HANTMAN: Only -- no, they didn't.

9 MS. PLATTS: Well, the rules apply now,  
10 and that's what we're left to apply.

11 MR. BELL: And that's what we're left  
12 with.

13 CHAIRMAN SMOLINSKI: Mr. Ten Kate, you  
14 want to weigh in?

15 MR. TEN KATE: You know, I originally  
16 considered this a street, but surveying  
17 definition-wise. But we were missing a link to tie  
18 that common definition into the borough definition of  
19 a street.

20 So I participated in a lot of the  
21 research, but we -- I -- I couldn't find anything  
22 that -- in our search of records complementing their  
23 -- their search to -- to tie it to a legal action by  
24 the borough -- township -- I'm sorry.

25 The only thing I can -- if there's case

1 law that attorneys know about this to help resolve  
2 that, I don't know that. You know, that's the only  
3 other avenue that we -- could be proffered, if you  
4 would.

5 But as far as the strict definition by  
6 the -- the township code, we couldn't find that link  
7 to define it as an official street.

8 CHAIRMAN SMOLINSKI: I think if it was  
9 improved up to roadway standards of the township that  
10 -- maybe that would be a different --

11 MR. HANTMAN: I don't believe it's  
12 approved.

13 CHAIRMAN SMOLINSKI: -- but it's --  
14 it's unimproved at the time.

15 MR. HANTMAN: None of -- none of the  
16 lanes in Green Pond were approved to township  
17 standards. They never have been.

18 And they show all on your map. And  
19 they're treated. And the town plows them because  
20 they're on their street list. It's as simple as  
21 that.

22 You can't -- but what this action does,  
23 if, in fact, you take it, is it landlocks two  
24 existing homes who have already been found to have  
25 street access.

1 MR. KOHUT: It does not -- it does not  
2 landlock anything.

3 MR. HANTMAN: Well, they --

4 MR. KOHUT: We're not -- we're --

5 (Simultaneous Speaking.)

6 MR. HANTMAN: -- it's all different --

7 MR. KOHUT: We're - this application --

8 MR. BELL: Gents, we're not going to --  
9 we can't argue. Okay.

10 MR. KOHUT: This application --

11 MR. BELL: We have -- I have to go  
12 through this tape, unfortunately, at some point and  
13 if there's many people speaking it's going to make it  
14 impossible.

15 MR. KOHUT: I apologize.

16 No one is saying --

17 MR. BELL: Thank you.

18 MR. KOHUT: No one is saying -- no one  
19 is taking away that access. It's an easement --  
20 access easement to the rear -- to those rear two  
21 properties.

22 In no way -- in no way is this  
23 application for getting rid of that easement, locking  
24 that easement, reducing the easement.

25 That's not here. That's not what this



1 application --

2 MR. HANTMAN: The reason --

3 MR. KOHUT: -- this for a single-family  
4 dwelling.

5 The only thing we're doing is trying to  
6 determine from a zoning -- strictly a zoning  
7 perspective, is does this meet the definition of a  
8 street from a zoning perspective.

9 That's all we're asking for.

10 MR. HANTMAN: So moving on, I believe  
11 that this map, the map in the county --

12 MR. BELL: I don't know what map you're  
13 referring to, I'm sorry.

14 MR. HANTMAN: This is the Rockaway  
15 Township map --

16 MR. BELL: Dated?

17 MR. HANTMAN: -- of streets -- there's  
18 no -- I don't think there's a date on it  
19 interestingly enough.

20 The original date --

21 MR. BELL: Can you please share that --

22 MR. HANTMAN: -- interestingly enough is  
23 1970.

24 MR. BELL: -- with our engineer --  
25 Allen, could you please share that with our engineer?

1 MR. HANTMAN: Excuse me?

2 MR. BELL: Could you please share that  
3 with our -- our professionals?

4 MALE AUDIENCE MEMBER: There's four  
5 copies here.

6 MR. HANTMAN: Yeah, we'll share it with  
7 the board.

8 MALE AUDIENCE MEMBER: Here. It came  
9 off on line.

10 MR. HANTMAN: We'll give you four  
11 copies of it so you -- you can have one for the  
12 office.

13 MR. BELL: It's dated January 1970, and  
14 revised through -- when was the last revision?

15 MALE BOARD MEMBER: Last revised,  
16 January 2010, prepared by -- revised by James Lutz,  
17 township engineer.

18 MR. HANTMAN: They're -- and prior to  
19 Jim Lutz doing it, there's a group of these maps  
20 which have the prior engineer revision dates from  
21 '77.

22 So it's been revised on a regular  
23 basis.

24 It's our position, and I believe  
25 somebody in the building department was asked that

1 this is the maps that they used to determine whether  
2 or not a property fronts on a street.

3 If you don't have it, it's not part of  
4 your research, we'll -- we'll submit the four them on  
5 here because it's definitely on this -- it's on this  
6 map.

7 MR. BELL: Take it under advisement.

8 MS. PLATTS: Thank you.

9 MR. HANTMAN: And the other part of it  
10 is, finding a map that's referenced in '95.

11 The '95 ordinance, which was part of  
12 the zoning ordinance tat was adopted, says that --  
13 and the law that precedes it, says that the parts of  
14 the zoning ordinance and other things can be adopted  
15 by reference.

16 The map, deemed the official map, is  
17 adopted by reference, not by ident -- so that's why  
18 I believe this map has been the official map and they  
19 just didn't reprint them and reprint them because  
20 they've been revised every single year.

21 That's the official map.

22 MR. TEN KATE: We don't have any record  
23 that it was officially adopted.

24 MR. BELL: I think that's what the  
25 issue is as to whether or not -- we may have a map --

1 MR. HANTMAN: It was adopted as part of  
2 the zoning ordinance. As part of that section that  
3 talks --

4 MR. BELL: Do you have that proof that  
5 -- or that memorialization that that was approved by  
6 a board?

7 MALE BOARD MEMBER: No.

8 MR. HANTMAN: No, it's not -- wait a  
9 minute.

10 We're talking about two different  
11 things. It was adopted by the planning board as part  
12 of the planning board map.

13 But it was adopted by the Council by  
14 reference as part of the zoning ordinance and this  
15 part of the zoning ordinance, Section 36.

16 MR. BELL: Where is that memorialized?

17 MR. HANTMAN: In the zoning ordinance  
18 that I --

19 MS. PLATTS: When did you advertise --

20 MR. HANTMAN: -- Section 54-36.

21 MS. PLATTS: When did you advertise  
22 this meeting?

23 MR. HANTMAN: Oh, it's -- (inaudible).

24 MS. PLATTS: (Inaudible).

25 MR. HANTMAN: Section 54-36.

1                   (Whereupon, off-the-record discussion  
2                   is held.)

3                   MALE BOARD MEMBER: Just this -- this  
4 was included in Ms. Ferrante's memo; wasn't it not?

5                   MR. HANTMAN: No, I don't think so.

6                   MS. PLATTS: Did you submit anything in  
7 advance of the meeting or is this --

8                   MR. BELL: No.

9                   MS. PLATTS: -- you're presenting this  
10 for the first time tonight?

11                   MR. BELL: First time tonight.

12                   MR. HANTMAN: I was retained yesterday.

13                   MS. PLATTS: Okay. Well, I just want  
14 to place on the record that none of this -- you know,  
15 we have packets, we have letters to be prepared.  
16 This is being thrust on us in the midst of a meeting.

17                   MR. HANTMAN: I have --

18                   MS. PLATTS: It's always helpful to  
19 have it in advance.

20                   MR. HANTMAN: Absolutely. I wish I  
21 would have had the time to do it, but I was retained  
22 yesterday.

23                   MS. PLATTS: Well --

24                   MR. NOVAK: So the second -- just to --  
25 sorry to interrupt.

1                   The second page in Ms. Ferrante's memo  
2 notes:

3                   "Van Dien Lane does appear on a map  
4 that contains an index of roads within the  
5 township. This map was last revised in  
6 January of 2012 and July of 2012. Neither a  
7 resolution nor an ordinance taking official  
8 action on this map in 2012 was located in the  
9 clerk's office."

10                   I would be willing to bet that if you  
11 look at the map in the hallway there, it's going to  
12 be the same map, which is the more updated amendment  
13 -- revision date.

14                   I can look right now if you'd like.  
15 But she did -- if that's the case, then she did look  
16 at this map.

17                   MR. HANTMAN: But this -- this map  
18 predates the --

19                   MR. BELL: I -- I can't hear you.

20                   CHAIRMAN SMOLINSKI: Use the  
21 microphone.

22                   MR. BELL: Mr. Hantman, you've got to  
23 speak into the microphone, please.

24                   MR. HANTMAN: You look at '95 and you  
25 look at the ordinance revision that I referenced -- I

1 gave you and referenced you, it talks about adoption  
2 of a map -- of a map as the map of the -- of Rockaway  
3 Township, the official map.

4 And I think it's -- the fact that she  
5 could not find it or identify which one it is doesn't  
6 -- is not dispositive of that issue.

7 If, in fact, there was an ordinance  
8 adopted map, which absolutely was, you have to find  
9 out what it is and what it says.

10 MR. BELL: All right. Well, here's  
11 what we're going to do, we're going to take your  
12 comments under advisement.

13 We're going to move forward --

14 MR. NOVAK: Just -- just one last  
15 thing.

16 Section 54-36.1 deals with the  
17 establishment of the official map.

18 It notes:

19 "Pursuant to Chapter 291 of the Laws of  
20 New Jersey, 1975, there is hereby established  
21 an official map for the township which is  
22 titled 'Official Map, Township of Rockaway,  
23 New Jersey, and dated November 1995."

24 I don't understand the argument that  
25 the street index map, which is entitled --

1 MR. BELL: Exactly.

2 MR. HANTMAN: It's titled nothing.

3 MR. NOVAK: Nothing, you're right.

4 Nothing. It may be Township of Rockaway, I guess,  
5 and also originally dated 1970, could be this map.

6 I don't -- I don't -- respectfully, I  
7 just don't --

8 MS. PLATTS: The designation is the  
9 (inaudible).

10 MR. BELL: Can you put your mic back  
11 on?

12 MR. HANTMAN: If you look at that same  
13 thing, it talks about Rockaway Township having, years  
14 before, adopted --

15 MR. BELL: Allen, I cannot --

16 MR. HANTMAN: -- an official map.

17 MR. BELL: -- pick up you --

18 MR. HANTMAN: I'm sorry.

19 MR. BELL: -- on the tape --

20 MR. HANTMAN: All right.

21 MR. BELL: -- if you walk away from the  
22 microphone.

23 MR. HANTMAN: That -- that same section  
24 in dealing with the history of official map talks  
25 about Rockaway Township years before, without



1 definition of how many years, taking advantage of  
2 permission to having given it to point or official  
3 map years before.

4 Now, the fact that whether they called  
5 it an official map, or just used it as an official  
6 map, I don't think it's dispositive.

7 MS. PLATTS: Well, the language of that  
8 statute just specifically noted the official map was  
9 the 1995 Map.

10 MR. BELL: Right.

11 MS. PLATTS: So if you're looking at a  
12 map that starts in 1970, as updated every year, it  
13 doesn't make it official.

14 If it's saying that the official map  
15 was 1995 --

16 MR. HANTMAN: I think --

17 MS. PLATTS: -- it's not considered --

18 MR. HANTMAN: I'm sorry.

19 MS. PLATTS: Go ahead.

20 MR. HANTMAN: The answer was the map  
21 was updated every year.

22 1995 is when they adopted the Zoning  
23 Ordinance --

24 (Simultaneous Speaking.)

25 MR. BELL: But you're speaking as --

1 MR. HANTMAN: -- therefore --

2 MR. BELL: -- if it's authoritative.

3 MS. PLATTS: Right.

4 MR. HANTMAN: Excuse me?

5 MR. BELL: But you're speaking --  
6 you're not making an argument, you're speaking as an  
7 authority.

8 You don't know.

9 MR. HANTMAN: I don't know what? What  
10 map there is?

11 MR. BELL: You're citing these things  
12 that are adopted annually. You don't know, you don't  
13 have that proof.

14 There's no official record.

15 MR. HANTMAN: There is an official  
16 record that a map was identified -- was adopted in  
17 1995.

18 There's no question about that,  
19 correct?

20 MALE BOARD MEMBER: Correct.

21 MR. HANTMAN: Okay. That's the map  
22 that was governing it. I don't -- I'm not saying --  
23 if you found out that something was added after that  
24 and it was not accorded some kind of approval by the  
25 -- I would agree, but you don't know that.

1                   The 1995 Map has to be determined --  
2                   that determines whether or not this is a street. And  
3                   it says it does.

4                   MR. KOHUT: I also would like to point  
5                   out --

6                   MR. BELL: Please speak into the  
7                   microphone, sir.

8                   MR. KOHUT: I apologize.

9                   No one ever tells me (inaudible).

10                   I'd also like to point out that the  
11                   only testimony, the only surveys, the only everything  
12                   that was given here shows that this is on my client's  
13                   property.

14                   It's on my client's -- it's -- my  
15                   client's property extends 12.5 feet into this -- into  
16                   this street.

17                   MALE BOARD MEMBER: Correct.

18                   MR. KOHUT: You can't have a street on  
19                   my client's private property -- a public street on my  
20                   client's private property.

21                   MALE BOARD MEMBER: That's true.

22                   MR. BELL: That's correct.

23                   MR. KOHUT: So if -- unless -- unless  
24                   the town is going to take -- take my client's  
25                   property.

1 MR. HANTMAN: I'm sorry.

2 MR. KOHUT: And, you know, I'll reserve  
3 my rights on that official map question because it  
4 was just given to me tonight, but just because  
5 something's appeared on a map doesn't necessarily  
6 mean --

7 MR. BELL: It's a map --

8 MR. KOHUT: -- it's right.

9 MR. BELL: Yeah.

10 MR. KOHUT: And the actual evidence,  
11 the actual documentation that's been provided shows  
12 that nothing -- that nothing -- based on the  
13 definition of street, this isn't it.

14 MR. HANTMAN: The deed that I reviewed,  
15 and I'll pull it out of my file if I have to, has two  
16 separate descriptions. One deals with the property  
17 without the road. And then it says, "for road  
18 purposes."

19 So it limits this 12-and-a-half feet  
20 for a specific, directed use in his deed, not to be  
21 used, interestingly enough, for bulk. Not to be used  
22 for measurement. Not to be used for deciding -- it's  
23 just for road. And it specifically designated that  
24 in his deed and in the historic deeds that lead up to  
25 it.

1 MR. KOHUT: An easement.

2 MR. HANTMAN: Doesn't say easement.  
3 It says road.

4 MR. KOHUT: But it doesn't convey it to  
5 anybody for ownership purposes.

6 (Simultaneous Speaking.)

7 MR. HANTMAN: That I agree.

8 MR. KOHUT: That means it's an -- that  
9 means it's an easement.

10 MR. HANTMAN: No, the problem was,  
11 there was no -- when this was originally done in '48,  
12 there was nobody to convey it. Towns did not accept  
13 roads. They didn't have subdivisions. It was done  
14 prior.

15 So it's archaic. But archaic in the  
16 way it was done at that time.

17 That's why it was kept, because there  
18 was no one to give it to. And there was no  
19 subdivision. And there was no municipal action. And  
20 there was nothing else that went with it.

21 All right. Thank you for your time.

22 MR. BELL: Of course.

23 So it's up to this board to determine  
24 whether or not (inaudible).

25 MS. PLATTS: Can you try to stay on

1 that (inaudible).

2 MALE BOARD MEMBER: Let's go.

3 (Whereupon, off-the-record discussion  
4 is held.)

5 MR. BELL: Well, I think you have to  
6 determine whether this is --

7 CHAIRMAN SMOLINSKI: (Inaudible) but I  
8 don't see that (inaudible) recorded this.

9 MR. BELL: No.

10 CHAIRMAN SMOLINSKI: So, okay, all  
11 right.

12 How -- we're ready to make a  
13 determination and move this into some sort of  
14 meeting?

15 MALE BOARD MEMBER: Yeah.

16 CHAIRMAN SMOLINSKI: All right.

17 Yes?

18 MS. PLATTS: Yes.

19 CHAIRMAN SMOLINSKI: All right.

20 Feelings? Thoughts?

21 MS. PLATTS: (Inaudible).

22 MALE BOARD MEMBER: No.

23 CHAIRMAN SMOLINSKI: This -- this would  
24 -- this -- let's see this completes it.

25 MR. BELL: This completes it.

1 CHAIRMAN SMOLINSKI: This completes it.  
2 All right.

3 MS. PLATTS: I think that -- I think it  
4 was (inaudible).

5 CHAIRMAN SMOLINSKI: So --

6 MS. PLATTS: I just think that -- i  
7 just --

8 MR. BELL: Go ahead.

9 You have to have the mic on.

10 CHAIRMAN SMOLINSKI: Yeah.

11 MR. BELL: Thank you.

12 MS. PLATTS: I just know that this is  
13 our second meeting and that there was significant  
14 research, and I understand --

15 MALE BOARD MEMBER: Third meeting.

16 MS. PLATTS: Our third meeting. Our  
17 third meeting.

18 MALE BOARD MEMBER: And we started this  
19 back, I think, in November.

20 MS. PLATTS: That's right. I remember,  
21 yes.

22 And it's not as though there hasn't  
23 been a lot of effort put into this.

24 And I think that the suggestions being  
25 made sort of that, you know, because we can't find

1 something we should just keep looking; well, it might  
2 not exist.

3 And it seems there is a mechanism to  
4 make it exist, but not so far.

5 And so I don't think we need more  
6 information to move forward. I think the -- I think  
7 the application's complete.

8 CHAIRMAN SMOLINSKI: Yes.

9 I think at this point we're going to --  
10 we're going to treat it as, if you had asked me,  
11 we're going to treat it as a -- a lot with single  
12 front -- frontage based on the testimony provided and  
13 given the information provided by our township  
14 engineering letter.

15 MS. PLATTS: I agree with you.

16 CHAIRMAN SMOLINSKI: Research conducted  
17 by our own experts.

18 MR. BELL: So I think you have to call  
19 into question, just to make -- just to make sure that  
20 this is complete, that you find that this is a  
21 street.

22 CHAIRMAN SMOLINSKI: Yes.

23 MR. BELL: Is everybody -- see if  
24 everybody's in accord.

25 CHAIRMAN SMOLINSKI: Is everybody in



1 agreement that this -- we have one frontage, one  
2 street. And we have a dirt -- a driveway easement,  
3 that travel way that traverses up the lane?

4 MS. PLATTS: Yes.

5 CHAIRMAN SMOLINSKI: Is that a yes?

6 MALE BOARD MEMBER: Yes.

7 CHAIRMAN SMOLINSKI: Yes?

8 MALE BOARD MEMBER: Based -- based on  
9 the information presented.

10 CHAIRMAN SMOLINSKI: Okay.

11 MR. BELL: Everybody in accord?

12 MS. PLATTS: Yes.

13 CHAIRMAN SMOLINSKI: All right.

14 MR. KOHUT: Just for the record, it was  
15 -- the board has determined unanimously it's -- this  
16 is interior lot for zoning purposes?

17 CHAIRMAN SMOLINSKI: Yes.

18 MR. KOHUT: Thank you.

19 CHAIRMAN SMOLINSKI: Proceed  
20 accordingly.

21 MR. KOHUT: Now we can get to the  
22 application finally.

23 Let's see here. Okay.

24 Again, this property is 20 Johnson  
25 Road, Block 40301, Lot 2.

1                   We are constructing a single-family  
2 home, which legally constitutes a significant upgrade  
3 over the existing dilapidated building that you see  
4 now at the property.

5                   A little bit about my applicants. The  
6 applicants, Mr. Marogi is a -- almost a lifelong  
7 resident here in Rockaway. He moved here when he was  
8 four. He went to high school here. He now has a  
9 young family and he wants to move his family here.

10                   This is not a house used for investment  
11 purposes. He's not looking to flip it. This is  
12 going to be his home.

13                   He wants to be a good neighbor, but at  
14 the same time, you know, he -- you know, he believes  
15 that he has the rights -- he had certain property  
16 rights and just articulating those.

17                   He thinks he's proposed a very good  
18 application, a beautiful home that the town could be  
19 -- the township could be proud of.

20                   With that said, there are two variances  
21 that are -- actually there are two -- well,  
22 potentially two variances that are going to be  
23 required for this application.

24                   The first application [sic] is for --  
25 the first variance is for impervious coverage. It's

1 38 -- we're proposing 38-and-a-half percent where  
2 25 percent is permitted and 39.6 percent exists, so  
3 we're actually reducing the coverage -- impervious  
4 coverage by 1.1 percent.

5 What I did want to -- and you'll hear  
6 testimony about this, what I want to -- I just want  
7 to, on record for the board, is that when you look at  
8 Van Dien Lane, and you take into consideration that  
9 impervious coverage, that amounts to 7.8 percent  
10 impervious coverage on the lot.

11 So if we didn't have that easement  
12 going to the other properties, we'd actually be at  
13 30.7 percent. So that's adding -- that adds an  
14 additional 7.8 percent.

15 We then received Mr. Novak's most  
16 recent report that he's stating that a front yard  
17 variance is now needed where 24 feet is proposed and  
18 25.86 feet is required. When we were calculating the  
19 average setback, one of the adjoining lots was a  
20 corner lot, so the average -- we included both  
21 setbacks. So when you averaged the three setbacks of  
22 the lots, it was a little less than 24 feet.

23 Mr. Novak's position is that you only  
24 use the one setback that's closest to the street and  
25 don't include both setbacks.

1                   That's what we're being told.

2                   And he says based on that, we'd need a  
3 variance because 25 feet, if we required a setback to  
4 25.86 feet, so we need a variance for 1.86 feet.

5                   I don't want to get into a discussion  
6 on another interpretation right now. What I'd like  
7 to do is just get focused -- move forward with the  
8 application.

9                   When my planner gets up, my planner  
10 will provide some testimony on that -- on that  
11 position.

12                   Unless the board has any questions of  
13 myself, I have three witnesses who will give  
14 testimony that justifies the variances being  
15 requested.

16                   I have Lori Jean Ryder who's a licensed  
17 architect; Allison Lapatka who's a licensed engineer;  
18 Brigette Bogart who's a licensed planner.

19                   So unless the board has any questions  
20 of myself, I'd like to call Ms. Ryder.

21                   And it's much better than any art  
22 project I ever did.

23                   MR. BELL: Could you please raise your  
24 right hand?

25                   Please state your name again.

1 MS. RYDER: Lori Jean Ryder.

2 MR. BELL: Do you solemnly swear that  
3 the testimony you're going to provide tonight to the  
4 board is the truth, the whole truth and nothing but  
5 the truth?

6 MS. RYDER: Yes.

7 L O R I J E A N R Y D E R, AIA

8 349 Green Pond Road, Rockaway, New Jersey,  
9 having been duly sworn, testifies as follows:

10 MR. BELL: And your license is still in  
11 good standing?

12 MS. RYDER: Yes.

13 MR. BELL: Thank you.

14 DIRECT EXAMINATION

15 BY MR. KOHUT:

16 Q. Ms. Ryder, just for the board's  
17 edification, you're familiar with the applicant --  
18 application that's been submitted?

19 A. Yes, I am.

20 Q. You're familiar with the property?  
21 You've been to the property?

22 A. Yes, I have.

23 Q. You're familiar with the zoning  
24 ordinance that relate to this property in this zone?

25 A. Yes, I am.

1 Q. Okay.

2 And the applicant -- and the plans that  
3 you submitted, which are dated November 7, 2022,  
4 those were -- those were completed by you or someone  
5 under your supervision?

6 A. Yes.

7 Q. Why don't you go through with the board  
8 what exists on the property today as far as dwelling  
9 is concerned and what we are proposing?

10 MR. BELL: Would you do me a favor,  
11 please? Would you use the handheld microphone,  
12 because -- it would just make it easier for  
13 transcription purposes.

14 THE WITNESS: Sure.

15 So I wanted to take you a little bit  
16 through the design process.

17 The existing lot has a bungalow on it  
18 that's very old, and then it had like a 1970s  
19 addition to it.

20 We did look into possibly utilizing the  
21 existing foundation to do the design.

22 However, this is a very small crawl  
23 space and it's very old. And this is a slab on grade  
24 construction.

25 The nature of the outline of the

1 structure is very difficult to work with to come up  
2 with a nice design because this was a very small  
3 bungalow, this was a big garage addition with rooms  
4 above.

5 So that wasn't going to work.

6 The existing footprint is actually  
7 wider than what we're proposing. It was 71 feet. We  
8 are proposing 65 feet because that's the Green Pond  
9 regulation, you can't be any wider than 65 feet.

10 The depth of the footprint is, like,  
11 49.6. And we are pretty much matching the depth of  
12 what is existing.

13 What we were proposing to do, though,  
14 was to -- this is the foundation we're proposing.

15 And this sits on the lot 9 feet back  
16 and it doesn't have a full rear yard setback 35 feet.

17 So what we're proposing to do is push  
18 this forward 9 feet to the 24-foot front yard setback  
19 mark that we indicated, and that brings it further  
20 from the septic and appearances from the septic and  
21 -- so what we're proposing is actually narrower than  
22 what actually exists there now.

23 So the house is planned as a  
24 three-bedroom, three-bath house. The floor plan was  
25 worked up according to the program that the client

1 had given me. And we have the two separate garages.  
2 It's a Green Ponds lake community, so they have their  
3 two cars, plus they have all the things for the lake  
4 community that they also have storage for.

5 As far as the aesthetics of the house,  
6 we're planning on blending with the neighborhood.  
7 It's going to be a very traditional home.

8 We're going to use traditional  
9 materials, whether it's stone, brick, but the --  
10 whether it's HardiePlank or vinyl siding, but it's  
11 going to blend in with the community and not stand  
12 out as being...

13 And the Green Pond regulations tell us  
14 that we have to do 65 feet any chimney or anything  
15 would increase that, so we had to keep everything  
16 within that. The height is a maximum of 31 feet.  
17 The garage height is a maximum of 16 -- 19 feet, 16  
18 for Rockaway, that's the mean.

19 And the green cover regulations --

20 BY MR. KOHUT:

21 Q. We're not asking any variance for the  
22 height?

23 A. Correct.

24 Q. (Inaudible).

25 A. No, (inaudible).



1                   And green Pond regulations also say  
2                   that we cannot have a shed larger than 8-by-12,  
3                   96 square feet, and we're proposing the two garages,  
4                   so we have the extra storage there.

5                   And, you know, I believe it'll be a  
6                   nice addition to the neighborhood. It'll have great  
7                   curb appeal. And it's, you know, one of the first  
8                   homes you'll see when you come into Johnson Road.  
9                   That's my...

10                  Q.           Why don't you touch on just -- you're  
11                  familiar with the community, the two garages,  
12                  commonality of that, can you just talk about that a  
13                  little bit?

14                  A.           Well, I compiled a list of different  
15                  homes in Rockaway that have four or more garages. I  
16                  don't know --

17                  MR. BELL:   In the Green Pond area?

18                  THE WITNESS: This is Rockaway Township  
19                  in general.

20                  MR. BELL:   I'm talking about Green  
21                  Pond.

22                  CHAIRMAN SMOLINSKI: Green Pond.

23                  MR. BELL:   I'm talking about Green  
24                  Pond.

25                  CHAIRMAN SMOLINSKI: Green pond, on a

1 lot -- a lot similar size.

2 MR. BELL: Yes.

3 THE WITNESS: These are all in Rockaway  
4 in general, but Green Pond --

5 MR. BELL: We asked you to be specific  
6 and we said Green Pond.

7 THE WITNESS: Yes. I'm saying, no, I  
8 put this -- it's a private community.

9 No, I didn't.

10 CHAIRMAN SMOLINSKI: Similar-sized  
11 lots?

12 THE WITNESS: Excuse me?

13 CHAIRMAN SMOLINSKI: Similar acreage  
14 lots?

15 There's a -- there's big difference.

16 THE WITNESS: I really don't know the  
17 exact size of the lots, but they're throughout the  
18 township.

19 MR. BELL: Well, then -- then how could  
20 you testify --

21 CHAIRMAN SMOLINSKI: That's not  
22 relevant.

23 MR. BELL: -- as your testimony being  
24 relevant.

25 THE WITNESS: Well, alls I'm saying is

1 that the need for two garages, I know is in question,  
2 so I'm just saying that throughout the township,  
3 people -- no matter what size their property, are  
4 looking to have additional storage and garages.

5 And we're particularly --

6 MR. BELL: We're talking about a --

7 (Simultaneous Speaking.)

8 THE WITNESS: -- a specific community --

9 MR. BELL: -- community --

10 THE WITNESS: -- of Green Pond --

11 MR. BELL: -- a specific community and I  
12 want to know how many have two large garages in the  
13 Green Pond section?

14 CHAIRMAN SMOLINSKI: Detached.

15 MR. BELL: Detached.

16 CHAIRMAN SMOLINSKI: Not attached.

17 It's most --

18 MR. KOHUT: We can look into that.

19 CHAIRMAN SMOLINSKI: It's a brand new  
20 house.

21 THE WITNESS: Yes, that would be a  
22 question for --

23 MR. BELL: I mean what -- that you  
24 should have tonight, not look into.

25 THE WITNESS: Well, it's a private

1 community and I can't Google it because I can't --

2 MS. PLATTS: Mr. Kohut, you don't have

3 --

4 MR. KOHUT: So we'll -- we'll provide  
5 it to you.

6 THE WITNESS: Anyway, the -- I know  
7 there was a discussion about needing two garages.  
8 The two garages on Johnson are for their cars.

9 And they have a growing family.

10 And the other garage would house, you  
11 know, things that go along with a community lake life  
12 so...

13 CHAIRMAN SMOLINSKI: Could you do me a  
14 favor? I'm looking at the model that you have there  
15 --

16 THE WITNESS: Yes.

17 CHAIRMAN SMOLINSKI: -- and I see a lot  
18 of construction, can you show us by pointing out  
19 everything, what everything is on that model?

20 THE WITNESS: Sure.

21 MR. BELL: As well as the public.

22 CHAIRMAN SMOLINSKI: Yeah.

23 THE WITNESS: As well as the what?

24 MR. BELL: The public.

25 THE WITNESS: Oh.

1 MR. NOVAK: Was that --

2 MR. KOHUT: Let's mark that as A --

3 MR. NOVAK: I was about to say the same  
4 thing.

5 MR. BELL: It's got to be marked.

6 MR. KOHUT: I think we're up to maybe  
7 A-4.

8 MR. BELL: A-4.

9 MR. KOHUT: Thank you.

10 (Whereupon, Architectural Model is  
11 marked as Exhibit A-4 for identification.)

12 THE WITNESS: This is Johnson Road. So  
13 this is the house facing Johnson Road.

14 This is --

15 CHAIRMAN SMOLINSKI: They can't -- they  
16 can't hear you.

17 THE WITNESS: This is a two-car garage  
18 off of Johnson, detached.

19 We would attach it if we were, you  
20 know, able to, but we are restricted to the 65 feet  
21 in this direction.

22 And the down Van Dien Lane we have  
23 another two-car garage.

24 And this tree line exists. This is the  
25 neighbor's trees.

1 MS. PLATTS: Oh, there are two older  
2 garages. I --

3 THE WITNESS: We're proposing trees in  
4 this corner.

5 CHAIRMAN SMOLINSKI: Yes.

6 MS. PLATTS: I thought one was, like, a  
7 gold cart garage, do you know what I mean.

8 CHAIRMAN SMOLINSKI: I'm going to just  
9 stop you a minute.

10 That's a three-car garage next to the  
11 house 'cause I can't hear you too good, you got to  
12 please speak up.

13 THE WITNESS: Two-car detached, two-car  
14 detached.

15 CHAIRMAN SMOLINSKI: Two and two, not  
16 three and three.

17 MR. KOHUT: No.

18 CHAIRMAN SMOLINSKI: Two and two.

19 And your driveway going down to the  
20 other detached garage.

21 Okay. So I'm in the front yet. I'm at  
22 the first garage.

23 THE WITNESS: Uh-huh.

24 CHAIRMAN SMOLINSKI: What's next to  
25 that garage on the left?

1 THE WITNESS: This is the neighbor's  
2 garage.

3 CHAIRMAN SMOLINSKI: I'm sorry?

4 THE WITNESS: The neighbor's garage.  
5 These are the neighbors' garages.

6 MR. BELL: How -- how big are those  
7 garages, the size?

8 THE WITNESS: They're 24-by-24,  
9 approximately.

10 They all seem to have the same  
11 footprint, which is --

12 MS. PLATTS: So it's like a fortress.

13 MALE BOARD MEMBER: Yeah.

14 MS. PLATTS: It sort of looks like a  
15 fortress, I have to say, with the two garages, a  
16 little bit.

17 CHAIRMAN SMOLINSKI: Those are not your  
18 garages, those are the neighbor's garages.

19 MR. KOHUT: Yes, I think she's showing  
20 the proximity of the neighbor's --

21 CHAIRMAN SMOLINSKI: Yeah.

22 MR. KOHUT: -- structures to the lot.

23 CHAIRMAN SMOLINSKI: And then you've  
24 got a drive coming down and then behind the fence is  
25 somebody else's property, right?

1 THE WITNESS: Correct.

2 MALE BOARD MEMBER: That's (inaudible)  
3 Lane.

4 CHAIRMAN SMOLINSKI: Is that --

5 MR. KOHUT: Yes, this is Van Dien Lane  
6 and then the two houses right here.

7 This is the fence separating the two  
8 houses.

9 CHAIRMAN SMOLINSKI: And what's that  
10 building next to the one in from the back -- that's  
11 -- those are homes or garages?

12 THE WITNESS: Garages.

13 CHAIRMAN SMOLINSKI: Those are three  
14 garages?

15 THE WITNESS: Yes. This is three  
16 different properties.

17 This is the property behind, their  
18 garage, the property to the left.

19 CHAIRMAN SMOLINSKI: One -- one on each  
20 property?

21 THE WITNESS: Yes.

22 And this is in -- the second house  
23 down, Davenport.

24 CHAIRMAN SMOLINSKI: And that's down  
25 the side -- I'm sorry I'm repeating myself, but the



1 second garage is then next to that second garage?

2 I'm sorry, Joe.

3 Next to that -- yeah, is there anything  
4 in next -- what do you have?

5 MR. KOHUT: That's this way?

6 CHAIRMAN SMOLINSKI: No, right -- right  
7 by that building the garage. What's over there, just  
8 the garage.

9 MR. KOHUT: Just the --

10 CHAIRMAN SMOLINSKI: That's it?

11 MR. KOHUT: Yeah.

12 THE WITNESS: Yeah, detached.

13 CHAIRMAN SMOLINSKI: Okay, thank you.

14 Sorry, I forgot about that.

15 MS. PLATTS: I, like, the little cart  
16 in the back.

17 MR. BELL: You know it might be easier  
18 if you could place that display if you're finished --

19 CHAIRMAN SMOLINSKI: On the table.

20 MR. BELL: -- on the table so that the  
21 public can have an opportunity to view the project as  
22 well.

23 CHAIRMAN SMOLINSKI: Now as the  
24 architect, I got a question for you, there's a lot of  
25 congestion there on the property.

1                   You're tearing down an entire house,  
2 and I understand why you are. I've been by the house  
3 many a times.

4                   You're tearing it down. You couldn't  
5 incorporate a garage into the house that's being  
6 constructed and still go with, I guess, a second  
7 standalone and, therefore, reduce a fair amount of  
8 impervious lot coverage --

9                   MALE BOARD MEMBER: Uh-huh.

10                  CHAIRMAN SMOLINSKI: -- and possibly  
11 remove that front yard variance as well all in  
12 doing...

13                  THE WITNESS: Well, it doesn't really  
14 decrease the --

15                  CHAIRMAN SMOLINSKI: No, it would.

16                  MR. KOHUT: I understand what you're  
17 saying.

18                  CHAIRMAN SMOLINSKI: You understand  
19 what I'm saying?

20                  MR. KOHUT: If you take the 24-by-24  
21 walls and make it grass --

22                               (Simultaneous Speaking.)

23                  CHAIRMAN SMOLINSKI: Or -- yes.

24                  MR. KOHUT: -- or a --

25                  CHAIRMAN SMOLINSKI: And then

1 incorporate the garage with the house --

2 THE WITNESS: Yeah, but the 24-by-24  
3 would be added to the house.

4 CHAIRMAN SMOLINSKI: Correct.

5 THE WITNESS: That's what -

6 MR. KOHUT: We can't have it -- we  
7 can't have it --

8 (Simultaneous Speaking.)

9 CHAIRMAN SMOLINSKI: Well, I asked --

10 THE WITNESS: Right, well, this is --

11 CHAIRMAN SMOLINSKI: -- the 10 --

12 (Simultaneous Speaking.)

13 THE WITNESS: Well, this is --

14 CHAIRMAN SMOLINSKI: I'm not done --

15 THE WITNESS: -- you know the 65 feet.

16 This garage, if it was shifted down and  
17 added here --

18 (Simultaneous Speaking.)

19 CHAIRMAN SMOLINSKI: Or incorporated --

20 THE WITNESS: -- I would still --

21 CHAIRMAN SMOLINSKI: -- incorporated

22 into some of the --

23 THE WITNESS: But I'm saying, I would  
24 still -- I would have to take away some of the house,  
25 but I'd be able to squeeze it within the 65 feet.

1                   But then we don't have the clearance  
2 for the rear yard, and --

3                   CHAIRMAN SMOLINSKI: Good size home  
4 right up on the road.

5                   THE WITNESS: I'm sorry?

6                   CHAIRMAN SMOLINSKI: Nothing.

7                   Pretty tall -- pretty tall structure  
8 right up on the road, so the further back it is,  
9 it's...

10                  MR. KOHUT: Yes, we'll let -- we'll let  
11 our engineer talk about why we placed it at the  
12 proximity it is to the road.

13                  THE WITNESS: Yes, because we also have  
14 the septic here and all the clearances we have to...

15                  CHAIRMAN SMOLINSKI: And a pool.

16                  MR. KOHUT: And a pool.

17                  CHAIRMAN SMOLINSKI: And you have the  
18 pool in a box.

19                  You got a lot of coverage.

20                  MS. PLATTS: And there's enough room,  
21 like, if a fire truck had to get around?

22                  MR. BELL: Can you put your mic on?

23                  CHAIRMAN SMOLINSKI: Oh, that's a hell  
24 of good question.

25                  MS. PLATTS: Is there enough room for,

1 like, a fire truck to get around based on the plans  
2 with the two garages on each side?

3 How much distance is there between the  
4 garage and the house on each side? I'm trying to --

5 THE WITNESS: Here it's 5 feet.

6 Here it's 12 feet.

7 MALE BOARD MEMBER: How big is truck?

8 MS. PLATTS: Yeah.

9 So if a fire truck had to come, it  
10 couldn't get down that beside to like the back of the  
11 house. Right?

12 MR. KOHUT: Back of the house to the  
13 garage or the back of the house?

14 MS. PLATTS: Well, isn't there a  
15 driveway -- is there a driveway on both sides next to  
16 the garage?

17 That's what I can't tell.

18 THE WITNESS: Yes.

19 MS. PLATTS: Right?

20 So if a -- if a fire truck had to get  
21 through for any reason, it seems like it's not wide  
22 enough.

23 MR. KOHUT: Through onto the property?

24 MS. PLATTS: Right.

25 Near the property.

1  
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(Simultaneous Speaking.)

MR. KOHUT: My -- my experience --

MS. PLATTS: Any --

MR. KOHUT: -- my experience --

MR. BELL: Well, wait a minute. I think the question's posed to the planner.

MS. PLATTS: Right.

Is there any problem with the fire truck getting access to what it would need to get access to at that house, based on the narrowness of each side or getting the hoses in or anything; it seems -- it just -- my concern is it seems super narrow.

MR. KOHUT: I will let the -- I will like the engineer to answer that.

MS. PLATTS: Okay.

MR. KOHUT: Since it's a site issue.

MS. PLATTS: I'll wait. I'll wait for the engineer.

MR. KOHUT: Thank you.

(Whereupon, off-the-record discussion is held.)

CHAIRMAN SMOLINSKI: It's not colored.

(Whereupon, off-the-record discussion is held.)

1 MS. PLATTS: He did an original  
2 (inaudible).

3 CHAIRMAN SMOLINSKI: I got the review  
4 package here.

5 All right.

6 MS. PLATTS: Any proof (inaudible)  
7 title of the house?

8 CHAIRMAN SMOLINSKI: They did.

9 MS. PLATTS: You did?

10 CHAIRMAN SMOLINSKI: I don't know I  
11 didn't see it yet.

12 What -- what we're still contemplating  
13 if you have any...

14 MR. NOVAK: I have just a --

15 CHAIRMAN SMOLINSKI: Because I have a  
16 couple more, but we haven't gotten into the interior  
17 of the house yet.

18 MR. NOVAK: Yes, just a couple -- well,  
19 you know what I'll ask after the testimony, just to  
20 save time.

21 CHAIRMAN SMOLINSKI: Yes.

22 Keep proceeding, if you want.

23 THE WITNESS: So the way the house is  
24 laid out, so you come in the front door.

25 There's a playroom or den to the right.

1                   There's an open kitchen, dining room,  
2 living room.

3                   The den is, you know, like a playroom  
4 for the kids that it can be shut off from the main  
5 part of the house.

6                   There's stairs going to the second  
7 floor.

8                   There's an office through here.

9                   The mudroom, bathroom and pantry are  
10 off the side where the garage would be. So they  
11 would come out of the garage and come straight into  
12 the house. There's a covered patio, rear porch.

13                   And then on the upstairs, come up,  
14 there's a laundry room.

15                   The master suite is to the left with  
16 the master bedroom and a walk-in closet, and the  
17 master bathroom, faces the rear of the house.

18                   Come down the hall, there's a study  
19 room to a balcony, and then the two bedrooms are on  
20 the end of the house with adjoined shared bathroom.

21                   CHAIRMAN SMOLINSKI: What's up?

22                   MS. PLATTS: (Inaudible).

23                   CHAIRMAN SMOLINSKI: What size septic  
24 is the property, a three? Is this a three- or  
25 four-bedroom septic?



1 THE WITNESS: Three-bedroom.

2 CHAIRMAN SMOLINSKI: Three-bedroom.

3 Her being (inaudible).

4 Two offices and a very large laundry  
5 room as well, right?

6 THE WITNESS: Yes.

7 Well, when designing, you have zones of  
8 space that, you know, translate up and the way I  
9 design with the windows, centers the room, and, you  
10 know, on the elevations, that's...

11 (Brief Pause.)

12 MS. PLATTS: Can I ask you a question?

13 THE WITNESS: Sure.

14 MS. PLATTS: I -- you have -- your Pro  
15 Master Design, right? Yeah.

16 THE WITNESS: Hmm.

17 MS. PLATTS: In your calculation, you  
18 used the terms for frontage and the setbacks, I  
19 guess, JR and VDL. What does that stand for.

20 THE WITNESS: Johnson Road and Van Dien  
21 Lane.

22 CHAIRMAN SMOLINSKI: Can you talk into  
23 the mic, I'm sorry. I can't hear you.

24 THE WITNESS: Sorry. Johnson Road and  
25 Van Dien Lane.

1                   That was, I believe, the corner lot  
2 designation.

3                   MS. PLATTS: So the proposed front yard  
4 setback was only 13 feet?

5                   MR. KOHUT: If I can -- if I could  
6 explain --

7                   MS. PLATTS: No.

8                   MR. KOHUT: So what happened was when  
9 we didn't know, prior to the meeting, whether this  
10 was going to be determined to be a corner lot or an  
11 interior lot, what would I -- what we had -- did was  
12 we wanted to submit to the board the zoning table  
13 based on it being a corner lot so that we could all  
14 be in...

15                   CHAIRMAN SMOLINSKI: Yeah.

16                   MR. KOHUT: So that's 13-foot setback  
17 doesn't come into play --

18                   MS. PLATTS: Okay.

19                   Thank you.

20                   MR. KOHUT: No problem.

21                   MS. PLATTS: That was confusing.

22                   CHAIRMAN SMOLINSKI: Thank you for  
23 putting that on the record.

24                   MR. KOHUT: I have no further  
25 questions.

1 MR. BELL: Should we mark those?

2 MR. KOHUT: Sure.

3 These were the --

4 THE WITNESS: These are the -- you  
5 know.

6 MR. KOHUT: They were the plans  
7 submitted but we'll --

8 MR. BELL: Okay.

9 MR. KOHUT: -- we'll mark them as A-5.

10 (Whereupon, Architectural Plans are  
11 marked as Exhibit A-5 for identification.)

12 CHAIRMAN SMOLINSKI: Okay. A-5.

13 MR. BELL: How would they be A-5? Are  
14 there an A-1, -2 and -3 on the drawings.

15 CHAIRMAN SMOLINSKI: And 5.

16 MR. BELL: Right.

17 You already have them numbered, A-1, -2  
18 and -3.

19 MR. KOHUT: That's just our sheet  
20 number, so...

21 CHAIRMAN SMOLINSKI: Yes.

22 MR. KOHUT: So this is exhibit number.

23 MR. BELL: Okay.

24 Well, we did -4 and -5.

25 We didn't have a -1, -2 and -3 earlier.

1 CHAIRMAN SMOLINSKI: Oh.

2 MR. BELL: That's all right. We  
3 skipped right to it.

4 MR. KOHUT: I have no further  
5 questions.

6 CHAIRMAN SMOLINSKI: No further?

7 MR. NOVAK: Just a couple of follow-up  
8 questions -- pardon me, just a couple of follow-up  
9 questions from our latest memo dated March 11, [sic]  
10 2023.

11 MR. BELL: May 11; right, Dave?

12 MS. KAHN: May.

13 MR. BELL: May.

14 MR. NOVAK: Did I say --

15 CHAIRMAN SMOLINSKI: You said March?

16 MR. BELL: You said Mark.

17 You're talking about May.

18 MR. NOVAK: It's been a long week, I  
19 apologize.

20 CHAIRMAN SMOLINSKI: You could have one  
21 for March, though, too.

22 MR. NOVAK: Yeah, maybe.

23 May 11, 2023.

24 There was a masonry wall feature that  
25 was identified on the architectural plan but not in

1 the plot plan. Is that -- is there a wall that's  
2 kind of a decorative wall that's proposed in front of  
3 this dwelling?

4 THE WITNESS: No.

5 MR. KOHUT: It's being removed. So it  
6 could be -- if the board approves this application,  
7 we can remove that from the plans, that graphic.

8 MR. NOVAK: I have no preference one  
9 way or the other, it's just a --

10 THE WITNESS: Yeah, just a --

11 MR. NOVAK: -- housekeeping matter.

12 THE WITNESS: Right.

13 If it were to be determined that, you  
14 know, we would want to put some wall there, we would  
15 submit the proper documents to the construction  
16 department.

17 MR. NOVAK: Okay.

18 Regarding the number of bedrooms, I  
19 think you had identified three bedrooms proposed.

20 THE WITNESS: Yes.

21 MR. NOVAK: Okay.

22 And that matches what the septic  
23 capacity is of the site?

24 THE WITNESS: Yes.

25 MR. NOVAK: So the playroom and the

1 den, the laundry room and the study room, the way  
2 it's designed right now there's no closets in those  
3 rooms. Correct?

4 THE WITNESS: Correct.

5 MR. NOVAK: Okay. So we would just  
6 need -- if this board was to approve this  
7 application, not telling you to approve it or not  
8 approve it, but one of the conditions would be to  
9 prevent those rooms from being converted into  
10 bedrooms. Because otherwise than you're exceeding  
11 your septic capacity in the site.

12 THE WITNESS: Sure.

13 MR. NOVAK: Regarding the design of the  
14 proposed garages, they are 3 feet from the adjoining  
15 property lines, deferring to the construction code  
16 official on this, but it's our understanding that  
17 fire walls are going to be required?

18 THE WITNESS: Correct.

19 MR. NOVAK: Okay. So that will be  
20 designed to meet UCC codes?

21 THE WITNESS: Yes.

22 MR. NOVAK: Including the soffits as  
23 well.

24 THE WITNESS: Yes.

25 MR. NOVAK: The façade materials will

1 be matching between the garages and dwelling?

2 THE WITNESS: Yes.

3 MR. NOVAK: There's a -- there's a pool  
4 that's attached to the back of garage one.

5 Can you just provide a little bit of  
6 detail about what that pool is?

7 THE WITNESS: It's a container pool.  
8 It's a proposal.

9 I don't know that it will actually be  
10 put there.

11 CHAIRMAN SMOLINSKI: Can you explain  
12 for me, what's a container pool? Is that like a --

13 THE WITNESS: A shipping container,  
14 that they make into a swimming pool. It's just the  
15 look of it, but it's an above-ground.

16 CHAIRMAN SMOLINSKI: It's above ground.

17 THE WITNESS: Yeah, steel pool.

18 MR. NOVAK: Does it go in a foundation,  
19 do you know?

20 Just a little unfamiliar really with  
21 the container pool aspects.

22 Is there, like, a foundation that goes  
23 underneath there or you just kind of plop it down?

24 THE WITNESS: I think, you know,  
25 there's -- you can compact the soil.

1 I'm not sure if you'll need a slab or  
2 not underneath it. I really -- like I said, it's a  
3 proposal, we haven't really committed to anything  
4 yet.

5 MR. NOVAK: Okay.

6 CHAIRMAN SMOLINSKI: How much is the  
7 impervious lot coverage as part of that calculation?

8 THE WITNESS: None. It's an  
9 above-ground pool.

10 MR. NOVAK: So we do exclude --

11 CHAIRMAN SMOLINSKI: Yeah.

12 MR. NOVAK: -- pools -- above-ground  
13 pools as impervious coverage.

14 If there is a foundation beneath it,  
15 though...

16 CHAIRMAN SMOLINSKI: That's why I was  
17 asking the question.

18 MR. NOVAK: -- then I think that  
19 foundation would have to count.

20 CHAIRMAN SMOLINSKI: The foundation  
21 would have to.

22 MR. NOVAK: Yeah.

23 CHAIRMAN SMOLINSKI: You don't know if  
24 there's a foundation for that?

25 THE WITNESS: Well, that's one of the



1 reasons I was asking to match the existing impervious  
2 coverage so that we had some leeway, because I think  
3 it was a difference of, like, 178 square feet,  
4 something like that. The pool was 160.

5 MS. PLATTS: If it did (inaudible).

6 THE WITNESS: And if we did an  
7 in-ground pool, there's, you know -- the site is too  
8 restricted with all the (inaudible).

9 MR. NOVAK: That's all the questions I  
10 have for now.

11 Thank you.

12 CHAIRMAN SMOLINSKI: Do you have any  
13 now?

14 None?

15 Any members of the board have any  
16 further questions for this witness at this time?

17 (No response.)

18 CHAIRMAN SMOLINSKI: All right. At  
19 this time I'm going to open it to the public for  
20 direct questions of this witness based on the  
21 testimony given, only questions, no comments.

22 FEMALE AUDIENCE MEMBER: There will be  
23 a time for comments?

24 CHAIRMAN SMOLINSKI: There will be time  
25 for comments at some time.

1                   MALE AUDIENCE MEMBER: Later or  
2 (inaudible).

3                   MR. BELL: Oh, no, no, please.

4                   MS. PLATTS: Share the microphone.

5                   MR. SAUTER: How about -- is this super  
6 uncomfortable to use this? I'm sorry. It's hard to  
7 juggle though.

8                   Again, for the record, my name is Ken  
9 Sauter, S-A-U-T-E-R. I represent -- I represent  
10 Green Pond Corporation.

11                   I'm with the law firm of Hill Wallack,  
12 LLP, in Cedar Knolls.

13

14 CROSS EXAMINATION

15 BY MR. SAUTER:

16                   Q. Question for you, were you instructed  
17 to design a plan with two detached garages?

18                   A. Yes.

19                   Q. Was there a prior plan that you  
20 prepared that showed the garages at the house?

21                   A. Yes.

22                   Q. And did that comply with the Green Pond  
23 Corporation restrictions?

24                   A. Yes.

25                   Q. Do you know why you were then

1 instructed to redesign it to show two separate  
2 detached garages?

3 A. We had been working on the plans over  
4 time and they've developed and we wanted to provide  
5 good support space to the kitchen with the pantry and  
6 the -- the powder room and the mudroom for an entry  
7 coming in.

8 And we didn't have that with the garage  
9 took up too much footprint of the house.

10 Q. So by taking the garages --

11 MR. BELL: Can you please use the  
12 microphone?

13 CHAIRMAN SMOLINSKI: I was just going  
14 to say, could you pick up the microphone please? You  
15 can pick it up and hold it. We could hear you -- we  
16 could hear you better.

17 MR. SAUTER: Then I can't write.

18 CHAIRMAN SMOLINSKI: Ah.

19 BY MR. SAUTER:

20 Q. So, essentially, are you saying that by  
21 taking the garages and putting them outside, it  
22 allows you to make a bigger dwelling?

23 A. Right.

24 There's -- we needed more space in the  
25 auxiliary space to the garage, and incorporating the

1 garage took up too much of the -- the footprint of  
2 the house. That's...

3 Q. Could you still have had a home with  
4 three bedrooms, playroom and an office with a garage  
5 within the house?

6 A. No.

7 Q. Isn't that the plan you submitted to  
8 Green Pond?

9 FEMALE AUDIENCE MEMBER: You should see  
10 my...

11 THE WITNESS: I don't believe we had  
12 the office --

13 CHAIRMAN SMOLINSKI: The garage.

14 THE WITNESS: -- because that was part  
15 of the garage.

16 BY MR. SAUTER:

17 Q. Okay. The --

18 MR. BELL: Are you saying, Mr. Sauter,  
19 that a different plan was submitted to Green Pond  
20 than --

21 MR. SAUTER: Yes.

22 MR. BELL: -- is being submitted here  
23 tonight?

24 MR. SAUTER: Yes, there was a prior  
25 plan.

1 CHAIRMAN SMOLINSKI: That don't sound  
2 good.

3 MR. SAUTER: It's not part of the  
4 record.

5 THE WITNESS: Yes, we were told by  
6 Green Pond that we should proceed with you with our  
7 plans and then, mainly, over the interior lot versus  
8 corner lot question, and then resubmit it there.

9 MS. PLATTS: Was there -- was there an  
10 application to Green Pond Corporation that included  
11 the proposal --

12 MR. BELL: Katey, you got to speak into  
13 the microphone please.

14 MS. PLATTS: Yes, sorry, Joe.

15 Was there an application to Green Pond  
16 Corporation that included the proposal in terms of  
17 the plan, the architectural plan?

18 MR. SAUTER: The plan that you're now  
19 seeing?

20 MS. PLATTS: No, just in general.

21 MR. SAUTER: Yes, there was.

22 MS. PLATTS: And was is approved, the  
23 prior plan, was it approved or it was put off pending  
24 the disposition here?

25 MR. SAUTER: I have the corporation's

1 manager here if you want any kind of detail regarding  
2 that process.

3 I don't want to take us --

4 MS. PLATTS: I figured you were  
5 present, I'm just wondering.

6 CHAIRMAN SMOLINSKI: Can we reserve for  
7 later on that.

8 MR. BELL: We can reserve.

9 MS. PLATTS: Yeah. Yeah, we'll wait.

10 CHAIRMAN SMOLINSKI: Okay. Yeah, I  
11 think we'll reserve on that.

12 MR. BELL: But you can address his  
13 questions.

14 CHAIRMAN SMOLINSKI: Yes, please.

15 THE WITNESS: As far as was it?

16 BY MR. SAUTER:

17 Q. Was there a prior plan submitted --

18 A. Yes.

19 Q. -- to Green Pond?

20 A. Yes.

21 Q. And that showed the garage within the  
22 house?

23 A. Yes, it did.

24 Q. And it did not show two detached  
25 garages.

1 A. No.

2 Q. Is there a --

3 THE WITNESS: Did it?

4 Oh, I --

5 MALE AUDIENCE MEMBER: (Inaudible).

6 THE WITNESS: I really don't remember  
7 what -- we've been through so many iterations of the  
8 plan, I must apologize.

9 BY MR. SAUTER:

10 Q. Then I think we may need -- then I  
11 think we may later need testimony on what actually  
12 was submitted and approved.

13 MR. KOHUT: Why do we need more  
14 testimony on what was submitted, if we have an  
15 application before this board right now?

16 MR. BELL: He's allowed to -- he's  
17 allowed to cross-examine your expert.

18 MR. KOHUT: Okay. Objection.

19 What's the relevance of what was  
20 submitted to --

21 MR. BELL: I'll -- I'll determine  
22 relevance.

23 And he has a question that I think is  
24 relevant. So --

25 CHAIRMAN SMOLINSKI: I do, too.

1                   MR. SAUTER: I won't even comment on  
2 the relevance because I think it's pretty obvious.

3 BY MR. SAUTER:

4                   Q.        Are -- are driveways required to be  
5 paved? Residential driveways?

6                   A.        I believe so, yes.

7                   Q.        You're showing them as impervious,  
8 correct?

9                   A.        Pervious.

10                  Q.        Pervious, I'm sorry.

11                                So it's not being paved?

12                  A.        No, it's either pervious pavers,  
13 there's emergency pavers you can use, there's --  
14 there's concrete that's pervious; there's different  
15 options.

16                  Q.        Is there a variance or a waiver request  
17 for the driveways?

18                  A.        Are you saying are we asking the board  
19 for a variance?

20                  Q.        Is it part of this submission?

21                                MR. KOHUT: Do you need a waiver or a  
22 variance?

23                                THE WITNESS: Well, I don't understand  
24 why you would need one.

25                                If it's -- it's a hard surface --



1 BY MR. SAUTER:

2 Q. Aren't you showing it as -- are you  
3 showing it as pervious or impervious?

4 A. I'm showing it as pervious.

5 Q. Pervious.

6 So it's not paved?

7 A. There's pervious pavement.

8 Q. Is it -- are they paver blocks or is it  
9 pervious paver?

10 MR. KOHUT: How many times should she  
11 answer the question?

12 MR. BELL: Do you think you want to  
13 reserve that for the engineer, fine. If you can't  
14 answer the question, say it --

15 (Simultaneous Speaking.)

16 THE WITNESS: I answered the question  
17 -- I answered the question to the best of my ability.

18 MR. BELL: -- say it's not within your  
19 scope.

20 THE WITNESS: I answered the question  
21 to the best of my ability.

22 MR. BELL: Yeah.

23 THE WITNESS: That's my answer.

24 BY MR. SAUTER:

25 Q. This may also be for the engineer, but

1 do you think there's sufficient access to do any kind  
2 of septic work or repairs that might be required?

3 A. Yes.

4 Q. So that you -- I think you testified  
5 before there's 12 feet.

6 A. Yes.

7 Q. And you think that's sufficient for --

8 A. Yes.

9 Q. -- heavy equipment to get back there  
10 and do any work --

11 A. I do.

12 MR. SAUTER: Okay.

13 I'll -- my further questions are going  
14 to be for the engineer.

15 Thank you.

16 CHAIRMAN SMOLINSKI: Any other -- any  
17 other members of the public?

18 MR. HOLLING: Keith Holling.

19 MR. BELL: Not without a microphone,  
20 Mr. Holling.

21 MALE BOARD MEMBER: You know what.

22 CHAIRMAN SMOLINSKI: Use that little  
23 one.

24 Do we have an extra --

25 (Laughter.)

1 MR. HANTMAN: Just use that one.

2 MR. SAUTER: I put it right in the  
3 hand.

4 MR. HOLLING: How's that?

5 MR. SAUTER: I should have done this in  
6 your hand, I'm sorry.

7 MR. HOLLING: Yeah, no, it's all right.

8 MS. PLATTS: Don't get too close.

9 MR. HOLLING: Keith Holling. I live at  
10 One Grove Lane.

11 CHAIRMAN SMOLINSKI: I'll remind you,  
12 you're here as a --

13 MR. HOLLING: As a resident.

14 CHAIRMAN SMOLINSKI: As a resident,  
15 yes.

16 MR. HOLLING: Not as a professional,  
17 correct.

18 Question, the square footage --

19 MR. BELL: No, into the microphone.

20 (Laughter.)

21 MR. HOLLING: Question, the square  
22 footage on the first floor I see -- I've seen many  
23 different renditions, is that 3,014 square feet for  
24 the footprint of the first floor?

25 THE WITNESS: 2,000 --

1 MR. HOLLING: Oh.

2 THE WITNESS: -- 400.

3 MR. HOLLING: This is -- the drawing  
4 that's shown there on the site plan shows 3,014  
5 square feet.

6 I haven't seen this design, so what is  
7 the second floor square footage also?

8 THE WITNESS: 2353.

9 MR. HOLLING: So I was looking for a  
10 total.

11 Like I said, on the one plan it shows  
12 3,014 square feet and the --

13 THE WITNESS: So about 48.

14 MR. HOLLING: And then I total just  
15 under 6,000 then.

16 THE WITNESS: 48,000 [sic].

17 MR. HOLLING: Okay, 4800.

18 Okay.

19 The -- are you aware or have knowledge  
20 on the adjacent lots on some of the square footages  
21 of some of the homes there? Have you done any  
22 studies at all?

23 THE WITNESS: I did not calculate that.

24 MR. HOLLING: Okay.

25 Question, if -- the -- you're looking

1 potentially now to seek a variance for the front yard  
2 setback for another 1.86 feet, I understand.

3                   Why would you want to go for the  
4 variance? Could you not redesign the home to lose  
5 that amount of square feet, lose another foot and --  
6 1.86 feet in order to make that compliant so you  
7 wouldn't have to seek a variance?

8                   MR. KOHUT: We were just told about the  
9 variance yesterday, so...

10                   THE WITNESS: And I also have -- I have  
11 pulled this house back and tightened it up.

12                   MR. HOLLING: But you're saying --

13                   THE WITNESS: But I'm saying a few  
14 times from now it was bigger and we shrink it, trying  
15 to consolidate it --

16                   MR. HOLLING: But even if you divide  
17 some of the rooms, you couldn't lose a foot in one of  
18 the spaces and then a .86 feet in order to make that  
19 comply?

20                   It's in -- instead of seeking a  
21 variance, because I know when it comes to Green Pond,  
22 Green Pond will not approve of that variance.

23                   THE WITNESS: You know what this --

24                   MR. BELL: You can't testify as to what  
25 Green Pond can or cannot do.

1 MR. HOLLING: Go ahead.

2 Sorry.

3 THE WITNESS: Like this room is  
4 12-foot-6 deep and --

5 MR. HOLLING: So in your opinion, you  
6 don't think they could be brought back out, to lose  
7 another foot-and-a-half out of a -- out of a 3,000 or  
8 you said 2,400 and --

9 THE WITNESS: Right. I think  
10 everything is --

11 MR. HOLLING: Okay.

12 THE WITNESS: -- tightened up.

13 MR. HOLLING: That's your opinion.

14 That's all I have at this point.

15 Thank you.

16 THE WITNESS: Um-hmm.

17 MR. BELL: Name and address for the  
18 record.

19 MR. WRIGHT: Yeah, Joseph Wright, 3 Van  
20 Dien Lane.

21 My question for the architect is when  
22 you designed the garage on Van Dien Lane --

23 MR. BELL: Just if I may, Mr. Wright, I  
24 just need to have a clarification.

25 Are you represented by counsel?

1 MR. WRIGHT: Not at this time.

2 MR. BELL: Okay.

3 MR. WRIGHT: So my question for the  
4 architect is, when you designed the garage, can you  
5 tell me how it does not impede my access if a vehicle  
6 is pulling out of that garage? And how it would  
7 function?

8 MS. PLATTS: Impedes your access to  
9 your own home.

10 THE WITNESS: Mr. Wright --

11 MR. WRIGHT: Yes, access to my home.

12 MR. KOHUT: We have no problem  
13 answering that, but I think, again, that's something  
14 our engineer would testify to on how the site  
15 functions.

16 MR. BELL: Sir, you can reserve that  
17 question for the engineer.

18 MR. WRIGHT: Okay.

19 Did the architect consider the sight  
20 lines out of my driveway when designing the garage?

21 THE WITNESS: Yes.

22 MR. WRIGHT: And can you tell me how  
23 those sight lines meet the requirements of the town,  
24 if there are any?

25 THE WITNESS: The accessory structure

1 is pulled 3 feet back, and this is your car coming  
2 out of your driveway, showing that you can pull up to  
3 the road and see past it.

4 MR. WRIGHT: I -- I would argue that's  
5 not to scale.

6 Is that to scale?

7 THE WITNESS: Yes, this is to scale.  
8 It's eighth-inch scale.

9 MR. KOHUT: Our engineer can give  
10 comment on that as well.

11 MR. WRIGHT: Okay.

12 Then that's all I have.

13 CHAIRMAN SMOLINSKI: Any other  
14 questions from the public for this witness?

15 (No response.)

16 CHAIRMAN SMOLINSKI: Seeing none, I'm  
17 going to close it.

18 Thank you very much.

19 THE WITNESS: Thank you.

20 MR. KOHUT: Can I have one moment?

21 CHAIRMAN SMOLINSKI: Sure, you may.

22 MR. BELL: You want to take a break?

23 CHAIRMAN SMOLINSKI: Actually I would  
24 like to.

25 MALE BOARD MEMBER: We're going to take



1 a break.

2 MR. BELL: I'm sorry. What time are  
3 you going to stop?

4 CHAIRMAN SMOLINSKI: I have to look at  
5 a hard stop around -- I want to stop testimony at 9  
6 (inaudible).

7 MR. BELL: Let them know that.

8 (Whereupon, off-the-record discussion  
9 is held.)

10 CHAIRMAN SMOLINSKI: We're going to  
11 take a recess.

12 MR. BELL: Yeah, we're going to take a  
13 recess.

14 CHAIRMAN SMOLINSKI: We're going to  
15 take a five-minute recess.

16 (Whereupon, a brief recess is taken.)

17 CHAIRMAN SMOLINSKI: We're live.

18 MR. KOHUT: Thank you, Mr. Chairman.

19 CHAIRMAN SMOLINSKI: It's yours.

20 MR. KOHUT: I call Allison Lapatka.

21 MR. BELL: Let him know when we're  
22 going to stop.

23 CHAIRMAN SMOLINSKI: Now, just so you  
24 know, we're going to stop testimony at 9:00 this  
25 evening.

1                   MR. KOHUT: I understand. Have the  
2 Laker -- Laker --

3                   CHAIRMAN SMOLINSKI: No, we have some  
4 other business to take care of.

5                   MR. KOHUT: I understand.

6                   CHAIRMAN SMOLINSKI: We -- 9:30 is a  
7 hard stop for us.

8                   MR. KOHUT: No problem.

9 VOIR DIRE EXAMINATION

10 BY MR. KOHUT:

11                 Q.         Ms. Lapatka, for the board -- I don't  
12 know if last time she was -- she gave her  
13 credentials, but for the board's edification, can you  
14 just go through your professional and educational  
15 background.

16                 A.         Yes.

17                             So my name is Allison Lapatka.

18                             I'm a professional engineer and  
19 professional land surveyor and college professor at  
20 NJIT.

21                             I have been in this field for roughly  
22 20 years. And I have been teaching NJIT for roughly  
23 12 to 15 years.

24                   MR. BELL: Have you ever testified  
25 before any boards in New Jersey?

1 THE WITNESS: Yes.

2 MR. BELL: And have you ever been  
3 recognized as an expert?

4 THE WITNESS: Yes.

5 MR. BELL: And is your license current?

6 THE WITNESS: Yes.

7 MR. BELL: Okay.

8 Do you solemnly swear that the  
9 testimony you're going to provide tonight to the  
10 board is the truth, the whole truth and nothing but  
11 the truth?

12 MS. LAPATKA: I do.

13 A L L I S O N L A P A T K A, P E

14 12 North State Route 17, Suite 230, Paramus, New  
15 Jersey, having been sworn, testifies as follows:

16 MR. BELL: Okay.

17 MR. KOHUT: Okay. So before we get  
18 started, I want to mark as A-6 the colored rendering  
19 and the site plan.

20 (Whereupon, Colored Rendering and Site  
21 Plan are received and marked as Exhibit A-6  
22 for identification.)

23 DIRECT EXAMINATION

24 BY MR. KOHUT:

25 Q. Allison, you're familiar with the

1 application and variance?

2 A. Yes.

3 Q. You've been to the property, visited  
4 the property?

5 A. Many times.

6 Q. You're familiar with the zoning  
7 ordinances and how they impact this property?

8 A. Yes.

9 Q. We have -- we submitted some plans as  
10 part of this application. Did you or someone under  
11 your supervision prepare those plans?

12 A. Yes.

13 Q. Why don't we go through with the board  
14 what is being proposed from a site perspective.

15 A. So from a site perspective -- do you  
16 mind if I switch the microphone?

17 CHAIRMAN SMOLINSKI: You may.

18 THE WITNESS: Can you hear me?

19 Okay.

20 So from a site perspective, we're  
21 looking at putting a new single-family dwelling up,  
22 the two detached garages, a small swimming pool which  
23 is a container pool and something similar to that  
24 would be a -- it's called a mod pool, which is a  
25 company that manufactures them. They strictly sit on

1 a gravel pad with no foundation base.

2 We're also proposing planting  
3 additional landscaping including shade trees, some  
4 pervious paver walkways in driveway, and a pervious  
5 paver, just to iterate on the comments before, is a  
6 drainage system that allows for water to seep into  
7 the ground below the paving system instead of having  
8 a fully impervious surface where water would just  
9 strictly run off -- run off.

10 And this is allowed by the code in  
11 Rockaway to install pervious surfaces as a driveway  
12 or walkway.

13 CHAIRMAN SMOLINSKI: Now, these are  
14 pavers versus pavement?

15 THE WITNESS: Yes.

16 CHAIRMAN SMOLINSKI: Okay.

17 THE WITNESS: Okay?

18 And then we're -- again, we're  
19 proposing three shade trees, so they're red maple so  
20 they will provide shade along the property and  
21 they'll also bring some more character to the  
22 neighborhood.

23 Regarding drainage, we're proposing a  
24 seepage pit in the front of the property, and that  
25 seepage pit is sized to hold 2 inches of stormwater

1 over all of the roof structures, that's the two  
2 garages and the dwelling, itself, which will reduce  
3 the impervious coverage on the -- the stormwater  
4 runoff on site significantly since there's no  
5 stormwater measures in place at this time.

6 So the seepage pit is, again, going in  
7 the front yard.

8 And then it -- it again, is sized to  
9 contain all of the impervious coverage on site.

10 Okay. I think that covers it.

11 BY MR. KOHUT:

12 Q. Why don't you go through -- there was  
13 some question about the sight -- the sight line from  
14 the garage.

15 Can you discuss that a little bit?

16 A. Okay.

17 So the garage back here is actually set  
18 back about 15.5 feet from the actual property line,  
19 which would be at the center of Van Dien Lane.

20 Van Dien Lane is not getting changed at  
21 all.

22 We're not impacting that with the -- so  
23 -- impacting the road at all or doing anything with  
24 the road.

25 . So any car coming out of the garage

1 which would not -- it would be limited because the  
2 garage is really going to be used for storage or  
3 intended to be used for storage, you would have the  
4 entire width of Van Dien Lane, plus an additional  
5 5 feet or so of pavers that would allow you to back  
6 out of the garage or back into the garage.

7 And the only real impact is the few  
8 seconds that a vehicle would have to wait for that  
9 vehicle to maneuver into the garage.

10 CHAIRMAN SMOLINSKI: What's the  
11 distance off the -- like the paved travel way to the  
12 garage?

13 THE WITNESS: Roughly 5 feet.

14 So the intent is not to have a vehicle  
15 parked on that, it's just strictly for ingress and  
16 egress to the garage.

17 MR. BELL: Question for you.

18 It looks like the drawing we have here  
19 is not the same as yours.

20 MALE BOARD MEMBER: Yeah.

21 THE WITNESS: It's the same.

22 MR. BELL: It's dated 4/3/23.

23 THE WITNESS: Yeah.

24 MR. BELL: Okay. Because it -- in the  
25 upper right picture where, I guess, it's the three

1 trees, they're not showing on...

2 THE WITNESS: The trees are down here  
3 in the landscape plan.

4 This is strictly a colored rendering  
5 taking all the components of the site plan and  
6 bringing into one colored drawing.

7 CHAIRMAN SMOLINSKI: So you added them  
8 to it?

9 THE WITNESS: Well, they're shown right  
10 here.

11 MALE BOARD MEMBER: They're shown here.

12 CHAIRMAN SMOLINSKI: Yeah, I know, but  
13 they were added --

14 THE WITNESS: It's -- yeah, just for --

15 CHAIRMAN SMOLINSKI: In the upper  
16 right, yeah.

17 THE WITNESS: -- graphical purposes.

18 CHAIRMAN SMOLINSKI: It's on the  
19 exhibit.

20 THE WITNESS: Yes.

21 MR. BELL: I just was thinking that, I  
22 would have asked the same thing.

23 MALE BOARD MEMBER: Okay, sorry.

24 THE WITNESS: And then we also have a  
25 rendering of the existing lot here, just so you guys



1 can see the comparison.

2

3 BY MR. KOHUT:

4 Q. Why don't you go over septic?

5 A. Okay.

6 So septic is in the back. The septic  
7 is sized for a three-bedroom dwelling, a  
8 three-bedroom dwelling is proposed.

9 The located -- the septic was done  
10 relatively recently and it's up to code.

11 The location of the septic actually  
12 impacts the property because it takes up most of the  
13 rear yard, so it limits where the building can be  
14 placed based on N.J.A.C. 7:9(a).

15 There's limits for where the build --  
16 or new building and the septic can be distanced --  
17 distance apart from each other.

18 MS. PLATTS: What is the distance?

19 THE WITNESS: It depends on what type  
20 of building, what the foundation is, so slab on grade  
21 for an occupied building, you'd have to be 15 feet.

22 We're proposing about 12 feet from the  
23 septic to the porch, which is not part of the  
24 occupied building.

25 So then the occupied building is well

1 -- is much farther away.

2 CHAIRMAN SMOLINSKI: Just quick  
3 question, going back to the garage there, where Van  
4 Dien -- where the garage is, what is the, let's say  
5 the drivable width of Van Dien Lane there?

6 THE WITNESS: The drivable width is --

7 CHAIRMAN SMOLINSKI: From the -- from  
8 the --

9 THE WITNESS: Edge of pavement to edge  
10 of pavement?

11 CHAIRMAN SMOLINSKI: Yeah.

12 THE WITNESS: About 12 feet.

13 CHAIRMAN SMOLINSKI: Okay.

14 THE WITNESS: So it's a single vehicle  
15 --

16 CHAIRMAN SMOLINSKI: So it's single car  
17 --

18 THE WITNESS: Yeah, single vehicle.

19 CHAIRMAN SMOLINSKI: Okay.

20 MALE BOARD MEMBER: For the septic, for  
21 maintenance of the septic, how -- I'm trying to  
22 figure out, how do they get back to (inaudible) far  
23 to the (inaudible) right, you're saying?

24 THE WITNESS: So the septic back in the  
25 rear yard, we have an access gate right here in

1 between the air conditioning utility and the garage,  
2 and it would really depend on the contractor what  
3 size machine they have. It's more than adequate for  
4 a machine to get back there.

5 MR. BELL: What does more than adequate  
6 mean?

7 CHAIRMAN SMOLINSKI: Yeah.

8 THE WITNESS: Well, it depends on the  
9 size of the machine. You could get a machine that's  
10 2-foot wide or you could get a machine that's 30-feet  
11 wide.

12 So if you -- we're about roughly 6 feet  
13 to 8 feet, so as long as the machine fits between 6  
14 and 8 feet you're okay.

15 CHAIRMAN SMOLINSKI: And the distance  
16 from the dwelling to the garage there you just  
17 pointed in the back, how wide was that?

18 THE WITNESS: That's, I'm going to say,  
19 about 12 feet.

20 CHAIRMAN SMOLINSKI: That's 12.

21 THE WITNESS: I'm just guessing.

22 CHAIRMAN SMOLINSKI: Back there?

23 THE WITNESS: Yeah.

24 And the utility placement, we just did  
25 that as a placeholder so if we do change something

1 and maybe they're wall-mounted units, then it would  
2 also provide additional access.

3 BY MR. KOHUT:

4 Q. What about soil movement?

5 A. Regarding soil moving, we're going to  
6 apply to Morris County Soil Conservation District  
7 upon -- or if this is approved, and then we'll apply  
8 at that time and we would abide by all the  
9 regulations.

10 Q. Tree removal? Is there any tree  
11 removal?

12 A. There is one tree that we're proposing  
13 to remove. It's kind of a -- I'm sorry, two trees in  
14 the front that we're proposing to remove, and there's  
15 two trees in the back which I looked at them recently  
16 and they look like they're in poor condition, so they  
17 may need to be removed because of the condition  
18 they're in.

19 MR. BELL: But you're not an arborist?

20 THE WITNESS: I love my trees.

21 MR. BELL: Then you're removing the two  
22 in the front to move the house closer to the street,  
23 correct?

24 THE WITNESS: Removing the two?

25 MR. BELL: Yeah.

1                   THE WITNESS: I -- it's -- they're also  
2 in poor condition.

3                   I do a lot of gardening and tree  
4 planting, too.

5                   I'm a member of the Arbor Day  
6 Foundation if that helps.

7                   MR. BELL: But by trade, you're not an  
8 arborist.

9                   THE WITNESS: No.

10                  Okay. So either way, though, just  
11 because of the removal of the trees, we are planting  
12 three new maple trees, which would grow to a  
13 significant height and, kind of, provide shade  
14 throughout the neighborhood.

15 BY MR. KOHUT:

16                  Q.        Oh, there was a question about fire  
17 trucks and putting out fires.

18                            Do you have a comment on that?

19                  A.        What's different than what's there now?

20                            If a fire truck went down that street  
21 as it is now, how is it any different than having a  
22 different house there?

23                  Q.        Is it your -- is it your -- not  
24 understanding, but usually fire trucks do what they  
25 want to do when they have to put out a fire?

1           A.       It's an emergency, they're going to do  
2 what they gotta do.

3           Q.       So we're not proposing -- there's no  
4 change in what's existing now as far as just having  
5 them access the site?

6           A.       Van Dien Lane would not change per our  
7 proposal, and it would just be the fire truck would  
8 come down Johnson, turn onto Van Dien and that's it.  
9                    Just the same as they would do now.

10          MR. BELL:   How wide are the township's  
11 fire trucks; do you know?

12          THE WITNESS:  Fire trucks are roughly  
13 around 8-feet wide, maybe 9.

14 BY MR. KOHUT:

15          Q.       Again, I had mentioned in my opening  
16 and I -- you had -- you had come up with this  
17 calculation, so I wanted it to be testified to.

18                    The portion of Van Dien Lane that's on  
19 our property, I had indicated it wasn't -- accounted  
20 for 7.8 percent of the impervious coverage on site.

21                    Was that accurate?

22          A.       Yes.

23          Q.       I'd like to -- did you go over  
24 stormwater?

25          A.       Yes.

1           Q.       I'd like to just look at Mr. -- I  
2 believe we addressed the comments in Mr. Novak's  
3 letter via direct.

4                    I'd just like to go through Mr. Ten  
5 Kate's May 11th, 2023 report.

6           A.       H-huh.

7           Q.       We've mentioned there's not going to be  
8 any change in access.   Okay.

9                    Section 54-29.13(d)(1) requires that  
10 unpaved areas adjacent to buildings shall be sloped  
11 to direct surface water and move drainage away from  
12 the building at a minimum slope of 5 percent the  
13 first 10 feet of horizontal distance.

14                   The applicant cannot achieve that  
15 requirement with only 3 feet.   Applicant should  
16 provide testimony on how they will satisfy the  
17 requirement and seek a design waiver and relief if  
18 necessary?

19           A.       Regarding that, Rockaway requires  
20 3 feet from the accessory structure to the property  
21 line, so I think that's -- that with the way the code  
22 is written, the codes don't work together, but we're  
23 proposing to hold the zoning code of 3 feet.

24                   And we would ask for a design waiver,  
25 but the intent is to strictly have the water flowing

1 away from adjacent properties.

2 Q. A minimum of 2 feet -- foot offset is  
3 recommended off the edge of the driveway pavement to  
4 the property line to prevent surface water runoff  
5 from the direct -- from going directly onto adjoining  
6 property.

7 The applicant shall confirm if this  
8 condition is satisfied.

9 A. And we have the driveway roughly  
10 2-and-a-half or 3 feet off. If it becomes an issue,  
11 we could always propose curbing to direct the  
12 stormwater away from the property and keep the  
13 driveway a little lower.

14 Q. Landscaping, tree removal.

15 As a condition of approval, we would  
16 provide an as-built survey?

17 A. I would do it myself.

18 Q. Okay. Detention system.

19 We would apply, obviously, to the Mayor  
20 & Council for a soil movement permit per the code --

21 A. Yep.

22 Q. -- if required?

23 MR. KOHUT: No further questions,  
24 Mr. Chairman.

25 CHAIRMAN SMOLINSKI: Members of the



1 board for this witness?

2 MALE BOARD MEMBER: I have a question.  
3 I'm going to go back to the pool again, if it's okay.

4 I would -- most of us don't know what a  
5 container pool is. Is there any way you could show  
6 some kind of picture to that?

7 THE WITNESS: Is it okay to look at my  
8 cell phone?

9 CHAIRMAN SMOLINSKI: I'm sorry?

10 THE WITNESS: Is it okay if I show you  
11 on my cell phone?

12 CHAIRMAN SMOLINSKI: Yeah.

13 THE WITNESS: I don't have a picture,  
14 let me just grab it.

15 CHAIRMAN SMOLINSKI: All right.

16 MR. KOHUT: You know we're not -- we're  
17 not finishing tonight, obviously.

18 MR. BELL: Can you -- is your -- is  
19 your mic on, please?

20 MR. KOHUT: (Taps microphone).

21 MR. BELL: Good.

22 MR. KOHUT: We're not finishing  
23 tonight. Why don't we provide a picture of the pool  
24 so that we can hand them out. And then if any  
25 members of the public want to see what it looks like,

1 they'll have it accessible as well.

2 CHAIRMAN SMOLINSKI: I think that's  
3 fair.

4 THE WITNESS: Okay.

5 CHAIRMAN SMOLINSKI: Okay.

6 MR. KOHUT: It's just for record  
7 purposes, I think that might be better.

8 CHAIRMAN SMOLINSKI: Well, you can --  
9 you can Google one.

10 MALE BOARD MEMBER: Yeah, by that time  
11 I could, yeah.

12 CHAIRMAN SMOLINSKI: But, yes.

13 THE WITNESS: So the -- ultimately they  
14 just are relatively small pools, they come in  
15 different lengths. And it's just a repurposed  
16 container and it's kind of -- they make it look more  
17 modern and it looks nice.

18 MALE BOARD MEMBER: And it just sits on  
19 the soil, there's no -- no foundation or...

20 THE WITNESS: Just gravel.

21 MR. BELL: No deck?

22 CHAIRMAN SMOLINSKI: Gravel?

23 THE WITNESS: I think there was a  
24 possible deck proposed to get into it 'cause it's  
25 above ground, so you need some sort of access.

1                   CHAIRMAN SMOLINSKI:  But it's a  
2 container.

3                   THE WITNESS:  It is.  It doesn't say,  
4 like, Konex on the side and it's not all rusty, but  
5 they make it look nice.

6                   So it looks, kind of, just like sheet  
7 metal.

8                   MALE BOARD MEMBER:  All right.  We'll  
9 get it when you send us the pictures of it.

10                  Nothing else right now.

11                  CHAIRMAN SMOLINSKI:  Okay.

12                  MR. NOVAK:  Thank you very much.  Just  
13 a question or two.

14                  I think you hit most of the things in  
15 my memo, just one additional item that we had in  
16 there was whether or not there's a possibility to  
17 extend either the row of Green Giant arborvitae in  
18 the back or some other evergreen planting or if it's  
19 too close to the septic field.

20                  THE WITNESS:  So, actually, the  
21 neighbor, Mr. Wright, has a raised planter bed on his  
22 property right along the property line that already  
23 contains an entire row of arborvitaes.

24                  MR. NOVAK:  Okay.  So that would not be  
25 necessary then.

1                   The other thing that I just -- I think  
2 we might just need a little bit of clarification on,  
3 the proposed site plan on Sheet A1 of the  
4 architectural plan, it's showing a setback of --  
5 right, that distance of 15.5 feet between the edge of  
6 the garage and the center of Van Dien Lane.

7                   But it looks like the plot plan shows a  
8 distance of --

9                   THE WITNESS: I have 16.

10                  MR. NOVAK: Oh, I was seeing  
11 12-and-a-half.

12                  THE WITNESS: That's the property line  
13 distance from the edge of the right-of-way to the  
14 center -- or to the actual property line.

15                  MR. NOVAK: Okay. So 12-and-a-half  
16 from the edge of the garage to the property line?

17                  THE WITNESS: Yeah.

18                  MR. NOVAK: And then that driveway, you  
19 said, is 5 feet from the edge of the pavement to the  
20 face of the garage?

21                  THE WITNESS: Roughly.

22                  MR. NOVAK: Okay, I think that answers  
23 that.

24                  Thank you very much.

25                  THE WITNESS: Absolutely.

1 MR. TEN KATE: She did answer my  
2 questions.

3 CHAIRMAN SMOLINSKI: Your questions are  
4 all asked?

5 MR. TEN KATE: Yes.

6 CHAIRMAN SMOLINSKI: Thank you.

7 I think I'll open it up to the public  
8 at this time, but reserving the right to close it to  
9 the public at 9:00, for any questions.

10 MR. SAUTER: Thank you.

11 CHAIRMAN SMOLINSKI: Just restate  
12 yourself for the record.

13 MR. SAUTER: Ken Sauter, attorney for  
14 Green Pond Corporation.

15 Do you mind if I sit on this side?

16 CHAIRMAN SMOLINSKI: Yes.

17 MR. SAUTER: It's easier.

18 CHAIRMAN SMOLINSKI: And you got a  
19 table to write on.

20 MR. SAUTER: Yes, I do and I'm  
21 left-handed. It's perfect.

22 CROSS EXAMINATION

23 BY MR. SAUTER:

24 Q. In Mr. -- in the Boswell Engineering  
25 report, there's a condition 26 that talks about the

1 garage setback.

2 I don't know whether that was  
3 addressed?

4 A. Condition 26 is for soil erosion and  
5 sediment control.

6 Q. 25.

7 A. 25?

8 Q. Yeah, 25, the garage setback.

9 A. So to address that comment, the reason  
10 the garage -- we would absolutely push it back if we  
11 could.

12 The reason the garage is located where  
13 it is, is because the septic tanks are right there  
14 and there's a required minimum distance based on  
15 state regulations between the septic tank and the  
16 slab on grade.

17 Q. And I assume there's no particular  
18 requirement that that garage actually be there at  
19 all.

20 A. That is -- it's part of the  
21 application.

22 Q. So if the garage weren't there, that  
23 wouldn't be an issue, correct?

24 A. Yes.

25 Q. Okay. Do you have any idea why this

1 was designed with two garages?

2 CHAIRMAN SMOLINSKI: I'm sorry, sir,  
3 which garage is that that you're --

4 MR. SAUTER: Garage No. 2.

5 CHAIRMAN SMOLINSKI: Garage No. 2.

6 MR. BELL: Is that the one --

7 MR. SAUTER: The one on Van Dien Lane.

8 CHAIRMAN SMOLINSKI: Van Dien Lane.

9 MR. SAUTER: Yes.

10 CHAIRMAN SMOLINSKI: Okay. Just for  
11 the record.

12 BY MR. SAUTER:

13 Q. That's typically the one that gets a  
14 lot of attention.

15 Do you have any idea why this was --  
16 the site was designed with two separate attached  
17 garages on it?

18 A. There's a multitude of reasons. One  
19 reason is to keep the 65-foot-wide building per the  
20 Green Pond regulations.

21 The second reason was to have an area  
22 for storage for any sort of marine activity, such as  
23 all of your tubes, your life jackets, whatever you  
24 got on the lake. So...

25 CHAIRMAN SMOLINSKI: Can't that -- that

1 can't fit in one garage?

2 THE WITNESS: David has a lot of toys.

3 BY MR. SAUTER:

4 Q. I guess we can have a discussion on  
5 other homes and the toys they have when testimony  
6 comes back next month on similar arrangements in the  
7 community.

8 You talked before about the septic  
9 access.

10 A. Yes.

11 Q. You said you're comfortable with the  
12 ability to access that?

13 A. I've seen worse.

14 Q. Are driveways required to be paved?

15 A. Driveways are not required to be paved.  
16 You can actually put a gravel base down and that's  
17 not considered actual pavement.

18 So it's your -- the way you're defining  
19 pavement is the issue here, so doing pavers is not  
20 asphalt pavement, it's a different course for having  
21 a hard surface for a driveway.

22 And the pavers that we are putting down  
23 are going to be pervious pavers, which allow  
24 stormwater to seep through the ground, and it's a  
25 stormwater measurement that's acknowledged by the NJ



1 DEP to take care of the stormwater on site.

2 Q. I'm reading from the ordinance, and  
3 it's -- I'll just give the page number, it's 54:129.

4 It says:

5 "Residential driveways are required at  
6 a minimum to be paved in accordance with the  
7 above standards."

8 And that talks about basically grading  
9 and slopes and the driveways.

10 Am I looking at something that doesn't  
11 apply?

12 A. Well, paved -- we're designing  
13 everything to have a driveway, it's just we're using  
14 a different type of surfacing?

15 Q. So when it says, "required at a minimum  
16 to be paved"?

17 A. So we could put pavers down and we  
18 could have different alternative reasons for that, it  
19 would just have to get approved through Rockaway.

20 Q. And that's acceptable in accordance  
21 with Rockaway's ordinance?

22 A. That would be up to Rockaway.

23 Q. You're showing it as pervious, correct?

24 A. Pervious pavers.

25 Q. So you're showing it as a material

1 that's going to let water flow through it basically.

2 A. Right.

3 Q. Are there any details on what it is?

4 A. We have a -- just a standard paver  
5 detail, but once we lock down what surface we're  
6 actually going to use, because there's probably 200  
7 different types that we could use, once we lock that  
8 down then a detail and maintenance manual will be  
9 provided.

10 Q. I started asking this question of the  
11 architect and I may be repeating myself, but is there  
12 any reason why the site plan couldn't have been  
13 designed with at least one of the garages within the  
14 footprint of the home?

15 A. This is what our client requested.

16 Q. You can't say whether or not it could  
17 have been designed.

18 A. I'm also not an architect.

19 MR. SAUTER: Okay.

20 I have no further questions.

21 Thank you.

22 MR. NOVAK: Real quick for the record,  
23 I think that section number might have been  
24 mis-cited. It is section 54-30.12(b)(5), I think you  
25 might have said 129.

1 MR. SAUTER: Page.

2 MR. NOVAK: Oh, page 129.

3 But if somebody is looking at eCode it  
4 would be that section --

5 MS. PLATTS: (Inaudible).

6 MR. NOVAK: 54-30.12(b)(5).

7 MALE BOARD MEMBER: 54-30?

8 MR. NOVAK: 54-30.12 --

9 MALE BOARD MEMBER: B?

10 MR. NOVAK: B as in boy, 5 as in --

11 MS. PLATTS: As in what?

12 CHAIRMAN SMOLINSKI: Five, five alive.

13 MR. NOVAK: It's been a long night,  
14 sorry.

15 MR. BELL: David, just for  
16 clarification --

17 MALE BOARD MEMBER: Read it out loud?

18 MR. BELL: Pervious -- no. Pervious  
19 pavement, pavers, are an acceptable driveway surface  
20 covering?

21 MR. NOVAK: So, typically, it has been,  
22 yes.

23 That section reads:

24 "Within six months of the issuance of  
25 the first Certificate of Occupancy, all

1 parking areas and driveways for residential  
2 uses in residential districts shall be  
3 surfaced with bituminous concrete pavement  
4 with a 3-inch granular sub base and  
5 1-and-a-half inch surface coarse mix No. 5, or  
6 the equivalent as approved by the township  
7 engineer."

8 So I think that latter phrase has been  
9 typically relied upon to allow for pervious pavers,  
10 provided that the detail gets approved by the  
11 engineering department.

12 The second part of that discusses that  
13 residential driveways are required, at a minimum, to  
14 be paved in accordance with the above standards from  
15 the roadway to the right-of-way and then an  
16 additional 50 feet back from the right-of-way.

17 And, again, when it says paved in  
18 accordance with the above standards, I think it  
19 refers to that referral to the township engineer.

20 CHAIRMAN SMOLINSKI: Township engineer,  
21 yup.

22 MR. BELL: There was a second  
23 application filed with Green Pond and what was  
24 presented tonight, so I have a question (inaudible).

25 CHAIRMAN SMOLINSKI: Listen,

1 (inaudible) address that one.

2 (Whereupon, off-the-record discussion  
3 is held.)

4 MR. BELL: Ask your question.

5 CHAIRMAN SMOLINSKI: So there was a  
6 different application filed to Green Pond that got --  
7 received approval than the one that we're hearing  
8 tonight?

9 THE WITNESS: That was for the  
10 architectural plans.

11 This was never developed, and this is  
12 the only iteration I have of this.

13 So I was not part of the process --

14 CHAIRMAN SMOLINSKI: So there was never  
15 a site plan developed, it was only architectural?

16 THE WITNESS: Yeah.

17 And the architectural has a site layout  
18 on it, but grading, drainage, all that --

19 CHAIRMAN SMOLINSKI: Utilizing your  
20 base --

21 THE WITNESS: Yes.

22 CHAIRMAN SMOLINSKI: -- but you were not  
23 involved in it.

24 THE WITNESS: Yeah.

25 CHAIRMAN SMOLINSKI: Okay.

1                   Any other questions of the public for  
2 this witness based on her testimony only?

3                   MR. WRIGHT: Joe Wright, 3 Van Dien  
4 Lane.

5                   And my question for you is can you  
6 provide engineered turning radiuses for the garage  
7 for our review?

8                   THE WITNESS: Sure.

9                   MR. WRIGHT: Does Rockaway Township  
10 require a minimum length for a driveway?

11                   THE WITNESS: That I do not know off  
12 the top of my head.

13                   I'd have to get back to you on that.

14                   MR. WRIGHT: Okay.

15                   This is just question time; right, no  
16 comments?

17                   CHAIRMAN SMOLINSKI: Well, questions --  
18 no, it's question -- yes, questions of -- on her  
19 testimony.

20                   MR. WRIGHT: Okay.

21                   MS. PLATTS: There will be time to  
22 comment.

23                   CHAIRMAN SMOLINSKI: You'll have plenty  
24 of comments, time for comments.

25                   MR. WRIGHT: Okay.

1                   So --

2                   MR. BELL:   Was your question more the  
3 driveway apron; is that what you're...

4                   MR. WRIGHT:  I'm -- they kept -- keep  
5 referring to this driveway and its surface type, so  
6 if it's a driveway what's its minimum length  
7 requirement?

8                   CHAIRMAN SMOLINSKI:  Well, technically  
9 there are two driveways.

10                  MR. WRIGHT:  Garage No. 2.

11                  CHAIRMAN SMOLINSKI:  Yes.

12                  MR. WRIGHT:  Okay.

13                  CHAIRMAN SMOLINSKI:  So refer to --

14                  MR. WRIGHT:  Yes, Garage No. 2.

15                  If -- if there is a required driveway  
16 length, I think it would be important to know that.  
17 And you don't know that.

18                  THE WITNESS:  Not off the top of my  
19 head, but I would have to get back to you on that.

20                  MR. WRIGHT:  Okay.  In the design of  
21 Garage No. 2, did you consider the sight lines and  
22 the possibility -- there was a comment made that  
23 during the few seconds, I believe, that a vehicle was  
24 pulling out of that driveway or trying to get into  
25 it, that it would impede my access or potential

1 emergency access to the homes behind the garage.

2 THE WITNESS: It would be just like  
3 being in any parking lot where you have vehicles  
4 pulling out of a parking space and you have to wait  
5 your turn.

6 It would be --

7 MR. WRIGHT: Parking lot -- it's not a  
8 parking lot, though.

9 THE WITNESS: But I'm saying it would  
10 be a very similar situation of waiting for a vehicle  
11 to maneuver so you could then proceed.

12 In the event that there was a vehicle  
13 pulling out at the exact same time that you were  
14 pulling out of your driveway.

15 MR. WRIGHT: Okay. So how does this  
16 benefit or maintain the benefits of my property and  
17 my neighbor by making us wait while someone is  
18 pulling in or our of their garage.

19 THE WITNESS: Well, it -- does your  
20 neighbor have to wait for you sometimes when they're  
21 leaving the road?

22 MR. WRIGHT: Absolutely not. I get out  
23 of my driveway in one turn.

24 THE WITNESS: And this, again, is for  
25 storage, so it would be very rarely accessed by a



1 vehicle.

2 MR. BELL: I know that -- I know that  
3 this year has been a mild winter but where do they  
4 usually keep the snow?

5 Where is that usually plowed?

6 THE WITNESS: So, the funny thing is  
7 when I did the survey, everything -- it had just  
8 snowed when I was there, and they just, kind of, plow  
9 through when --

10 MR. BELL: There wasn't much snow this  
11 year. I mean --

12 THE WITNESS: I'm sorry.

13 MR. BELL: If there was a heavy snow,  
14 where does the snow get placed on that road.

15 THE WITNESS: It would probably get  
16 plowed straight through, would be my assumption.

17 There's kind of a turn-around to the  
18 woods area, and they -- I would think that they  
19 would, kind of, push the plow and the snow into  
20 there.

21 MR. BELL: But you don't know.

22 THE WITNESS: I don't -- I was just  
23 there during the one snowstorm, or after the  
24 snowstorm.

25 MR. WRIGHT: How do you propose to

1 build this Garage No. 2 during construction without  
2 impeding access to our homes?

3 THE WITNESS: Because the equipment  
4 would be kept on site.

5 MR. WRIGHT: And how do you propose to  
6 maintain the integrity of the pavement within 3 feet  
7 of this frost wall, or I imagine we've got to go down  
8 -- what's the depth required for the frost wall in  
9 the front of the garage?

10 THE WITNESS: Since the front of the  
11 garage is decent enough from the street, it would  
12 just be the minimum 3 foot or so for the frost line  
13 in New Jersey.

14 MR. WRIGHT: Are you proposing any type  
15 of shoring or anything to make sure that it doesn't  
16 undermine the road?

17 THE WITNESS: No. Because it's really  
18 not -- doesn't seem to be necessary for a garage.

19 We haven't gotten through the  
20 structural design of the garage, but we would take  
21 all of that into account.

22 MR. WRIGHT: Okay.

23 And when it comes to building the  
24 garage and on my side, Garage No. 2, how do you  
25 propose to side that garage, erect scaffolding, build

1 these fireproof soffits?

2 THE WITNESS: The contractor would have  
3 to come up with the means and methods of construction  
4 for siding the building.

5 MR. WRIGHT: Is it your professional  
6 opinion that that's possible?

7 THE WITNESS: Yeah.

8 He could also get a structure that's  
9 pre-made, then you could just drop it into place.

10 So there's different options.

11 MR. WRIGHT: With -- how are you going  
12 to drop it into place.

13 THE WITNESS: You could use a crane,  
14 you could use a large vehicle, you could --

15 MR. WRIGHT: Would that crane impede my  
16 access to my home during construction?

17 THE WITNESS: It depends where the  
18 crane is parked.

19 So if we parked it on the front yard,  
20 it would be -- it would not.

21 MR. WRIGHT: Okay.

22 That's all I have.

23 CHAIRMAN SMOLINSKI: Thank you, sir.

24 Any other questions for this witness?

25 (No response.)

1 CHAIRMAN SMOLINSKI: Seeing none, I'm  
2 going to close it for this evening.

3 MR. BELL: You have a question?

4 MR. TEN KATE: Just one question,  
5 sorry.

6 With all the discussion of the garage,  
7 it -- that garage has a square footage of 576 square  
8 feet?

9 THE WITNESS: 24-by-24.

10 MR. TEN KATE: I don't have to -- i  
11 can't do math anymore, 24 --

12 THE WITNESS: It's too late for me.

13 MR. TEN KATE: 576, okay.

14 This site has an area of approximately  
15 how much?

16 THE WITNESS: 13,000 -- 13,730.

17 MR. TEN KATE: 13,730.

18 THE WITNESS: Yeah.

19 MR. TEN KATE: All right. So we're  
20 looking at approximately 4.19 percent of impervious  
21 coverage, if I calculated that correctly.

22 THE WITNESS: For the garage?

23 MR. TEN KATE: Yes.

24 THE WITNESS: Yes.

25 MR. TEN KATE: It's something to keep

1 in mind for later.

2 That's it.

3 Thank you.

4 CHAIRMAN SMOLINSKI: Thank you.

5 You're going to have -- just for  
6 housekeeping, you have one more witness, the planner?

7 MR. KOHUT: Yes, we have --

8 CHAIRMAN SMOLINSKI: Okay.

9 MR. BELL: Calendar.

10 (Whereupon, off-the-record discussion  
11 is held.)

12 CHAIRMAN SMOLINSKI: The first week is  
13 the Fourth of July.

14 MS. KAHN: Right.

15 (Whereupon, off-the-record discussion  
16 is held.)

17 MS. KAHN: The primaries.

18 CHAIRMAN SMOLINSKI: That's right.

19 MS. KAHN: So there is one in June and  
20 none in July because...

21 MR. BELL: How long is this one.

22 MALE BOARD MEMBER: Is that Klein?

23 MS. KAHN: That's -- yeah, Klein,  
24 that's -- that's a detached (inaudible).

25 (Whereupon, off-the-record discussion

1 is held.)

2 CHAIRMAN SMOLINSKI: Yeah. Let's do  
3 that. July 18th is the next available, because -- or  
4 August --

5 MS. KAHN: No, it's June 20th.

6 CHAIRMAN SMOLINSKI: June 20th,  
7 actually. June 20th, that's what we got.

8 MR. KOHUT: June -- June 20th.

9 CHAIRMAN SMOLINSKI: Okay.

10 MR. KOHUT: That -- that works.

11 CHAIRMAN SMOLINSKI: Yup. This will be  
12 carried to June -- June 20th is the next scheduled  
13 meeting or July 18th, one or the other.

14 This will be carried to June 20th  
15 without further notice.

16 MR. KOHUT: Thank the board for their  
17 time, enjoy your Memorial Day weekend.

18 CHAIRMAN SMOLINSKI: Thank you, you all  
19 as well.

20 MR. BELL: And you're going to bring  
21 all of the documents so that we have it in time to  
22 review, correct? Any additional documents --

23 THE WITNESS: Yes.

24 CHAIRMAN SMOLINSKI: Thank you.

25 Okay. So we have a few things left

1 here to do.

2 We have a few things left to do so if  
3 we can carry conversations to the hallway that would  
4 be great.

5 (Whereupon, this concludes the  
6 transcription of the Audio File for the  
7 May 16, 2023 Meeting of the Township of  
8 Rockaway Zoning Board of Adjustment regarding  
9 the matter of Application BOA #22-22, Marogi,  
10 20 Johnson Road, Block 40301, Lot 2, "c"  
11 variance at 9:10:22 on the digital counter.)

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID.#50094914, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

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LAURA A. CARUCCI, C.C.R., R.P.R.  
License #XI02050, and Notary Public  
of New Jersey #50094914, Notary  
Expiration Date December 3, 2023

Dated: \_\_\_\_\_