

ROCKAWAY TOWNSHIP
 BOARD OF ADJUSTMENT
 TUESDAY, AUGUST 15, 2023
 COMMENCING AT 7:00 P.M.

 IN THE MATTERS OF:) TRANSCRIPT OF
 PUBLIC HEARING) PROCEEDING
 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
 JAMES LOFTUS, SECRETARY
 TIMOTHY SCHERWA, MEMBER (ABSENT)
 SUSAN ROYEK, MEMBER
 KATEY PLATTS, MEMBER
 CAROL LUCAS, MEMBER
 ADAM LUSARDI, ALTERNATE MEMBER 1
 DOUGLAS STOWBRIDGE, ALTERNATE MEMBER 2 (ABSENT)

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 201-641-1812

I N D E X

2
 3 1. Call to Order
 4 2. Notice to the newspapers was via email Attendance
 5 3. Flag Salute
 6 4. Approval of Minutes - August 1, 2023
 7 5. Correspondence
 8 6. Open to the Public
 9 7. Regular Order of Business
 10 8. Resolutions
 11 Escrow
 12 BOA #23-07
 13 Doolittle
 14 15 Old Lane Road
 15 Block 40309, Lot 2
 16 "C" Variance
 17 9. Committee Reports
 18 10. Other Matters
 19 11. Public Hearing
 20 BOA # 22-22
 21 Marogi
 22 20 Johnson Road
 23 Block 40301 Lot 2
 24 "C" Variance

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Public Questions/Comments		

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1 A P P E A R A N C E S:

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 Counsel to the Board of Adjustment

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 P.O. Box 1827
 8 Paramus, New Jersey 07653-1827
 Counsel for the Applicant

9

10

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

12 JAIME BROWN, Board Secretary
 13 DAVID NOVAK, P.P., AICP, Board Planner
 14 PETER TEN KATE, P.E., Board Engineer (7:27 Arrival)

15

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17

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I N D E X (Continued)

2 11. Public Hearing
 3 BOA # 22-22
 4 Marogi

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1 MS. BROWN: Ms. Lucas?
2 MS. LUCAS: Here.
3 MS. BROWN: Mr. Lusardi?
4 MR. LUSARDI: Here.
5 MS. BROWN: Mr. Bell?
6 MR. BELL: Here.
7 MS. BROWN: Mr. Novak?
8 MR. NOVAK: Here.
9 CHAIRMAN SMOLINSKI: Okay.
10 All rise.
11 (Whereupon, all rise for a Recitation
12 of the Pledge of Allegiance.)
13 CHAIRMAN SMOLINSKI: The first order of
14 business is the approval of the minutes from
15 August 1st, 2023.
16 MR. LOFTUS: I make a motion to accept.
17 CHAIRMAN SMOLINSKI: Can we get a
18 second?
19 MR. LUSARDI: Second.
20 MS. PLATTS: Second.
21 CHAIRMAN SMOLINSKI: I'm going to say
22 all in favor?
23 (Whereupon, all present members respond
24 in the affirmative except Chairman Smolinski
25 who abstains.)

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1 CHAIRMAN SMOLINSKI: This meeting of
2 the Rockaway Township Board of Adjustment is called
3 to order. This meeting is held pursuant to the New
4 Jersey Open Public Meeting Act.
5 Notice has been properly posted and
6 filed with the municipal clerk of the Township of
7 Rockaway, mailed to all those persons requesting
8 notification and provided to The Citizen of Morris
9 County on February 8, 2023, and The Daily Record on
10 February 7, 2023.

11 Notice to the paper was via e-mail and
12 formal action may be taken this evening.
13 Roll call.
14 MS. BROWN: Mr. Smolinski?
15 CHAIRMAN SMOLINSKI: I am here.
16 MS. BROWN: Mr. Loftus?
17 MR. LOFTUS: Here.
18 MS. BROWN: Mr. Scherwa?
19 (No response.)
20 CHAIRMAN SMOLINSKI: He is not here
21 currently.
22 MS. BROWN: Ms. Royek?
23 MS. ROYEK: Here.
24 MS. BROWN: Ms. Platts?
25 MS. PLATTS: Here.

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1 CHAIRMAN SMOLINSKI: I believe I was
2 gone, so I'm going to abstain.
3 Well, actually I'll approve half of
4 them, because I was here for half.
5 Any correspondence since last time?
6 MS. BROWN: None.
7 CHAIRMAN SMOLINSKI: At this time I'm
8 going to open to the public for any matters not on
9 the agenda tonight.
10 (No response.)
11 CHAIRMAN SMOLINSKI: Seeing none, I'm
12 going to close it.
13 Let's see, we'll go to the Regular
14 Order of Business. I will move the resolutions to
15 the end.
16 No committee report. No other matters,
17 I don't believe.
18 So let's go to the continuation of
19 BOA-22-22, Marogi.
20 Sir, the floor is yours.
21 MR. KOHUT: Thank you, Mr. Chairman.
22 Just give me a moment.
23 MR. BELL: Would you please make sure
24 your mic is on? I mean, it is, but I want to be
25 doubly sure.

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1 CHAIRMAN SMOLINSKI: It is on.
 2 MR. BELL: Thank you.
 3 MR. KOHUT: Good evening, Mr. Chairman,
 4 members of the board. I hope everyone is enjoying
 5 their summer, I can't believe it's gone this quickly.
 6 I had both my kids in sleep-away camp and it went by
 7 especially quickly now that they're back.
 8 I am here on behalf of David and Rachel
 9 Marogi, 20 Johnson Road, Block 40301, Lot 2.
 10 What I thought would be a good idea
 11 since it's been a couple of months since I have been
 12 here is to just give a summary of where we have been
 13 and where we're going so that everyone is on the same
 14 page.
 15 On our first application -- in our
 16 first application, our first hearing, which was
 17 May 13th, 2023, the board had determined that Van
 18 Dien Lane was not a street as defined in the Borough
 19 code.
 20 Therefore, it was determined that this
 21 is an interior lot, not a corner lot, not --
 22 therefore, not requiring two front yard setbacks.
 23 That was all -- we stopped at that
 24 point. It was a long meeting.
 25 And then we came back on May 15th and
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1 presented our plan to the board.
 2 At that time two variances were
 3 required; one for impervious coverage where
 4 38.3 percent was proposed, 39.6 percent existed and
 5 25 percent is permitted.
 6 Even though we're reducing the amount
 7 of impervious coverage, you're still required to seek
 8 a variance from the board.
 9 In addition to that, we required a
 10 front yard setback of 25 -- where we were proposing
 11 24 feet and 25.86 feet was required.
 12 At that hearing several topics were
 13 discussed by both the board members and the public.
 14 Some of those included the need for the two garages,
 15 the proposed two garages; the proximity of the garage
 16 along Van Dien to Lot 3 which is, if you go along Van
 17 Dien it's the property next door; the pool; the front
 18 yard setback, the need for the front yard setback;
 19 and what I'll call Green Pond's approval.
 20 Since that time we have submitted
 21 revised plans, and at this time I'm happy to -- happy
 22 to say with regard to all those topics raised we are
 23 now proposing one garage, one three-car garage, which
 24 is permitted by code.
 25 The garage is set back 11 feet from Lot
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1 3, so that's double -- over double what is required
 2 for a garage.
 3 Only 5 feet is required, we're
 4 proposing 11 feet.
 5 Front yard setback complies. We are
 6 compliant with front yard setback.
 7 The pool has been eliminated. There is
 8 no more pool proposed.
 9 Green Pond has issued a conditional
 10 approval for this plan. One of -- there were two
 11 conditions, two things they wanted us to address; one
 12 was that pavers were to be installed with gravel per
 13 ICPI standards.
 14 We agree to that. That could be placed
 15 in this resolution of approval if you want.
 16 The other, not issue but thing they
 17 brought up, I'm going to let my architect testify
 18 about, she'll bring it up in her testimony.
 19 And then finally, the only variance we
 20 need right -- well, I shouldn't say that. The
 21 impervious coverage variance now has been reduced to
 22 37.9 percent. So we reduced it from 38.3 percent to
 23 37.9 percent.
 24 There is mention in your professionals'
 25 reports that I just want to address that at this
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1 point.
 2 Mr. Ten Kate issued his report on
 3 August 8th. He indicated there were two additional
 4 variances; one dealing with the accessory height as a
 5 -- we will have testimony to this fact. We will
 6 comply with the height.
 7 The mean height of the accessory
 8 structure will be no more than 16 feet. We're not
 9 seeking a variance for that. And we'll go over that
 10 testimony.
 11 In addition, Mr. Ten Kate brought up
 12 that a variance is required for the proximity of the
 13 accessory structure to the principal structure where
 14 10 feet is required.
 15 However, what Mr. Ten Kate didn't
 16 realize, I spoke to him about this, is that that
 17 Ordinance was changed in April of 2023. That's a
 18 recent ordinance.
 19 And since our application predates that
 20 ordinance, based on the time of application rule, we
 21 are afforded the right of the prior ordinance which
 22 is 5 feet.
 23 And we comply with that requirement.
 24 So my position is a variance is not
 25 required for that.
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1 MS. PLATTS: You're saying the
2 requirement that Mr. Ten Kate was saying you should
3 be held to in the report came after your application?
4 MR. KOHUT: Correct.
5 CHAIRMAN SMOLINSKI: Correct.
6 MR. BELL: Yes, you're right.
7 There's a statutory citation,
8 N.J.S.A. 45D-10.5 discusses as follows:
9 "Notwithstanding any other provisions
10 of law to the contrary, those development
11 regulations which are in effect on the date of
12 the submission of an application for
13 development shall govern the review of that
14 application or development and any decision
15 made with regard to that application for
16 development, any provisions of an ordinance,
17 except those relating to health and public
18 safety that are adopted subsequent to the date
19 of submission of an application for
20 development shall not be applicable to that
21 application for development."
22 That's the state statute.
23 MS. PLATTS: What's the date of
24 application in this case?
25 MR. BELL: The date of application
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14

1 was --
2 MR. KOHUT: I think December, some time
3 in December. Yeah.
4 Even my first appearance on May 13th
5 predates that -- that Ordinance.
6 MS. PLATTS: Okay.
7 MR. NOVAK: Yes, I can confirm that the
8 ordinance was adopted prior to the application being
9 heard here.
10 Previously there was something called
11 the --
12 MR. KOHUT: After the application.
13 MR. NOVAK: I'm sorry, yes, after the
14 application. Sorry. It's been a long day.
15 Previously there was something called a
16 Time of Decision Rule, just so the board has a little
17 bit of background on this. The Municipal Land Use
18 Law was changed back in 2011 to eliminate that.
19 So previously boards had the ability to
20 rely on zoning changes that were made up to the time
21 that you made a decision, so if there was an
22 application that was submitted and the municipality
23 changed ordinances during that application hearing
24 process which would require an additional variance,
25 that applicant would have to seek that variance.
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1 That was changed in 2011 to essentially
2 lock in those regulations when the application is
3 deemed complete.
4 So when the application is deemed
5 complete, the regulations that are in the code are
6 the ones that apply. With one slight exception
7 wherein if the regulations make the Applicant's
8 burden less so; i.e., if the zoning changes would
9 potentially remove variances, the Applicant can
10 actually rely on that. But that is above and beyond
11 the scope of this application.
12 MS. PLATTS: I would like anything that
13 says i.e.
14 MR. NOVAK: Don't ask me what it stands
15 for in Latin.
16 MR. KOHUT: As someone who's been on
17 the receiving end of the Time of Decision Rule, it's
18 not fun.
19 And then Mr. Novak brought up a
20 variance with regard to a part of the driveway
21 exceeding the 22-foot requirement which we'll discuss
22 during testimony and get the Board's input on that as
23 well.
24 Beyond that, I think where I'm --
25 unless the board has any questions of me, I would
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16

1 like to present my first witness.
2 CHAIRMAN SMOLINSKI: David, do you have
3 anything for us?
4 MR. NOVAK: No, I don't.
5 CHAIRMAN SMOLINSKI: Okay. Please
6 proceed.
7 MR. KOHUT: Thank you, Mr. Chairman.
8 Ms. Ryder?
9 MR. BELL: I believe we previously
10 swore you in.
11 Just for continuity purposes, I would
12 like to do that again if I may.
13 MS. RYDER: Sure.
14 MR. BELL: Do you solemnly swear that
15 the testimony you're going to provide this board
16 tonight is the truth, the whole truth and nothing but
17 the truth?
18 MS. RYDER: I do.
19 L O R I J E A N R Y D E R, AIA
20 349 Green Pond Road, Rockaway, New Jersey,
21 having been duly sworn, testifies as follows:
22 MR. BELL: And would you again state
23 your name and your professional association.
24 THE WITNESS: Lori Jean Ryder,
25 registered architect.
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1 MR. BELL: Okay. I'm going to hand you
2 the mic because I unfortunately had to listen to this
3 on Saturday or Sunday.

4 DIRECT EXAMINATION

5 BY MR. KOHUT:

6 Q. So, Ms. Ryder, we have submitted
7 revised plans to this -- to the Board. Can you just,
8 for the board's edification, give the date of those
9 plans?

10 A. The date of revisions were 8/5.

11 MR. BELL: If you whisper I will not be
12 able to hear you.

13 THE WITNESS: Is that what you're
14 referring to.

15 MR. KOHUT: August 5th.

16 Here.

17 THE WITNESS: August 5th.

18 MR. BELL: Thank you.

19 MR. KOHUT: 2023.

20 BY MR. KOHUT:

21 Q. And you were under -- you or someone
22 under your supervision prepared those plans?

23 A. Yes.

24 Q. Why don't -- you've all -- everything
25 you have said -- you stated in the last hearing with

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1 of the house, you know, my clients gave me an
2 inspirational photo of what they would like, and you
3 can see that we have -- instead of a big mass or a
4 block, we've broken down the scale on every elevation
5 using steeper pitched roofs and cutting the plate
6 height down to a 5-foot plate height.

7 So we're in keeping with Green Pond's
8 character as far as the aesthetics are concerned with
9 the style of architecture.

10 Q. What type of materials are being used
11 for the elevations?

12 A. We're going to be using stone and most
13 likely a Hardie Plank fiber cement board siding, if
14 not vinyl. That -- you know, that will be decided
15 once we have the cost on the house, but...

16 And the garage is matching the house
17 and we have a shed, it's a garden shed in the back,
18 that also matches the aesthetic of the house.

19 Q. Has there been any changes to the
20 interior layout of the house?

21 A. Yes.

22 Q. Can you generally go over those changes
23 -- have the number of bedrooms changed?

24 A. No.

25 No, the -- by relocating the garage

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1 regard to existing conditions has not changed; right,
2 existing conditions remain the same?

3 A. Correct.

4 Q. Why don't you go through with the board
5 the revisions that were made to the plan, to your
6 plans.

7 A. Okay.

8 Well, as was mentioned, the original
9 plan, we had the two -- detached garage with two cars
10 in each.

11 We consolidated that to a three-car
12 garage in the rear here (indicating).

13 The front yard setback was originally
14 24 feet, and we've reduced -- well, we've increased
15 it to 25.86, which is what is required.

16 So we've taken out about 723 square
17 feet from the overall footprint of the house.

18 The actual living space and the
19 footprint is 89 per -- square feet less than it
20 originally was.

21 Q. So the front yard setback, as I stated
22 in my opening, now complies; correct?

23 A. Correct.

24 Q. Okay. Continue.

25 A. So as far as the, you know, aesthetics

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1 that was in the front here (indicating), originally
2 we had a side entry into a pantry into the kitchen
3 which couldn't just be flipped because the garage is
4 over here (indicating).

5 We had to rearrange the rooms to make
6 it work.

7 The three main rooms, the family room,
8 dining room, kitchen, is an open concept plan.

9 And, you know, there were certain
10 specifications that they wanted to keep for these
11 rooms, so these rooms, the front got reduced to meet
12 the setback and in general, we have the same rooms
13 but just rearranged a bit.

14 Q. As you said, that garage that we're now
15 proposing, that's set back 11 feet from the proper --
16 the rear property line?

17 A. Correct.

18 MR. BELL: Does that make the sight
19 distance easier for those who live there?

20 THE WITNESS: Definitely. Well --
21 definitely. It makes the sight distance coming out
22 of Van Dien better because the garage is pulled back.

23 And it -- it also, for any of the
24 neighbors, it's further from their driveway.

25

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1 BY MR. KOHUT:

2 Q. And isn't it the Applicant's intent,
3 with regard to the garage along Van Dien, to use that
4 for both his lake equipment and he has a classic car
5 collection; is that the purpose of that garage?

6 A. Yes.
7 This is more so for storage and we have
8 access from Van Dien, but it's not going to be used
9 daily.

10 Q. Okay.
11 MS. PLATTS: May I ask a question? It
12 seems like there were significant changes to the
13 plans.

14 Was that directly in response to the
15 issues raised at the prior meeting relating to the
16 concerns raised on the multiple garages, the issues
17 raised by the neighbors as to visibility --

18 THE WITNESS: Correct.
19 MS. PLATTS: -- getting out and getting
20 in?

21 Is that why you made such significant
22 changes to the design plan?
23 THE WITNESS: Yes.

24 MR. KOHUT: And I would also note, and
25 I know --

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1 Q. And it's -- currently right now it's an
2 existing it's 39.6 percent?

3 A. Correct.

4 Q. And we even reduced it from what was
5 previously proposed at 38.3 percent, correct?

6 A. Correct.

7 Q. Okay.
8 Go over -- now, I had stated in my
9 opening with regard to the garage, the height of the
10 garage will meet the definition, the mean will be
11 below 16 feet?

12 A. Correct.

13 I calculated the mean of the garage to
14 be about 14-foot-5.

15 Q. We'll provide calculations for the
16 Board just so they have them at --

17 A. Sure.

18 Q. -- if the Board so chooses to approve
19 this application?

20 A. Correct.

21 Q. Okay.

22 Go -- the one thing I wanted you also
23 to discuss, and I brought it up in my opening and I
24 want it to be completely transparent, Green Pond
25 Association had discussed -- had sent -- had provided

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1 MS. PLATTS: I apologize.
2 Was that the reason for the significant
3 changes in the design plans the issues raised at the
4 last meeting where the neighbors raised in relation
5 to concerns they had with being able to see and
6 getting out of their homes? Is that why?

7 THE WITNESS: Yes, it was.

8 MR. KOHUT: I would also let the board
9 know, and I know a couple of the board members are
10 here, we actually met separately also with Green Pond
11 to try to work through the issues they had, as well
12 as the board and other general members of the public,
13 so...

14 MS. PLATTS: Because it does seem like
15 you've made significant changes and that those
16 changes were directly related specifically to the
17 issues raised last time.

18 THE WITNESS: Yes.

19 MS. PLATTS: Okay.

20 BY MR. KOHUT:

21 Q. And, again, with the coverage, we're
22 reducing the amount of impervious coverage?

23 A. Yes.

24 Q. To 37.9 percent?

25 A. Correct.

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1 us with a comment regarding the grill?

2 Can you go over that for the board as
3 well?

4 A. I had originally had the grill tucked
5 under my covered porch in the rear.

6 My client was not happy with that
7 because of the smoke and wanted it to go open air, so
8 I extended it past the covered porch. There's a
9 4-foot area to stand and then the 2-foot island;
10 outdoor kitchen, if you will.

11 And Green Pond was concerned that it
12 was not meeting the rear yard setback of 35 feet, but
13 in the code it provides for 25 percent that we can go
14 into the setback if it's not covered for either a
15 patio, raised patio, or a deck.

16 And so this is 6 feet into the setback
17 where we're allowed 8-foot-9.

18 MR. KOHUT: I have no further questions
19 of this witness.

20 CHAIRMAN SMOLINSKI: Dave?

21 MR. NOVAK: Thank you very much. You
22 addressed several of the questions in my memo.

23 Just regarding the rationale behind the
24 placement of the garage and the dwelling, was that
25 driven by -- I know there is leach field in the back

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1 of the property, so was the placement of the garage
 2 and the dwelling driven by that?
 3 THE WITNESS: Well, in part, you know,
 4 the front setback is set, the rear setback is set,
 5 the side setback is set. So we have it right to the
 6 -- meeting all those three. And then, you know, the
 7 garage is --
 8 MR. KOHUT: And the leach field is
 9 located behind the house, correct?
 10 THE WITNESS: Right.
 11 MR. KOHUT: So that's -- that led to
 12 this design.
 13 MR. NOVAK: So you couldn't mirror that
 14 design to have, say, the house on the other side of
 15 the property and garage in the other because of the
 16 leach field?
 17 THE WITNESS: Let me think about that.
 18 CHAIRMAN SMOLINSKI: The garage
 19 placement, I guess, is the question.
 20 THE WITNESS: Well --
 21 MR. KOHUT: I'm going to let the
 22 engineer comment on that.
 23 MR. NOVAK: I'm sorry, I didn't know
 24 the engineer was testifying, I apologize.
 25 MR. KOHUT: Yeah.

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1 MR. NOVAK: I'm sorry. I apologize, I
 2 didn't know the engineer was testifying.
 3 MR. BELL: It is an engineering
 4 question.
 5 THE WITNESS: The side yard for the
 6 house is 15 feet.
 7 The garage has less of a side yard
 8 issue --
 9 MR. NOVAK: Yeah.
 10 THE WITNESS: -- you know, that could be
 11 closer to the property lines.
 12 So to switch it, it wouldn't work out
 13 the same.
 14 CHAIRMAN SMOLINSKI: Okay.
 15 MS. PLATTS: I have a question.
 16 When we're talking about 37.9 percent
 17 of impervious coverage that includes the impervious
 18 coverage on Van Dien Lane that is part of that?
 19 MR. KOHUT: Correct.
 20 MS. PLATTS: And if we talk about the
 21 impervious coverage excluding Van Dien Lane we're
 22 closer to 30 percent?
 23 THE WITNESS: To 30 percent, correct.
 24 MS. PLATTS: Correct?
 25 THE WITNESS: Uh-huh.

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1 MR. NOVAK: That is correct.
 2 CHAIRMAN SMOLINSKI: And based upon
 3 just looking at the existing side yard and seeing the
 4 approximate location of the leach field on there, it
 5 wouldn't fit.
 6 I think if you look at the required
 7 distance of setback distance, if you take a look at
 8 it. Just confirm if it was on the -- I would call
 9 that the north side.
 10 THE WITNESS: Correct.
 11 MR. KOHUT: In addition, if we were to
 12 flip this, this layout, wouldn't you want the house a
 13 little further set back from Van -- we're already at
 14 12-and-a-half feet, given Van Dien Lane.
 15 THE WITNESS: Correct.
 16 MR. KOHUT: You want to set back
 17 another 10, 15 feet from Van Dien Lane, you're
 18 halfway into the property.
 19 THE WITNESS: Correct.
 20 And also the garage is set back so that
 21 it's not blocking that house as well.
 22 MR. KOHUT: Right.
 23 MS. PLATTS: Dave, what about your
 24 concerns about the driveway?
 25 MR. NOVAK: So I don't know if -- is

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1 that going to be addressed by the engineer or --
 2 THE WITNESS: Well --
 3 MR. KOHUT: Go ahead.
 4 THE WITNESS: I drew it.
 5 MR. NOVAK: Okay.
 6 THE WITNESS: You know, my thought was
 7 that it would be a drive court past that wall and
 8 you'd have a little more room, you know, it's a small
 9 amount of space to turn a car around in true, but
 10 like if you bring the golf cart there and you're
 11 maneuvering and getting back out, it gives you that
 12 extra 4 feet. Because it's -- it's basically taking
 13 that sidewalk and bringing it straight down. That
 14 was my thought.
 15 MR. NOVAK: Okay.
 16 So just for the Board's edification, we
 17 have a regulation specifically in
 18 Section 54-30.1(2)(b)(2) which establishes that the
 19 driveway width for a single-family house can't exceed
 20 22 feet, except as needed to provide a turnaround
 21 area.
 22 Now, there is no definition in the code
 23 of what a turnaround area necessarily is, so the
 24 board does have a little bit of latitude to interpret
 25 that to determine whether or not that additional

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1 space is necessary for safe circulation for cars to
 2 maybe turn around or if it's just being utilized for
 3 storage of vehicles.
 4 CHAIRMAN SMOLINSKI: It's beyond now --
 5 does it exceed 22 feet beyond the front yard setback,
 6 meaning --
 7 THE WITNESS: Yes, it's beyond --
 8 CHAIRMAN SMOLINSKI: -- prior to --
 9 THE WITNESS: It's prior to it, it's
 10 22 feet.
 11 There's a wall at the front of the
 12 house and that's a drive court, so it's an extra
 13 4 feet.
 14 CHAIRMAN SMOLINSKI: It's beyond the
 15 front yard setback.
 16 THE WITNESS: True.
 17 CHAIRMAN SMOLINSKI: Okay.
 18 MR. KOHUT: And real -- one quick other
 19 thing.
 20 BY MR. KOHUT:
 21 Q. There are some structures in your --
 22 the front -- in your drawing that didn't make it onto
 23 the site plan.
 24 Just, can you comment on those?
 25 A. Yes.

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1 I am looking to put decorative stone
 2 walls just to make it cottagey and quaint in the
 3 village there that you have stone piers coming in the
 4 driveway and also the walkway.
 5 And these are under 3 feet and they
 6 slope down to, like, a 2-foot, and I have lights on
 7 the piers here.
 8 MR. KOHUT: No further questions.
 9 MR. NOVAK: One of the other items that
 10 I saw that was on the one plan but not the other plan
 11 was --
 12 THE WITNESS: The little driveway.
 13 MR. NOVAK: -- the little driveway,
 14 yes.
 15 THE WITNESS: Yes, that was my
 16 omission, I apologize for that.
 17 It's -- this little piece here I
 18 forgot, I omitted by accident. But Allison has it on
 19 her plan.
 20 It's just a little driveway going into
 21 that third garage.
 22 MR. NOVAK: And that driveway won't
 23 connect all the way into Van Dien Lane.
 24 THE WITNESS: Will not, did you say?
 25 MR. NOVAK: It does connect all the way

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1 to Van Dien Lane?
 2 THE WITNESS: It's a driveway. Yes.
 3 MR. NOVAK: Oh, I see now.
 4 I apologize. So it does connect.
 5 MR. KOHUT: Mr. Bell, just for the
 6 record, I marked those plans as A-7.
 7 (Whereupon, Revised Plans are marked as
 8 Exhibit A-7 for identification.)
 9 MR. KOHUT: And I marked this 3D as
 10 A-8.
 11 (Whereupon, 3D Model is marked as
 12 Exhibit A-8 for identification.)
 13 MR. BELL: You may want to let
 14 everybody take a look at that, maybe you could
 15 display that?
 16 MR. KOHUT: Sure.
 17 After Ms. Ryder's done, we'll put it
 18 over there for them to look at.
 19 MR. BELL: Right.
 20 Sure, so they can review it.
 21 THE WITNESS: I brought the other plan
 22 just to show the difference.
 23 MR. NOVAK: Those are all the questions
 24 I have for now.
 25 CHAIRMAN SMOLINSKI: Let the record

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1 note that Peter joined us, Mr. Ten Kate.
 2 MR. TEN KATE: Thank you, Mr. Chairman.
 3 Just to confirm that the third garage,
 4 it can -- it is sized for a car, right?
 5 A car could fit in there, or did you
 6 design it for a golf cart or...
 7 THE WITNESS: It's sized that a car
 8 could fit in there. It's 23-by-12.
 9 MR. TEN KATE: Okay.
 10 And what will the rear façade of that
 11 garage look like since it faces the front yard of the
 12 adjoining neighbor?
 13 There is no detail on there.
 14 MR. KOHUT: Show him on that exhibit.
 15 THE WITNESS: Well --
 16 MR. KOHUT: Is it on your plan right
 17 now?
 18 THE WITNESS: I have a window up top, I
 19 don't have windows below because we're not looking
 20 out into anything. This -- I added this
 21 (indicating).
 22 MR. TEN KATE: Oh, okay.
 23 THE WITNESS: The left side, is the one
 24 facing the -- the inside of the lot. It's basically
 25 a mirror image of the one that's facing Van Dien

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1 except that it has a man door.
 2 MR. KOHUT: And then that --
 3 THE WITNESS: Which then connects to
 4 the mudroom.
 5 MR. KOHUT: And then on the lower left,
 6 that's the -- that's the -- that's in the rear.
 7 THE WITNESS: Yes, this (indicating).
 8 CHAIRMAN SMOLINSKI: Is that the rear
 9 view --
 10 MR. KOHUT: Yes.
 11 MR. TEN KATE: -- on the lower left?
 12 MR. KOHUT: Yes.
 13 MR. TEN KATE: So you have a single
 14 window up high, correct?
 15 MR. KOHUT: Yes.
 16 MR. TEN KATE: Okay.
 17 MR. LOFTUS: What is the date of that
 18 A-2 drawing because we have --
 19 THE WITNESS: Oh, I added this
 20 (indicating).
 21 MR. LOFTUS: Yes.
 22 THE WITNESS: -- is this what you're
 23 looking at?
 24 MR. LOFTUS: Yes. Okay.
 25 THE WITNESS: Because --

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1 MR. KOHUT: It was to address a comment
 2 of the board --
 3 THE WITNESS: Yeah.
 4 MR. KOHUT: -- we wanted to add that.
 5 MR. LOFTUS: Okay.
 6 THE WITNESS: Originally I hadn't put
 7 it on --
 8 MR. KOHUT: The comment of the
 9 professional.
 10 THE WITNESS: -- because it was a mirror
 11 image, but like I said, the only difference would be
 12 the man door as opposed to a window.
 13 So I added it so you could see it.
 14 MR. TEN KATE: The only comment --
 15 other comment I have if this is approved the details
 16 for those amenities should be on the plan. Okay.
 17 MR. KOHUT: Not a problem.
 18 MR. TEN KATE: Okay.
 19 And this driveway is designed, you
 20 probably mentioned it before I got here, but you
 21 can't turn around in this driveway; right? It's
 22 strictly back in and back out?
 23 MR. KOHUT: Correct.
 24 THE WITNESS: It would take many
 25 K-turns.

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1 But, yes, it's not designed for...
 2 MR. TEN KATE: Okay.
 3 That's all, Mr. Chairman.
 4 CHAIRMAN SMOLINSKI: All right.
 5 Members of the board, any questions?
 6 MS. ROYEK: Could we see the model, or
 7 no?
 8 CHAIRMAN SMOLINSKI: Sure.
 9 THE WITNESS: Bring it -- it's not --
 10 the house and garage are not attached. So don't
 11 trip.
 12 CHAIRMAN SMOLINSKI: I thought you
 13 would have a Mini Cooper, Pete, you might be able to
 14 do a K-turn without a problem.
 15 MS. PLATTS: I mean, I would like to
 16 see it.
 17 MS. ROYEK: Could you turn it around?
 18 MR. LOFTUS: The one in the rear, that
 19 is the neighbor?
 20 THE WITNESS: Yes.
 21 MR. KOHUT: Yes, this is shown on, just
 22 this garage.
 23 THE WITNESS: Yeah, those are garages
 24 of the neighbors.
 25 MR. LOFTUS: I do have a question on

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1 the impervious coverage.
 2 We talked about it before on the
 3 third --
 4 THE WITNESS: Sure.
 5 MR. LOFTUS: -- garage, the additional
 6 driveway there, so that would be a net addition. You
 7 did not have that in your calculation, right, the
 8 driveway there?
 9 THE WITNESS: No, it's in the
 10 calculation.
 11 MR. LOFTUS: It is?
 12 THE WITNESS: Well, it's -- it's
 13 impervious -- it's pervious driveway, so it's not
 14 included in impervious coverage.
 15 CHAIRMAN SMOLINSKI: So none of the
 16 driveway --
 17 THE WITNESS: Right.
 18 CHAIRMAN SMOLINSKI: -- is calculated --
 19 is included, correct?
 20 THE WITNESS: Right.
 21 CHAIRMAN SMOLINSKI: Because it's all
 22 pervious pavers.
 23 THE WITNESS: Right.
 24 CHAIRMAN SMOLINSKI: All right.
 25 Anyone else?

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1 (No response.)
 2 CHAIRMAN SMOLINSKI: I want to thank
 3 you for taking a lot of what you heard into
 4 consideration.
 5 THE WITNESS: Thank you. Appreciate
 6 that.
 7 CHAIRMAN SMOLINSKI: I have no -- I
 8 have no questions at this time.
 9 I guess my only question is, is that
 10 third -- is that third garage meant to be a principal
 11 -- principal use for daily use or is that meant to be
 12 used for...
 13 MR. BELL: Storage.
 14 CHAIRMAN SMOLINSKI: Let's say storage
 15 or --
 16 THE WITNESS: More so storage for the
 17 beach life.
 18 CHAIRMAN SMOLINSKI: -- let's say a
 19 recreational-type vehicle.
 20 THE WITNESS: Yes, yes.
 21 MR. KOHUT: Correct.
 22 CHAIRMAN SMOLINSKI: Okay.
 23 THE WITNESS: True.
 24 CHAIRMAN SMOLINSKI: With that, I have
 25 no further questions.

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1 If nobody else does, I'm going to open
 2 it to the public for this witness for testimony given
 3 this evening only.
 4 MR. BELL: You have to come up to the
 5 front and identify yourself.
 6 CHAIRMAN SMOLINSKI: Yes, please.
 7 Name and address for the record.
 8 MR. BELL: And use the microphone,
 9 please.
 10 MR. FINK: Hello, my name is Steven
 11 Fink.
 12 I live at 17 Johnson Road, I'm, I
 13 guess, adjacent neighbor across the street.
 14 My question relates to the front yard
 15 setback.
 16 I see on your -- on A-1, foundation
 17 plan, site plans, specifically the calculation of the
 18 25.86 feet, the front yard setback, I guess that was
 19 calculated by the two adjoining front yards.
 20 The dashed line on the diagram goes
 21 through the two front steps. How is that not part of
 22 the principal structure? And how is that not
 23 considered an encroachment on the front yard setback?
 24 THE WITNESS: The two front steps are
 25 not covered.

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1 MR. FINK: But they -- they are
 2 masonry. They're -- they have a full foundation
 3 under them.
 4 THE WITNESS: Yes.
 5 If we went by that, the neighbor next
 6 door that has a 10-foot stair would be calculated
 7 into our setback, it would be at 23 feet.
 8 MR. FINK: Well, that's fine.
 9 But then the calculation should be
 10 modified and -- to address this, because your
 11 building box on A-1 would then be incorrect.
 12 THE WITNESS: David can --
 13 CHAIRMAN SMOLINSKI: We'll allow David
 14 to address that.
 15 MR. NOVAK: I can answer that, yes.
 16 Section 54-30.6(f)(4)(e) discusses
 17 certain types of encroachments.
 18 Oh, I'm sorry.
 19 Section 54-30.6(f)(4)(f).
 20 And I am speaking as slowly as possible
 21 for our stenographer.
 22 That section quotes:
 23 "No steps shall extend into any street,
 24 right-of-way in any district. Unenclosed
 25 steps may extend a maximum of 5 feet into any

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1 required front or rear yard."
 2 So as long as the steps are unenclosed,
 3 they are permitted to extend into a required front
 4 yard area by at most 5 feet.
 5 If they were enclosed, then we would
 6 count it as part of the front yard setback and it
 7 would require variance relief.
 8 But because they're not enclosed, they
 9 don't require that relief.
 10 MR. FINK: Thank you for addressing my
 11 questions.
 12 CHAIRMAN SMOLINSKI: Thank you.
 13 It's a good question.
 14 Any other questions?
 15 (No response.)
 16 CHAIRMAN SMOLINSKI: Seeing none, we'll
 17 close it.
 18 MR. KOHUT: Allison Lapatka?
 19 MS. PLATTS: It looks like another
 20 person had a question.
 21 MR. KOHUT: Oh, I'm sorry.
 22 MS. KORLISHIN: I'm Anne Korlishin. I
 23 live at Van Dien Lane.
 24 THE COURT REPORTER: Please spell your
 25 last name.

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1 MS. KORLISHIN: K-O-R-L-I-S-H-I-N.
 2 THE COURT REPORTER: Thank you.
 3 MS. KORLISHIN: We were not shown --
 4 according to Green Pond rules and regulations, the
 5 Applicant applying for this plan is supposed to
 6 notify the neighbors.
 7 We never received it until Friday
 8 morning, never from the Applicant, but from the Green
 9 Pond Corporation.
 10 They are supposed to notify us by
 11 either regular mail or certified mail.
 12 We didn't receive anything in the mail
 13 or anything handed to us.
 14 MR. KOHUT: That's Green Pond, this is
 15 --
 16 CHAIRMAN SMOLINSKI: Right. We --
 17 MS. KORLISHIN: It's also Rockaway
 18 Township.
 19 People are supposed to be notified by
 20 mail, first class or registered mail.
 21 CHAIRMAN SMOLINSKI: It's a
 22 continuation hearing, so they're allowed to come
 23 forward, provide amended plans --
 24 MS. KORLISHIN: But we are supposed to
 25 be notified.

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1 We should be notified.
 2 CHAIRMAN SMOLINSKI: There's no further
 3 notification after the last meeting.
 4 This meeting was set, so --
 5 MS. KORLISHIN: But we didn't receive
 6 copies of the plans.
 7 We didn't receive...
 8 MR. BELL: You can come here for public
 9 inspection.
 10 MS. KORLISHIN: We didn't even know
 11 there were new plans.
 12 How are we supposed to be notified --
 13 we were supposed to be notified that there is new
 14 plans.
 15 MR. BELL: Well, you were here at the
 16 last meeting, were you not?
 17 MS. KORLISHIN: I was.
 18 But, I mean, we were not notified of
 19 new plans.
 20 MR. BELL: Okay.
 21 MR. NOVAK: It's more of a legal issue,
 22 but the hearing was carried from the May hearing
 23 without further notice.
 24 So the Applicant, I don't think,
 25 legally has the responsibility to renounce the

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1 neighbors.
 2 And if they did, they would not include
 3 a copy of those new plans in there.
 4 Now, I can't speak to the Green Pond
 5 rules, bylaws, quite frankly --
 6 MS. KORLISHIN: That's Green Pond.
 7 And for Rockaway Township?
 8 MR. NOVAK: For Rockaway Township --
 9 I'm sorry, for Rockaway Township, what is the -- what
 10 are you --
 11 MS. KORLISHIN: Aren't you supposed to
 12 send -- the Applicant is supposed to send copies of
 13 the plan.
 14 MR. NOVAK: No, just certified letters.
 15 MS. KORLISHIN: We didn't receive that
 16 either.
 17 MR. NOVAK: We should have a list of
 18 green receipts here in the application file.
 19 MR. KOHUT: Can I -- can I be heard?
 20 CHAIRMAN SMOLINSKI: Yes.
 21 MR. KOHUT: Can I be heard, please?
 22 Please?
 23 CHAIRMAN SMOLINSKI: Sure.
 24 MR. KOHUT: We noticed for the hearing,
 25 the first hearing.

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1 CHAIRMAN SMOLINSKI: Yes.
 2 MR. KOHUT: Our requirement is to send
 3 the notices because sometimes people don't accept the
 4 notices. We noticed for that hearing, that prior
 5 hearing.
 6 At the hearing we carried it to the
 7 next date. We're not required under the law to
 8 renounce at that point.
 9 CHAIRMAN SMOLINSKI: Correct.
 10 MR. KOHUT: We didn't -- we were not
 11 creating --
 12 MS. KORLISHIN: You're supposed to send
 13 certified and regular mail.
 14 MR. KOHUT: It was sent certified --
 15 the original notice was sent certified mail and after
 16 that, it was carried.
 17 MS. KORLISHIN: We didn't get copies of
 18 --
 19 MS. PLATTS: I am willing to give you
 20 my copy of the plan, if you'd like my copy?
 21 MS. KORLISHIN: Yes.
 22 MS. PLATTS: I mean I don't think we
 23 have a legal obligation to give you these, but I'm
 24 more than happy to give you my copy of the plans
 25 tonight if you'd like?

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1 MS. KORLISHIN: Tonight? That's kind
 2 of late, isn't it?
 3 MS. PLATTS: No, because we don't have
 4 a legal obligation to give it to you.
 5 You're hear listening to the
 6 application. I'm trying to give it to you as a
 7 courtesy because clearly it's something that matters
 8 to you. I'm offering it to you so that you have it,
 9 it sounds like you want it.
 10 If you want it, I can give it to you.
 11 If you don't want it --
 12 MS. KORLISHIN: We should have had it
 13 ahead of time.
 14 MS. PLATTS: Okay. No problem.
 15 You don't need to get a copy.
 16 We don't have a legal obligation to
 17 send it to you. I'm offering it to you and you're
 18 saying no.
 19 MS. KORLISHIN: I'll take it.
 20 MS. PLATTS: No problem.
 21 MS. KORLISHIN: But, it should have
 22 been handed out or mailed by the Applicant.
 23 MS. PLATTS: He doesn't have a legal
 24 obligation --
 25 MR. BELL: He's not required to.

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1 Joseph, Joe Wright, 3 Van Dien Lane.
 2 THE COURT REPORTER: Please spell your
 3 last name.
 4 MR. WRIGHT: W-R-I-G-H-T.
 5 THE COURT REPORTER: Thank you.
 6 MR. WRIGHT: And I just wanted to speak
 7 to the testimony of both of you that you've addressed
 8 the concerns of my lot for me personally.
 9 I think, for the record, it's -- it
 10 comes down to the fact that in my opinion, it does
 11 meet the definition of street and has functioned as a
 12 street for a long, long, long time.
 13 The board's relying on the memo drafted
 14 by the engineering department. I think that memo is
 15 flawed. It's my opinion.
 16 But again, for the record, they've
 17 testified that they are somehow appeasing me. There
 18 has been a lot of leading questions by the board to
 19 that.
 20 And I just want to speak for the record
 21 that my concerns are not being addressed. I don't
 22 agree with the decision. And I think it's being
 23 developed improperly.
 24 Putting a garage on that side is
 25 changing the flow of the lot.

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1 MS. PLATTS: You might think so. It's
 2 not a legal obligation.
 3 I'm offering to give it as a courtesy.
 4 Would you like it?
 5 MS. KORLISHIN: Yes.
 6 MS. PLATTS: I have the plans.
 7 I'll give it to you.
 8 And we do have a return receipt that
 9 you received the original filing on May 5th of 2023.
 10 We have your certified mail return receipt,
 11 Ms. Korlishin.
 12 You received the original service by
 13 certified mail on May 5, 2023.
 14 MS. KORLISHIN: Yes, I did.
 15 MS. PLATTS: Okay.
 16 Thank you.
 17 MS. KORLISHIN: But not -- but not --
 18 the plans are completely --
 19 MR. KOHUT: Lori?
 20 CHAIRMAN SMOLINSKI: Mr. Wright?
 21 MR. WRIGHT: Yeah. So -- well, thank
 22 you.
 23 THE COURT REPORTER: I'm sorry, sir,
 24 please state your name?
 25 MR. WRIGHT: I guess for the record,

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1 There's only one person benefiting from
 2 these changes, and I don't think that meets with the
 3 code.
 4 So I just wanted to address their
 5 testimony about my concerns. Those go beyond just
 6 what you've done. I mean, it's beautiful and I
 7 appreciate what you tried to do, but it comes down to
 8 the street.
 9 MR. BELL: I know that's been an issue
 10 for you for a long time.
 11 I thought --
 12 MR. WRIGHT: With me.
 13 MR. BELL: With you.
 14 MR. WRIGHT: My neighbor, too.
 15 MR. BELL: Well, of course.
 16 MR. WRIGHT: Okay.
 17 MR. BELL: But I -- you do remember --
 18 MR. WRIGHT: I'm not -- I'm not here to
 19 litigate with you, Joe.
 20 MR. BELL: No, no, not at all.
 21 I'm just trying to explain that --
 22 MR. WRIGHT: I didn't ask you any
 23 questions.
 24 I made my statements.
 25 CHAIRMAN SMOLINSKI: No, the statements

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1 are for later.
 2 MR. WRIGHT: Oh, this is my first time,
 3 Jason.
 4 CHAIRMAN SMOLINSKI: Yeah.
 5 MR. WRIGHT: I am sorry. So you can
 6 laugh at me, but I don't want to waste my time here.
 7 CHAIRMAN SMOLINSKI: No. And I don't
 8 want to waste your time.
 9 MR. WRIGHT: So don't laugh at me.
 10 There's a lot of comic relief. I don't appreciate
 11 it. I don't appreciate how we're being treated at
 12 all as a taxpayer.
 13 I live on a street. I've always lived
 14 on the street, you know that's the debate.
 15 So your testimony about appeasing me is
 16 incorrect, for the record.
 17 Joe, if you would like to...
 18 MR. BELL: I think what we're trying to
 19 say is that the Applicant made significant strides in
 20 conforming his initial project to meet the needs of
 21 the concerns that were addressed at the previous
 22 meetings.
 23 MR. WRIGHT: Joe, the garage could go
 24 on the other side.
 25 There's a garage there now. The

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1 driveway is on the other side now. It was always
 2 there because Van Dien has always been a street.
 3 It's a legal -- you should know, quite frankly,
 4 you're an attorney. I saw you here in civil court.
 5 Come on.
 6 It's a legal argument.
 7 But give me at least the respect not to
 8 lead these people to testify so that if there's an
 9 appeal it's on the record that they're trying to
 10 appease Lot 3, that is incorrect.
 11 They're not appeasing me. They have
 12 done nothing to do it. Any development -- my
 13 correspondence with this board, you know, prior or
 14 between this meeting and the last --
 15 MR. BELL: Come on up, stay on the
 16 record.
 17 MR. WRIGHT: I'm sorry.
 18 I have corresponded with this board,
 19 okay. I have told you that any development other
 20 than a corner lot I will fight to the end.
 21 So I need to address when I sit here
 22 and hear these people testify that they're appeasing
 23 me with what they've done --
 24 MR. KOHUT: We never said we are
 25 appeasing you. So stop --

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1 MR. WRIGHT: Oh --
 2 MR. KOHUT: We said we addressed
 3 concerns --
 4 MR. WRIGHT: Can you go back to the
 5 record?
 6 MR. KOHUT: We said we addressed the --
 7 MR. WRIGHT: Katey? Katey --
 8 MR. KOHUT: We said we addressed topics
 9 concerned -- topics concerned.
 10 MR. WRIGHT: -- brought it up.
 11 You brought it up.
 12 MR. KOHUT: Well, you're -- there were
 13 concerns raised, we've been -- and we've tried to
 14 address them.
 15 MR. WRIGHT: Okay.
 16 MR. KOHUT: I don't know if I --
 17 MR. WRIGHT: Well, I don't think
 18 they've been addressed.
 19 MR. KOHUT: I don't think anything will
 20 appease you.
 21 I think if this was a vacant lot then
 22 it will --
 23 MR. WRIGHT: Oh, okay.
 24 MR. KOHUT: -- then it'll be appeased.
 25 MR. WRIGHT: Okay. You know what, my

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1 friend --
 2 MR. BELL: Let's try to keep this
 3 civil.
 4 MR. WRIGHT: Thank you, Joe.
 5 MR. KOHUT: I've been civil --
 6 MR. WRIGHT: I would appreciate that.
 7 MR. KOHUT: I have been civil since day
 8 one.
 9 MR. WRIGHT: I would appreciate that.
 10 CHAIRMAN SMOLINSKI: There's a way to
 11 deal with it being a corner lot, however you want to
 12 deal with it, we're dealing with the street. This is
 13 not the place to do it.
 14 MS. PLATTS: We don't have the
 15 authority to do it, quite frankly.
 16 MR. WRIGHT: No, I'm not asking you to.
 17 I simply came up here to straighten out the fact that
 18 the record tonight, their professional is testifying
 19 that there have been things done to appease Lot 3.
 20 And that's not -- I don't agree with
 21 that.
 22 MR. BELL: Maybe that was a poor choice
 23 of words.
 24 Maybe it was just to consider the
 25 concerns of the residents.

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1 MR. WRIGHT: I think we understand each
 2 other.
 3 CHAIRMAN SMOLINSKI: Yes.
 4 Thank you.
 5 MR. WRIGHT: Thank you.
 6 CHAIRMAN SMOLINSKI: Yes, sir.
 7 Questions?
 8 MR. SWEITZER: Yes, I just had a
 9 question.
 10 Zack Sweitzer.
 11 THE COURT REPORTER: Please spell your
 12 last name.
 13 MR. SWEITZER: S-W-E-I-T-Z-E-R.
 14 I'm at 18 Johnson Road.
 15 THE COURT REPORTER: Thank you.
 16 MR. SWEITZER: And, yeah, so I'm coming
 17 into this a little bit late, just moved in.
 18 (Laughter.)
 19 MR. SWEITZER: And a...
 20 MS. PLATTS: Nice to meet you.
 21 Welcome --
 22 CHAIRMAN SMOLINSKI: Welcome.
 23 MS. PLATTS: -- welcome to Rockaway.
 24 MR. SWEITZER: Yeah. Yeah.
 25 Well, I used to live here. So --

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1 MS. PLATTS: Okay.
 2 MR. SWEITZER: -- I'm familiar, I'm
 3 familiar with Green Pond.
 4 So, yeah, I was made aware of the plans
 5 last Thursday. And then listening to what you guys
 6 were talking about before, did you say the driveway
 7 is, like, directly next to Van Dien Lane or is there
 8 some sort of gap in between.
 9 MR. KOHUT: There's a gap.
 10 MR. SWEITZER: Okay.
 11 MR. KOHUT: Yeah.
 12 MR. SWEITZER: So, yeah, you know, I
 13 see the driveway and Van Dien Lane.
 14 And I am wondering what the plan is for
 15 significant snowfall where the snow is going to be
 16 placed.
 17 MR. KOHUT: For the driveway?
 18 MR. SWEITZER: Yeah, and Van Dien Lane.
 19 If that was taken into any consideration?
 20 MR. KOHUT: Well, the driveway, just
 21 like anybody else shovels their snow and has to get
 22 rid of it.
 23 You do what you got to do.
 24 MR. SWEITZER: Which is on my property?
 25 MR. KOHUT: No.

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1 MR. SWEITZER: Where -- where is it
 2 going to go?
 3 MR. KOHUT: No.
 4 Normal course of business, whatever --
 5 any other resident -- whatever any other resident in
 6 this town is allowed to do with regard to shoveling
 7 snow, my client -- my client will adhere to.
 8 End of story.
 9 MR. SWEITZER: Okay.
 10 MR. KOHUT: Not putting it on other
 11 people's property.
 12 MR. SWEITZER: Sure.
 13 I mean, it looks like there's quite a
 14 bit of area for snow to be cleared, so significant
 15 snowfall would be, you know, I don't want it going
 16 into my bushes. That's my concern.
 17 MR. KOHUT: I -- I don't blame you.
 18 MR. BELL: And duly noted for the
 19 record.
 20 MR. KOHUT: I don't --
 21 MR. SWEITZER: Okay.
 22 MS. PLATTS: Understood.
 23 MR. KOHUT: Honestly, I am not being --
 24 see, I don't blame you.
 25 MR. SWEITZER: Yeah.

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1 MR. KOHUT: But I am just trying to
 2 tell you, he has to be like every other neighbor, and
 3 be neighborly and when he shovels the snow, not put
 4 it on his neighbor's property.
 5 THE WITNESS: What we did mention in
 6 the prior meetings is that --
 7 MR. BELL: Without a microphone it's
 8 tough to hear.
 9 THE WITNESS: You know, it doesn't --
 10 Van Dien is supposed to be right down the middle of
 11 the properties, and your fence and the forsythia are
 12 over. So it's more justified on his property.
 13 So he's not, you know, he's bearing
 14 most of the --
 15 MR. SWEITZER: Sure. And --
 16 THE WITNESS: -- the pavement of Van
 17 Dien.
 18 MR. SWEITZER: Yeah. And since I came
 19 into this, I'm trying to understand what the whole
 20 right-of-way thing is, and the way I look at it as a
 21 long time Green Ponder, it's grandfathered in where
 22 the pavement is.
 23 Most of it's on Rogie's side, some of
 24 it's on my side.
 25 I look at that pavement as that's --

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1 that's the grandfathered lane there that, you know,
2 people use to access.

3 So, you know, if it's coming into my
4 bushes and fence, you know, that's -- that's the
5 concern I had.

6 MR. KOHUT: That -- that should not
7 happen. I agree with you.

8 MR. SWEITZER: Okay.

9 It shouldn't, but --

10 MR. KOHUT: I agree with you, it
11 shouldn't.

12 MR. SWEITZER: Okay.

13 That's all.

14 MR. BELL: But, you did get a copy of
15 the plans in advance of this evening, right?

16 MR. SWEITZER: I got a copy from Green
17 Pond on Thursday.

18 And I don't know if they have been
19 changed since then, but...

20 MR. KOHUT: No.

21 MR. SWEITZER: Okay.

22 MR. BELL: Thank you.

23 MR. SWEITZER: Thank you.

24 CHAIRMAN SMOLINSKI: Thank you.

25 MR. BELL: Thank you.

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1 I'm also a college professor at NJIT.

2 MR. BELL: I have to ask you this: Is
3 your license still current and in effect?

4 MS. LAPATKA: Yes.

5 MR. BELL: Thank you.

6 MR. KOHUT: Thank you, Mr. Bell.

7 DIRECT EXAMINATION

8 BY MR. KOHUT:

9 Q. Ms. Lapatka, we submitted revised
10 engineering plans last revised August 3, 2023,
11 correct?

12 A. Correct.

13 Q. You or someone under your supervision
14 prepared those plans?

15 A. Yes.

16 Q. Why don't you go through with the board
17 now what the proposed site layout is.

18 A. So I -- Lori testified previously, but
19 we have reduced the size of the building.

20 We have removed the two two-car garages
21 where one was located on the left side of the
22 building and one was located on the right.

23 We have combined them into one
24 three-car garage, as well as adding a shed in the
25 northerly corner of the property.

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1 CHAIRMAN SMOLINSKI: Anyone else?
2 (No response.)

3 CHAIRMAN SMOLINSKI: At this time, I am
4 closing questioning it for this witness.

5 MR. KOHUT: Thank you, Mr. Chairman.
6 Ms. Allison Lapatka?

7 MR. BELL: I believe you may have been
8 previously sworn, but for the benefit of those that
9 were not here, would you please state -- please raise
10 your right hand.

11 Do you solemnly swear the testimony you
12 will present to this board tonight is the truth, the
13 whole truth and nothing but the truth?

14 MS. LAPATKA: Yes.

15 A L L I S O N L A P A T K A, PE

16 12 North State Route 17, Suite 230, Paramus, New
17 Jersey, having been duly sworn, testifies as
18 follows:

19 MR. BELL: And would you state your
20 name and professional association?

21 MS. LAPATKA: Allison Lapatka,
22 L-A-P-A-T-K-A.

23 I own Allison Engineering and Land
24 Surveying based out of West Milford. Lapatka
25 Associates based out of Paramus.

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1 We've also removed the pool. And we
2 have the -- we have added the outdoor grill, which is
3 outside of the building deck to allow for smoke or
4 whatever's being cooked to exit the building and not
5 go into the building.

6 We have a walkway in the front. We
7 have a driveway going back to the garage. And then a
8 very small paver driveway going onto Van Dien Lane.
9 And that is for recreational vehicles' usage only for
10 that garage bay.

11 And then we also have a seepage pit
12 which is sized to contain 2 inches of stormwater over
13 the entire building and the entire garage whereas no
14 stormwater controls currently exist on site.

15 Q. And, Ms. Lapatka, in Mr. Ten Kate's
16 August 8th, 2023 reports, Numbers 22 to 29, deal with
17 drainage.

18 We will adhere to all his comments and
19 his requests?

20 A. Yes.

21 Q. Continue.

22 A. So, again, the -- all the stormwater is
23 contained from the building and the garage, there's
24 no stormwater controlled on site as is.

25 With the location of the garage, we

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1 actually have the existing well right in the front of
2 the garage somewhat in the driveway. That's going to
3 have a manhole cover on it so it's safe to drive
4 over. And that kind of also controlled the location
5 of the garage because otherwise he would have to
6 drill a new well.

7 And a new well on the site is difficult
8 due to all the adjacent septic and other well
9 locations of adjacent properties.

10 Q. Again, let's -- again, do you concur
11 with Ms. Ryder, the setback of the garage is 11 feet?

12 A. The setback is 11 feet.

13 Q. The distance between the two -- the
14 accessory building and the principal building is
15 5 feet?

16 A. Correct, 5 feet.

17 Q. Okay.

18 Talk about the leach field and the
19 adequacy of the leach field. I know you stated --
20 you talked about it last time, but it's new house, a
21 new design. Let's just confirm the testimony from
22 last time?

23 A. So the existing septic system is a
24 three-bedroom septic system and three bedrooms are
25 proposed on-site.

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1 It was inspected when David bought the
2 property back in 2022 and it was approved to be
3 functioning.

4 MR. BELL: And there's no living
5 quarters above the garages.

6 Is that correct?

7 THE WITNESS: No. That would just be
8 storage.

9 MR. BELL: And no plumbing or any other
10 --

11 THE WITNESS: No.

12 BY MR. KOHUT:

13 Q. Why don't -- talk about the landscaping
14 and the tree removal.

15 A. So we're proposing three shade trees on
16 the site.

17 We have one here, here and here
18 (indicating). The existing trees on-site will be
19 inspected by a licensed tree professional and then
20 determined if they're in good condition.

21 And then if they are in good condition,
22 they will remain. If they are in poor condition,
23 they'd be removed.

24 Q. Do we have any issues with the
25 condition of approval that the Applicant -- that the

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1 Applicant must maintain clear access over a
2 12-foot-wide strip of road, Van Dien Lane?

3 A. So Van Dien Lane, we're proposing to
4 keep open for the entirety of construction.

5 Q. Okay. And, but as a condition -- it
6 will always -- it will have clear access; right,
7 we're not --

8 A. Always.

9 Q. -- we're not encroaching into Van Dien
10 Lane?

11 A. Correct.

12 Always have clear access.

13 We're actually proposing a temporary
14 sediment fence along Van Dien Lane so that all
15 construction access comes off of Johnson.

16 Q. We have any issues with building -- an
17 as-built after -- if the Board so chooses to approve
18 the application?

19 A. I was going to do that.

20 Q. Okay.

21 Why don't you go through
22 Section 54-29.13(d)(1) requires that unpaved areas
23 adjacent to buildings shall be sloped to direct
24 surface water and roof drainage away from the
25 buildings, at a minimum slope of 5 percent for the

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1 first 10 feet of horizontal distance?

2 Can you provide some testimony on that?
3 A. So right now the property is very flat,
4 so we're going to try and slope as much as possible
5 to meet that requirement.

6 There may -- may be areas where it's
7 4-and-a-half percent, but we're trying to maintain
8 the 5 percent slope.

9 Q. Okay. And any of these plans will be
10 reviewed and approved by Mr. Ten Kate?

11 A. Correct.

12 Q. Soil erosion, soil movement, we will
13 apply to all county and county agencies with
14 jurisdiction over it?

15 A. Correct.

16 Upon approval, we'll apply to Morris
17 County Soil Conservation and also apply for a soil
18 moving permit in the Township of Rockaway.

19 MR. KOHUT: I have no further
20 questions, Mr. Chairman.

21 CHAIRMAN SMOLINSKI: Peter?

22 MR. TEN KATE: They addressed all my
23 questions.

24 CHAIRMAN SMOLINSKI: Okay.
25 David?

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1 MR. BELL: These are mostly
 2 engineering-related items, so no questions on my end.
 3 CHAIRMAN SMOLINSKI: Any members of the
 4 board?
 5 (No response.)
 6 CHAIRMAN SMOLINSKI: No?
 7 MS. PLATTS: No questions.
 8 CHAIRMAN SMOLINSKI: No questions.
 9 Okay. At this time I'm going to open
 10 it to the public for any questions of the Applicant's
 11 engineer.
 12 Will you please restate your name and
 13 address?
 14 MR. FINK: Yes.
 15 Steven Fink, 17 Johnson Road.
 16 My questions pertain to the impervious
 17 coverage.
 18 In Ms. Ryder's, I believe, testimony
 19 earlier, she mentioned some additional piers and
 20 walls that were not present on the plans submitted.
 21 Have -- where would they be located and
 22 how will they affect the impervious coverage, seeing
 23 that we're already --
 24 MR. KOHUT: Mr. Fink -- is that your
 25 name?

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1 MR. FINK: Yes, sir.
 2 MR. KOHUT: Mr. Fink, on Lori's plan
 3 those piers were shown --
 4 MR. FINK: Okay.
 5 MR. KOHUT: -- and they were included in
 6 the impervious coverage calculation.
 7 MR. FINK: Okay.
 8 MR. KOHUT: So that 37.9 percent does
 9 incorporate those.
 10 MR. FINK: Okay. That's an answer to
 11 my question.
 12 Also, has there been any consideration
 13 to maybe installing berms or swales where the pitch
 14 to the adjoining properties does not meet the
 15 5 percent slope requirement?
 16 THE WITNESS: So we actually have a
 17 swale proposed so that around the garage it's a very
 18 limited amount of stormwater, because it falls mostly
 19 on lawn and all the impervious coverage is going to
 20 be taken into account and with the seepage pit, and
 21 we have grading going out to Johnson Road as well
 22 with swales.
 23 MR. FINK: Thank you.
 24 Roof water runoff, would that be --
 25 into the property, into a dry well?

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1 THE WITNESS: A dry well.
 2 MR. FINK: Into a dry well?
 3 THE WITNESS: That's what a seepage pit
 4 is.
 5 MR. FINK: Okay. And -- and that's
 6 going to collect everything.
 7 In terms of the basement, I'm not sure
 8 if I should address this to the engineer or not, but
 9 it seems like the proposed elevations at the basement
 10 are below the statutory floodplains.
 11 Green Pond, DEP and -- well, both of
 12 those.
 13 Will there be sump pits and where will
 14 they discharged?
 15 THE WITNESS: If sump pits -- sump pits
 16 are installed -- sorry.
 17 MR. BELL: Please push that microphone
 18 closer. Make sure it's working.
 19 THE WITNESS: Okay.
 20 If sump pits are installed, they're
 21 going to be in the basement and then discharge into
 22 the seepage pit.
 23 MR. FINK: Well, wouldn't that
 24 necessitate a larger seepage pit?
 25 THE WITNESS: It would not, because

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1 we're still covering impervious coverage.
 2 MR. FINK: Can that be concurred by the
 3 board engineer?
 4 MR. TEN KATE: The seepage pit will
 5 have to be designed to incorporate some runoff from
 6 the sump pumps, so it will have to be -- it would
 7 have to take into account sump pump discharge, yes.
 8 MR. FINK: Okay.
 9 So then these distribution boxes would,
 10 therefore, have to be larger and potentially more
 11 covered and --
 12 MR. TEN KATE: We'll check the
 13 calculations.
 14 If they don't, they'll have to revise
 15 it, yes.
 16 MR. FINK: Okay.
 17 That's my questions. Thank you.
 18 CHAIRMAN SMOLINSKI: Thank you.
 19 MR. KOHUT: Thank you, sir.
 20 One other quick question I just wanted
 21 to ask, I wanted you to confirm that the Van Dien
 22 Lane covers about 7.8, 7.9 percent of the impervious
 23 coverage on the lot, correct?
 24 THE WITNESS: Correct.
 25 MR. KOHUT: Okay, thank you.

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1 CHAIRMAN SMOLINSKI: Any questions from
 2 any other members of the public for the applicant's
 3 engineer?
 4 (No response.)
 5 CHAIRMAN SMOLINSKI: Seeing none.
 6 MR. KOHUT: Mr. Chairman, one more
 7 witness, Ms. Brigitte Bogart.
 8 MR. BELL: You're going to mark that
 9 exhibit?
 10 MR. KOHUT: Yes, I will. A-9.
 11 (Whereupon, Planner's Exhibit is marked
 12 as Exhibit A-9 for identification.)
 13 MR. BELL: Can you also, after you mark
 14 it, could you leave it out for the public to view in
 15 case they haven't had an opportunity to review same?
 16 MR. KOHUT: Absolutely.
 17 THE WITNESS: Is it all right if
 18 Bridgette uses it?
 19 MR. BELL: Oh, you're going to need it
 20 for your testimony?
 21 MS. BOGART: I'd like it up.
 22 MR. BELL: Okay. Sure.
 23 MS. BOGART: It looks nice.
 24 MR. BELL: Would you please raise your
 25 right hand?

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1 MS. BOGART: Yes.
 2 MR. BELL: Would you please raise your
 3 right hand?
 4 MS. BOGART: Yes.
 5 MR. BELL: Do you swear the testimony
 6 that you will present to this board this evening is
 7 the truth, the whole truth and nothing but the truth?
 8 MS. BOGART: I do.
 9 B R I G E T T E B O G A R T, PP, AICP
 10 205 Franklin Avenue, Wyckoff, New Jersey,
 11 having been duly sworn, testifies as follows:
 12 MR. BELL: Would you please state your
 13 name and your professional association?
 14 MS. BOGART: Brigitte Bogart.
 15 I am a professional planner in the
 16 State of New Jersey.
 17 I have been licensed since 2001.
 18 I have a bachelor's degree in
 19 environmental design and architecture from North
 20 Carolina State University.
 21 And I have a master's in city and
 22 regional planning.
 23 I served as this board's planner for
 24 about ten years, a while ago.
 25 (Laughter.)

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1 MR. BELL: You have testified, I am
 2 sure, before other boards and commissioners?
 3 MS. BOGART: Prior to COVID, it was
 4 three or four days a week.
 5 MR. BELL: Thank you.
 6 MS. BOGART: Thank you.
 7 MR. BELL: No problem qualifying her as
 8 an expert in planning.
 9 MS. BOGART: Thank you.
 10 MR. KOHUT: Thank you, Mr. Bell.
 11 DIRECT EXAMINATION
 12 BY MR. KOHUT:
 13 Q. Ms. Bogart, you have reviewed the plans
 14 that have been submitted -- the revised plans that
 15 have been submitted as part of this application?
 16 A. Yes.
 17 Q. You're familiar with the Rockaway
 18 Zoning Ordinances and Master Plan?
 19 A. Yes.
 20 Q. You're familiar with how they -- those
 21 ordinances and Master Plan impact this property?
 22 A. Yes.
 23 Q. Okay.
 24 Why don't you go through with the board
 25 the planning justifications for the two variances

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1 that are being requested?
 2 A. Sure.
 3 From a planning perspective, there's a
 4 number of unique issues that this board has dealt
 5 with with this application, obviously one, Van Dien
 6 Lane, the corner lot issue, the front yard setbacks,
 7 an existing dwelling that was in massive disrepair.
 8 And I have a photo exhibit if we want
 9 to hand that out.
 10 MR. BELL: Can you share those with us?
 11 THE WITNESS: Yes.
 12 MR. KOHUT: We'll mark this as A-10,
 13 Mr. Bell.
 14 (Whereupon, Photo Exhibit is marked as
 15 Exhibit A-10 for identification.)
 16 THE WITNESS: Just give me one so I
 17 can...
 18 MR. BELL: Is there enough, Mr. Kohut,
 19 to leave out --
 20 THE WITNESS: I brought 15.
 21 MR. BELL: Okay.
 22 CHAIRMAN SMOLINSKI: Single sheet,
 23 right?
 24 THE WITNESS: Don't -- please don't
 25 bring that up again, please.

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1 MR. BELL: Can you tell us when these
 2 photos were taken?
 3 THE WITNESS: The exhibit is dated
 4 April 18th, 2023.
 5 MR. BELL: And were they taken by you?
 6 THE WITNESS: They were taken by my,
 7 yes.
 8 MR. BELL: And they're a true and
 9 accurate representations of what is located at the
 10 particular site?
 11 THE WITNESS: As it stood at that point
 12 in April.
 13 Prior to that --
 14 CHAIRMAN SMOLINSKI: It's a little less
 15 than that now, I believe?
 16 THE WITNESS: Yes.
 17 And prior to that there was a lot more,
 18 that wasn't pretty.
 19 Okay. So the top row shows, going from
 20 left to right (indicating), it shows the existing
 21 shed in the back.
 22 And the next two photographs are -- I
 23 guess what was the living room/dining area, which was
 24 completely taken down because there was massive
 25 health issues with regard to animals that were
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1 located in the property.
 2 So it had to be cleaned out
 3 immediately.
 4 MS. PLATTS: Animals were living inside
 5 this house.
 6 THE WITNESS: Yes.
 7 MS. ROYEK: Was this house abandoned?
 8 THE WITNESS: Yes.
 9 So the next property -- next photograph
 10 all the way second to the right is Van Dien Lane and
 11 the forsythia that we were just talking about
 12 regarding snow removal (indicating).
 13 MR. BELL: Which you're not going to
 14 put any snow on those, right?
 15 THE WITNESS: No.
 16 They're beautiful. I would not touch
 17 those.
 18 I agree with Mr. Kohut.
 19 And the last photograph all the way to
 20 the right on the top row is Johnson Road. And what I
 21 think is important here from a planning perspective,
 22 you could see there's no parking on Johnson
 23 (indicating).
 24 And so just for my client and my car to
 25 be parked on -- on Johnson, we basically took up the
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1 entire length.
 2 And so I think that's very important
 3 when we're looking at parking and the driveway issues
 4 and the driveway here, we really want to make sure
 5 that there is enough parking on-site as developed to
 6 provide for sufficient parking for my client as well
 7 as potential guests and any, obviously, recreational
 8 vehicles.
 9 As you heard from the architect and
 10 engineer to suggest that that back garage would be
 11 recreation.
 12 So looking at the bottom row, going
 13 again from left to right, you'll see property, the
 14 existing property that was started to be demolished.
 15 The second photograph is the driveway
 16 as it exists today (indicating).
 17 The third photograph is one of the
 18 neighbors that has been mentioned and very vocal here
 19 and very concerned about where the garage is located
 20 (indicating).
 21 And I think that with the revised
 22 design that we've really started to address some of
 23 his comments; obviously not appeased him, but started
 24 to address those.
 25 The second photograph to the bottom is
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1 the adjacent property and the shed, you see all the
 2 way in the left portion of the photograph
 3 (indicating).
 4 And then, lastly, is the front of the
 5 houses as it existed in April.
 6 So all of that being said, obviously, I
 7 think you can see from a planning perspective this
 8 property is in need of rehabilitation, has a lot of
 9 unique features that cause a number of problems.
 10 And as you heard from our engineer and
 11 our architect, we made a lot of revisions.
 12 We reduced the impervious coverage. We
 13 reduced it from existing conditions. We've reduced
 14 it from what we originally proposed.
 15 We removed the second garage.
 16 We heard your concerns, as you all had
 17 mentioned.
 18 We reduced and removed the front yard
 19 setback.
 20 We reduced the building coverage.
 21 So there's a number of benefits that I
 22 think are important to our revisions to our plan and
 23 what we are proposing today.
 24 So, as I mentioned, too, I think
 25 there's a number of unique issues that are important,
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1 because what I'd like to do is suggest to you that we
2 should be approved for a C-1 variance with building
3 coverage. One is -- actually you heard from the
4 building -- I'm sorry -- the board members, Van Dien
5 Lane, and you also heard from our engineer, takes up
6 7.9 percent of the impervious coverage on our lot,
7 and we are subject to that.

8 And there's nothing we can do about it.

9 So from that perspective, we actually
10 are over by building coverage -- or, sorry,
11 impervious coverage by 7.9 percent without doing any
12 improvements to our property.

13 As you heard from our architect, the
14 reason for the larger garage is for the storage.

15 The detached garage actually reduces
16 the impact. And what I really think is really
17 important about this plan, itself, is that the
18 architect and engineer found a really nice way to
19 create a three-car garage without having three garage
20 doors facing front.

21 So I think it's a unique design in the
22 fact that you only see the two-car garage and you see
23 a lot of landscaping in the front.

24 MS. PLATTS: So it looks like -- I
25 don't mean to interrupt you --

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1 impervious coverage --

2 MR. KOHUT: Pervious.

3 THE WITNESS: -- I'm sorry, our
4 pervious.

5 Thank you.

6 He thinks he's a planner now.

7 So with regard to the Municipal Land
8 Use Law, what I would suggest to you is that we would
9 qualify under C-1 hardship variance for the
10 impervious coverage due to the unique features, the
11 Van Dien Lane, the fact that we have to basically
12 take on that hardship of those impervious -- that
13 impervious coverage on our property even though we're
14 not benefiting from it.

15 And as I mentioned to you previously,
16 because there is no parking, as you can see from the
17 exhibit, what we really are trying to do is just
18 accommodate the existing conditions, accommodate a
19 family on-site and accommodate guest parking on-site
20 without really interrupting the Johnson Road
21 right-of-way.

22 BY MR. KOHUT:

23 Q. Could an argument -- well, before you
24 get to that, I'm assuming you're about to get to the
25 negative criteria, correct?

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1 THE WITNESS: That's okay.

2 MS. PLATTS: It appears to be a two-car
3 garage when you look at it; is that your point?

4 THE WITNESS: Correct, yes.

5 MS. PLATTS: But it accommodates --

6 THE WITNESS: It accommodates three.

7 So it's not as massive as a three-car
8 garage facing front.

9 It's separated, which I -- I like.

10 Obviously there was an issue regarding the separation
11 between the principal structure and the accessory
12 structure, but I think that breaks up the entire
13 area.

14 MS. PLATTS: How wide is it? Is that
15 simply because of the Green Pond requirement on the
16 width of the garage when it's attached to the
17 structure?

18 THE WITNESS: I believe so, but the
19 architect would be better to address that.

20 MS. PLATTS: I understand that. Sorry
21 to interrupt.

22 THE WITNESS: That's okay.

23 And, obviously, you heard again from
24 our engineer that the pavers for the driveway are
25 impervious, and so that does not add to our

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1 A. Yes.

2 Q. Could you also find that it could also
3 be justified under C-2 as well, given that we are
4 reducing the amount of impervious coverage even
5 though it's slight, and then what about the
6 redevelopment of the property and the proper use of
7 land for residential purposes, et cetera?

8 A. Yes. I believe we also would qualify
9 under C-2 as well.

10 As you all know, C-2 variances are
11 justified under: One, that the granting of the
12 variance will benefit and further the purposes of the
13 Municipal Land Use Law, that the benefits of the
14 variance will outweigh any detriments and then
15 address the negative criteria.

16 In this case, as Mr. Kohut just started
17 to mention, there are a number of benefits to our
18 proposal. We're reducing the impervious coverage --
19 reducing the impervious coverage, a new -- brand new
20 home on a site that clearly needed a new home and
21 needed to be cleaned up.

22 So the rehabilitation, the reduction of
23 the impervious coverage, the improvements to the
24 drainage, the improvements to the land and the
25 improvements to the architecture are all benefits of

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1 this application.
 2 And I -- I believe, from a planning
 3 perspective, outweigh any detriments, particularly
 4 with regard to the parking.
 5 Okay. So with regard to the negative
 6 criteria, I looked up a number of the Master Plan
 7 documents which I wrote probably 15 years ago, but
 8 I'm not going to go there.
 9 So I didn't find anything the last two
 10 Master Plan documents that even addressed this issue.
 11 So from that perspective, I don't
 12 believe there is any substantial detriment to the
 13 zone plan or Master Plan.
 14 And then, obviously, there's no
 15 substantial detriment to the public, which is the
 16 second prong to the negative criteria.
 17 And I think between the drainage, the
 18 landscaping and provision of parking on site, there
 19 is no substantial detriment to the public good.
 20 So I believe this application in this
 21 form really addresses the negative criteria.
 22 MS. PLATTS: What was the parking
 23 on-site before?
 24 So there was parking on the site
 25 before, right?

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1 CHAIRMAN SMOLINSKI: Yes.
 2 MS. PLATTS: All right. Okay.
 3 THE WITNESS: Parking on site before?
 4 CHAIRMAN SMOLINSKI: Yes, please.
 5 Thank you.
 6 THE WITNESS: Well, there was an
 7 asphalt driveway going into a concrete apron.
 8 And you can see the apron in the last
 9 photograph on the bottom row -- or, I'm sorry,
 10 actually it's better shown on the last photograph of
 11 the top row. You could see the two-car garage coming
 12 in here. And it's just a small asphalt driveway.
 13 BY MR. KOHUT:
 14 Q. In addition to those -- those not being
 15 a detriment to the public good, it also -- we also
 16 meet all the setback requirements, right?
 17 A. Yes.
 18 And with the revisions of the plan,
 19 itself, we reduced -- eliminated the need for a front
 20 yard setback variance.
 21 Q. And in actuality, 7.9 percent of our
 22 coverage is providing two homes access -- access to
 23 two homes?
 24 A. That's correct.
 25 Q. Right.

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1 Do you want to just briefly also
 2 comment on the 27-foot-wide driveway towards the --
 3 did you cover that?
 4 That it's 27 feet beyond the --
 5 A. Beyond the front yard --
 6 Q. -- beyond the front yard setback?
 7 A. So --
 8 CHAIRMAN SMOLINSKI: Is that a driveway
 9 or a walking path there?
 10 Is there access to the home on that
 11 side?
 12 MR. KOHUT: Yes.
 13 THE WITNESS: Yes.
 14 CHAIRMAN SMOLINSKI: Because part of
 15 that's a walking path in the back, so is that a
 16 walking path, is it a driveway or is it...
 17 MR. KOHUT: That's the purpose of it.
 18 CHAIRMAN SMOLINSKI: How do you divide
 19 it?
 20 MR. KOHUT: Right.
 21 THE WITNESS: It's -- yeah, it's really
 22 -- I mean, you can access the door between the garage
 23 and the home, itself, between that little walking
 24 path area.
 25 What I think, from a planning

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1 perspective is important, is that you have
 2 landscaping in front and that little jut-out to the
 3 driveway itself actually is behind the front façade
 4 of the building, so it really has no visual impact
 5 or, you know, perceivable impact to the public
 6 right-of-way.
 7 MR. KOHUT: I have no further
 8 questions, Mr. Chairman.
 9 CHAIRMAN SMOLINSKI: Dave?
 10 MR. NOVAK: I have a couple of
 11 questions, thank you very much.
 12 Staying on the driveway aspect, so is
 13 it your opinion that the width of that driveway would
 14 require a variance?
 15 THE WITNESS: I don't believe so.
 16 I -- I apologize, I read through your
 17 report and I pulled up the driveway width, and it
 18 basically says that it has to be -- should not exceed
 19 22 feet, which we don't for most of the driveway,
 20 except for a turnaround area.
 21 And if we had a -- I forgot, someone
 22 said, not a golf cart, but a smaller car, we could do
 23 a K-turn there.
 24 But I think it's important in this
 25 situation because there's no parking on Johnson and

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1 because we probably could accommodate a car if we
2 needed to, or it could be a walkway or a turnaround
3 area or a golf cart parking area that is going to be
4 taken off the street.

5 So I think this unique situation makes
6 sense.

7 MR. NOVAK: So --

8 CHAIRMAN SMOLINSKI: If it's broken up
9 by a wall, that portion then isn't functioning as a
10 driveway?

11 MR. NOVAK: I'm sorry, can you repeat
12 that again?

13 CHAIRMAN SMOLINSKI: If it's broken up
14 with an architectural feature, like a wall, in
15 between, for that 5 feet, does it function as a
16 driveway?

17 MR. NOVAK: If it's broken up --

18 CHAIRMAN SMOLINSKI: If it's broken up?

19 MR. NOVAK: -- with the middle of the
20 driveway?

21 CHAIRMAN SMOLINSKI: Along from the
22 house to -- for that 5 feet.

23 So if you have 27 -- 20 and 27 broken
24 up, so then really the driveway width, the drivable
25 width is still 22 feet, so -- and it's beyond the

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1 setback.

2 MR. NOVAK: Oh, I see what you're
3 saying.

4 CHAIRMAN SMOLINSKI: You see what I'm
5 saying? It's not really --

6 MR. NOVAK: So your question is if they
7 were to split up --

8 CHAIRMAN SMOLINSKI: Which it is.

9 MR. NOVAK: -- and provide a break in
10 the driveway so that there's a driveway width of
11 22 feet and a smaller walkway --

12 CHAIRMAN SMOLINSKI: Well, you don't
13 even have to break it, it's already broken by that
14 wall.

15 MR. NOVAK: Right.

16 CHAIRMAN SMOLINSKI: So, functionally,
17 you can only get -- it's 22-foot wide.

18 THE WITNESS: Correct.

19 CHAIRMAN SMOLINSKI: So you get beyond
20 the setback, and then it's...

21 THE WITNESS: Right.

22 You're past the front façade.

23 CHAIRMAN SMOLINSKI: It's similar to
24 50 percent of the houses in White Meadow Lake or some
25 of the other areas where you have -- where you have

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1 to swing into a driveway.

2 MS. PLATTS: I think the Chairman is
3 saying he doesn't see that as an issue, I think
4 that's what he's saying.

5 CHAIRMAN SMOLINSKI: That's --

6 MR. NOVAK: What I would offer is, you
7 know, the aspect of the turnaround language in the
8 ordinance is somewhat vague. Traditionally when we
9 think of that turnaround area, at least in my head, I
10 envision --

11 CHAIRMAN SMOLINSKI: You're thinking of
12 a K-turn --

13 MR. NOVAK: -- a k-turn.

14 CHAIRMAN SMOLINSKI: You're not
15 thinking --

16 MR. NOVAK: So I think it would be
17 safer for the board to treat this as a variance --

18 MS. PLATTS: And approve it if w were
19 -- if we were finding it to be something that is
20 acceptable, find it to be a variance and approve it.

21 MR. NOVAK: Yes.

22 And I believe Ms. Bogart had touched
23 upon it, just again, if the board was to treat this
24 driveway width as a variance, can you just go over
25 the rationale for that width again?

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1 THE WITNESS: Sure.

2 And what I felt was important was in
3 that section of the ordinance that you had cited is
4 that it talks about no parking on street. And that's
5 exactly what we're trying to do here is provide no
6 parking on the street, because it doesn't make sense
7 and it causes detriment to Green Pond, Johnson and
8 the entire neighborhood.

9 So the benefit to providing this little
10 area is that we could provide additional parking on
11 site (indicating), it could be a walkway, you know,
12 golf cart area, a number of things that I think would
13 be a benefit not only to this site but obviously
14 planning benefit, it has to be to the general public.

15 And I think it's a general benefit to
16 have some additional parking on-site.

17 MR. NOVAK: And the exhibit that you
18 had provided, which is A-10, the top right
19 photograph, there is a vehicle that is parked that's
20 in Johnson Road?

21 THE WITNESS: Yes.

22 That's my client's vehicle. And I'm
23 parked in front of it. And we, basically, took up
24 the whole lane.

25 MR. NOVAK: Okay.

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1 Regarding the impervious coverage, one
2 of the items that we had listed on our memo,
3 specifically on page 3, is the coverage associated
4 with Van Dien Lane is about 7.8 or 7.9 percent.

5 Eliminating that, you would be around
6 30 percent.

7 Is that correct?

8 THE WITNESS: Yes.

9 MR. NOVAK: The site is oversized for
10 that district, although slightly, so can you just
11 touch upon, from a zoning perspective, having that
12 impervious coverage, when removing Van Dien Lane at
13 30 percent for an oversized lot, just discuss that in
14 terms of the criteria and the balancing act?

15 THE WITNESS: Sure.

16 As I mentioned through my testimony,
17 there is a number of benefits to this proposal.

18 Yes, we are over the impervious
19 coverage, but now we're providing everything on-site,
20 which I think, as I said a number of times tonight,
21 is important that we're not impacting Johnson Road at
22 all.

23 And, yes, while we're taking, I guess,
24 not a benefit but a credit and suggesting that Van
25 Dien Lane is 7.9 percent, we need the additional

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1 coverage to provide for that garage, to provide for
2 indoor storage so that we don't have recreational
3 vehicles outside next to the neighbors.

4 It's definitely a more desirable visual
5 environment as proposed as -- if we got rid of one of
6 the garages we would have the recreational vehicles
7 outside or something of that nature. We wouldn't
8 have enough on-site.

9 So there is a number of benefits to
10 what we are proposing. Yes, we're a little oversized
11 for the lot or for the zone, but I think this is the
12 most beneficial design for this site.

13 MR. KOHUT: I think this is really a
14 little bit of a unique -- you could tell me I'm
15 wrong. She does all the time -- I think this is a
16 very unique situation in that it's -- we're not just
17 doing a C-1 justification and a C-2 justification.

18 It's almost like it's a combination of both because
19 you have this hardship of 7.9 percent of coverage
20 that you can't use that's -- it isn't going anywhere,
21 so that's a hardship --

22 THE WITNESS: Correct.

23 MR. KOHUT: -- for the property, but at
24 the same time with regard to the additional 5 percent
25 that we're over --

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1 THE WITNESS: It's existing.

2 MR. KOHUT: -- we're desirable visual
3 environment, better use of the land, proper
4 population density, a brand new single-family
5 dwelling; all these -- all the criteria we find under
6 purposes of zoning, correct?

7 THE WITNESS: Correct.

8 MR. NOVAK: Okay.

9 That's all I have for now.

10 Thank you.

11 CHAIRMAN SMOLINSKI: And roughly, what
12 is that 280 square feet if you're talking about that
13 5 percent or it's 90 something like that?

14 MR. NOVAK: So I believe that
15 calculation made on page 3 of my memo, which for the
16 record is dated August 11, 2023.

17 MR. KOHUT: It's 200 --

18 THE WITNESS: No, 230 is the reduction.

19 MR. KOHUT: No, no. It's a reduction.

20 MR. NOVAK: So the R13 district allows
21 for a maximum impervious coverage of 25 percent.

22 For this site, that equates to
23 approximately 3,432.5 square feet of coverage.

24 I believe the Applicant is around
25 5,198 square feet of coverage, which obviously

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1 includes Van Dien Lane.

2 When you subtract and find the
3 difference between what's proposed with that
4 5,198 square feet versus the allowable 3,432.5 square
5 feet, that works out roughly to 1,765 square feet of
6 coverage.

7 So they're over 1,765 square feet of
8 coverage. When you subtract Van Dien Lane out of
9 that, that brings them to around 700 square feet
10 over.

11 THE WITNESS: And, Mr. Chairman, not to
12 piggyback on reading your report right here, just to
13 note for the board, we are already at 39.6 percent
14 coverage as existing.

15 We're already over.

16 CHAIRMAN SMOLINSKI: Yes.

17 THE WITNESS: So we're reducing that
18 from --

19 MS. PLATTS: It's preexisting,
20 nonconforming, correct?

21 THE WITNESS: Correct.

22 CHAIRMAN SMOLINSKI: Thank you.

23 MR. NOVAK: That's all I have for now,
24 thank you.

25 CHAIRMAN SMOLINSKI: I appreciate that.

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1 MR. KOHUT: I have no further
2 questions, Mr. Chairman.
3 CHAIRMAN SMOLINSKI: Any questions from
4 the board?
5 (No response.)
6 CHAIRMAN SMOLINSKI: No?
7 Do you have any?
8 MS. PLATTS: You just did it.
9 CHAIRMAN SMOLINSKI: I just asked --
10 MS. PLATTS: No.
11 CHAIRMAN SMOLINSKI: Okay.
12 At this time I'll open it up to the
13 public for the Applicant's witness.
14 MR. FINK: All right. Thank you for --
15 Steven Fink, 17 Johnson Road once more.
16 I would just like to address -- can I
17 place this material for a second? I'm sorry.
18 I guess the conversation that was just
19 had revolving around the impervious coverage
20 calculation, notwithstanding Van Dien Lane, this is a
21 conforming lot per the Rockaway Township zoning.
22 Are there conceivable other plans that
23 can be designed on this property that brings the
24 building structure down to 25 percent of the actual
25 land notwithstanding Van Dien Lane? Would that be
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1 possible?
2 THE WITNESS: Of course.
3 Anything is possible, but that's not
4 what we're proposing and that's not the criteria for
5 the variances requesting tonight.
6 MR. FINK: Okay.
7 That -- that was my question and that's
8 what I would like the board to understand, that it is
9 conceivable that they could design a plan that
10 proposes just 25 percent coverage, notwithstanding
11 Van Dien Lane, which is their ascribed hardship.
12 Thank you.
13 CHAIRMAN SMOLINSKI: Thank you.
14 Any other questions?
15 Please come on up.
16 MR. VISSCHER: Hi, I am Bill Visscher.
17 I live at 22 Johnson Road, right next door.
18 THE COURT REPORTER: Please spell your
19 last name?
20 MR. VISSCHER: V- like in Victor
21 I-S-S-C-H-E-R.
22 Just for the record, these pictures
23 were taken after not, when they bought the house,
24 after they started tearing them down.
25 So, you know, just to let you know, I
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1 watched them tear it down.
2 Anyway, I am satisfied with the 15 feet
3 from my property to their house.
4 But as far as the garage on the other
5 side which I don't see from my house, I'm not too
6 sure about that. I don't think that's right. I
7 think it's too close to the road or lane, whatever
8 you want to call it. You can call it Van Dien Lane
9 all evening, but it's not a street.
10 So, I don't know. That's -- that's
11 what I think. Okay.
12 CHAIRMAN SMOLINSKI: Thank you, sir.
13 Any other questions for this witness?
14 MR. WRIGHT: Public statements are
15 after the fact?
16 MR. BELL: You can still ask.
17 CHAIRMAN SMOLINSKI: Well, no public
18 statements will be at the end. Yes, statements are
19 at the end. Absolutely.
20 MR. WRIGHT: Can I ask a question
21 quickly?
22 CHAIRMAN SMOLINSKI: You may.
23 MR. WRIGHT: State my name again, Joe
24 Wright, 3 Van Dien Lane.
25 Why did you park on Johnson when you
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1 were at the property?
2 THE WITNESS: Because --
3 MR. KOHUT: Objection to relevance.
4 MR. BELL: Well, let him ask it.
5 MR. KOHUT: What's the -- what's the --
6 how is it relevant?
7 MR. WRIGHT: She's mentioned it four or
8 five times how there's no parking and this benefit to
9 the community, and we're talking about granting a
10 variance and the real test is does it benefit the
11 community or does it just benefit the Applicant.
12 And she has said it many times. Is
13 there a reason why you didn't park in the driveway?
14 THE WITNESS: Yes.
15 So if you look at A-10, you could see
16 the silt fence up --
17 MR. WRIGHT: Right.
18 THE WITNESS: -- because the house was
19 being demolished, so you couldn't park on that
20 driveway.
21 MR. WRIGHT: Okay. So it wasn't
22 because there wasn't any parking available? Because
23 you couldn't get in physically, there was a fence
24 there.
25 THE WITNESS: Into the site, right.
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1 MR. WRIGHT: Okay.
 2 THE WITNESS: So if someone was
 3 going --
 4 MR. WRIGHT: That's all.
 5 THE WITNESS: Well, can I finish?
 6 Because you asked me a question.
 7 MR. WRIGHT: Okay.
 8 THE WITNESS: So if they had guests
 9 there for a party, guests would have to park on the
 10 street unless we had --
 11 MR. WRIGHT: I didn't ask about guests.
 12 MS. PLATTS: Let me ask a question.
 13 THE WITNESS: All right.
 14 MS. PLATTS: Let me ask a question.
 15 If there was not available parking at
 16 the property and someone had to park in the street,
 17 is there a safe way to park on the street?
 18 THE WITNESS: No.
 19 MS. PLATTS: If someone could not park
 20 at this residence, at your clients' residence, and
 21 they parked in the street, would they block the
 22 street?
 23 THE WITNESS: Correct.
 24 MS. PLATTS: Does there have to be
 25 adequate parking at this residence for there to be a
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1 right-of-way on the street?
 2 THE WITNESS: There should be, yes.
 3 Thank you.
 4 MS. PLATTS: You're welcome.
 5 Was that your point, ma'am?
 6 THE WITNESS: Yes, thank you. I
 7 appreciate it.
 8 CHAIRMAN SMOLINSKI: Well, one question
 9 I do have is, is there anything that can be done to
 10 reduce some of the impervious coverage a little bit
 11 more?
 12 THE WITNESS: That would be a better
 13 question for the engineer or architect.
 14 CHAIRMAN SMOLINSKI: I understand, yes,
 15 that's going to be a question that I will ask for
 16 this Applicant.
 17 THE WITNESS: Okay. I mean, the
 18 driveway is already --
 19 CHAIRMAN SMOLINSKI: I understand that.
 20 There's also a shed proposed in the back corner.
 21 THE WITNESS: Yes. That's potentially
 22 a garden shed for tools.
 23 CHAIRMAN SMOLINSKI: All right.
 24 MR. BELL: Can't that be removed?
 25 You've got a three-car garage.
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1 MS. PLATTS: What does the shed create
 2 in terms of impervious coverage?
 3 CHAIRMAN SMOLINSKI: It's roughly
 4 100 or so.
 5 THE WITNESS: It's 12-by-18.
 6 MR. KOHUT: 12-by-8.
 7 THE WITNESS: 12-by-8, I'm sorry.
 8 12-by-8, so 96.
 9 MS. LUCAS: I have a question.
 10 THE WITNESS: Sure.
 11 MS. LUCAS: And I don't -- I don't
 12 think this is going to be something you could answer,
 13 but just in general, since at the board most of the
 14 -- most of the time we're dealing with undersized
 15 lots and we are trying to accommodate all our
 16 residents and we take that into account, so this is a
 17 little different being that it's not an undersized
 18 lot. And we certainly appreciate the fact that you
 19 are decreasing the coverage.
 20 So my question is based on some of the
 21 other comments, the square footage of this proposed
 22 new home, how -- is that in keeping with the size of
 23 the surrounding homes is it exorbitant? Is it
 24 comparable to it? What else is around, the
 25 neighboring homes? How can we make that comparison?
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1 THE WITNESS: I did a little research,
 2 but I know that our architect did more research than
 3 I did, but it's very comparable.
 4 And actually the existing home is
 5 smaller than a lot of the area -- a lot of the
 6 dwellings in the area.
 7 MS. LUCAS: And is it -- I'm sorry,
 8 it's a little far and I didn't get out there for this
 9 one. The garage, many of the neighboring homes also
 10 have detached garages, two-car garages?
 11 MS. PLATTS: A lot of the houses have
 12 detached garages because Green Pond makes a
 13 requirement that the garages, if attached, can be a
 14 maximum, what is it? How many feet?
 15 THE WITNESS: Sixty-five.
 16 MS. PLATTS: Right.
 17 So as a result -- whatever it is, as a
 18 result, there are a lot of -- more and more we're
 19 seeing detached garages in Green Pond for that
 20 particular reason.
 21 CHAIRMAN SMOLINSKI: It depends upon
 22 what area you're in, too so...
 23 MS. PLATTS: In Green Pond we're seeing
 24 more detached garages for that exact reason.
 25 THE WITNESS: I also think from a
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1 planning perspective it's a benefit to have it
2 detached so it's not as massive of a structure.
3 MS. LUCAS: I understand that.
4 I'm just trying to put it in
5 perspective of the area, of the neighborhood, and in
6 keeping with...
7 THE WITNESS: I do know that our
8 engineer did some research into that and has a list
9 of properties that have detached garages.
10 MS. LUCAS: Okay.
11 CHAIRMAN SMOLINSKI: Okay. Is that
12 list for -- within Green Pond at this time?
13 THE WITNESS: Yes.
14 CHAIRMAN SMOLINSKI: Okay. That I
15 would like to have on the record.
16 MR. BELL: Yeah.
17 Get that on the record.
18 CHAIRMAN SMOLINSKI: It's not a
19 question for this witness. We're going to recall you
20 afterwards just to get that.
21 What's your question, I guess.
22 MS. LUCAS: Well, I'd like to see some
23 of the information --
24 CHAIRMAN SMOLINSKI: Let's hold that
25 question and you may --
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1 MR. FINK: I just want to let the
2 board --
3 CHAIRMAN SMOLINSKI: Just restate your
4 name.
5 MR. BELL: Questions of the witness.
6 CHAIRMAN SMOLINSKI: Do you have any
7 questions for this witness?
8 MR. FINK: I'll let them know that I
9 can address Ms. Lucas's question. I have that data.
10 That's all I want to say. The data in terms of the
11 surrounding --
12 CHAIRMAN SMOLINSKI: No, no, no,
13 that's...
14 Would you like to recall the engineer?
15 MR. KOHUT: Sure.
16 THE WITNESS: Should I put all this
17 stuff -- yeah.
18 MS. LAPATKA: Allison Lapatka.
19 I just want to get on the record that
20 if Van Dien Lane was excluded from the lot area, the
21 lot would be a nonconforming lot area.
22 So right now the lot is 13,730 square
23 feet. Van Dien takes up 1,410 square feet of that.
24 So if you remove Van Dien Lane, you are
25 left with 12,320 square feet where 13,125 are
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1 required.
2 MS. PLATTS: So what --
3 MS. LAPATKA: That was reference to the
4 oversized lot.
5 MS. PLATTS: Right.
6 So if you take away Van Dien Lane, you
7 are saying it's no longer an oversized lot.
8 MS. LAPATKA: If you take out Van Dien
9 Lane, then it would be an undersized lot, the area.
10 MS. PLATTS: That's interesting.
11 CHAIRMAN SMOLINSKI: Would the
12 Applicant like to take it out and donate it to Green
13 Pond?
14 MR. KOHUT: No. We already had.
15 MS. LAPATKA: Okay. So I did a
16 preliminary study on houses with detached garages in
17 Green Pond. This is not a complete list, but I will
18 list them for the record: 3 Van Dien Lane, 1 Grove
19 Lane, 18 Sunnyside, 21 Sunnyside, 17 Cliffside,
20 17 Dawson, 19 Dawson, 4 Davenport, 8 Sunset,
21 13 Sunset, 7 Sunset, 15 Sunset, 5 Sunset, 2 Notch,
22 14 Notch, 16 Notch, 26 Notch, 22 Notch, 39 Notch,
23 13 Notch, 6 Orchard.
24 Again, this is not a complete list as I
25 was strictly using online mapping to see where
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1 garages are located.
2 MS. PLATTS: So this includes the house
3 right next door --
4 MS. LAPATKA: Yeah, they have a
5 detached garage in the back.
6 MS. PLATTS: It that is shown --
7 MS. LAPATKA: It's a -- shown right
8 here on the site plan (indicating).
9 MS. PLATTS: But what is this called?
10 What is this exhibit?
11 MR. BELL: A-10.
12 MS. PLATTS: On A-10 the photo that's
13 the third on the bottom, the third photo in, that
14 house that is detached garage?
15 CHAIRMAN SMOLINSKI: And you haven't
16 even started going around the lake.
17 MS. LAPATKA: On the bottom row, third
18 picture in?
19 MS. PLATTS: Right, right next door.
20 MS. LAPATKA: Yeah, detached garage
21 right next door and it's shown right on the survey.
22 MS. PLATTS: What about on the other
23 side of those --
24 MS. LAPATKA: There's another detached
25 garage at this corner (indicating) and then another
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1 garage right here (indicating).
 2 MS. PLATTS: So the house -- it's not
 3 only houses nearby, but literally the neighbors --
 4 MS. LAPATKA: Every neighbor.
 5 MS. PLATTS: -- right nearby. So this
 6 is something that is quite common in the neighborhood
 7 itself?
 8 MS. LAPATKA: Yes.
 9 MS. PLATTS: Including the neighbors
 10 that are here today?
 11 MS. LAPATKA: Correct.
 12 MS. LUCAS: Do you have any information
 13 about the square footage of the surrounding homes?
 14 MS. LAPATKA: I'm sorry.
 15 MS. LUCAS: Do you have any information
 16 about the square footage of the surrounding homes?
 17 MS. LAPATKA: I can tell you -- I can
 18 tell you 3 Van Dien's garage size if that helps.
 19 MS. PLATTS: Of the whole house.
 20 MS. LAPATKA: Of the whole house? I
 21 don't have it with me. I do have a copy of the
 22 survey at home.
 23 MR. BELL: I think I saw a hand up. Do
 24 you see a hand up?
 25 Ma'am, do you have a question.

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1 MS. KORLISHIN: Not a question, a
 2 statement.
 3 MR. BELL: Not yet.
 4 MR. FINK: Steven Fink, 17 Johnson
 5 Road.
 6 Of the properties that you've listed
 7 with detached garages, how many of them are one-car
 8 detached, two-car detached and three-car detached?
 9 MS. LAPATKA: This is strictly based on
 10 visuals off of online mapping.
 11 But I tried to pick houses with the
 12 largest garages I could see.
 13 MR. FINK: Okay.
 14 MS. LAPATKA: And those would be at
 15 least two-car.
 16 MR. FINK: For the board's
 17 justification as a member of the surrounding
 18 properties, there are no three-car detached garages
 19 present in any of the adjacent properties.
 20 Two-car garage.
 21 CHAIRMAN SMOLINSKI: Adjacent, I would
 22 agree with you, you know the area. That is detached.
 23 MR. FINK: Detached, yeah.
 24 MS. LUCAS: I thought the question was
 25 how many detached garages there were.

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1 CHAIRMAN SMOLINSKI: Yes.
 2 MR. LUSARDI: There was a question
 3 earlier that was in reference to why they didn't keep
 4 the driveway on the left side.
 5 And then they said they'd let the
 6 engineer answer later on. And that was -- just
 7 wanted to get clarification on why it wasn't thought
 8 to keep the garage on the left side as it is
 9 currently.
 10 MS. LAPATKA: So we have to take in
 11 account the existing well which is located right here
 12 (indicating).
 13 So the more the house shifts towards
 14 Van Dien, the more it goes into the side yard setback
 15 or closer to the side yard setback and closer to the
 16 well.
 17 We also have the septic system in the
 18 back which we have to make sure we maintain adequate
 19 distance off of that for the foundation of the
 20 building.
 21 So we're kind of limited in our
 22 footprint not for the setback itself, but also
 23 because of the well and the septic.
 24 MR. LUSARDI: So the driveway -- the
 25 current proposed driveway is right where the well is.

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1 MS. LAPATKA: Yeah, we're going to put
 2 a manhole cover on top of it so that it's drivable,
 3 to drive over the well.
 4 MR. LUSARDI: And if you kept the
 5 driveway on the left and put the garage on the left
 6 then --
 7 MS. LAPATKA: Then the house --
 8 MR. LUSARDI: -- it's encroaching on
 9 the septic.
 10 MS. LAPATKA: Then the house gets
 11 closer to the well and the septic and then there's an
 12 increased distance between the septic, the well and
 13 the basement.
 14 MR. KOHUT: And the house gets closer
 15 to Van Dien.
 16 MS. LAPATKA: And the house gets closer
 17 to Van Dien, so we wanted to try to keep the house
 18 farther from Van Dien to provide more line-of-sight
 19 for anyone using Van Dien as a travel way.
 20 MR. LUSARDI: Okay.
 21 CHAIRMAN SMOLINSKI: Any other
 22 questions of the witness?
 23 MR. KOHUT: I'd like to --
 24 CHAIRMAN SMOLINSKI: Sum up?
 25 MR. KOHUT: If I can I'd like to go

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1 last, as the applicant's attorney.
 2 I think I should be the last to sum up.
 3 CHAIRMAN SMOLINSKI: Okay.
 4 MR. BELL: Some people had some
 5 statements.
 6 CHAIRMAN SMOLINSKI: Statements? Let's
 7 take them.
 8 MR. FINK: Hello again. Steven Fink,
 9 17 Johnson Road.
 10 First I would like to address
 11 Ms. Lucas's questions pertaining to the size of the
 12 properties in the near vicinity.
 13 This data was obtained this afternoon
 14 on the Morris County tax record site, and the square
 15 footages are as follows as listed on tax records.
 16 MS. LUCAS: Do you have a print-out of
 17 the Morris County tax records.
 18 MR. FINK: I do not, but I could send
 19 them to you, but this is where I got the data.
 20 MS. PLATTS: If you can send it to us,
 21 we won't be making a decision, so you can print it
 22 out for us.
 23 MR. FINK: No, I thought my testimony
 24 and you guys could probably do your own background,
 25 but I wanted this to be read into the record for
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1 consideration.
 2 CHAIRMAN SMOLINSKI: Go ahead.
 3 MR. KOHUT: Can I just ask, is this the
 4 size of the house or the size of the lot?
 5 MR. FINK: The square footage as listed
 6 on the tax records.
 7 So in my understanding, it does not
 8 include the size of the detached garage. This is the
 9 principal dwelling as listed on the tax record of the
 10 square footage.
 11 MR. KOHUT: The square footage of the
 12 dwelling?
 13 MR. FINK: Of the principal dwelling.
 14 MR. KOHUT: Okay.
 15 MR. WRIGHT: For means of comparison
 16 for the board: 18 Johnson, 2,912; 17 Johnson, 2,864;
 17 19 Johnson, 2,301; 22 Johnson, 1872; 1 Grove, 2,048;
 18 2 Grove, 1292; 4 Davenport, 2,882; 3 Van Dien, 2,570;
 19 5 Van Dien, 1880.
 20 The proposed development of the
 21 principal dwelling, 20 Johnson Road, 4,217, which
 22 represents 44.8 percent larger than the next largest
 23 house in the vicinity, notwithstanding the three-car
 24 garage.
 25 MR. KOHUT: Can I ask a question?
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1 MR. BELL: Sure.
 2 MR. KOHUT: Thank you.
 3 Are those houses -- when were those
 4 houses built?
 5 MR. FINK: When were they built? Okay.
 6 I don't have the exact answer for that.
 7 I have to say --
 8 MR. KOHUT: Are those --
 9 MS. PLATTS: Do those include
 10 additions.
 11 MR. KOHUT: Are those one-story or
 12 two-story dwellings?
 13 MR. FINK: I will go through the list
 14 and I will tell you which ones are one-story or
 15 two-story.
 16 MR. KOHUT: Okay.
 17 MS. LUCAS: They're pretty standard
 18 size, I mean I'm a realtor so I look tax records, the
 19 --
 20 MS. PLATTS: The -- the concern I have
 21 is tax records, you make an addition, that would
 22 require reassessment, does it include actual, you
 23 know --
 24 CHAIRMAN SMOLINSKI: Finished
 25 basements.
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1 MS. PLATTS: They don't include
 2 finished basements.
 3 MR. FINK: No, and I'm not including
 4 finished basements in my stated of the proposed, this
 5 is --
 6 MS. PLATTS: Right, but it also doesn't
 7 --
 8 MR. WRIGHT: -- this is the dwelling
 9 size.
 10 MS. PLATTS: -- if you added on, for
 11 example --
 12 MR. WRIGHT: Well, it --
 13 MS. PLATTS: -- my husband's a realtor
 14 --
 15 MS. LUCAS: Well, if it gets
 16 reassessed --
 17 MS. PLATTS: My husband is a real
 18 estate broker, if you add on a huge great room and it
 19 doesn't get reassessed, you could have another
 20 700 square feet on a house.
 21 MS. LUCAS: Well, they generally do get
 22 reassessed after --
 23 MS. PLATTS: But it could be ten years
 24 later, so you could be -- there could be statement
 25 about a property that -- I mean, that's my concern
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1 about relying on these numbers.
 2 MR. FINK: That's adequate.
 3 The other -- the other thing that I can
 4 say just -- is that the only other property that's
 5 conforming of the ones listed, in terms of Rockaway's
 6 R13 zone, is 18 Johnson. All the other adjoining
 7 properties are nonconforming lots based on R13 zone.
 8 And, you know, this -- this harkens
 9 back to my original question to the planner as to if
 10 -- as to the feasibility of developing a better plan
 11 for this property that would be more conforming with
 12 the 25 percent rule in terms of just building
 13 coverage alone, notwithstanding the hardship.
 14 The board already addressed 96 square
 15 feet in a shed. I've already made the claim that
 16 three-car garages are not in the characteristics of
 17 that immediate vicinity.
 18 There are three-car garages in Lake End
 19 Corporation, other areas that are basically two miles
 20 away from this property development.
 21 CHAIRMAN SMOLINSKI: Thank you.
 22 Anyone else care to make a statement?
 23 MS. KORLISHIN: Yes.
 24 Just quickly looking at the site plan
 25 --

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1 CHAIRMAN SMOLINSKI: No, we have to
 2 capture this.
 3 MS. KORLISHIN: Just looking at this --
 4 Anne Korlishin.
 5 Looking at this briefly, because I
 6 wasn't sent, as I was supposed to be sent, Sunset
 7 Road is not anywhere near this. I don't know if
 8 that's incorrect. Sunset Road is not there. It's
 9 Davenport Road.
 10 Van Dien Lane is not 25-foot wide.
 11 And the garage is going to be 30 feet
 12 -- 36-feet long along Van Dien Lane. And it's going
 13 to be, like, 3 feet and it doesn't have any windows,
 14 it's a solid building 36-feet long on Van Dien Lane,
 15 and 25 --
 16 CHAIRMAN SMOLINSKI: No, it has
 17 windows, ma'am.
 18 MS. KORLISHIN: One window in the back.
 19 I'm talking about on the side of Van Dien Lane
 20 there's no windows.
 21 CHAIRMAN SMOLINSKI: No, there is.
 22 There are multiple windows.
 23 MS. KORLISHIN: There is -- there's a
 24 window --
 25 MR. KOHUT: There are multiple windows.

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1 CHAIRMAN SMOLINSKI: There are four.
 2 MS. KORLISHIN: All right. But, it is
 3 36-feet long.
 4 The frontage of our house is 38-feet
 5 wide. This is 36 for a garage.
 6 It's very long in my opinion.
 7 CHAIRMAN SMOLINSKI: Anybody else care
 8 to make a statement?
 9 If not we will close --
 10 MR. WRIGHT: Thanks.
 11 Joe Wright, 3 Van Dien.
 12 Yes, you did. I do have a sense of
 13 humor.
 14 I'd just like to say that, you know,
 15 again, Van Dien Lane does not represent a hardship in
 16 any way to this Applicant.
 17 He bought a piece of property. In the
 18 deed it states that this portion is conveyed.
 19 Conveyance, by legal definition, is the transfer of
 20 ownership.
 21 It's not clear who he transferred it
 22 to, but the original owner of this property, when he
 23 created my lot and Korlishin's lot, in consideration
 24 for creation of those lots, conveyed that
 25 12-and-a-half feet.

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1 So to say it's a hardship, I just -- I
 2 don't understand how it's a hardship.
 3 He bought it, it's in the deed. He
 4 knew it was a conveyance. It's not a right-of-way.
 5 It's not an easement.
 6 I have no agreement with the Applicant
 7 to cross his property, nor do the Korlishins.
 8 So the board's decision has left us in
 9 a very precarious situation.
 10 But I think the word "conveyance" means
 11 something.
 12 And when it comes to hardship, I don't
 13 see how it's a hardship for the applicant.
 14 Thank you.
 15 CHAIRMAN SMOLINSKI: Thank you.
 16 MR. KOHUT: Thank you, Mr. Chairman.
 17 Just for the record, so that --
 18 CHAIRMAN SMOLINSKI: I am closing it to
 19 the public at this time, unless there's anybody else.
 20 I'll give you a last call.
 21 (No response.)
 22 CHAIRMAN SMOLINSKI: Seeing none.
 23 MR. KOHUT: Just for the record, so
 24 that the board members are not confused at all or
 25 misinformed, we, in no way, are saying that Mr.

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1 Wright does not have the right to access Johnson Road
2 from that easement.

3 That's exactly what an easement is. It
4 means you have a right to use that way to access
5 Johnson Road.

6 So this notion that we're taking away
7 access to Johnson Road is just false. This was a
8 zoning determination, that's all it was. It was a
9 zoning determination based on your code. Okay.

10 I'd like to end on a positive note.

11 I think that what I tried to do and
12 what my -- I work with these professionals a lot,
13 what we try to do is we come before the board, we
14 request an application -- we request a certain
15 application -- you know, a proposed application, and
16 we listen to the board. And we listen to members of
17 the public. And you need to work with the board
18 members. And you need to work with the public as
19 best you can.

20 In this case it wasn't just the public,
21 it was the Green Pond as well.

22 This plan is a drastic improvement over
23 what existed there previously. Okay. We are
24 creating one variance for impervious coverage.
25 That's it.

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1 two garages.

2 And we've created a plan that makes
3 perfect sense.

4 It may -- I told my client I like this
5 plan better than the plan that we previously
6 presented.

7 He yells at me, but so be it. I think
8 this is really -- I think this is something that I
9 think the board could be proud to approve.

10 I think we did a job that both of us
11 worked on with members of -- comment from members of
12 the public to come to this plan and, hopefully, build
13 a beautiful home.

14 Again, this issue of a three-car
15 garage, it's permitted. It's permitted in the code.

16 We're not asking for a variance for a
17 three-car garage. It's permitted.

18 We've already stated that the one
19 garage, towards the rear of the property, won't be
20 used as an everyday garage. So we're taking into
21 consideration the concerns about turning radius and
22 access.

23 So I think this client has gone above
24 and beyond to address the concerns of the board. I
25 think the variances are justified for the reasons

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1 And we're reducing that amount. It's
2 pretty straightforward. I am not going to
3 regurgitate all the testimony you've heard from
4 Brigitte and my witnesses. I think we have been here
5 long enough.

6 I will just say this, that hardship is
7 not the only justification for a variance. That's
8 one of the justifications, C-1 is one of the
9 justifications.

10 The other is the C-2 justification,
11 which means you're furthering the purpose of zoning.

12 And for the reasons stated by Ms.
13 Bogart and my witness -- all of my witnesses, what we
14 are proposing here, this single-family dwelling,
15 furthers the purposes of zoning.

16 It's creating a brand new home, a
17 beautiful home, on a property that, quite frankly, is
18 dilapidated at this point. It was dilapidated before
19 my client bought it, it's further dilapidated now.

20 I think we've addressed privacy
21 concerns.

22 We've addressed landscaping.

23 We've addressed issues regarding too
24 much impervious coverage.

25 We've addressed issues regarding having

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1 given.

2 And I respectfully request the board
3 approve the application as submitted.

4 Thank you.

5 CHAIRMAN SMOLINSKI: Thank you.

6 Could you summarize -- sir?

7 MR. KOHUT: Yes.

8 CHAIRMAN SMOLINSKI: Could you
9 summarize what two other items you had from the Green
10 Pond Corp. again?

11 MR. KOHUT: Oh, sure.

12 CHAIRMAN SMOLINSKI: For the record.

13 MR. KOHUT: The one was they had asked
14 -- they asked that pavers to be installed with gravel
15 per ICPI standards, which we agreed to do.

16 The other one had to do with the grill,
17 and they were concerned that the setback wasn't being
18 met. But based on the code, it is being met. So we
19 would like to keep the grill as proposed.

20 Those were the two -- those were the
21 only two issues or comments I was given back after we
22 submitted these plans to Green Pond, along with
23 conditional approval.

24 CHAIRMAN SMOLINSKI: With the
25 conditional approval, which you still have to go back

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1 --
 2 MR. KOHUT: We have to finalize that
 3 process.
 4 Correct, Mr. Chairman.
 5 MS. PLATTS: I want to address the
 6 issue related to the statement I actually raised, the
 7 question I raised about addressing.
 8 CHAIRMAN SMOLINSKI: Do you have the
 9 mic on?
 10 MS. PLATTS: Yes.
 11 There was a question I raised about
 12 addressing the issues raised at the earlier meeting.
 13 I wasn't referring to a single human
 14 being. I wasn't referring to a single comment,
 15 because our meetings aren't about a single comment.
 16 There was -- there is an entire board,
 17 there's an entire community.
 18 So the idea that we're concerned about
 19 -- we're concerned about every single comment made at
 20 these meetings. The member of the community who
 21 stated that we were talking only about him, that's
 22 incorrect.
 23 We, of course, took your statements
 24 into consideration, of course.
 25 But the statements that were made at
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1 that meeting were made by many people, not just you,
 2 and they were issues raised by lots of community
 3 members and board members, and they seemed to all be
 4 addressed.
 5 So please, don't be confused. It seems
 6 like the Applicant took in lots of different concerns
 7 because there were two garages, there were lots of
 8 issues raised. And so I do appreciate the change in
 9 the application because there seems to have been
 10 changes and that doesn't always happen.
 11 I have been on this board for long
 12 enough that I see that there are concerns raised and
 13 then we come back for a second meeting and nothing is
 14 done.
 15 So it might not be a perfect
 16 application to everybody, but it definitely is a
 17 different application and those differences were
 18 specifically based on issues raised by community
 19 members.
 20 They may not address every single
 21 person's concerns, but clearly there was an attempt
 22 to raise -- or to address those issues.
 23 And at least the photos that were
 24 provided. Again, I should have marked it, what is
 25 this, A-10?
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1 CHAIRMAN SMOLINSKI: A-10.
 2 MS. PLATTS: A-10, as a member of the
 3 Township of Rockaway, I have to say the condition of
 4 this property previous to this application is
 5 horrible.
 6 And I can say that I do not want
 7 property to appear like this in my community.
 8 So just starting there, there is
 9 definitely a desire by -- as a community member to
 10 improve this.
 11 The question is, is this particular
 12 application the appropriate application? And I think
 13 it's a beautiful application for a home and I think
 14 that the movement away from the -- specifically last
 15 time I think the board, and I'm only speaking for
 16 myself, but I think there were concerns about the
 17 garage being so close.
 18 I understood the neighbors' concerns
 19 about backing out, and even if there wasn't
 20 necessarily a vision issue, it was close, moving that
 21 back, I think, was a great idea.
 22 I see that there's concerns about the
 23 size, but I think it's a beautiful plan.
 24 And I do personally think that it does
 25 address the concerns -- I think that the factors that
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1 we looked at under C-1 and C-2 are, in fact,
 2 addressed.
 3 The issue related to the Van Dien --
 4 the 7.9 percent of impervious coverage on Van Dien,
 5 first of all, this is a preexisting nonconforming
 6 issue.
 7 And although, we still have impervious
 8 coverage variance requirement, it's actually a
 9 reduction. So although we have a large -- you know,
 10 the lot is the large lot, we're actually reducing --
 11 even with the size of the garage, we're actually
 12 reducing the impervious coverage on the lot, and I
 13 don't think any of us can disagree that this is in
 14 any way not an improvement to the community.
 15 I find it interesting that if you look
 16 around -- well, it's kind of interesting that
 17 anybody in this community wouldn't want this to not
 18 be improved to look like what we have as our
 19 application.
 20 But -- so I guess -- I think that
 21 there's been a lot of conversation about, you know,
 22 previous decisions of this board. We're bound by the
 23 law. This isn't anything more than reviewing the law
 24 and applying the law and that's what we're bound to
 25 do here as well.
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1 So we would be bound to apply the
 2 variance rules. And that's why I would -- I believe
 3 that we should approve this with all of the requisite
 4 applications and all of the further permit and
 5 applications that would have to be filed that were
 6 discussed at this meeting, like the soil permit and
 7 all the other permits that would have to be done.
 8 But I understand the board may have
 9 greater concerns about the size of the impervious
 10 coverage, but that would be -- that would be my
 11 feeling about it.
 12 CHAIRMAN SMOLINSKI: I'm going to make
 13 a motion to put on the table. I am going to make a
 14 motion to approve this application with the
 15 conditions as stated forth on the record; those
 16 being: Number one, going back obviously you're --
 17 you have to go back and get any number of municipal
 18 approvals that are in there, state approvals, if any,
 19 and whatever Green Pond Corporation approvals having
 20 gotten back to Green Pond Corp., gotten that
 21 conditional approval is helpful.
 22 And I appreciate the fact that you've
 23 made attempts to at least here -- not only members of
 24 the public but some of the members of this board and
 25 some of the concerns that we had with the -- as to
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1 the layout relative to the prior application as it
 2 was being presented, so thank you for that.
 3 While not perfect, I recognize that Van
 4 Dien Lane for what it is, you're paying taxes on it,
 5 you know, that's impervious coverage that you can't
 6 use other than as for a right-of-way, as the two of
 7 you also did.
 8 But that's for another board, another
 9 place, fortunately.
 10 So with that...
 11 MR. TEN KATE: Mr. Chairman?
 12 CHAIRMAN SMOLINSKI: Yes, sir.
 13 MR. TEN KATE: Can we state a few more
 14 conditions?
 15 CHAIRMAN SMOLINSKI: Please do.
 16 MR. TEN KATE: Compliance with the
 17 drainage comments that --
 18 CHAIRMAN SMOLINSKI: Yes.
 19 MR. TEN KATE: Satisfy the drainage
 20 comments and there there's always going to be some --
 21 I believe this language is up to our attorney that
 22 there would always be access for the rear neighbors.
 23 I think that should be -- while it's
 24 been stated, I think that should be in the
 25 resolution.
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1 CHAIRMAN SMOLINSKI: Yes.
 2 MR. TEN KATE: To rear yard neighbors.
 3 MR. KOHUT: No encroachments onto Van
 4 Dien.
 5 CHAIRMAN SMOLINSKI: None.
 6 MR. KOHUT: No encroachments on to Van
 7 Dien?
 8 CHAIRMAN SMOLINSKI: No.
 9 MR. KOHUT: That's fine.
 10 MR. TEN KATE: And no -- preventing any
 11 blockages and always access.
 12 MR. KOHUT: Okay.
 13 CHAIRMAN SMOLINSKI: All right.
 14 MS. PLATTS: Jason, can I just say one
 15 other thing about the benefits?
 16 We're talking about a motion to approve
 17 that --
 18 CHAIRMAN SMOLINSKI: You can add in, if
 19 you're going to second it then you can add it in
 20 there.
 21 MS. PLATTS: I'm going to second it.
 22 CHAIRMAN SMOLINSKI: Yeah.
 23 MS. PLATTS: I'm going to second.
 24 CHAIRMAN SMOLINSKI: Okay.
 25 MS. PLATTS: So I second.
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1 And -- and I think one of the reasons
 2 that it popped in my head is that Mr. Ten Kate -- no,
 3 I know that, I was just looking at you -- Mr. Ten
 4 Kate made me think of it.
 5 Part of the issue I think the planner
 6 raised that I thought was important is that there was
 7 no stormwater management on the site previous to
 8 this.
 9 Is that correct, Mr. Ten Kate? Do you
 10 know.
 11 MR. TEN KATE: I believe so.
 12 MS. PLATTS: And so I think that is one
 13 of the public benefits is that part of this plan
 14 creates stormwater management that didn't previously
 15 exist.
 16 And we're reducing the impervious
 17 coverage.
 18 It would be a new, brand new home on
 19 the property where we have dilapidated property,
 20 where there was testimony that there was literally
 21 infestation of animals living in the property.
 22 And so as a result, you would be
 23 removing the property with the infestation of the
 24 animals and you would be creating the stormwater
 25 management.
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1 The unique features include the fact
2 that you've got a percent of pervious -- the
3 impervious coverage that is unusable on the street.

4 And you have previous existing
5 nonconforming of the impervious coverage, I believe
6 it was at 39.6.

7 So that was just some of the -- I know
8 we're doing both C-1 and C-2, but that was some of
9 the factors that I put into the reasons why they have
10 the -- to second it.

11 CHAIRMAN SMOLINSKI: Thank you.
12 MR. TEN KATE: Mr. Chairman, can I add

13 --
14 CHAIRMAN SMOLINSKI: Yes, please.
15 MR. TEN KATE: I know they were stated,
16 but just to have it on the record, that they're going
17 to provide the building height calculations for the
18 main structure, as well as --

19 CHAIRMAN SMOLINSKI: That's accessory.
20 MR. TEN KATE: -- and as-built survey
21 be provided.

22 MR. KOHUT: No problem.
23 CHAIRMAN SMOLINSKI: Okay.
24 Roll call?

25 MS. BROWN: Mr. Smolinski?
LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
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CERTIFICATE

1
2
3 I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary
4 Public of the State of New Jersey, Notary
5 ID.#50094914, Certified Court Reporter of the State
6 of New Jersey, and a Registered Professional
7 Reporter, hereby certify that the foregoing is a
8 verbatim record of the testimony provided under oath
9 before any court, referee, board, commission or other
10 body created by statute of the State of New Jersey.

11 I am not related to the parties
12 involved in this action; I have no financial
13 interest, nor am I related to an agent of or employed
14 by anyone with a financial interest in the outcome of
15 this action.

16 This transcript complies with
17 regulation 13:43-5.9 of the New Jersey Administrative
18 Code.



LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #50094914, Notary
Expiration Date December 3, 2023

19 Dated: 8 31 23

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1 CHAIRMAN SMOLINSKI: Yes.
2 MS. BROWN: Mr. Loftus?
3 MR. LOFTUS: No.
4 MS. BROWN: Ms. Royek?
5 MS. ROYEK: Yes.
6 MS. BROWN: Ms. Platts?
7 MS. PLATTS: Yes.
8 MS. BROWN: Ms. Lucas?
9 MS. LUCAS: Yes.
10 MS. BROWN: Mr. Lusardi?
11 MR. LUSARDI: No.
12 MS. BROWN: Two no, four yes.
13 MR. KOHUT: I'd like to thank the board
14 for their time.

15 I know this was a long process, I
16 appreciate your help.

17 MR. BELL: And you're going to have to
18 wait, I think there's at least three discs, so it's
19 going to take a little longer to prepare.

20 MR. KOHUT: Not a problem, Mr. Bell,
21 understood.

22 Enjoy France.
23 MR. BELL: Thank you.
24 (Whereupon, this matter is concluded.

25 Time noted: 9:02 p.m.)
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