

**MINUTES**  
**MT. EPHRAIM LAND USE BOARD MEETING**  
Borough Hall Court Office  
121 S Black Horse Pike, Mt. Ephraim, NJ 08031  
Wednesday, August 14, 2024, 7:00pm

1. **CALL TO ORDER.** Steve Eggert called the meeting to order and stated the meeting was advertised and notices posted in accordance with the “Open Public Records Act.”
2. **PLEDGE OF ALLEGIANCE.** All persons present, stood for the pledge of allegiance.
3. **ROLL CALL:** Kim Beebe, Commissioner Marrone, Michael Schiavo, Steve Eggert, Thomas Maxwell, Douglas Morgan, Michael Rossano, Rocco Vespe, John Saban, present. Mayor Carney, Tiffany Ferrara, Robert Carter, Anthony Stagliano, absent. Anthony Stagliano arrived at 7:12pm.
4. **CALENDAR OF OLD BUSINESS**

- **July 10<sup>th</sup> minutes, motion to approve, Anthony Stagliano, the motion was seconded by Douglas Morgan.**

**Roll Call: Kim Beebe, Commissioner Marrone, Michael Schiavo, Steve Eggert, Thomas Maxwell, Anthony Stagliano, Douglas Morgan, Michael Rossano, Rocco Vespe, John Saban, all voting yes.**

- **Continuation of application on Stephen Rizzo Inc. – Sub-division – 827 Station Avenue**

Peter Rhoades applicant’s attorney – good evening members of the board, this is a continuation from our last appearance before you, as you may recall there were some engineering questions that you have asked us to try and address, which I think we have done, Steve, tell the board about what you have done.

Joe Nardi – for the record if I may, Mr. Rizzo you were sworn in last month and you are still under oath, so you can proceed, I also like to state for the record for members of the public this is the continuation as Mr. Rhoades has indicated from the previous meeting of July 10<sup>th</sup>, there were some issues that needed to be addressed, no additional notice was provided, I recognize some faces from last time, but those of you that were not here last month I just wanted to make it clear that notices have been provided.

Steve Rizzo – so based on the recommendation of the board last month, we went out and hired an engineer to do soil samples and test pores on two locations on the property to see where the seasonal high water table was to make sure that we could drain all the water that was accumulated on the property, since then, we

turned that over to a soil engineer they evaluated the soils and then returned it back to my engineer who came up with this plan that you all have in front of you and we are able to manage the water from the two year storm on each property into the small retention ponds, the front right corner of the rear lot behind the existing home and then the front one is in the right front corner of the proposed front home.

Peter Rhoades – did you also have conversations with the fire chief as to access this design and if so, what was the response.

Steve Rizzo – I did meet with Matt, and he told me what he needed and required, and we put that on the plan as well.

Peter Rhoades – what were those changes.

Steve Rizzo – he needed a minimum of 14ft wide the driveway, the staging area in front of the house in order to put the out riggers down back there once he gets back there if there is ever a problem, I told him that would be no problem especially beings we may be putting the two car garage back there and if we do then it would be a minimum of 20ft wide back there for him.

Peter Rhoades – even if it is a one car garage verse a two-car garage you will still have the minimum of 14ft width.

Steve Rizzo – yes, that is correct, because even if we put a one car garage back there, we are still going to make it a two-car parking area with a back out turning area, so those people can back out of their garage and come face forward down the driveway, not needing to back out.

Peter Rhoades – so after these suggested studies, you feel comfortable that what you are proposing in terms of the retention basins that will take care of all the water run-off from the new houses that you are proposing.

Steve Rizzo – yes, we do.

Peter Rhoades – as just so the board understands the proposal is, if approved the new dwellings gutters will be piped so that they drain into these retention basins so there is no run-off from the house to the street.

Steve Rizzo – correct, the retention basins were designed mainly for the increase from the roof structures on both homes, that is what the engineer had asked us to do.

Shawn Seroka – Greg did note that the concept design was feasible and reviewed the soils and I believe he only noted that some additional infiltration test are

required but that can be later on in the process at this point he is satisfied with what was provided.

Steve Rizzo – yes, and my engineer responded back to him today stating that we are proposing to put the homes on a slab after we saw where the seasonal high-water table was, so we will be putting both houses on slabs, not basements so that any water that may come up won't affect the new owners.

Peter Rhoades – just for the board's notification, one of the concerns that Mr. Fusco had was that if we were proposing basements there was some concern that the basements might have water infiltration from a rise in groundwater levels during certain periods of the year but since these two houses are on slabs without basements that will not be a problem.

Steve Rizzo – correct.

Steve Eggert – do we have any questions from the board members.

Rocco Vespe – have you submitted anything other than this newly drawn sketch so far.

Steve Rizzo – no, this came from our engineer.

Rocco Vespe – I know where it came from.

Steve Rizzo – we received this about 4 days ago.

Rocco Vespe – what else has your engineer submitted in writing to us besides this sketch.

Steve Rizzo – this is pretty much it; we have the soil samples and test pit data.

Rocco Vespe – have you reviewed all that.

Shawn Seroka – Mr. Fusco reviewed all that.

Rocco Vespe – has he issued a report yet.

Shawn Seroka – a report no, but he has noted that it is acceptable at this point, and it is feasible for them to install basins at the property.

Rocco Vespe – so he has not reviewed the entire document.

Shawn Seroka – he has reviewed the concept plan.

Rocco Vespe – ok.

Shawn Seroka – he just has not issued the report.

Rocco Vespe – when will be expecting that.

Shawn Seroka – I am not sure; I am assuming within the next two weeks that he would be getting that report out to everyone.

Rocco Vepse – ok.

Joe Nardi – Mr. Rizzo, maybe this would help, and I don't know but I know that this was provided by your attorney, and these are soil logs and investigations for lots 2.05, and 2.06.

Steve Rizzo – correct.

Joe Nardi – Mr. Rhoades, maybe you want to mark one of these as exhibits and then maybe between you and Shawn identify for the board what these are, these two forms. I know you testified about the soil engineer that had been hired but just testify what these documents are and between the two of you perhaps interpret them.

Shawn Seroka – these logs go through an investigation that was done for two test pits, test pits 1 and 2 and at the top of each page next to the lot number there is a location of the test pit and based on the location of these test pits it appears that they are in close proximity to the proposed basins and these go through from the very top of the surface all the way down to it looks like 88 inches for both test pits, they also took samples and then be tested again at a later point after the application has progressed if it is approved.

Steve Rizzo – they were tested already, we sent them out and had them tested already.

Shawn Seroka – ok, do you know the results yet.

Steve Rizzo – I may have the paperwork here, if not I will have it out in my vehicle.

Shawn Seroka – I think its ok if we move on without that, but samples were taken 55 inches in test pit one and the 50 inches in test pit two below the basin bottom as they are proposing in this concept.

Peter Rhoades – these documents were also supplied to Mr. Fusco, and it is my understanding that after review of these he felt that this information was sufficient to satisfy that the basins would function.

Rocco Vespe – I would like to see something in writing.

Shawn Seroka – he specifically said that this was feasible, he didn't say that this will work because there is other test that are still required but it is feasible at this point that this could work.

Steve Rizzo – I do have an email that came back from Mr. Fusco's office.

Rocco Vespe – we are dealing with professional engineers and civil engineers, nothing is stamped, I mean at some point we are going to need something more formal.

Steve Rizzo – sure, absolutely.

Rocco Vespe – this is for both sides, our engineer and your engineer.

Steve Rizzo – the email that came from Mr. Fusco's office stated the grading concept that you proposed makes sense as you begin to finalize your grading plans, please make sure that the overflows from the 7 to 9-inch rainfalls make sure they can carry to the street without flooding or impacting the surrounding properties.

Rocco Vespe – do we have a copy of that.

Shawn Seroka – I don't believe they have this.

Steve Rizzo – this came from the engineer's office directly.

Rocco Vespe – you didn't give us a copy of that.

Steve Rizzo – no.

Rocco Vespe – any other qualifications.

Steve Rizzo – no.

Rocco Vespe – any other information that we don't know about.

Steve Rizzo – I don't believe so, right Shawn.

Peter Rhoades – you can look at the email if you would like to.

Rocco Vespe – yes can I look, maybe you can submit a copy to the council here.

Joe Nardi – well I can add a few things because I have had numerous conversations with Mr. Fusco in preparation for this meeting tonight. I know Mr. Rizzo has been in contact with him and as I am not testifying, I can report as to what Mr. Fusco said and reiterate what Shawn has indicated that the conceptual

plan that had been submitted and the information, the soil logs and the revised plan, he found to be acceptable and responsive to the questions of the board from the meeting last month.

Rocco Vespe – from the July 8<sup>th</sup> letter.

Joe Nardi – well responsive to the questions that the board raised at the July 10<sup>th</sup> meeting, we also have of course the conditions that have to be satisfied that are contained in the July 8<sup>th</sup> letter, Mr. Fusco also added after looking at the plans and that was as of this afternoon he and I communicated and he indicated that the subdivision if approved should be contingent upon the submission of a grading plan that confirms that adjoining properties will not be impacted and detailed soil information must be submitted to document that stormwater management can be addressed, so this will be incorporated into his letter and there will be conditions contained in the resolution, so I think it is responsive to what has been asked of Mr. Rizzo, it addresses the concerns and for those of you that had the opportunity to review the minutes from the last meeting, Mr. Rizzo is aware of his obligations to contain water within his property and not allow it to flow onto others and while no guarantees of course this plan is intended to perhaps alleviate surrounding water problems but that is not his responsibility, he testified about that at the last meeting, so that is where we are. There will be conditions if this were approved and Mr. Fusco and Mr. Rizzo and his engineer and with Shawn and work out all the details as to exactly what is needed to comply with the requirements that they are looking for.

Rocco Vespe – that makes sense.

Joe Nardi – while we are also on this, I just want to go over we have the police chief here and I don't want to take up anymore of his time, but two of the conditions that were raised by Mr. Fusco in his letter of July 8, 2024, were review of the plans by the fire chief and police chief. So chief, I am not going to swear you in, but you had time to review the plan.

Chief Conte – yes, I did.

Joe Nardi – do you have any questions or concerns about how it may affect your department's ability to provide first responder services.

Chief Conte – no, not at all.

Joe Nardi – access will be easy as far as you can determine just like everyone else's driveway if there are no obstructions in your way.

Chief Conte – yes, and I have talked to the fire chief, and we are on board with the same idea.

Joe Nardi – I will say that the fire chief did submit a letter to the Land Use Board, and I will just read it: Members of the board this letter is to confirm my meeting with Steve Rizzo regarding a concern with the width of the driveway purposed by Mr. Rizzo after speaking with Mr. Rizzo he and I agreed on widening the overall width to a minimum of 13ft. 6 inches to accommodate the fire apparatus access in case of an emergency, this agreement satisfies any concerns I had and also meets the requirements of the New Jersey Fire Code Section 503.1.1 and 503.2.2, so I wanted to make sure that everyone is aware of that although Mr. Rizzo you had testified that the width will be 14ft, so can you just clarify what you intend to do.

Steve Rizzo – as that hand drawn plan shows we are going to make it a minimum or more than a minimum of 14ft and a minimum of in the back of 20ft with a turnaround which will make it even wider.

Joe Nardi – ok great thank you.

Anthony Stagliano – I just have a couple questions....

Rocco Vespe – excuse me isn't this noted as 19ft deep the roadway.

Steve Rizzo – that is the width of the properties.

Rocco Vepse – so is the width of the driveway noted on this at all.

Steve Rizzo – I believe it is 10ft wide and what I got out of it after having the meeting with the fire chief was that he only needed the 13.6ft back there on the proposed turnaround but if he needs that all the way up, we can do that.

Rocco Vespe – so we can anticipate that there will be a better plan to view.

Steve Rizzo – absolutely.

Rocco Vespe – ok.

Anthony Stagliano – so you are planning on two retention basins.

Steve Rizzo – yes, two small ones.

Anthony Stagliano – I saw on the plan 310 cubic feet, 2,819 gallons of water approximately to be stored.

Steve Rizzo – I don't know the exact number.

Anthony Stagliano – so how long based on a two-year storm is that basin good for, how long will they take to drain out and what level of protection will there be, fencing or anything to prevent children or anyone wandering in them.

Shawn Seroka – if you would like to address any other concerns other than the specifics of the drainage question first.

Steve Rizzo – these basins are only 2ft deep at the deepest level.

Anthony Stagliano – I couldn't make that out on these plans.

Steve Rizzo – that is the one in the back and I believe the one in the front is even shallower, so we don't think there is any concern with that.

Anthony Stagliano – I just couldn't tell how deep it was.

Steve Rizzo – I understand.

Anthony Stagliano – regarding the drawing, the property to the rear is 20,830 and the property in the front is 7,397, are you just capturing runoff from the roof drains or are you also capturing ground water runoff.

Steve Rizzo – well definitely the roof drains, which is what the engineer had required so we are trying to alleviate most of the other water, any other water would be coming down the driveway, we have like a 1% pitch on the driveway coming out to the street.

Anthony Stagliano – my question is you are still capturing some ground water.

Steve Rizzo – yes.

Anthony Stagliano – so basically the rear property is going to be 3 times the size of the front property, do you need a bigger retention basin, if you are capturing, if you have one size drainage ditch for a larger square foot and the same size for something 3 times the square foot.

Steve Rizzo – well mainly they were designed to capture the roof drains.

Shawn Seroka – what Mr. Fusco needed was the roof runoff, that was all he needed in the retention basins.

Anthony Stagliano – ok, because based on the knowledge of the water that is out there I am just asking questions for my general knowledge, will these retention basins do they have to be similar to what was done at Rudderow Avenue where they have to be maintained by the property owners, will they require an annual cleaning certification and letter to the DEP and will they be deeded to the property.



Steve Rizzo – no because they are on the property, and they are not going to even be visible because they are so shallow, and we would be landscaping around them and inside.

Anthony Stagliano – I understand that, but under the stormwater regulations there are certain requirements with maintenance of retention basins, so is that something that the DEP.

Shawn Seroka – Mr. Fusco will have those requirements of the approval.

Anthony Stagliano – Thank you.

Shawn Seroka – all the things that you stated.

Anthony Stagliano – that is all.

Steve Eggert – do we have any more questions from the board, if not we will open it to the public.

Michael Brining – resident – I don't know if anyone has looked at Mt. Ephraim Happenings today about this meeting but there is a picture of this property covered in water, a 2ft basin. Mr. Coyle lives 2 doors down from me they were going to build houses there, it is a big piece of property it may be like 5 acres, they turned them down because of the amount of water that pushes to the neighboring properties, they told us at the meeting that when they built the house that Mr. Coyle lives in that behind my house they were not allowed to touch any vegetation, no live vegetation and I came home and I called the Borough and said Tara what did they say about cutting down the live vegetation by my house, they said it wasn't supposed to be touched, I came home and it was clear cut, which then put more water in my yard, my friends mom lives by me and they get a ton of water in their yard, this house literally sat for two weeks with a ton of water in the yard, and all that water if you put houses there will go to neighboring properties, something like this was shut down before it would be nice if it was shut down again, because if not this is going to flood everyone out. We already get water in our basements, you put houses there, I mean it is already like a pond there.

Steve Eggert – I believe the other issue with those previous houses was with the street they wanted to put in to get to those 5 houses, that was going to take a lot of impervious coverage, I was on the land use board at that time.

Michael Brining – correct, but it was also because of the water issue and that it would push to the neighboring properties.

Shawn Seroka – based on the soil testing that was conducted there is a clay layer that is shown in the lots underneath that clay layer is, I will read the log for you,

this is the basis on what Mr. Fusco decided which is feasible based on the soils that showed on the log, at 24-44 inches a fine clay loam, which is just clay at that layer, you would imagine water runoff can not penetrate at that level, underneath that layer is a fine loamy sand which we don't have any test results for, they stated they were tested but this type of layer more suited to infiltration which is why the basins are feasible to be used here, now the applicant would still have to submit a grading plan and a perfected grading plan including all of the test results and it may be apparent at that point that this is not feasible but at this point we can't tell.

Michael Brining – so then my question to you is are they going to dig down to get past the clay and then put new dirt back, so that it does drain.

Shawn Seroka – that is what they would have to do, yes that is correct.

Michael Brining – where on the entire property.

Shawn Seroka – I can't speak to the engineer's intent but based on the plans it appears it would just be in the basins from the concept plans that we have.

Steve Eggert – what was the driveway going to be Steve, asphalt.

Steve Rizzo – most likely asphalt.

Dominick Cipolone – resident – I live right next door to the property in question, I have nothing against Mr. Rizzo trying to build a second house on the double lot, it just makes sense it is a double lot, just first off, the bat the aesthetics with having a third house in the back lot, I can't even imagine that with the taxes we pay and everyone in that area, with all of our properties and then all the properties on Northmont that back-up against that property, we maintain our properties very well, we want a nice little neighborhood, we enjoy that quiet in the back yard, we cant get that in a lot of places, the one thing I don't hear anyone talking about is apparently there is underground stream that runs behind all those properties back there, down to millers pond. Mt nephew lives on Northmont and his property runs just outside the boundary of the 827 lot, his neighbor is a lot closer, his neighbor dug down a little next to their garage and you can see the stream, that is where the water is coming from, Steve has seen the amount of water there when it rains, just normal rain, heavy rains I don't care how much soil testing you do that water is not just from rainfall, if there is a house there and roof run-off that run-off will not be any greater than the normal rain fall that's there, it is a low point that is why it all accumulates there, it comes from everyone else's property which is all flooded at the same time most of us are half way up the property flooded. Any kind of retaining pond, there already is a retaining pond there, that is what that is, I mean I don't know what a retaining pond is going to do 2ft deep, even 10ft deep the water is still going to rise to that level, you would need to have something 10ft up and hold a million gallons and pump it into there to handle the water because

even if you pumped it out to the street, the way our town runs there is only a few drains on certain streets, our street gets flooded right now with out that much water being pumped out. Again, I don't have a problem with him building a second house, a third house in my mind is out of the question and I think this will cause a lot of problems. I love this little town, and I don't believe we need more houses we need more businesses in town.

Steve Eggert – anyone else from the public.

Karen Tanier – resident – my husband was born and raised in the house that we live in today, we back up a little bit past where the lot is going to end, our back yard is under water all spring, our back yard and the two houses on the other side literally turn into skating ponds in the winter and in edition to the water, which again we don't have basement flooding problems but in the spring if we have a lot of snow the flood waters get into our crawl spaces, there is no place for that water to go and in addition to my concerns about, its not that just you are going to have run-off from the roof, the foot print of the houses are going to prevent the absorption of rain water through that ground, its basically this net loss anywhere for that water to go and the other thing and I'm glad that you all can use your back yard we can't, our family calls it west Nile virus back there, because the water table is so high the mosquitos are ridiculous so whatever kind of retaining water or pond or restraining thing, will they be treated or will it just become another place for the mosquitos and I'm sorry but mosquitos are getting people sick. There is no place for the water to go, we also have a lot of wildlife back there, when my kids were little I would warn them not to touch the foxes, all the wildlife lives back there, where would they go, we all already have turkeys in our yard, and its wonderful to see this and I agree with putting a second house on that lot aesthetically is correct facing the street, but to have a driveway that goes that far up and disturb that much wildlife, because you are not just displacing the foot print of the house now you are covering up land with an asphalt driveway, where will that rain water go, because what happens is that water is just so high you dig down 5 inches and you have mud in the bottom of the hole and it's because of that underground stream. I also have a question about approval because you keep on saying its feasible and there have been test that have been run, are we going to approve for them to start building before they give us the final answer about feasibility because if we find out that this is not feasible and we tore up the ground already you have now created a flooding problem that we will not get any taxable for because they wont be able to meet the contract because now the plan is not feasible and they have torn up all of ground cover.

Steve Eggert – that would all have to be approved before.

Karen Tanier – so nothing...

Steve Eggert – the test holes that he dug, he did that on our request, we requested those so we could get to this point.

Karen Tanier – so no one is going to be tearing down trees until they have given us an approved plan to deal with that water, correct.

Douglas Morgan – so he owns that property regardless of if approved or not, if he wants to tear down trees he can tear down trees.

Karen Tanier – ok. I am just concerned that if the feasibility becomes not feasible and the damage is already done, they walk away, and we have more issues.

Shawn Seroka – please correct me if I am wrong, this hearing today is for a variance, a variance for the application based on the lot frontages that they are proposing, the applicant if this were to be approved would have to resubmit a final grading plan to Mr. Fusco for his review which would include additional soil tests, the full basin sizes, more detailed grading and were the surface run-off will be flowing too, that will also include additional profile test which would document ground water.

Karen Tanier – they won't be able to build anything.

Shawn Seroka – as stated he can do what he wants with his property, since they own it, however they can't construct or put improvements on the property without approval from the construction office and as part of that process they need to reach out to use for that approval process.

Joe Nardi – as indicated this is a request for a sub-division, so if it were to be approved it would be attached with conditions, many which we have discussed this evening, they would have to be satisfied...

Karen Tanier – before they start doing construction.

Joe Nardi – until they are completed and satisfy the engineers, that the plan is acceptable and meets the standards for this lot a permit could not be issued, so nothing could occur until all conditions are satisfied.

Karen Tanier – I just want to be sure of that because there are a lot of should b's and feasibility that sounded like there was not a lot.

Joe Nardi – well Steve indicated that this meeting had been adjourned at the request of the board since we needed more information, more information has been provided, is it fully complete no, that is understood.

Karen Tanier – will we have another meeting before this is approved.

Joe Nardi – not necessarily, it is up to the board to decide based upon the recommendations of the engineer, what he needs to review, the grading plan, and whatever else he may need, he had two conditions, he found the concept plan to

be feasible but not complete, so this would have to be complete before its approved. As we discussed Mr. Rizzo has an obligation not to aggravate or exacerbate a problem that presently exists and any water, rainwater or otherwise that is generated as a result on this property and the run-off can not go onto other properties, that must be met.

Karen Tanier – thank you.

Kathy Devine – resident – I have a question about the dirt that has delivered back there on the property, it was like 20 dump trucks.

Steve Rizzo – yes.

Kathy Devine – I thought you had said that you were not going to fix the back yard if the plan was not approved.

Steve Rizzo – I don't remember what exactly was stated.

Kathy Devine – yeah, you stated nothing was going to be touched until everything was approved.

Steve Rizzo – well no matter what we do we will have to do some grading back there on the property, that was excellent dirt we came across from another site and we brought it to this property, that probably is about \$5000.00 worth of dirt.

Kathy Devine – yeah, I didn't know what the plan was, if that was to just raise up the yard.

Steve Rizzo – well hopefully it will be used to grade this whole property, to correct some of the problems.

Kathy Devine – ok, so then if your ground is higher then all the other surrounding properties will be lower, and we would have more water.

Steve Rizzo – well again that goes back to the grading plan to be approved by the engineer.

Kathy Devine – well that makes sense right, if you are higher than the surrounding properties, we would all be lower.

Steve Rizzo – yes, if it is not graded properly, but again we discussed this at the last meeting I am not allowed to dump any additional water onto any of the surrounding properties.

Bruce Ferrick – resident – in 1973 I was told I was not allowed to put dirt on my property because I was making my property higher than everyone else's and

pushing water onto their property and they made me stop after two loads, the township did and now here it is already happening. If you go back there right now you can see the underground stream its plain as day, it's along all our properties, it flows through there regularly, it was there when I was a kid, my property gets flooded all the way up to my back door. I have pictures of his backyard underwater. If you look at the picture of when the house was for sale you can see the entire property was flooded. I learned how to ice skate on that 60 years ago. That property has been a problem all the way to millers' pond forever. We were told we were never allowed to clear back there, somebody else got to buy it and take care of it, this gentlemen bought it and I think he got a bad deal because he didn't know what he was up against, there is no way two houses can go back there without really changing everything including our properties, he is richer he can put up higher ground, why can't we put our property up higher before he gets too and push it back to him, if he is allowed then we are allowed that's all I'm trying to say. The same thing that he is doing right now is pushing it on our property, go look at it there is 8 double loads of dirt back there, all that water must go someplace unless he puts a newer sewer drain, I don't know how we are all supposed to live there without swimming, I'm sorry and I'm done.

Steve Eggert – well that is why we have engineers, because they handle all the things we are here guessing at.

Bruce Ferrick – then let us put our ground higher than him, I have people that can deliver dirt and then we won't have a problem, because you stopped me in 1973 from doing the same thing that he is doing now, I think that is wrong.

Steve Eggert – well there is stormwater in the state, which gives us all these numbers and rules.

Bruce Ferrick – I get that I am just saying that this is frustrating, and I get things change and now this is happening, I would have pushed dirt on my property already if I knew I was allowed.

Joe Nardi – well I think there may be a distinction and if Mr. Rizzo wants to respond to that, I don't know in terms of the dirt what it has caused or why it is there, other than it was surplus from another job site, it doesn't sound like it's a permanent solution, I don't know that. I fully understand exactly what you are saying but I want to make sure given the opportunity if statements were made after being put there and the effect that it will have and as Mr. Eggert has said that is what rely upon the engineers for and as you heard the entire plan is contingent upon an appropriate grading plan and a stormwater management plan.

Bruce Ferrick – meanwhile its pushing water in our property today, should we have to put up with that.

Joe Nardi – no.

Bruce Ferrick – ok.

Joe Nardi – so I think that Mr. Rizzo, I don't want to speak for you but I suspect that is not a permanent solution and it's just being stored there, it may be needed sometime in the future but to the extent that it may be causing some runoff because of its height or however its occurring and none of us except for the residents that are here will be able to say what they think, but this should definitely be something that gets addressed.

Dominick Cipolone – I understand that the engineers are designing the retention ponds to mitigate the water is that only to mitigate the water for that property or the entire water problem and surrounding properties. Secondly quick, I understand the process but if we eliminate the third house right now, I understand he is trying to make money, but it would probably save him a ton of money if he didn't have to go through the testing, engineering for that third house in the back, just makes sense to say yes or no right now to that third house.

Steve Eggert – well even if he just went with two houses, he could still put that third house back there and not need us.

Shawn Seroka – I can address the grading question that you brought up, Mr. Fusco will not approve a grading plan that he believes will cause issue for any residents surrounding this property, that's end in point, if he believes there will be any issue created by this or the drainage plan is not sufficient to prove that there won't be it will not be approved by him.

Dominick Cipolone – who is Mr. Fusco, I don't know him or his credentials.

Shawn Seroka – he is the Borough Engineer; he could not be present tonight because he had a family emergency.

Dominick Cipolone – does he have experience in water litigation and all this stuff.

Shawn Seroka – absolutely.

Dominick Cipolone – he understands this area.

Douglas Morgan- he works for the town.

Commissioner Marrone – the basin is catching the water from just the houses; the elevation is going to determine what is happening outside of that.

Dominick Cipolone – so the basins are irrelevant to the surrounding properties.

Commissioner Marrone – correct.

Dominick Cipolone – so raising the levels is really the issue not the basins, that right there I don't need to be an engineer to tell you that is going to flood everyone else out and I don't know if you been over there its bad, we have been fighting this problem for years.

Steve Eggert – anyone else from the public.

Francis Fortina – I don't leave around there but I have a question I knew there was a town meeting so I figured I would come here to ask the question; I live on Lumber Lane, and I see that there was permit parking put on Valley Road and I was just curious because I live in a HOA.

Steve Eggert – that would be at a different meeting that you would need to discuss that.

Francis Fortina – I understand that I just had free time...

Joe Nardi – do you intend to stay until the end of the public portion when other concerns can be raised because the focus right now is on this application.

Francis Fortina – I don't, and I did not know when it would end.

Steve Eggert – that would be the Commissioner's meeting which I am not sure...

Joe Nardi – that could be brought up at the Commissioner's meeting, that was a condition of the approval of the Brotherly Bud application that is why there is permit parking there now. Does that help with your question.

Francis Fortina – no, I just wanted to know if I could call someone to go about that.

Joe Nardi – call the office tomorrow.

Steve Eggert – call the office and ask for Tara. Do we have any questions or comments to from the public, hearing none the public portion is closed. I will open it back to the members.

Douglas Morgan – I just need to understand and back up for a minute, so the reason you are applying for the variance is because they are non-conforming lots, correct.

Steve Rizzo – correct.

Douglas Morgan – because the frontage is off, you also stated that you can pretty much do the same thing with an easement which does not need the approval from the board.



Joe Nardi – that is not correct.

Peter Rhoades – we would still need approval of the sub-division, but we wouldn't need a variance.

Douglas Morgan – ok.

Joe Nardi – yes, the sub-division would be needed, but you would still need the variance if you wanted the three lots.

Peter Rhoades – well if we don't make the driveway part of the rear lot, the borough ordinances don't have frontage requirement, they have a front yard requirement, so if we make access to rear lot via an easement then it is not part of the rear lot.

Joe Nardi – but then that lot is considered a flag lot and that is not permitted in the borough ordinance.

Peter Rhoades – we are proposing a flag lot.

Joe Nardi – I believe since you have a dedicated driveway and not an easement to share by all or getting permission from the others, then there is a difference then a flag lot where there is no access unless you get, unless you get the variance then you have access to the back lot, but the borough ordinance does not allow for a flag lot, I mean it may be a rear lot, I am not so sure that it is a flag lot when it has that direct access and you don't need to get permission from the owner in the front.

Peter Rhoades – well we may disagree on that issue but for tonight's purposes we want the driveway to be part of that rear lot, thus we are asking for the variance for that frontage requirement, understanding of course that is a requirement as we are presenting it tonight.

Joe Nardi – the application is for a sub-division for the three lots and a variance for the rear lot, so that the driveway can be constructed.

Peter Rhoades – yes.

Joe Nardi – so the variance is needed for this application.

Peter Rhoades – correct.

Joe Nardi – ok.

Steve Eggert – I think what the engineer is saying is that hopefully this is going to help the problem when it comes to the water, because it should help with the

water that is already on the property, well its supposed to. We have engineers that are looking at everything.

Rocco Vespe – I just have a response to the test pits, there is a note from Mr. Fusco stating that they should of went down 10ft and they only went down 6ft and I am thinking that the concern is figuring out about that stream, and that is fine that is the way it should be but there is a note here that it should have been a little deeper.

Shawn Seroka – I don't believe the purpose is specifically for the underground stream, it's just standard to go at least 10ft. for basin test pits, so I believe that is where he comes from when he references the 10ft.

Rocco Vespe – ok, but if the bottom of the basin is in the underground stream its not going to work very well.

Shawn Seroka – based on the logs, which I can reference them again, the seasonal high water ground table which is where the underground stream would presumably be is at 24inches below where that test pit was conducted that is what the information, we have in front of us is, and that is what Mr. Fusco made his recommendations based on, now if they go out and do more test pits and the seasonal high water table which would be the underground stream in this case is 6inches below the top of the ground then basins would not be possibly and it would no longer be feasible, but based on the information that we have in these test pits that is what the recommendation is based on.

Rocco Vespe – but he said in his email that it should have been 10ft.

Shawn Seroka – yes, they should still be 10ft.

Peter Rhoades – we are willing to do that as one of the conditions, we tried to answer some of the questions.

Rocco Vespe – indeed you did answer them.

Peter Rhoades – we understand that there are conditions of approval and demonstrate that it works, Mr. Fusco I have known for many years, and he is detailed and certainly will not cave, he will protect this town.

Douglas Morgan – hopefully this makes the water situation better, what if it makes it worse, I know that legally you are not allowed to push your water on neighboring properties, what's the process if it does do the residents have to litigate, like let's say this makes the water situation worse what happens.

Joe Nardi – that may be the issue, now it's a violation of a condition of the approval and the borough could get involved. If it is a question in dispute that will lead to litigation.

Douglas Morgan – ok.

Joe Nardi – that would then be between the property owners.

Bruce Ferrick – does that mean that we as residents are responsible for the borough.

Joe Nardi – there are conditions for any type of resolution and an applicant who came in to get approval and didn't live up to the conditions.

Bruce Ferrick – so it is our responsibility to prove that to you.

Joe Nardi – it could be up to the borough on the conditions to look into to see whether or not those conditions have to be satisfied, on the other hand and lets use this as an example, the system that was promoted for the stormwater management was approved was found to be acceptable met the standards and it was a condition and was satisfied by builder or the owner or the developer or whomever, then they lived up to all their conditions now if members of the community feel that it doesn't work and they have caused the water to flow onto our properties then it would be between property owners, it would be a property owner dispute.

Bruce Ferrick – ok.

Steve Eggert – there are inspections as this process goes on, of the retention pond as you call it, that is being inspected as it progresses and meets what the engineer says, then that tells you it will work once it completes all the inspections, now if you get one of these million year storms that is crazy, its not designed for that its designed for a 2 year storm.

Shawn Seroka – it would still need to meet the 100-year storm requirement.

Karen Tanier – could the borough put a clause that if their approved thing does not work then the builders will fix the problem.

Joe Nardi – no.

Steve Eggert – once we do this we are out.

Karen Tanier – so once you approve this and rubber stamp this, it then becomes our problem.

Joe Nardi – well it's not rubber stamping, it's an evaluation of an analysis.

Karen Tanier – ok then once you approve this, then it becomes our problem.

Joe Nardi – that is correct, well I don't want to say it's your problem, because it then can become a dispute, it may seem worse, I don't want to pigeonhole it in to saying because this is going to be built whatever may occur after the fact was caused by Mr. Rizzo there could be a number of factors we all know this, but what I can say with certainty, if any applicant lives up to all the conditions and complies with all of the conditions imposed that is all the borough can ask of them, that is what is asked of them.

Steve Eggert – that is why we have an engineer representing us who is really representing all of you, and his engineer works with our engineer, and they make sure everyone is on the same page, to protect all of you.

Karen Tanier – they are going to have to do that test which requires 10ft deep, since they only went 6ft deep.

Shawn Seroka – yes, Mr. Fusco noted that that will be a requirement.

Steve Eggert – any other questions.

Michael Schiavo – with everything that has been said and for us to approve the variance, did the applicant meet the contingency of the burden to satisfy the variance, has it been discussed.

Steve Eggert – from the last meeting we had them meet with the fire chief and the police chief, and the engineer.

Michael Schiavo – did we get anywhere from last month to this month.

Steve Eggert – with the report.

Michael Schiavo – yes.

Shawn Seroka – well Mr. Fusco believes that it's sufficient to move forward, for the engineering aspect. This is not granting approval or guaranteed that their grading plan will work in the end, but there is enough to move forward.

Michael Schiavo – but there is enough to move forward with the contingencies.

Shawn Seroka – yes with the contingencies.

Douglas Morgan – so what we are really voting on is a contingency that if standards are met by the town engineer, then they continue to move forward.

Michael Schiavo – that is correct.

Peter Rhoades – it's a little more than that, you are granting the requested subdivision conditioned on satisfying these things, if we can't satisfy them, we don't have the subdivision.

Michael Schiavo – what will be the time frame to meet the satisfaction.

Peter Rhoades – well we can't do anything until we satisfy what they want. In terms of recording subdivisions I can tell you it's 180 days from approval that we have to satisfy those conditions to be able to record the subdivision deeds, unless we come back to you and say hey we couldn't do it in 180 days because of x-y, and z and see if you would give a little more time to satisfy everything.

Dominick Cipolone – just a quick question from my observation you have quite a few people here who are residents and you are all residents because you are on the board, and I thank you for your time and I was on the school board for 9 years, it's not easy, but you have residents here who are all raising concerns and you are walking a fine line with the water issue, we all have houses we all pay taxes, are house values could drop and have trouble selling them, all this stuff could be a factor, what is your responsibility to a builder who comes in who doesn't live in town and wants to build a property that is in question, that the residents come and they are obviously not in favor, well at least a third of the residents, and not saying we are against the second house in the front but the third one in the back.

Steve Eggert – well everyone does come before the board for a variance or something or someone comes in to try and make something better for the town.

Dominick Cipolone – how does this make it better for anyone.

Steve Eggert – well this is true.

Dominick Cipolone – even aesthetically speaking this doesn't make it better for anyone, we have someone in our backyard who is living back there.

Steve Eggert – Steve do you want to address that concern, will it be all landscaped and everything.

Dominick Cipolone – landscaped or not, it's still going to be a house back there, there will be no more wildlife back there.

Steve Rizzo – well I was going to say, when I look at this, I picture that this will turn out beautiful, when I go into something I don't come in and try to rush something or wreck a town, I have built 1000 homes all around this area.

Bruce Ferrick – in a flood area, like this is.

Steve Rizzo – absolutely sir. Mr. Fusco, Steve will be able to testify...

Bruce Ferrick – I can show you pictures right now.

Steve Rizzo – I have pictures.

Bruce Ferrick – ok then, why are we here you already know it.

Steve Rizzo – I can only make it better.

Bruce Ferrick – so you are going to fill in the stream.

Steve Rizzo – we don't know if there is a stream there.

Bruce Ferrick – I do know there is a stream there, I have lived there long enough to know this sir. I am not guessing, I'm telling you. When I lived there, I caught fish in that stream, I played in that stream and now we all filled that in to push it away and now what are we dealing with someone who wants to develop it.

Steve Eggert – we are going to close it to the public now, because this can go on all night long, think we have a lot of information from everybody on the board and everyone, so let's put it to a vote.

Commissioner Marrone – so this is only giving them the conditional variance to go to the next step which would be the elevation plan and so forth.

Steve Eggert – well, this gives him the approval and then he comes back with all that information.

Commissioner Marrone – but basically you can move forward.

Steve Eggert – yes you can move forward and then...

Douglas Morgan – you don't get a chance to say no after this.

Shawn Seroka – well Mr. Fusco absolutely can.

Steve Eggert – the engineer can say no you have to do this.

Shawn Seroka – they will have to provide a plan that is up to the standards of Mr. Fusco.

Douglas Morgan – what I am saying is, once we say yes here, unless Mr. Fusco says you can't do it, we are not voting on this again.

Shawn Seroka – for the engineering reasons stated.

Commissioner Marrone – we can ask to see that and then have a conversation about that at another meeting.

Joe Nardi – for what purpose to approve it or disapprove it.

Commissioner Marrone – to have a conversation about it, to see Greg said here are my concerns and here is what I am happy with, we can have that brought into a meeting and we could have a discussion on it.

Steve Eggert – we would have to then push this to a whole other meeting then.

Joe Nardi – if approval is given, the condition would have to be that Mr. Rizzo would have to satisfy or to the satisfaction of the borough engineer that the grading plan and the design as presented conceptually is sufficient for this property, that is what that means, that it will not cause water flow onto other peoples properties, that is the way we have been putting this from the beginning, which that is his obligation, now what we are also talking about is the subdivision application and a variance, so if there were a motion it would be, a motion to approve the subdivision application as submitted with the variance that has been requested and subject to the conditions which include Mr. Fusco's letter of July 8, 2024 and plus satisfactory terms to be met or to the satisfaction of the borough engineer for the drainage plan and the grading plan. So, if he reaches that threshold and does everything that is asked of him that is what this approval would be, he then would be able to move forward. Mr. Rhoades, I was wondering about the application itself, I think you are coming in under a bulk variance, a c variance.

Peter Rhoades – correct.

Joe Nardi – were you distinguishing between C1 or C2, the reason I ask that question is we like to remind the board members what the conditions will be for the variance.

Peter Rhoades – I think the variance application could fit under either C1 or C2, under C1 it permits the board to grant a variance based upon the shape of the property the strict application under the ordinance gives the right to grant a minor subdivision based upon the fact that this is an unusual shaped large property those arguments also apply to C2 with the addition that it wont substantially impair the intent and purpose of the zone and the zone is for residential occupation and we are purposing residential occupation, so granting the variance for the frontage based upon the driveway with is litigated by the fact that the rear lot is substantially larger then what is required, so the fact that the frontage requirements are not met it is offset by the fact that the lot itself is substantially larger.

Joe Nardi – does anyone have any more questions before we proceed. All right then so what you have before you is a subdivision where we have one lot and the request of the application is to divide it into three separate lots for the construction of two additional homes on this property, a subdivision also requires or requests a variance and that is under the section of The New Jersey Municipal Land Use Law Chapter 40, Section 55D-70 as subsection C1 and I am going to read this because there are several ways to get to the variance, we have to keep in mind that as we discussed in the past the burden is always on the applicant to satisfy the board that the facts that have been presented are sufficient to overcome to grant a variance from the zoning ordinance so under C1 that standard or the rule is by reason of exceptional narrowness or shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or physical features uniquely effecting a specific piece of property or by reason of extraordinary exceptional situation that uniquely effect a specific piece of property the strict application of any regulation pursuant to this article would result in a peculiar and exceptional practical difficulties or exceptional and undo hardship if upon the developer, so this is what you would call like hardship variance, if the nature of the land itself creates a hardship for the development and I have to add this when you consider hardship its whether or not the property is essentially unusable if you don't grant the variance. The second section C2 is that where an application relating to a specific piece of property where the purposes of this would be advanced by a deviation from the zoning ordinance requirement and the benefits of the deviation would substantially out way detriment to grant a variance to allow from the regulations, that is called a flexible C variance, meaning that if the deviation is essentially minimal and any burden from deviating is substantially outweighed by the benefit to be gained by the public. Mr. Rhoades would you agree.

Peter Rhoades – it's hard for me to argue with the statute.

Joe Nardi – so the motion could be to either approve or deny based upon what I said and remember it's for a subdivision and variance. If there is such a motion, we will then take a vote and whether you vote I would ask that you give your reasons for your vote so that we have a complete record of why a decision has been made.

Douglas Morgan – I just have one question because I want to be certain of this. You are saying even if they do a subdivision not a variance we still have the ability to vote on that, so if they are stating we just want to subdivide the lots the way they are and split that driveway down the middle and make an easement, like they cant do that without our approval because that is what I keep trying to get to.

Peter Rhoades – correct, you must approve the subdivision.

Douglas Morgan – ok.



Joe Nardi – but this needs a variance.

Douglas Morgan – ok.

Joe Nardi – Tara who is...

Tara Weiss – we have 9 members that can vote.

Joe Nardi – I thought that we had 10 members here.

Tara Weiss – oh we do, I forgot that Anthony Stagliano came in, so then John Saban would not be able to vote.

Joe Nardi – sorry John. Every alternate member can participate.

Tara Weiss – can Anthony vote.

Joe Nardi – Anthony have you read the transcripts from the last meeting.

Anthony Stagliano – yes.

Joe Nardi – so he is allowed to vote since he read the transcripts. The reason why we only have 9 members voting is because we have 9 members and 4 alternates, and only regular members can vote unless members are out then we have the alternates that their place. So is there a motion.

Steve Eggert – is there a motion from the board.

**Douglas Morgan made a motion to approve the subdivision as submitted and variance also to be met with the conditions being satisfied, the motion was seconded by Michael Rossano.**

**Roll Call:** Kim Beebe - yes, Commissioner Marrone - no, I am concerned with the stream, I am nervous about that aspect and where the water is going to go. Michael Schiavo – no, there is too many mitigated circumstances and contingencies that need to be satisfied, I have very heavy concerns. Steve Eggert – yes, I think it's going to make things better back there. Thomas Maxwell – no, I need to protect the town people, there is a stream back there as I can remember back when I was a kid, it could be better, or it could be worse. Anthony Stagliano – no, there is the unknown how this project will either adversely or positively effect the water on that property, we already know we have water issues on the adjacent properties, we have seen with the last storms the actual closing of Northmont Avenue so I think this will exacerbate the problem. Douglas Morgan – no, because the residents hate it, and I would trust the engineers but if you all hate it and you are the ones paying taxes, I will vote no. Michael Rossano – no, for the same reason Doug just stated and also since the driveway will be pitched towards

the street as big as that driveway is it will dump a lot more water onto Station which we know doesn't drain that well. Rocco Vespe – no. The application is denied with 2 votes for yes and 7 votes for no.

5. **CALENDAR OF NEW BUSINESS**

**Application for a variance for a fence located at 1023 W. Kings Hwy.**

Joe Nardi – swears in the applicant, Ilya Zgslavsky. I just have one question before we begin, who is the owner of the property?

Ilya Zgslavsky – the company, which is me.

Joe Nardi – so you are the owner of the company.

Ilya Zgslavsky – yes.

Joe Nardi – ok, so everyone has a copy of the application, I presume. So, Mr. Zgslavsky you want to install a fence around your property, and it's a corner property.

Ilya Zgslavsky – no it is not a corner property.

Joe Nardi – ok, it's not a corner property, but you want to put a fence around it, now because there are certain requirements regarding height, just like the previous application you are asking for a variance and a relief from those height requirements. It is your burden to convince the board that the reason why you want the deviation from the zoning ordinance is insignificant in terms of the borough's concerns and in fact that there is a benefit to be gained on allowing you to have your fence higher than otherwise permitted. So that is your responsibility to convince the board, give them the reasons why you should get these height deviations from the zoning ordinance, can you just explain and maybe use the plan, just explain where you are putting this, I believe it was 6ft fence and a 4ft fence and then maybe 3ft fence.

Ilya Zgslavsky – so wherever you are allowed to have a 4ft fence we want to make it a 6ft fence because there is zero privacy. Right now, the owner on the left side already has a 4ft fence and it's zero privacy, so we want to create something that will give more privacy. The house is wide open to the public, I am going to rent it to someone, with a dog and with a family. I need some enclosure, it's wide open right now, it just makes sense. The neighbor to the right is higher than me so if I only put a 4ft fence it won't do anything.

Joe Nardi – so the ordinance provides that if a variance is granted you can put a 6ft fence in the back of the property, which can go from the rear line of the

property all the way to the rear corners of the house, and you are doing that, correct.

Ilya Zgslavsky – yes.

Joe Nardi – you will though be extended the 6ft fence from the rear property to the front.

Ilya Zgslavsky – to almost the front of the house because the way it sits, all the neighbors they are more in the front of my property, their properties are closer to the road than mine.

Tara Weiss – the front corners of the house.

Steve Eggert – you want to put the 6ft fence to the front corners of the house not in the front of the house.

Tara Weiss – correct, and then in front of his house he wants a 4ft fence.

Steve Eggert – ok, just in front of the house a 4ft fence and not all the way to the street.

Tara Weiss – yes.

Michael Schiavo – so your gates stop at 6ft.

Ilya Zgslavsky – yes, my gates stop at 6ft in height.

Michael Rossano – what type of fence, like a wood fence or vinyl.

Ilya Zgslavsky – white vinyl fence.

Steve Eggert – so he only needs a variance from the back of the house, along the sides of the house which is 6ft and then a variance for the 4ft fence in the front of the house.

Joe Nardi – so then the variance would be for from the front of the house in the front yard instead of a 3ft fence it will be a 4ft fence and then along the sides of the house it will be a 6ft fence versus a 4ft fence, that is what you are asking for.

Ilya Zgslavsky – yes.

Joe Nardi – and what are the reasons why you are asking for that, sorry can you just articulate that.

Ilya Zgslavsky – privacy for the most part, and then for the family that are renting it for the kids and the dogs, its just common sense.

Steve Eggert – the only thing with the 4ft fence on the driveway side, if we are backing out with a car will you be able to see as you back out onto Kings Hwy.

Ilya Zgslavsky – I don't see why, because right now the neighbor has trees, and you can see past the trees.

Steve Eggert – yes but is it going to be a solid fence that 4ft section.

Ilya Zgslavsky – yes.

Steve Eggert – if you are in a car and you are sitting down low, it may be a little bit harder to see backing out you would almost have to be out before you would be able to see cars.

Ilya Zgslavsky – I know there is like a section that I must be back from the main street.

Steve Eggert – ok so you would be back off the sidewalk.

Ilya Zgslavsky – yes, I can be if that's what I must do.

Anthony Stagliano – I think the one drawing shows the setback.

Steve Eggert – it is but if you look at the scale it looks like maybe it is back like 4 or 5ft.

Shawn Seroka – yes, that is the right-of way.

Steve Eggert – ok.

Michael Rossano – I know the house to the left of them if they are pulling out onto the street, they have the 4ft fence and now another 4ft fence because they will be looking through both and they have traffic coming, so they have some room.

Ilya Zgslavsky – no they are pulling out from the other side of the property.

Michael Rossano – you are ok with your fence being set back a little bit further so there is more visibility on both sides.

Ilya Zgslavsky – yes if its common sense to do it that way, I'll do it that way.

Michael Schiavo – so if we want the fence to be set back 3ft from the sidewalk, you will be willing to do that.

Ilya Zgslavsky – yes.

Steve Eggert – do we have anymore questions from the board, hearing none I will open it up to the public.

Shawn Seroka – I just need to ask something for clarification, 3ft from the right-of-way because now it appears in the plan with the mark up on the survey the fence terminates at the right-of-way, which itself is offset from the sidewalk, its not scaled but it already looks like its 3ft already from the right-of-way.

Commissioner Marrone – like Mike was saying it's already 3ft from the sidewalk.

Douglas Morgan – which is already 3ft from the right-of-way as you are describing, so if he does it to code then it's good.

Shawn Seroka – I don't know if that is specifically stated in the code.

Tara Weiss – so there is a minimum setback in our code which is 6inches in from the side property line, but you are all stating that he must be 3ft more, I just want to have accurate information for what I need to write up.

Joe Nardi - this is for sight obstruction, I think when we get to that point because we still need to hear from the public, if there is a motion made, we want to be clear as to what needs to be done.

Steve Eggert – do we have anyone from the public.

Angelica Copsetta – resident – I am the neighbor on the left, I respect that he wants to pursue his privacy because he is operating an Air B&B out of that property that being aside I do have an issue with the fence in the front, that when I pull out of my driveway I will not be able to see traffic, it is already difficult to see the traffic coming down Kings Hwy. as it is just with the cars that we have parked and what not, a 3ft fence would kind of work if it was back a little bit more just with being all the way up to curb, I really have not seen the drawing so I really don't know what it will look like.

Ilya Zgslavsky – I disagree with what she is saying, her driveway.

Steve Eggert – our variance states 3ft, it's not just her we have it in our code.

Ilya Zgslavsky – that is fine, I'm not fine with her saying that she can not see when pulling out of the driveway.

Steve Eggert – well my question is will you be willing to do the front fence as a 3ft fence, because if you do a 3ft fence that would make her happy, 3ft in height the fence in the front.

Ilya Zgslavsky – so you want the height to be 3ft and then 3ft setback.

Steve Eggert – just 3ft height of fence in the front, because then you wouldn't even need the variance for that.

Ilya Zgslavsky – that's only because of what she is saying.

Angelica Copsetta – I just have one more question, I already have an existing fence on that side, so if he erects another fence who is responsible to maintain that section in between the two fences.

Steve Eggert – he will be.

Angelica Copsetta – will I be allowed to get that in writing, if that then becomes an issue later.

Steve Eggert – that should be in our code.

Ilya Zgslavsky – what is in between.

Steve Eggert – if there is a fence, your fence needs to be 6inches in on your property and her fence should be 6inches in on her property, that leaves a foot between the fences, how you maintain that section with the weeds and grass is up to you.

Ilya Zgslavsky – so I am responsible.

Steve Eggert – we have always made it from this board that whomever is the second person to put the fence up is the one who maintains it, whether you decide to weed whack it, or if you have to go on her property you need to ask her, but every time we have come across something like this, the second person to put up the fence is responsible to take care of the weed or grass that grow between the fences.

Ilya Zgslavsky – ok.

Steve Eggert – do we have any more comments from the public, if not I will close it at this time. So are you willing to put the fence 3ft in height in the front yard.

Ilya Zgslavsky – yeah if it made sense, but it doesn't anyone can say it's a problem, so ok prove that it is a problem.

Steve Eggert – we made it 3ft because we have had people say someone could be hiding behind the fence and I walking past it.

Ilya Zgslavsky – that is why I agreed to the offset and her problem was that she could not see.

Steve Eggert – we are trying to make things work for everybody.

Joe Nardi – it could be amended or denied, or it could be approved, and I understand and that is fine, but I am also suggesting that we must be careful, if she is coming out of her driveway and she says she can't see, you may disagree with that, but we can't say that it doesn't make sense.

Ilya Zgslavsky – can we have someone come out and look.

Joe Nardi – I don't believe that is necessary, we have a resident and she has made testimony on that or she has stated that she is having an issue with that, so the question is and we could check it out and then someone might come back and say the same thing and you wait another month and then maybe its denied or maybe its granted I don't know, I am just saying that these are the options that are available and if you want to continue it that is possible that is entirely up to you, you don't have to do anything other than submit your application and then it is up to the board to determine whether or not you met the burden for the variance.

Ilya Zgslavsky – so you want the 3ft height and the offset.

Steve Eggert – you must have the offset, that is a county road as well.

Ilya Zgslavsky – which section does she want it 3ft.

Steve Eggert – where you have 4ft in the front yard, it would be 3ft.

Ilya Zgslavsky – no, that would be too much.

Michael Rossano – well we need to come up with an agreement so we can take a vote on this, so I see that everyone on the board agrees that if you did a 3ft setback from the curb.

Shawn Seroka – the right-of-way is the minimum setback he must meet, now if you want it setback further from that, you can set that, but he can't encroach to the county right of way, but from the plan you will see the three dash lines which is the right-of-way, and it appears its already 3ft setback as is.

Joe Nardi – let's be clear, I think we need a better idea as to exactly what you want, if you want 4ft, you can ask for that, there has been a statement made that it obstructs the vision when trying to back out of the driveway, we also have an

ordinance that states you can't have 6ft fence on the side yard and you need a variance for that, it could be 4ft from the front of the house to the back of the house but you want 6ft, ok so we at least I think you are going forward with that.

Ilya Zgslavsky – yes, correct.

Joe Nardi – then the 3ft setback would be from the front of the property line, so we are clear on that, and then is it either going to be a 3ft fence or a 4ft fence, in the front of the house from beginning at that 3ft mark.

Anthony Stagliano – he is asking for 4ft.

Joe Nardi – so do you want 4ft or 3ft.

Ilya Zgslavsky – well I came because I want 4ft, it's just common sense.

Joe Nardi – ok.

Michael Rossano – quick question can we just vote on the 6ft fence or.

Joe Nardi – no, because his application is his application. So, the application is for a variance of 6ft on the sides of the house, it would be a 3ft setback from the front yard for a 4ft fence.

Shawn Seroka – 3ft from the right-of-way.

Joe Nardi – yes, correct, 3ft from the right-of-way. So do we have a motion to approve or deny the application as presented and stated.

**Douglas Morgan made a motion to approve the application as submitted and stated, the motion was seconded by Michael Rossano.**

**Roll Call:** Kim Beebe, Commissioner Marrone, Michael Schiavo, Steve Eggert, Thomas Maxwell, Anthony Stagliano, Douglas Morgan, Michael Rossano, Rocco Vepse, all voting no.

Tara Weiss – just so everyone knows you can make the motion to deny instead of making motion to approve and then vote no during roll call, you did this twice tonight.

Joe Nardi – your application has been denied.

Ilya Zgslavsky – so it's a no based on what that we did not agree on the small 3ft height.



Commissioner Marrone – I will tell you I was voting no because I don't agree with the 4ft height in the front.

Ilya Zgslavsky – I thought we agreed upon the smaller section in the front that is not visible.

Commissioner Marrone – you did not ask for that, you asked for a 4ft fence.

Ilya Zgslavsky – yeah but it's her.

Douglas Morgan – she made her point and then we voted.

Ilya Zgslavsky – can we make an adjustment today, to make like a 3ft fence and then bring up to a 4ft like he suggested. Tell me what I should do, and I will do it.

Michael Schaivo – we just did.

Ilya Zgslavsky – no you asked me what I wanted to do and that was what I wanted to do.

Joe Nardi – I think I was pretty clear that no one was telling you what to do and that you could do whatever you want and there was some discussion, there was no negotiation, it was about what you wanted to do and what you felt was appropriate and you said I want to go with the 4ft fence in the front, the variance was for the 6ft fence along the side of house, so what that means is that everything you have asked for has been denied by the board and I would add it's not just because of what she said it's also because the applicant always has the burden to prove that what they want and why they are deviating from the zoning ordinance benefits the public and minimally is a negative effect on the zoning ordinance that has been adopted, and the board feels that you didn't meet that burden.

Ilya Zgslavsky – is there anything I can do with the board to come to an agreement.

Douglas Morgan – does he have to resubmit and come to another meeting.

Ilya Zgslavsky – we are already here, I can do the adjustment with whatever is needed, this is my first time here.

Joe Nardi – if the board is so inclined and wants to rescind the vote or not and we would need another motion, so if you want to rescind the vote and give him another opportunity to amend that is entirely within your prerogative.

**Commissioner Marrone made a motion to rescind the previous vote and amend, the motion was seconded by Douglas Morgan.**

**Roll Call:** Kim Beebe, Commissioner Marrone, Michael Schiavo, Steve Eggert, Thomas Maxwell, Anthony Stagliano, Douglas Morgan, Michael Rossano, Rocco Vespe, all voting yes.

Rocco Vespe – now it's your move you want to amend your application to say 3ft in height verse 4ft in the front yard.

Ilya Zgslavsky – so there is a section that you think we should be 3ft in height and then go up to 4ft.

Joe Nardi – no, you can't do that, the height either must be 3ft or 4ft.

Ilya Zgslavsky – it must be consistent.

Steve Eggert – so you would get the 3ft and the 6ft that you were looking at.

Ilya Zgslavsky – just 3ft on one side or both sides.

Steve Eggert – both sides, 3ft tall and 3ft from the right-of-way.

Michael Rossano – shows the applicant where they are requesting the 3ft fence and 3ft from the right-of way and explaining you do it that way we do not need to vote on that since you are allowed to do that, we would just be voting on the 6ft fence along the sides of the house.

Ilya Zgslavsky – ok that is fine.

Joe Nardi – ok, so again we are going 3ft off the right-of way with a 3ft fence for the front yard fence and then on the sides of the house it will be a 6ft height fence.

**Douglas Morgan made a motion to approve the amendment of the application, the motion was seconded by Michael Rossano.**

**Roll Call:** Kim Beebe, Commissioner Marrone, Michael Schiavo, Steve Eggert, Thomas Maxwell, Anthony Stagliano, Douglas Morgan, Michael Rossano, Rocco Vespe, all voting yes.

6. **Board Comments – N/A**
7. **Public Comment – N/A**
8. **MOTION TO ADJOURN THE MEETING, ALL VOTING IN FAVOR.**

