

TOWNSHIP OF OCEAN
Zoning Board of Adjustment
Regular Meeting
April 17, 2008

7:30 P.M.

STATEMENT: Pursuant to the provisions of the New Jersey, Open Public Meetings Act, sending copies of the notice of meeting properly provided adequate notice of the meeting to the Times-Beacon, the Asbury Park Press and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

The regular meeting of the Zoning Board of Adjustment was held on the above date and time. Chairman Dennis Tredy presided and called the meeting to order.

ROLL CALL

Members Present	Nick Bonamassa	Ron Bruno	Stanley Bystrek
	Edward Covitz	Anthony Mercuro	John Petrosilli
	Joe Lachawiec	Antonio DeAlmeida	Dennis Tredy

Pledge of Allegiance

Administrative

Chairman Tredy asked if everyone read the minutes and if there were any corrections to them? Tony Mercuro stated that he remembered discussing surveys and what we were thinking about what we were going to require on surveys he thought what was said is that we could attach a monetary value to the project over which a certain amount we would want a new survey. In the case of a fence or something minor it was okay. "I think that that is a simple solution, we are still leaving it all up to Laurie to make a judgment call, I think it could be an estimated value of the project above a certain amount of dollars if involved in any kind of alteration to the building it self". Chairman Tredy said that he was checking the minutes at this point and I will ask the secretary to correct the minutes and now I will ask for a motion to approve with corrections. John Petrosilli made a motion to approve the minutes, seconded by Joe Lachawiec. Roll Call (Ayes) Petrosilli, Lachawiec, Bonamassa, Bruno, Covitz, Mercuro, DeAlmeida, Tredy.

Chairman Tredy asked for a motion to approve the vouchers for payment. Edward Covitz made a motion to approve, seconded by Ron Bruno. Roll Call (Ayes) Covitz, Bruno, Bonamassa, Bystrek, Mercuro, Petrosilli, Lachawiec, DeAlmeida, Tredy

Chairman Tredy stated that there was a list of correspondence and if you would like to read it go to the office.

BOARD COMMENTS:

Chairman Tredy asked if anyone had anything that they wanted to bring up. Tony Mercuro said that what he though was discussed was that we should look into the fact that we should have a monetary value on a requirement for a formal site plan or formal survey of recent issues. Not leaving it really up to Laurie to make every call, good or bad. She said that people have

hardships and he agrees it the case of a fence, shed or something like that but once it starts to get in to substantial amount of money, I don't know what the board recommends what a substantial amount a couple, three thousand dollars I think that should trigger a new survey. In other towns, Barnegat, Stafford you can't do anything without current survey. Chairman Tredy said that you cannot sell a house in Barnegat without producing a survey on the closing in order to get a C.O. John Petrosilli asked if the Board can establish this or does the Township Committee do that. Chairman Tredy stated that we can only recommend to the Township Committee. Stan Bystrek stated that on your monetary value I see a problem with someone needing a bulkhead at \$200 a foot for 100 feet which is \$20,000 how this could put a hardship on a homeowner. Tony Mercurio said that he did not agree, he said that if you are going to spend \$20,000 on a bulkhead it would behoove you to get it in the right spot. And a new survey is not going to be anymore than \$500.00 for a simple lot. Chairman Tredy said that it is currently required for a bulkhead, but not a brand new survey required. Chairman Tredy asked that Laurie explain what the requirements are for a bulkhead permit.

Laurie Clune stated she would accept a survey of the property that is to scale showing everything that is currently on the property. If she is looking at a survey that is from 1970 or 80 that has had sheds, pools etc. and she can't make heads or tails out of it she does say that there have been way too many changes but she very rarely request that they get a new survey.

Chairman Tredy asked if he could meet with Tony Mercurio to come up with something to present to the board at the next meeting and then see what the Township Committee thinks about it.

Chairman Tredy asked if there were any other comments.

OLD BUSINESS

Chairman Tredy said that you were just handed a Resolution so he was going to put it off until later because then you will have had a chance to read it.

Docket 03-07-BA
James & Ruby McGeoch
31 Dock Avenue
Block 84 Lot 12.02
Variance Ordinance Interpretation

Chairman Tredy referred to Brian Rumpf Attorney.

Attorney Rumpf stated that this application was continued to this evening from last month. He stated that he received a call from the applicants attorney who advised that unexpectedly two (2) of her witnesses who she felt she had to produce in order to bring forth her continued application were unavailable for various reasons. He requested that she send a letter to confirm that which she did by letter dated April 16th. She is requesting that the board carry the application without the need for additional notice until the May meeting. She also indicated to me over the phone that she certainly consents to an extension to any applicable time in which the board must act.

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Attorney Rumpf stated to the Chairman that he would need a motion to carry without additional notice.

Chairman Tredy asked if there were any questions on the letter that the attorney just read.

Seeing none he would like to hear a motion to carry.

Nick Bonamassa made a motion to carry, seconded by John Petrosilli.

Secretary stated let the record show that Stanly Bystrek stepped down.

Roll Call (Ayes) Bonamassa, Petrosilli, Bruno, Covitz, Mercurio, Tredy.

NEW BUSINESS

Chairman Tredy said that he is also going to defer to the attorney on item C.

Attorney Rumpf stated that this is the matter of Docket # 04-08.BA, Daniel and Charlene Collamer with regard to this matter he became aware in speaking to our engineer that he had received the application materials a new map with respect to the designation of square footage, essentially a revised application.

Wayne McVicar stated that he received revised architectural and plans.

Attorney Rumpf stated that Mr. McVicar had received them on Monday. Based upon that recent submission to the engineer it was discussed that the engineer would thereafter going out to visit the property to make sure that the information that is on the plans is in fact accurate. In performing the engineering review for the board I contacted the applicant's attorney, Mr. Butz and I advised based upon late submission and the engineer not having the opportunity to go out to the property and also based upon the board's crowded agenda the matter would be held over to the next meeting. In his discussion with Mr. Butz he indicated an objection to having the matter carried in fact in a letter also dated April 16th in which he indicates that he so object to the adjournment and wishes the application be heard this evening. He informed Mr. Butz that the applicant does not set the agenda, the board sets the agenda and based upon the late submission he would not be heard this evening after consulting with the zoning office. So based upon that Mr. Butz indicated that he will not be appearing but he simply wished for him to state his (Mr. Butz) objection for the record to the board.

Chairman Tredy said that Mr. Butz letter will be placed into the record.

Chairman Tredy asked for a motion to carry the Collamer application.

Ronald Bruno made a motion to carry, seconded by Edward Covitz.

Secretary stated let the record show that Stan Bystrek stepped down

John Petrosilli stepped down also.

Roll Call (Ayes) Bruno, Covitz, Bonamassa, Mercurio, Lachaweic, DeAlmeida, Tredy.

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Docket # 01.08.BA
F & G Builders
107 Stillwater Road
Block 272 Lot 438
“C” Variance

Kristen Neumann, Esq. representing F & G Builders stated that the variance requested is to create lot coverage of 28.8 percent where 25 percent is permitted. His ultimate reason for the variance is due to the decks, platform for the air conditioning unit which was not calculated into the percentage at the time of the construction permit was issued. It was also not recognized by the client’s professionals as well as the township until the application was made for the permanent C.O. Ms. Neumann has witnesses to testify as well as exhibits.

Chairman Tredy asked that she bring up her witnesses.

Ms. Neumann called Annette Fasano from F & G Builders, Lawrence Frank, owner of the property and Bruce Jacobs from Gravatt Engineering.

Chairman Tredy asked that they state their name and spell it. Which they all did and then they were all sworn in.

Ms. Neumann asked that Mr. Frank stay. Ms. Neumann asked him if he was the owner of the property. He stated that he was. He also stated that he purchased the property in or about 2000. Ms. Neumann asked if at the time of purchase if there was an existing one story dwelling on the property and he stated that yes there was. After he purchased it he decided that he wanted to construct a brand new house on the property at which time he contracted with F & G Builders to build a new home. Ms. Neumann stated that the architectural plans were presented to the board with the application. The house that is depicted has a porch, rear decks and a platform for the air conditioning unit. The reason for the air condition platform is to comply with the new flood regulations.

Ms. Neumann asked Mr. Frank when he was notified that he needed a variance for lot coverage. Mr. Frank stated after the final inspection and he was waiting for his final C.O. No where along the line during the construction of the foundation or the house were you notified that you were over on lot coverage. Mr. Frank stated no.

Ms. Neumann stated that she had a series of four pictures and she explained what the character of the neighborhood is. Right now there are one story houses and also two story houses. Some of these houses are still from the subdivision of the 70’s and some are new construction. Exhibit A1 – 113 Stillwater which shows a house that is a new construction. Exhibit A2 – 122 Dune Lane which is also a new construction. Exhibit A3 – 106 Stillwater is a two story house. And the last picture of the neighborhood is Exhibit A4 – 101 Stillwater which is also a two story house. With regard to the house directly across from your home a variance was needed for that house also.

Ms. Neumann presented a series of pictures of the applicants house which were marked as Exhibit A5 the first picture is the site of new construction, second is the northern side showing

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distance from house to neighbor's house. Next is showing the south side of house and the distance between house and neighbor and the front of the house.

Exhibit A6 is a picture of the back deck of the first floor looking south. Exhibit A7 is a picture of the back deck looking north.

Chairman Tredy asked if anyone had any questions of Mr. Frank before he stepped down.

Mr. Petrosilli asked when the C. O. was applied for. Ms. Neumann said that the first construction permit was granted May of 2007 and the house was completed in 2008 and that is when we requested the final C.O.

Chairman Tredy asked was the deck that is in question on the original plan that was submitted to the Township. Mr. Frank stated yes it was.

Ms. Neumann asked of Ms. Fasano is she was the owner of F & G Builders. She stated yes she was. Ms. Neumann asked if she was hired by the Franks to construct a new dwelling on their property and that took place in the spring of 2007. Ms. Fasano stated yes to both questions. Ms. Neumann asked Ms. Fasano if in May of 2007 if she applied for a construction permit from the Township of Ocean. Ms. Fasano stated yes. Ms. Neumann presented Exhibit A 8 which is the construction permit that was given to them. Ms. Neumann asked Ms. Fasano if when she applied for the permit if she provided drawings of the home along with a copy of the survey which had a date of March 6, 2007. Ms. Fasano said yes. Ms. Neumann said that this plan depicts the proposed decks off of the rear also an air conditioner on the left side of the house and also a front porch. Ms. Fasano said yes. At that time the zoning table indicated that you were at 23.3 percent where 25 percent is required. So there was not variance needed at that time based on this plot plan. Ms, Fasano stated no there was none required. Ms. Neumann presented the plot plan as Exhibit A9. So the plot plan that was given to the town at the time of construction showed the deck, the air-conditioning. Ms. Fasano said correct. Ms. Neumann said the zoning officer reviewed the plans and issued the permit. Ms. Neumann stated that was correct. Ms. Neumann stated that you completed the home in or about January 2008. Mrs. Fasano said yes. Ms. Neumann said at that time you presented the township with an as built survey. Ms. Fasano said that was correct. Ms. Neumann presented that as Exhibit A10. The as built survey also had the decks, porch and air conditioner is that correct? Ms. Fasano said yes.

Mr. Mercurio asked Ms. Neumann if she was saying that the as built and the original survey are the same with no changes. Ms. Neumann said that they are the same with no changes. Mr. Mercurio asked if someone calculated 23% lot coverage. Ms. Neumann said when it was first submitted yes. Mr. Mercurio said that it said 23% yet now it says 28% so are there any differences between this plan and the original or not. Ms. Neumann said that when her engineer did the calculation he did not calculate in the deck or the front porch. He did not put it in his lot coverage because some other towns do not include them in lot coverage. So when it went to the town it was not picked up either and the construction permit was issued under the assumption that the decks okay, not by the township but by our engineer. Mr. Mercurio said then in other words the engineer, the builder and the architect all had an opportunity to put input into this plan and basically made a mistake. Ms. Neumann said yes. Mr. Mercurio said and the mistake was not caught until on the last review in house with the as built. Mr. Mercurio said what he was

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getting at is that we are not accepting any responsibility for this mistake. He is just glad that it was caught.

Ms. Neumann asked Ms. Fasano that at the time you provided the as built the C.O. was denied. Ms. Fasano said yes. Because of the overage in lot coverage and this was the first you were made aware that a variance would be necessary. Ms. Fasano stated yes to both. Ms. Fasano stated that the house is fully completed and she has a temporary C O and the house is completed as per the plans, the plot plan and the architectural that were submitted to the town.

Chairman Tredy asked if anyone had questions of Ms. Fasano. Seeing none he asked for the last witness to come forward.

Ms. Neumann asked Mr. Jacobs if he was a professional engineer in the State of New Jersey, if he had been before the board in the past, and if he was familiar with the township ordinances to which he answered yes. The Chair stated that he was deemed as an expert.

Ms. Neumann asked if he was familiar with the plans that were submitted. He said yes. Ms. Neumann asked what currently exist on the property. Mr. Jacobs stated that the house itself as shown on the plot plan, fully developed, the lot graded, and it is fully occupied. Ms. Neumann asked if they fully comply with all rear, side yard setbacks. Mr. Jacobs said yes. He went on to state that many neighbors have pavers and sheds in the yards and the applicant has chosen not to do so. 50 % impervious coverage is allowed and he has 35.8% so we think that the slight overage in building coverage ---- Chairman Tredy said that they are two different animals. Mr. Jacob said that he realized that but the decks are open. Mr. Mercurio stated that if they are fiberglass than they are considered not open. Ms. Fasano, the builder explained that they were not entirely covered with fiberglass. Mr. Jacobs stated that the plot plan and the as built' size of building and decks are the same. Mr. Jacobs was first notified that a variance would be needed at the time that they were getting their C.O. He stated that the house is located on pilings and it complies with flood elevation. Mr. Jacobs said he felt the home fits in with the character of the neighborhood. He also stated that the decks do not extend beyond the setbacks and do not extend past the structures on both sides of their house. Ms. Neumann said that in general that people who live on the water treat their back yards as a front yard because it is the most important. She asked Mr. Jacobs if the decks were removed it would jeopardize the ascetics of the house. He said yes. Ms. Neumann asked if granting of the variance would adversely affect any of the neighbors. Mr. Jacobs said no.

Chairman Tredy asked if anyone had questions for Mr. Jacobs. Chairman Tredy asked if he was involved in the project from the beginning. Mr. Jacobs said yes he was. He asked if this was the first time he was involved in a project in Ocean Township. Mr. Jacobs said no but is the first time recent years on the waterfront. Chairman Tredy said that the problem really started with you the engineer and you were not the only one. If you are working in the Township you should bone up on the ordinances in reference to construction.

Wayne McVicar, the board's engineer asked Mr. Jacobs how much deck would have to be removed to comply. Mr. Jacob said basically the first floor deck. If they lowered it to 12" then it would be in the flood zone.

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Chairman Tredy asked Mr. McVicar if there were any portions of his letter that had not been addressed. Mr. McVicar said no they all have been addressed.

Chairman Tredy asked if there were any other questions from the board.

Mr. Petrosilli stated that he felt they should ask if at any time in the future if the applicant would be looking for any type of storage such as a shed etc.

Ms Neumann stated no. Wayne McVicar said that it was mentioned previously that they would not be doing that. Ms. Neumann said that in the future if a new owner wanted to they would have the right to come before the board, but her client is not going to be asking for any.

Mr. Mercurio asked if her client would consider a deed restriction that would state that you are over max on coverage and a shed or any other construction would not likely. Ms Neumann said that they would have no problem with a deed restriction and she would work with Mr. Rumpf as to that.

Ms Neumann said that she had two letters from neighbors who could not be here tonight and asked if she could present them into evidence. Chairman Tredy told her that it was not our practice to accept letters because the board would not be able to ask them questions.

OPEN TO PUBLIC

Anyone from the public who would like to make a statement or ask a question, please come forward and state your name and address.

Linda Schuster, 111 Stillwater Road was sworn in. Ms. Schuster is in favor of the Frank's home and thinks that it adds to the neighborhood.

Chairman Tredy asked if there was anyone else, seeing none he closed the public portion.

CLOSED TO PUBLIC

Chairman Tredy asked if there was anything to be added, and he asked the board to make a decision and make the motion.

Anthony Mercurio made a motion to approve subject to the deed restriction - Attorney Rumpf stated that to clarify that the deed restriction that in fact the applicant and nay future owner will not seek any additional lot coverage and will not enclose either decks, seconded by Nick Bonamassa. Roll Call (Ayes) Mercurio, Bonamassa, Bruno, Bystrek, Covitz, Petrosilli, Tredy

Docket # 02.08.BA
Robert & Ellen Sheffield
8 Davey Jones Way
Block 156 Lot 4
Bulk Variance

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Mr. Sheffield came forward and stated that he was representing himself. He explained that he was here tonight representing himself upon his attorney's advice that he didn't need him to come and represent him.

Chairman Tredy asked them to state and spell their names for the record. They both were sworn in.

Chairman Tredy asked him to state what he wanted to do.

Mr. Sheffield stated that his project concerns four additions to the house in Skippers Cove. One which is subject for the variance request. Variance is for a 6.2 foot side setback or 4 .6 feet. He doesn't feel that what he is proposing is in accordance with what has been happening in the neighborhood.

Mr. Sheffield presented a map which was marked as Exhibit A-1. The purpose of the map was to show that the lots surrounding him are the same size. He presented photo subject property Exhibit A-2, photos of subject property A-3, photos of subject property A-4, photos of subject property A-5, and photo of subject property A-6.

Mr. Petrosilli asked if Mr. Sheffield's intention was to demolish that porch and build new, which Mr. Sheffield said yes. Mr. Petrosilli asked if that was what you are doing then you could adhere to the setbacks. Mr. Sheffield said that he wouldn't want to do that because the rest of his house is at the 6.2.

Chairman Tredy asked if it was below flood plane level. Wayne McVicar said that it is just above the flood plane.

Mr. Petrosilli asked Mr. McVicar about in his letter he mentioned lot coverage and by removing the shed they would have 29.9 as the maximum. Mr. McVicar said that 30 is the maximum. Mr. McVicar asked if they were going to remove the shed. Mr. Sheffield said that he does.

Chairman Tredy asked if they would agree to a deed restriction.

Mr. Sheffield asked what the deed restriction would say.

Tony Mercurio said that they have not gone beyond the lot coverage so why are we asking for a deed restriction. Mr. Mercurio said that he didn't feel that it was necessary.

Chairman Tredy asked what the rest of the board thought.

Engineer McVicar asked about the expansion of the room. Mr. Sheffield said it does not interfere with neighbors at all.

Engineer said in regards to the neighborhood, are there lots with similar side yard setbacks. Mr. Sheffield said yes there are.

Mr. Lachawiec asked when the shed will be removed. Mr. Sheffield said that he needs to keep it up until construction is done.

OPEN TO PUBLIC

Joel Fink, 4 Davey Jones Way was sworn in. Mr. Fink said that he is very much in favor.

Dan Collamer, 24 Bay Parkway was sworn in. He asked if all the construction taking place on the existing footprint of the house. Chairman Tredy said no a portion is not. The part requiring a variance creating the 6.3 foot? Chairman Tredy said that 6.2 foot is existing. This is what is triggering the variance for the addition. Was the engineer specifically sent to this property to do measurements of the existing?

Engineer McVicar said that he wasn't sent there it is a matter of course that he does that.

Chairman Tredy asked if there was anyone else who wished to speak.

CLOSED TO PUBLIC

Chairman Tredy said that he would like to add something. He said that we have had quite a few people from this area come in with similar variances where they are squaring off the building, or depending on what type of ranch it was and they all ran into the same problem where they had an existing side yard setback and for the most part they were granted unless there were other extenuating circumstances. This is very similar to many that have come in from Skipper's Cove.

Chairman Tredy said that he would entertain a motion on this application.

John Petrosilli made a motion to approve, seconded by Stan Bystrek. Roll Call (Ayes) Petrosilli, Bystrek, Bonamassa, Bruno, Covitz, Mercurio, Tredy.

OLD BUSINESS

Resolution 12-08-BA
Docket 19.07.BA
Kevin & Doreen Boullianne
214 Maplewood Road
Block 273, Lot 1.11
Bulk Variance

Edward Covitz made a motion to accept the resolution, seconded by Ron Bruno. Roll Call (Ayes) Covitz, Bruno, Bonamassa, Mercurio, Petrosilli, Tredy.

NEW BUSINESS

Docket # 16.07.BA
Raymond & Eileen Longstreath
133 Marine Road
Block 239 Lot 59.01
"C" Variance

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Attorney Ron Bernardo representing the Longstreath's. He stated that the first witness he wanted to call is Eileen Longstreath and he stated that Raymond Longstreath also would be a witness.

Attorney Rumpf swore Mr. & Mrs. Longstreath in.

Mr. Bernardo asked Mrs. Longstreath if she and her husband were the owners of the property. Mrs. Longstreath stated yes.

Mr. Bernardo asked if it was their desire to build a 8' by 12' shed on their property.

Mrs. Longstreath stated yes.

Mr. Bernardo stated that the relief you are seeking is a lot coverage issue. The shed is to be located 3 feet off of the property line and the shed would be 9 feet in height. The ordinance does allow an 80 foot shed (which is 8 x 10) but it is your desire to build an 8 x 12.

Mrs. Longstreath said that was correct.

Mr. Bernardo presented Exhibit A-1 which is the front view of the proposed shed. Exhibit A-2 is the side view of the shed. Mr. Bernardo said the front of the shed would face towards the side of your house it would not be facing the street. Mr. Bernardo presented the photos to the board.

Mr. Bernardo stated that the shed that is proposed is being built over an existing concrete slab. He asked how long the concrete slab has been in existence, and Mr. Longstreath said approximately ten years. The measurement of the concrete slab is approximately 13 x 16 feet. The shed will not increase the impervious area because the shed will be placed on the concrete slab in existence. He asked Mrs. Longstreath if that was correct.

Mrs. Longstreath said yes it was.

Mr. Bernardo asked if they didn't previously have a shed placed on that concrete slab that measured 10 x 12. Mrs. Longstreath said yes. Mr. Bernardo asked why the shed was torn down. Mr. Longstreath said that it was old and rotting.

Mr. Bernardo presented to the board Exhibit A-3 which is a photo of the front of the residence and also the pavers that are on the side of the house that joins up with the neighbor. He asked Mrs. Longstreath if that neighbor was here tonight and she said yes she was. Her name is Jackie Slipp, 131 Marine Road.

Chairman Tredy stated that when he made a site visit to the property he found it difficult to determine which property was which because everything run together. He asked Engineer McVicar if impervious coverage was an issue. Mr. McVicar said no it was not. Chairman Tredy said that the new shed will not contribute to an increase of impervious coverage. Engineer McVicar said that was correct.

Mr. Bernardo presented Exhibit A-4 photo of existing concrete slab that proposed shed would be built. Does the picture also depict the fence which encroaches on the neighbor's property by 1 and a half feet? Mrs. Longstreath said yes it does. That fence was installed by you and you ran that fence on the neighbor's property to his garage and it was paid for by you. Mrs. Longstreath said yes. The photo of the fence is Exhibit A-5 which was presented to the board. Mr. Bernardo asked Mrs. Longstreath to describe what Exhibit A-6 represents. Mrs. Longstreath said that it shows where the shed will be built. It appears that there is a boat ramp but it is not a boat ramp. The area behind where the shed will be and behind the fence the open

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area of water is not a boat launching ramp. It is a place where someone can park a boat but it is not used to launch a boat.

Mr. Bernnardo showed Mrs. Longstreath Exhibit A-7 and it was a photo of the back yard looking forward where the shed will be built over the concrete slab and it shows a wood walkway going down the side of the property line. Mrs. Longstreath yes it does. Mr. Bernnardo asked if the walkway goes all the way around the property, Mrs. & Mr. Longstreath said yes. Does it match up to your neighbors property as well, to which they both answered yes it does.

Chairman Tredy stated that the survey indicated that it was a boat ramp, he asked what has changed. Mr. Longstreath said maybe it did fifteen years ago but they have never used it as such. They have lived there for thirteen years and you couldn't use it as a ramp because it drops right off. There is a vertical drop right at the end and there is a bulkhead around on the sides.

Mr. Bernnardo presented Exhibit A-8 to Mrs. Longstreath and asked her if it depicted the rear view of her home, which shows the pavers in the backyard area and does it show a portion of the slip as well. Mrs. Longstreath said yes. Exhibit A-9 shows the rear yard that shows wood decking on the ground and in the corner there is a walkway that extends over to neighbor. Mrs. Longstreath said yes. Exhibit A-10 showing the same thing. Exhibit A-11 shows the front of home and pavers that go across both properties. Pavers were installed to replace concrete that existed before. Mr. Bernnardo showed Mrs. Longstreath a piece of paper that I will call a letter and asked her to identify it. Mrs. Longstreath said that it was a letter from her neighbors to the left side stating that they have no objection to the fence or the shed. Mrs. Longstreath said that the letter was part of her file in order to get her CO. The letter was marked in as evidence.

Mr. Bernnardo said that he would like to go over the notice and there were some things that were preexisting and Mr. McVicar mentioned prior approval and the variances that were previously granted that he thought it would be a good idea to clean the items so that the next resolution would clear.

Chairman Tredy asked if he had a list of the variances that were previously approved. Mr. Bernnardo said all he had was from Mr. McVicar's letter. He mentioned in the lot coverage, in 1996 there was a variance for rear yard setback, 2002 there was a front yard setback and a side yard setback, also another change to the rearward setback. In the side yard setback it mentioned that 5.7 feet and he noted that the survey said 5.5 feet. With the pavers and walkways with the neighbors there is 0 setback which has been in existence for several years.

Mr. McVicar said in reference to the 5.5 feet which variance are we discussing? Mr. Bernnardo said that on the plot plan there is a dimension of 5.5 feet on the side of the building to the neighbors. He said that he wanted it mentioned because in your letter you mentioned 5.7 and yet on the plot plan it is 5.5.

Jackie Slipp, 131 Marine Road was sworn in to give testimony. Ms. Slipp is the neighbor where the wood walks and pavers meet with hers. She has no objection to this in any way.

Chairman Tredy asked for a list of variances for this property.

Mr. McVicar went over his letter and over the previous variances.

He also went over his letter stating where they were proposing to put the shed. Mr. Covitz asked why on the original paper it said the shed was to be 120 square feet. Mr. Bernardo stated that the applicants made changes to comply which is now 8 by 12.

Mr. McVicar went on to speak to decks with rear yard setbacks. He went on to speak to his letter in reference to all setbacks, fence.

Mr. Mercurio asked if there was a variance needed for the patio along the bulkhead, did they create one for their neighbor also. Mr. McVicar said that it was a possibility because it does concern both properties.

Chairman Tredy asked if they had gotten a building permit to put any of this in.

Mr. Longstreath said that he did not know. Mr. Petrosilli said there are still requirements when you do these things. He asked Mr. McVicar about the lot coverage, Mr. McVicar said that we are talking about impervious coverage and they are fine.

Mr. Mercurio asked Mr. McVicar to calculate the difference with the smaller shed now.

Chairman Tredy said you mentioned that there was a shed on the slab and when was it taken down. Mr. Longstreath said when they started construction because it was falling apart.

Chairman Tredy asked did you have construction permits to build the deck in the rear. Mr. Longstreath said the top deck they did, but he was under the impression that as long as it wasn't over 12 inches in height you could put something down. They said when they were putting the other deck up that is when they heard about the 12 inches. Mr. Mercurio said the building department would have told you that you couldn't go to the property line. Mr. Longstreath said they did not do the ground level deck until years later and just went ahead and did it. He didn't know any better and it was not intentional, he just thought it looked good so he did it.

Mr. McVicar said that with the new calculations it is at 29 percent.

Chairman Tredy asked if they had any contact with the neighbor across the street. Mr. Longstreath said he had no problem with it. Mr. Mercurio asked if he was here and he said yes so Mr. Mercurio said we want to hear from him when it is opened to the public.

Mr. Bruno asked about the encroaching fence on someone else's property, does that affect any decisions that we make here tonight. Chairman Tredy said he didn't know.

Attorney Rumpf said that generally when an applicant comes in for variance relief the board suggest that any existing encroachments be corrected.

Mr. Bernardo said that the only reason they suggested was because Mr. McVicar's letter seemed to be phrased that way but we did have a letter from the neighbor that has been in the building file since the very beginning.

Chairman Tredy said that when we look at someone's variances we have to look beyond the present owner. Because the variance follows the property. Mr. Mercurio said if your neighbor sold the new neighbor is going to ask about the fence that is on his property.

Chairman Tredy asked if they would put in writing turning the fence over to his neighbor so if there is any change of ownership there won't be any problem.

Attorney Rumpf said that we could give the option that they could either move the fence or deed it or sell it to the neighbor.

Mr. Petrosilli asked if they would consider with all of the other variances that we are looking at going back to the shed that is required to be on that slab of 80 square feet. Mr. Longstreath said if it comes down to it fine.

Mr. Petrosilli asked on the other side where the pavers meet how is that property line delineated on the survey. If in fact this is denied those pavers will have to be removed back off of the line. Mrs. Longstreath said yes they could be removed.

Mr. McVicar stated to look at item #5 in his letter in reference to the paver patio and walk. His question is there a written agreement between the owners in reference to the joint sharing of that area. Mrs. Longstreath said that there is none right now. Mr. McVicar's concern is when they sell. Mr. Bernardo said that who ever is going to buy the property is going to see it.

Attorney Rumpf said that he didn't feel that we necessarily need to determine the responsibilities between the parties we are here to decide the variances on this property only.

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Mary Weeks, 132 Marine Road was sworn in to give testimony. She stated that she lived across the road and she has a concern and asked if she could turn it over to her planner. Her planner came forward and was sworn in and stated his name Frank Mileto, 14 Beaverbrook Drive, Long Valley NJ. He is a licensed planner in the state of New Jersey. As his client indicated that she was attracted to the area because of the trees and rural atmosphere. Her concern is there is a creeping overuse of the properties because reading the record there have been many variances for set backs etc. Attorney Rumpf asked if he was stating his expert opinion or repeating his clients concerns. Attorney Rumpf said that if he is here as an expert he should be giving the board his opinion. Chairman Tredy asked Mr. Mileto if he could verify what he was saying were his clients concerns. He said yes the record verifies it itself because of the multiple variances. So as his professional opinion is that is creeping encroachment. He feels that although they are nice people and nice neighbors that is not a reason to grant a variance. You have to remember that zoning was put in place so that one person's activity doesn't disrupt the peace, tranquility and full use of the other people's property. In this case one of my clients concerns is that right now she has a view across the street through the yard to the lagoon that is where the shed is going to be placed. His question to the board is when is enough enough. It is his opinion that the variance should be denied.

Mr. Bernardo said that he had questions for Ms. Weeks, Attorney Rumpf asked if he had any questions for the planner, to which Attorney Bernardo said no.

Attorney Bernardo asked Mrs. Weeks if she lived directly across the street from the applicants She said yes she did and she has a view that are in the pictures from the real estate ad that sold her on the house. That view is where the shed is going to be. When I look out my windows I see

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house and view. She has lived approximately one year. There was testimony that there used to be a 10 x 12 shed. She doesn't know anything about that.

Chairman Tredy asked if when she bought the house was there a shed on Longstreaths property. She said no. Attorney Bernnardo asked if she was paying her planner a fee for coming tonight and she said yes she was going to pay him \$800.00.

Harry Belwell, 40 Bayview Avenue was sworn in and stated that he lives across the lagoon from the applicants. He has been here ten years and he is very happy with what he sees over there meaning Longstreath and the neighbors.

CLOSED TO PUBLIC

John Petrosilli stated that going down that street he did not see any other sheds in the immediate front of side of any of the houses. Most of the sheds he did see were in the back. Mr. Bernnardo said absolutely they did. The photos presented Exhibit A-13 which is four sheets of photos showing sheds.

Mr. Mercurio said these photos show sheds that are not as forward as the one that you are proposing. They seem to be in the rear or much further back. Mr. Longstreath said that there are two pictures showing similar. The picture showing the shed will not be back any further than mine. Mr. Petrosilli said that it is more to the back.

Chairman Tredy said that it is time for the board to make a decision. He felt that with many various variances approved and now we are going on for more he would be looking for a denial.

Attorney Rumpf clarified that the denial would be for the construction of the shed. So the issue of the house is a variance condition the applicant is asking for a 5.5 side yard setback in addition for a variance for a deck to intrude on the rear yard setback as well as the side yard setback.

Mr. Mercurio said in his opinion that the applicant would be well served if what is in place was left there and to deny the shed.

Chairman Tredy explained that the applicant was apply for a shed but all of these other issues cropped up.

Tony Mercurio made a motion to grant a variance for 5.5 side yard setback for the house, you also grant a variance for a rear yard setback for the deck of 0 where 12.5 is required and grant a variance for side yard setback for the deck for 0 where 5 feet is required. You are not granting the variance for the fence but as a condition of approval you are requiring that fence either be taken down or turned over to the neighbor. Seconded by Edward Covitz. Roll Call (Ayes) Mercurio, Covitz, Bonamassa, Bruno, Bystrek, Petrosilli, Tredy.

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Daniel Collamer my case was postponed because delay in my submitting my revised plans and maps and I have a receipt in my possession that proves that I provided those maps on the 4th.

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How it took ten days for them to get from the desk of the zoning office to the engineer I am not quite sure.

Attorney Rumpf stated that you, Mr. Collamer are represented by counsel and the proper forum to address the questions that is posed would be during you hearing on the application not during the public session. You are asking about a particular application and you are represented by counsel and it would be inappropriate to discuss this at this time... Mr. Collamer said he is not discussing his application only a situation that occurred in the zoning office and how his paperwork was handled.

Attorney Rumpf said that it is my opinion that the paperwork you are referring to does refer to your application. Mr. Collamer said that this appears to be a deliberate tactic to delay my application and he wants that on the record.

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Motion to Adjourn

*Respectfully Submitted by
Laurie A. Cluse*