

EDWARD G. DONOVAN
Mayor

CONSTRUCTION DEPARTMENT

FRANK F. DiROMA
Supervisor of Code Enforcement

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Municipal Administrator

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

ALBERT "SANDY" RATZ
Construction Official

The Manasquan Planning Board held a regular meeting on Tuesday, July 9, 2019 in the Council Chambers, 201 E. Main Street. In the absence of Chairman Hamilton, Robert Young, Vice-Chairman chaired the meeting. Bob made an announcement about the loss of Sandy Ratz, our Construction Official and asked everyone for a moment of silence in Sandy's memory. He asked everyone present to please stand and salute the Flag.

Roll Call:

Board Members Present:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Mark Larkin, John Burke

Board Members Absent:

Mike Mangan, Neil Hamilton, Leonard Sullivan, Barbara Ilaria

Professionals Present:

Al Yodakis, Board Engineer
George McGill, Board Attorney

Mr. McGill read the Sunshine Law Announcement in its entirety.

Minutes of May 7, 2019 regular meeting, as amended motion to approve made by Mark Apostolou, seconded by Kevin Thompson, all in favor none opposed.

Mark Apostolou stated he has reviewed the vouchers and he finds them in order, seconded by Kevin Thompson.

Board Members Voting to approve the Vouchers:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Mark Larkin and John Burke

RESOLUTION #23-2019 – Hintz, Michael and Mary Ellen – 444 Long Avenue – Kevin Thompson made a motion to memorialize, seconded by Mark Apostolou.

Board Members Voting Yes:

John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Mark Larkin

Board Members Abstaining:

Mayor Donovan, John Burke

Bob Young told the Board and audience that Debra is apprenticing with Mary so we welcome you and good luck.

Next, he again wanted to make it clear that applications will not be scheduled until all the fees are paid and until our Engineer, Al Yodakis gives us the thumbs up that everything is complete.

Appeal of the Zoning Officer's decision regarding a fence at 85 Morris Avenue:

Bob said this is new for him, as it is for most of the Board. He asked Dick Furey the Zoning Officer for his ruling to explain that decision, then we will turn it over to the homeowner and his attorney, next we have two objecting attorneys here, Mr. Liston and Mr. Middleton. And we also seek guidance from the Board attorney George McGill and then ultimately have a vote. George McGill first preliminarily made a statement that this is an appeal of the Zoning Officers determination and that is permitted under the MLUL 40:55d-70a. The power that the Board has under that statute says the Board of Adjustment, in our case the Planning Board because we are a combined Board, shall have the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the Zoning Ordinance. So, in this case we have the appellant who is Mr. Henry who is represented by Council, James Turteltaub and we have Dick Furey here tonight, he is the Zoning Officer, he is the person that made the determination in this matter which is being appealed. Under the statute, no notice is required, so no notice has been given. That is because this is not an application for development as defined by the MLUL. Our Ordinances do not require notice otherwise. The issue here before us is a determination based upon a fence, the fence height in this matter was ruled by Mr. Furey to be above 6-feet. Our Ordinance at 35-7.5 entitled walls and fences, which I think you all have in the application packet sent to us by the appellant. In relevant part there is no wall or fence shall be erected, maintained or planted to a height greater than six (6) feet above ground level. Now in this case what I think we are going to find is that it's going to be a dispute about where you measure ground level. We are going to have to review our Ordinance, under the Law our Ordinances are to receive a reasonable construction and application to serve the apparent purpose of the Ordinance. We will hear from Mr. Furey as to what his thoughts were in enforcing and interpreting, we have to decide if that interpretation is reasonable based upon and in conjunction with the purpose of the Ordinance, which is the restriction of the height on fences. He asked Mr. Furey to take us through what his process was and what his thoughts were and then we'll go to the appellant and then he can state his objections, we have two attorneys. We will all put our appearances on the record and we can proceed in that fashion. The public is here; they will have a right to comment on this application as well. We will open it up and then we will have closing statements from the objector's attorneys, opposition attorneys and then we'll give the last word to the appellant. If we could to begin with the attorneys placing their appearance on the record, please. James Turteltaub, he is with the Law Firm of Carlin & Ward, he is here tonight representing James and Sarah Henry regarding the Zoning Officers decision. Edward F. Liston, Jr. Toms River, NJ, he is here on behalf of Kevin and Leigh Comerford who are the owners of 89 Morris Avenue which is the property directly to the east of this property. Timothy B. Middleton, representing Mr. and Mrs. William Reilly, 75-75 1/2 Morris Avenue. George McGill then swore in Dick Furey, Zoning Officer for the Borough of Manasquan and Al Yodakis in. He asked Dick to explain his position. Dick said back in June of 2018 Mr. Henry came in with an application for several projects on his property. One of which was for a concrete paver driveway, a

concrete paver patio, re-location of an A/C unit, and the construction of a low retaining wall on both the east and west property lines. That application was approved. Back in April of this year Mr. Henry came in submitting an application to construct a 6-foot fence on top of the existing retaining wall which is along the property line. That was denied and the reason it was denied is our Ordinance states that a fence/wall cannot exceed 6-feet in height along the side and rear property lines. Being that we already had issued a permit for the construction of a retaining wall and that was constructed at ground level, which is what the Ordinance requires. Then any fence above that must fully conform with the Ordinance. Therefore, if it was a 2-foot wall he could have constructed a 4-foot fence on top of that and conform. But, apparently the wall was higher than that in some areas it was 3 or 4-feet above grade which would put it over the height and that is why the application was denied. George McGill asked Dick if he is aware that the homeowner is claiming that the ground level should be the fill level on his property, did you consider that in your denial? Dick said he disagrees with that argument because the original application was that the wall was going to be constructed on the ground level, which would be the existing grade of the property. At some point after that wall was approved Mr. Henry then backfilled behind that wall, but in our opinion the wall is on the property line and constructed on ground level or grade. So, therefore we denied the argument that the fence could be constructed on top of the area that was backfilled. The Ordinance only permits one wall/fence. Again, the Ordinance is clear it says that the wall/fence is constructed on ground level and the original application for the wall was that it was constructed on ground level, the original ground level. So, it was our determination that the proposed fence be constructed on top of that wall. George said so the wall was on ground level? Dick said yes and then the fence on top of that and that created a situation where additional height was presented. Dick said correct the Ordinance reads wall/fence. George asked what the final height was? Dick said anywhere between 9 and 10-feet. Bob Young said that's the 6-feet of fence. Dick said yes on top of the retaining wall. Next, George turned to Mr. Turteltaub and he said he would reserve the right to question Mr. Furey. He said the issue here is he had a full copy of the Ordinance in case the Board members did not have it, Section 35-7.5. He took it from the Borough's website. It was marked Exhibit A-1. He said the issue is with (a). It states that no wall or fence shall be erected, maintained or planted to a height greater than 6-feet above ground level. The term ground level is not defined in your Zoning Ordinance, we have to look for intent in order to be able to address this. He argued what the definition of grade level is. He said common sense is where the finish is, the grade is. We talked about average grade, finished grade, but this specific Ordinance says the ground. The ground on Mr. and Mrs. Henry's property is that which is the backfill. It is now the current ground on this property. The intent is 6-foot above the ground. If Mr. Furey doesn't like that, the Council can change the wording of this Ordinance. But, right now the Ordinance we are talking about says above the ground. The ground is the finished grade, in this case which is what Mr. and Mrs. Henry want to do is put a fence 6-feet on top of the ground. No matter how you define it, it's what it is. Next, he had Mr. Henry sworn in and he will give an overview of what he has done on his property and then show you some other things. He requested under the OPRA records from around Town to take a

look at what kind of permitting was done for exactly the very scenario that they are looking to do here which is put a fence on the finished grade that is permitted by the Ordinance. George McGill swore Mr. Henry in, his name is James Edward Henry. He gave the Board members a background of his property, he has done work on his property at 85 Morris Avenue. He and his wife and three children have been living in Manasquan since 2012, in 2015 we lived on the other side of Morris Avenue, the beginning of last year this property was in pre-foreclosure they purchased it from the owner of the property, Mr. Applegate. The property was in poor condition; it was understood we were going to renovate one of the oldest houses in Manasquan. The property was damaged during hurricane Sandy. One of the things we wanted to do was raise the back of the property in order to prevent any flooding from occurring into this historic house. The other option would have been to just demolish the property and build a brand new house which is not what we wanted to do. He entered Exhibit A-2 which he said he submitted to Dick, I originally requested a 4-foot high fence. He has three small children under 5 years of age, they are climbing constantly, the playground is right next to this fence. We had requested a 6-foot high fence but that was denied. They did request a 3-foot high fence which Mr. Furey did approve because it was below the 6-foot high threshold and that's what we did install. The red color on Exhibit A-1 indicates a 6-foot high white vinyl PVC fence, if you went to the property today or drive by you could really only see the PVC fence from the Street. The chain link fence there is primarily a temporary fence in our opinion. We installed it primarily for safety reasons for our children and then we installed a 6-foot fence to the rear property line. Across the rear property line, we have a 4-foot high fence, where the red and green meet we started modifying the grade to raise the grade up to the flood elevation. Then we went one-foot above the flood elevation for safety reasons. We didn't fill an exorbitant amount or anything that would be considered exorbitant as far as going way above the flood elevation. We only filled for one reason, is to fill to protect our property. In order to prevent drainage issues on our adjacent neighbors we installed a retaining wall which then became problematic down the line. The house itself stayed as is, we filled around the house in order to get it outside the flood zone. George McGill asked about A-1, Mr. Henry said its A-2. Mr. Turtletaub asked if in the area where he proposes the fence is it on top of the wall or is it on land inside of the wall? Mr. Henry said the concrete retaining wall is along the property line, adjacent to the wall there is a concrete foundation for each individual fence post, it is not mounted to the retaining wall whatsoever. Individually the way he interpreted it is we have less than a 6-foot high retaining wall and then we have less than a 6-foot high fence. The fence is in no way connected to the retaining wall whatsoever. They just happen to be directly adjacent to each other. Mr. Turtletaub asked what the fence would be put into, dirt, concrete? Mr. Henry said the fence will have a concrete foundation that's going to lay on top of the dirt which is elevated above the retaining wall. Mr. Turtletaub asked what would be the height of that fence from the dirt to the top of the fence when it's complete? Mr. Henry said the way I interpret it is a 6-foot high fence. By the way the whole team has been great to me through this whole process, it's been great to deal with you but I'm doing this for safety reasons for my kids. Mr. Turtletaub said when confronted with the issue of what constituted 6-feet in height and the issue that was raised

about the retaining wall, did you do any investigation as to what the standards were around Town. Mr. Henry said he went to Frank (DiRoma) and he actually discussed with him what he was doing with the property regarding the fill. He said Frank I want to make sure we are not going to have any issues with any of my neighbors, I wanted to make sure there was no regulations as far as filling the dirt, I confirmed with him 100% and at that time he requested me to submit a grading plan to Mr. Furey for preliminary review as far as how much dirt we would be filling. At that point they then requested we get DEP approval which I obtained, that delayed me about a month and then the zoning department approved the grading plan as you see here. Mr. Turteltaub said with respect to other properties around Town did you do any investigation of them. Mr. Henry said he and his wife rode their bikes around Town, we went to a lot of different properties especially along the Beachfront, we OPRA'd 20 different properties which have retaining walls with fences on top. After we identified approximately 5 to 10 additional ones, so there are possibly 25 to 30 properties that have fences on top of retaining walls. That could be a 4-foot or 6-foot fence, depending on where it's located in the front or rear yard. He had two more exhibits to be entered, A-3 is a picture of his property, eastern and western property line. A-4 consists of 4 photographs of fences in Town. Regarding A-3 looking from the Street it doesn't look like there is a retaining wall but as you go to the rear of the property the retaining wall gets to about 3-feet. You can see the transition between the black chain link fence and the white PVC fence. Bob Young asked what direction we are looking at. Mr. Henry said all the top pictures are the eastern property line, then the westerly property line which are all the pictures on the bottom, that's facing the purple house. Next, he addressed A-4 which references some of the pictures, mostly taken today. He said he did OPRA 593 Brielle Road and there was no variance issued for installing a 6-foot high fence on top of a what appears to be a 4 or 5-foot high retaining wall. 272 First Avenue, there is a 6-foot high fence on top of basically a raised deck, we OPRA'd that property and there was no variance issued for that fence. 113 Wyckoff Avenue has approximately a 2-foot high retaining wall, adjacent to a 6-foot high fence, again we OPRA'd that property and there was no variance issued for that. Then 155 Glimmer Glass Circle has a 4-foot high fence along Glimmer Glass, also there was no variance issued for this fence. Mr. McGill asked if any of these properties had the same circumstances as yours where the ground level was raised. Mr. Henry said that's a great question, he said he can't really tell, he has to imagine if they have a retaining wall that was modified. It's difficult to say existing grade verses proposed grade. Even historically our properties and all our neighbor's properties when you look on the DEP website there is historic fill that is taking place in Manasquan, throughout Manasquan where the grades are constantly changing. George said looking at 593 Brielle Road, was that properties grade dropped as opposed to the neighboring property, he thinks it's relevant whether you are dropping grade or filling and then putting a fence on top. Mr. Henry said 272 First Avenue was definitely a raised grade, that's a raised patio there is no doubt about that. Mr. Turteltaub said the point we are making is there is no knowledge, if you want to go back to the beginning of time and say we'll measure from there, the Ordinance says from ground level. The only thing this Board really has to do is consider is what is the definition or what's the term that is used in the

Zoning Ordinance that says ground level. The Ordinance doesn't say historic level. It doesn't say in the Ordinance did he measure from the ground level of the next property; it says ground level of this property. We have a situation where you could have a slope where a fence is on a slope without a wall, it could theoretically be a foot maybe two feet above the next neighboring property and that should have the same treatment as a fence that is built on the grass here. It's just on the ground, there is nothing in the Ordinance that says on top of the ground is anything other than the ground, at this point once the fill occurs it's ground level. George McGill said he's trying to kick it around as well to see if Mr. Furey's interpretation is reasonable and he thinks it would appear to him that Mr. Henry's wall, the base could be construed as his ground level, because obviously the wall is on his property. That side of the wall would be at the original ground level; he thinks that's the way Mr. Furey was looking at it. Mr. Turtletaub said I understand your point but the Ordinance doesn't say your neighbors, you have provisions in your Ordinance, you talk about the average on a property. There are different ways to address height, in this case all it says is ground level. Mr. McGill said where do you take ground level from? Mr. Turtletaub says ground level is for the ground is at the time of what you are making the measurement, that's ground. Mr. Turtletaub then argued planting of trees and what is ground level for a tree. Mr. McGill said interpreting that Ordinance what is reasonable and not reasonable would be different than when we are interpreting how Mr. Furey would measure a fence and a wall structure. I agree with you if we were dealing with a tree but we are not. Mr. Turtletaub said but it's the same term. Ground level has to be the same. If the Council wants to change the Ordinance they can do that but the way this Ordinance is written now, you go to the ground. We have other examples; this isn't just the only one. You talk about swimming pools. He read that definition with regard to ground level. George McGill said obviously he came in and showed Mr. Furey a wall that wasn't built yet, and the grade hadn't changed yet and there was a fence on top or near the wall then ground level would obviously be the original ground level. Mr. Turtletaub said but that would then lead to a very varied application of the word ground level. George said ground level would have been just where it was and your client could have come in for a variance and say that I need to have this set up because I have a hardship because I have a drainage issue and then I need to put a fence on top of it and then the Board could look at it and determine whether or not there is going to be any detriments to the public good and that would take into account the neighbor and we could look at whether or not he is entitled to a 10-foot or maybe he doesn't need 10-feet, he probably doesn't if he wants to protect his kids. He says he needs 4-feet, but actually he's proposing a structure that's 10-feet so that's what the Board does. It looks at what is required by the hardship and what has the least impact on the neighbors and that's not even taken into consideration the zone plan. We are really dealing with not whether your client can have the fence, it's whether he needs to get approval for the fence. Mr. Turtletaub said the Code says he has to have a 4-foot fence. It's within your Ordinance, if you don't like your Ordinance the Council can change it. But, right now the Ordinance says ground level. He has to have a fence 4-foot above ground level in order to comply with the Building Code. Your building code tells you exactly what ground level is. Greg Love said he thinks the outside of the retaining wall is

the ground level, the inside is the fill level, I think you are misinterpreting it. Greg said if it was a natural change in elevation he would say there is no problem, but you created that change. Tim Middleton objected, Mr. Turtletaub you have four or five instances in Town where there are fences and retaining walls, I haven't seen an applicant, I haven't seen a permit, I haven't seen anything other than your client testified he drove around Town and he said I look on the Google Maps and my wife and I drove around on our bikes. Mr. McGill asked Mr. Middleton what he is objecting to. Mr. Middleton said about trying to utilize instances that there may be fences near retaining walls. George said you are saying that he doesn't have any basis for the statement that this is a similar situation. Tim said absolutely. Mark Apostolou said he already testified that no variances were issued. Mr. Henry said he submitted an OPRA to the Borough asking for all fence applications for all variances for any of the 20 properties which we identified. To figure out whether or not fences were applied for and approved by the Borough. We did obtain several different applications which were approved by the Borough to install fences on top of retaining walls. Bob Young said what we don't know and I'll use 593 Brielle Road as an example, we don't know for that new house that was constructed 2 or 3 years whether sand was removed and the wall was always there. That may have been an existing retaining wall, the natural slope may have gone up to that wall, correct? Mr. Henry said that's correct but if you look at the top right hand corner of A-4, 272 First Avenue you can see there's a 6-foot high retaining fence on top of a deck. Bob said I agree with that but we're pulling examples to Mr. Middleton's point kind of like this so we don't know the history that goes back 50-70 years and your attorney has also referenced that as well. It's kind of a double edged sword when we throw these examples up there. Mr. Middleton said Mr. Henry submitted an application to Mr. Furey a year ago, George told Tim to be fair to the applicant, not that you're being unfair but it is his time. Mr. Turtletaub said are you going to say someone has an above ground pool if his pool is somehow above the grade of the next door neighbor. That's an in ground pool. Mr. Liston objected, he's testifying about the ultimate decision this Board has to make, he ought to be under oath. George McGill said he's just making a legal argument which a lot of this is because it's interpretation of an Ordinance. I don't think there are any hard and fast rules as to how this hearing is to proceed, I don't have any objection to Mr. Turtletaub explaining his client's position because we have to understand it and a lot of it is legal and Mr. Henry can't do it so we need to get through it. Mr. Liston said but we're almost at the 50-minute mark and he's put on his witness for approximately 10 or 15-minutes and the rest of it has been all argument which is summation. I don't think that's proper, I object to it. George McGill said we should move forward. Mr. Turtletaub said unlike a variance application this is a matter of Law. George said I agree. We need to get Mr. Turtletaub's position clearly on the record and you and Mr. Middleton will have your time and then the public. We will want to go back to Mr. Furey, he didn't have photos, he didn't base his decision on photos. Mr. Turtletaub again addressed the Ordinance 35-34 regarding satellite dishes, and where ground level is. You use the term ground level which is to say that a 6-foot fence from ground level would cover it, if Mr. Henry were to put a satellite dish in his backyard he wouldn't be able to build the enclosure that you require for it because it would be above

the 6-feet to preclude the fence. George McGill said so your argument is really ground level is ground level everywhere and you can't go with a different interpretation when you are dealing with a fence or your circumstance where there was a wall with fill behind it. Mr. Turtletaub said correct, that is exactly the point. George said I don't know if I agree with that. Mr. Turtletaub said that's your prerogative. Mark Larkin asked from a neighbor's viewpoint, if this 6-foot fence is put on this wall, would that be 10-feet higher than his ground level? Mr. Turtletaub said I don't know the height of the top wall; I think it's less than 10-feet. Mr. Henry said at its maximum height it would be about 9-feet or so. In addition to that they have also planted privacy bushes so they are also screening me as well. Mr. Henry said when he originally bought the property before he filled anything, he did submit an application for a fence on top of a retaining wall and it was approved. When I came back after I filled the property to add a fence on top of the retaining wall it was denied. So, there were two different interpretations. John Burke asked if there was a copy of that paperwork and when he was told yes he asked for it to be shown to the Board attorney. Mr. Henry had a copy and it was marked Exhibit A-5, Mr. Furey looked at it and said Jim, this was the original application for the driveway, patio and retaining wall along both sides of the property as indicated. Dick said this was before the property was backfilled, Dick said once the property was backfilled then that changed everything, that with the original grade of the property. Dick said that was prior to the property being backfilled. For example, hypothetically the grade was at elevation 7 as an example, the top of the wall was at elevation 9 or 10. Then Mr. Henry backfilled approximately 2 or 3-feet of fill and then wanted to build the fence on that area that was backfilled. My position was that the wall/fence assembly comes off the original grade of the property which say hypothetically elevation 7. George McGill said he wants to be clear on that, on that plan that fence is at the same level as the wall. They are not on top of each other. Dick Furey said no, and it's on the original grade. Mr. McGill said they are not cumulative and then the second plan they were because he had fill and then the 6-foot high, so the representation was made that there was a retaining wall and fence asked for originally that was approved and it seemed like there was a determination or a change in the determination, but in fact there was a change in facts because the fence in the second permit application was from a different grade than the first. Mr. Furey said correct. Mr. McGill said alright, I just want to be clear on that. Mr. Turtletaub then said he would like Mr. Henry to clarify what his understanding was to having a fence inside a retaining wall in your discussion with Mr. Furey. Mr. Henry said it doesn't make any sense to build a 3-foot high retaining wall behind a 6-foot fence. Mr. Furey is correct I didn't submit a grading plan to him, but however I clearly did indicate there was a one to three-foot high retaining wall directly adjacent to a 6-foot fence on that plan. Mr. Furey said Jim, that was off the original grade, so the overall height did not exceed 6-feet. Mr. Henry said it doesn't make any sense. Mr. McGill said you could do it if you wanted to, you are saying it doesn't make any sense to do it but what's presented on the plan was permitted. So Mr. Furey is not going to get involved with anything further than what you put on the plan, I understand what you are saying, you are saying that he should have understood that it was fill with a 6-foot high fence, but if it's not on the plan I don't think he makes those

assumptions. Mr. Furey I don't mean to speak for you but that's what it seems to me. Dick Furey said that's exactly right, the original application was not for backfill, it was for a paver driveway and patio, retaining wall and fence which in fact it was not going to exceed 6-feet above the original grade. Greg Love asked if any fill was added to the front of the property? Mr. Henry said maybe 6-inches or so of top soil. Mr. McGill said the relevant take away from all this is that it wasn't a situation where a retaining wall and fence was approved. Whatever you thought, whatever miscommunication there was the statement was made that it was approved and I wanted to clarify whether a retaining wall with grade and fence was approved originally and then there was another decision but whatever happened here, whether it was thought to be preexisting or whether you thought it was from grade or whatever, the June 18, 2018 letter doesn't mention a fence, so we can't say that it's approved. There is nothing here that shows that this application at some time in the past was approved. Mr. Henry said he spent a lot of money to fill the property and alleviate flood insurance on this property and it seems the determination changed once the property was filled. On the grading plan it showed a fence, it always showed a fence and once I modified it after the whole thing was filled and constructed all of a sudden I ran into these issues. So, from his perspective it's a little frustrating that the determination seemed to have changed. Mr. Turtletaub said this appeal is to determine what ground level means. Mr. McGill said we have to look at whether Mr. Furey's interpretation is a reasonable one under the Ordinance. Mr. Turtletaub said it has to be reasonable in light of the application uniformly throughout the Ordinance, not just because he is concerned about this one property. This needs to be done what's done for the Community, this is what this Board is now doing. It's creating a definition to use for every application hereon forward as to what ground level is. If I was to come in here as an objector and say well can you show me what the property's elevation was in 1800 because it's been filled since then, then that's what they are going to have to prove, because that's what ground level is going to be defined by this Board as to what the original ground level was. Mark Apostolou said Mr. Love pointed this out, talking about artificial changes verses natural changes. Talk about contours and natural topography, but here we definitively know what the level was before he put the fill in. I don't think it's an arbitrary figure, you're trying to allege that we have to go back 200 years, here we have a finite, definitive, product, he knew what ground level was, he raised it. He raised it artificially, it's our job to determine whether artificial verses natural, and I defer to our attorney. George McGill said you are right on point with that, under this circumstance whether or not Mr. Furey's interpretation in these circumstances is reasonable. Greg Love asked Dick Furey a question, if this property has already been elevated, the retaining wall is already there and they sell the property. A new person comes in, purchases the property and they say they want to put up a fence, do you approve that? Mr. Furey said no. Greg said ok, you're consistent then. Dick said yes. Dick said the issue here too is that Mr. Henry is saying that part of the original application was a fence along that property line. We would have approved a 6-foot fence there, now he backfilled two or three feet against that fence, now it would be a 3-foot high fence. If you backfill up against the original 6-foot high fence, then added 2 to 3-feet of fill that fence along his property line would no longer be 6-feet it would be 3 or 4-feet. Bob Young asked Mr. Turtletaub how

much longer do you have to present? He answered that at this point in time Mr. Henry is done with his brief so he is fine. Next, Bob asked Mr. Liston to speak. He said he would like to ask Mr. Henry some questions. He asked him if when he purchased this property the grade was essentially the same grade as the neighbors. Mr. Henry said right. Mr. Liston said once you added the fill, you changed the grade on your property. Mr. Henry said correct. Mr. Liston said that didn't change the grade on either neighbor's property, so you want to put a 6-foot fence on top of a 4-foot wall that would appear to the neighbor to be essentially a 10-foot fence, wouldn't it? Because, their grade hasn't changed. Answer my question, would it appear to be a 10-foot fence from their perspective? He answered with the definition of the Ordinance. Mr. McGill said answer the question, he asked not what's permitted under the Ordinance, that's what we are here for, so what would it look like, that's the question. Mr. Henry said from their property roughly about 9-feet. Depending on the perspective of where they are standing in their yard or their house. Mr. Liston said you said you went around and took photographs of these properties you brought before the Board, do you have the permits for those properties? Mr. Henry said we have several permits. Mr. Liston said do you have them here tonight; can you show us each permit for each property that you put on that board. Mr. Henry said they were not all available but we do have permits. Mr. Liston said you said there were no variances granted, how do you know that? Mr. Henry said he requested documentation on variances. Mr. Liston asked if he received any. Mr. Henry said no, Mr. Liston said maybe the records are wrong, so you don't know, what you are doing is you are picking things out without any background or back up whatsoever paper wise from the Town and you are saying that is what is allowed. Isn't it true that you don't have any permits for those four properties? You don't have any evidence of whether a variance was granted or not, and you are trying to use those. Mr. McGill said Mr. Liston you are on your third question so please let him answer. Mr. Henry had permits which he asked to be marked as Exhibit A-7. This is a permit for the fence at 593 Brielle Road. George asked if 593 is actually the fence on top of the wall, Mr. Henry said 593 is actually the property behind there. Mr. Liston asked if he had any permits for the other three pictured fences and the answer was no. Mr. McGill had a fence permit from Mr. Henry dated 5/15/2011 for 593 Brielle Road, the fence is 4-foot high. He passed that around to the Board and showed Mr. Liston. Mr. Liston asked if he could ask Mr. Furey a couple of questions, Mr. McGill said he doesn't have a problem with that. Mr. Liston asked Mr. Furey if he has any recollection of issuing the fence permit for 593 Brielle Road. Mr. Furey said not really, because they issue so many of them. George said you just showed A-7 to Mr. Furey and you asked him if he remembers it and he says not really because they do so many of them. Mr. Liston said looking at the site, do you recall ever visiting that site? Mr. Furey said he thinks there were three new homes built in that general area all of which had Planning Board approval. The one on the corner definitely did, the blue house behind it did, this all has to do with A-4. All those properties were approved by the Planning Board. Mr. Liston asked if that would have included how they were graded. Mr. Furey said correct. John Burke asked the Chairman if in looking at the retaining wall at 593 that the grading comes to the top of the retaining wall and then the fence is built up on top of that, is that the assumption we are making. Bob Young said

that's the assumption we have been presented with, although 593 is not this house on the corner it's the one to the East. So we are assuming that the grade on the other side of the wall is to the top or near the top of the wall. Mr. Middleton said he has a few questions, to Mr. Henry in terms of the four photographs, in any of those homes did those fences involve situations where the property owner had just previously raised the property with fill 2 to 3-feet and placed a 2 ½ to 3 ½ foot retaining wall around the perimeter of the property? Mr. Henry said he would have to review the grading plan and find out exactly how much they raised the properties. This cross examination went on for a number of minutes. Mr. Middleton had a photograph taken from the Riley property which he had marked Exhibit R-1 which shows west of the Riley driveway toward the Henry home. You see a white fence and a retaining wall. He then questioned Mr. Henry, he established that Mr. Henry is a licensed engineer, he is employed by Dynamic Engineering, he is a Civil Engineer, he prepares Site Plans, Plot Plans. He prepares very complicated plans such as shopping centers and the like. In this case as Mr. Middleton understands Mr. Henry prepared his own plan. He asked him if when he prepared that plan if he was aware of the fact that if the retaining wall was over 30-inches that he would need a fence. Mr. Turteltaub objected to this line of questioning. Mr. Turteltaub said the issue is what is ground level and that is what this Board should be focused on. Again, Mr. Middleton asked if Mr. Henry was aware of the fact that he would require a 4-foot fence in the areas where the retaining wall exceeded 30-inches? Mr. Henry said yes. Tim Middleton asked where is the 30-inches measured from? Is it measured from the Riley's side of the property or as you would call ground level? Mr. Henry said the 30-inches is the height of the wall so it's the top of the wall. Mr. Middleton said you could have designed a retaining wall less than 30-inches high. Mr. Henry said he did but the application was denied. Mr. Middleton asked if it was denied because Mr. Henry's fill level exceeded the 30-inches? Mr. Henry said no. Mr. Middleton asked why it was denied. Mr. Furey said he doesn't recall a retaining wall that was less than 30-inches. Mr. Henry said Mr. Furey denied no retaining wall option. Tim Middleton said that's a lot different Mr. Henry, that's a big clarification. Mr. McGill said so the other option was no retaining wall option. Mr. Henry said I originally submitted an application for no retaining wall at all, I didn't want a retaining wall along my property line. That application was denied. Mr. Middleton said it was denied because he was concerned with the runoff. Mr. Henry said it was the interpretation of the Zoning Officer that no water is permitted to run off onto the adjacent properties. Mr. Middleton said so you could have designed a retaining wall that was less than 30-inches. Mr. Henry said no, because he had to prevent water from running onto the adjacent properties. Mr. Middleton said you could have brought in less fill, correct? Mr. Henry said of course you could have. Mr. Middleton said and that would have necessitated a retaining wall that was less than 30-inches, correct. Mr. Henry said but then you would have had flooding conditions. Mr. Middleton said the white fence is yours, correct? And, it is 6-feet from the ground line of your property line, correct? Mr. Henry said yes. Mr. Middleton asked if Mr. Henry's testimony tonight before the Board as a property owner and a professional engineer that if you placed a white fence along the area he pointed to going toward Morris Avenue it would be approximately 9-feet, is that correct? Mr. Henry said most of the

property is about 2-feet high. Mr. Middleton said you mean 8-feet high? Mr. Henry said if you add the retaining wall plus the fence then yes. Mr. McGill asked both Mr. Middleton and Mr. Liston if they were done and they said they had their clients to testify. Mr. Turtletaub said he has some re-direct but if this is going to be carried he will carry that. Bob Young said we will carry this to Tuesday, August 6, 2019 at 7pm. George asked Mr. Turtletaub if he waives any time requirements the Board has to have and he answered absolutely.

Mark Apostolou made a motion to recess for 5-minutes, seconded by Kevin Thompson, all in favor none opposed.

Roll Call Following Recess:

Board Members Present:

Mayor Ed Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Mark Larkin, John Burke

APPLICATION #21-2019 – Murphy, Peter and Francesca – 123 Glimmer Glass – (carried from June 4, 2019) – Bob Young listened to the CD of the previous meeting and signed the paperwork. The Mayor can participate but will not be able to vote. Keith Henderson is the attorney representing the applicants. Mr. Henderson said the Board asked them to get the heights of the adjoining houses which they have done and submitted on June 19, he had additional copies. George marked that Exhibit A-1 with today's date. Mr. Henderson explained that A-1 is a Survey certification prepared by William Fiore certifying the elevation on the properties on Lot 13, Lot 11 and Lot 12. Measuring from the curb Lot 13, the house is 34.75-feet, measuring from the curb again Lot 11 is at 32.2-feet above the curb. Joe Kociuba is the Engineer who was sworn in at the last meeting who will testify as to how these impact the application. We were also asked to consider an adjustment to our variance request for height, to see if we could lower that a little and we are prepared to discuss that tonight too. Mr. Kociuba spoke to the heights of the adjoining properties. He discussed these elevations with the applicants understanding that the Board had concerns regarding the height and the applicants decided to amend the application and reduce the height of the home by 1-foot, we are therefore proposing height of 34. Mr. Kociuba said the distance between the property lines at the front yard setback is 50-feet. At the last hearing he provided testimony for both the C-1 and C-2 variance. The intent here is to continue the uniformity of the area, keep the heights similar or actually below what the adjacent lots are. All my previous testimony still stands; it's actually bettered by this amendment in that we are equivalent or just slightly less than both of the adjacent properties. The property to our left is about 2000-square feet smaller than ours. The intent here was to maintain uniformity throughout an area. That promotes the purposes of planning and outweighs any detriments created by the variance we are requesting. As you are aware the Ordinance allows a 38-foot height for a conforming lot, we are nowhere near that we are just looking to be even with our neighbors. Mark Apostolou made a motion to open the meeting to the public, seconded by Kevin Thompson, all in favor none opposed.

Audience Participation:

Mr. McGill swore in audience members testifying.

Patti Dolce – 127 Glimmer Glass Circle – She lives two doors down from the applicants and she is for them getting the variance. We have talked about the plans and the height she thinks the new house would look very, very nice in the neighborhood. It won't look overwhelming or big she thinks it will look perfect especially between the two houses beside the applicants. She said they are great people she is in favor.

Mark Apostolou made a motion to close the public portion, seconded by Kevin Thompson, all in favor none opposed.

George McGill asked them to go over the C-1 rationale and what is the hardship is here. Mr. Kociuba said under the C-1, its extraordinary condition unique of a particular piece of property. This property is uniquely oversized for the zone and was created via subdivision and has an undersized frontage but has a width at the front yard setback of 50-feet. In his opinion those are extraordinary conditions unique to the property. He believes that the variance can be granted under that condition but he thinks the C-2, the better planning scenario also is promoted and can be granted under the C-2 criteria. George said the reason why he is bringing that up is because he really doesn't see any condition of the topography that would require a height variance. I know you have a narrow front which just though your Ordinance is written in such a way that requires you to be at 33-feet. Mr. Kociuba said the Ordinance is written in such a way that if we are one square-foot shy or we are half the area allowed we are limited to a much lower height. In this particular case we have a unique lot that is substantially oversized, it's one of the largest in the neighborhood yet we are burdened with this lower height. George said it seems more like a C-2 though that the house would be proportional to the lot size than to the neighbors than some kind of condition of the property makes it difficult to build. You could build a 33-foot house. Joe said he agrees a C-2 is probably a cleaner fit. George said he just wanted it clear in his mind what the hardship actually was. Keith said he would argue under the Lang Case there is a hardship, Lang was a pie shaped lot just like this. The Board of Adjustment granted the variance to build a residence with a garage access on the side of the lot, which was a violation of the Ordinance, the neighbors objected, the Supreme Court said no you are entitled to have a house which is comparable to surrounding houses and that's exactly what we are asking for, we want to be comparable to our neighbors even though we have a significantly oversized lot. George said it sounds like a C-2 on that. Keith said that's a C-1. George said Lang was based on the positioning of the house that existed if I recall. Keith said no, they were going to build a residence and put the garage on the side of that lot. George said so the shape of the lot affected their ability to place the garage. Keith said right, which is exactly what we have, the shape of this lot is prohibiting us from having frontage which would fairly entitle us to build a 38-foot high house. George said but the shape of the lot isn't affecting your ability to go up. My point on this whole thing with the hardship was that the Ordinance is written in such a way, if the Ordinance wasn't there you could build a 33 or 38-foot, there is nothing about that frontage that actually restricts the height. When I look at a hardship I can't say we have a small frontage therefore the Ordinance makes our house smaller therefore we should be able to go up above the height requirement because everybody could make that argument. Keith said all he is saying is if you have a pie shaped lot and you can't get the frontage which

allows you to go up I think that's a hardship. Joe Kociuba said he thinks this is why the C-2 flexible standard came about with these types of situations where Planning is forwarded by allowing relief. He thinks both the C-1 and C-2 apply. Keith said you asked us to look at the height and we did. Greg Love said you said one of the adjacent houses was 35.3-feet then you said it was 32. something? Joe Kociuba said the surveyor picked up two different roof heights. That particular home has two different roof heights. Greg Love said so the front part is 32 and the back part goes up to 35-feet. John Burke made a motion to approve the application as presented on June 4th and amended tonight, seconded by John Muly.

Board Members Voting Yes:

John Muly, Mark Larkin, John Burke

Board Members Voting No:

Robert Young, Greg Love, Mark Apostolou, Kevin Thompson

APPLICATION #18-2019 – 245 Parker Avenue – Muller Property – Block: 51 – Lot: 8.03 – Zone: B-3 – Mike Rubino is the attorney representing the applicant. Mr. Rubino introduced Celeste Miller, attorney whose office is at 1540 Highway 138 Wall Township, NJ. She is an owner of an adjoining property and they are thinking about building a second story on their building and therefore doesn't object to this application, in the hopes that this applicant would not object to their proposal. Mr. Rubino continued explaining the application and noted they appeared before the Board for an informal at least 8 or 9 months ago. Between the architect and engineer it took a while to get the application together. The application as presented is for two uses, one is for a retail use on the first floor and the second is for apartments upstairs. Mr. Furey had written a letter stating all the apartments were undersized and that is not true, two of the apartments are undersized. Where 800 square-feet is required one apartment is #201 is 713.2 square-feet and #202 is 701.8 square-feet. Those are one bedroom units and there will be testimony on them, the other four units will be or greatly exceed what's required by the Ordinance. The other variances that are needed with regard to the site are impervious coverage where 100% exists and we are proposing 68.47%. The parking on the north side at 1.6-feet, where 4-feet is required. The parking lot setback in the rear to the residential 8-feet proposed, 15-feet required. Onsite parking according to your engineer's calculations we are one short, Mr. Kociuba will address that and then onsite parking we are proposing parking in the side yard where rear yard is required. Brian Berzinskis who is the architect and Mr. Kociuba and also his clients who are here to answer any questions. He called Brian Berzinskis who was sworn in by Mr. McGill. He has testified before this Board and they accepted his credentials. Also, Al Yodakis was sworn in. Brian explained the project starting out with the layout of the building. The first floor is intended for a retail use; the first floor plan depicts 4 retail spaces. There will also be access points at the front and rear of the building for the residential units above. The second floor will hold six apartments that are accessible from the central hallway. This is a two and one-half story building. Exhibits were entered A-1 Exhibit shows the rendering of the building facing the north. A-2 is a rendering facing Highway #71, A-3 was already submitted and A-4 is a copy of the layout

plan. Mike Rubino asked Brian about Al Yodakis' letter and the storage space. The engineer will testify to that. Mark Apostolou asked if that was in the submitted plans and Mike said no, that was a result of the letter from the board engineer. Brian said the stairwell already exists from the ground floor level up to the second floor, so going down in that same stairwell to the basement would be pretty easy. Al will need to look at that. Al said they would certainly have the space in the basement to do that. Mike Rubino said if the Board wants to approve this we would have no objection to making it subject to your Engineer's review and if he comes up with some problems with it we would come back to the Board. Al said I would have to see it on paper, but they are agreeing to it, I think they have the space easily to do that in the basement. Bob Young asked if the storage in the basement would include storage for the retail units as well? Mike Rubino said it would be both, the retail units would either use it, the original intent was to have the retail units use the storage in the back of their space. Mike said to answer Mr. Young's question because there is going to be extra space down there, they might allow retail also. Mark Apostolou said but you will subject all of that to approval of our Engineer, so that will be submitted and it will be a condition of our approval. Mr. Rubino said Mr. Kociuba will be testifying to the Board Engineer's letter. Bob Young said are you aware that because you have five or more units one of them is going to have to be low income? Mr. Rubino said yes, we are aware of that. Mark Larkin asked how many parking spaces will there be? Mr. Rubino said Joe will testify to that. Mark Apostolou said this is a brand new project you can't have things brought into conformity. It would just clean this application up so much better. Bob Young said why can't we move that hallway to the south a little bit so we can gain a little extra room in those two that are short? Bob said there are three 1200 square-foot apartments we're talking 67 square-feet roughly for each of them. Brian Berzinskis said we are so far under building coverage, technically we could make the building longer in order to accommodate more square-footage in the building in order to give more space to those units. But Mr. Kociuba who was sworn in said they could extend the building a couple of feet toward the west but that would increase our impervious coverage and our parking. We would essentially be shortening up the patio the length of the building we then would be transferring it to impervious coverage so it's kind of a balancing act. There are residential single-family residential units there along with balancing impervious coverage. Mark Apostolou said from his viewpoint the equity of the single family homeowners outweighs that of the square footage. Bob Young said he agrees. John Burke said he lives in a one-bedroom apartment and he would love to have 100-square feet more. Mr. Rubino said while we are listening to Mr. Kociuba the architect could talk to the applicants. Mr. Kociuba described the site from an engineering standpoint. He explained Joe's Service Center is to the north, Sea Girt Medical is to the south, there are two dwellings on a single lot also on Curtis Place there are three residential lots in rear. The applicant proposes to construct the building with 5377 square-foot footprint of that 4904 square feet is retail. He said architects and engineers measure things differently, architects generally measure to the inside of the wall, where your Ordinance requires us to look at gross floor area so we have to take a look at the exterior of the wall, so that's the reason for the difference in square footage. When you take the first floor area of the building and

discount out the elevator, the lobby and the two stairwells, we are left with 4904 square-feet of retail area that we have to account for with our parking calculations. Retail requires 16.4 stalls and the residential requires 12 stalls, for a total of 28.4 we round that to 29. We are proposing 29 parking stalls so we are conforming with the parking requirement of the Ordinance. The primary access to the apartments is on the west side rear, we have a patio and a refuse enclosure in that location, the refuse will be picked up by private pick-up. There was concern by your engineer about access to that, we anticipate roll away dumpsters. Mark Apostolou asked Al if he was ok with that and Al said they will make it work. Joe Kociuba said this particular layout is certainly enhanced compared to what previously existed there. We now have a much safer, much better parking layout it's more conventional. We have controlled access, we are conforming with our front and side setbacks and we have substantially reduced impervious coverage. We are also proposing a storm water system where none existed before. We will propose a sign that is fully conforming with the Ordinance in the front. We provide in front of the refuse enclosure a striped off area that allows for turn around. There will be depressed curbs in front of the refuse enclosure as well. We propose parking lot lighting; our biggest concern is not to impact the neighboring properties. The lighting will be on typical commercial lighting from dusk until about an hour after closing for safety. Al asked what they are proposing being they have apartments as well, is there some type of night lighting system. Joe said we can provide security lighting where the lighting dims, I don't recommend motion sensors. Al agreed with that. John Burke said the refuse enclosure is at the back of the building right next to the residential units, will there be restrictions on the timing of the pick-up of that dumpster. Joe said the noise Ordinance in Town will limit that. Every State Highway has what they call the desirable typical section basically DOT's wish list. In this case it's about 4-feet wider than the existing right-of-way. It is not typical that DOT requests us to grant that to them, if they ever came through and tried to widen #71 they may ask for some easements, but I don't anticipate any widening or anything that would create a new front yard setback along Route #71. We are just required in our DOT application to show it so they can see that we are not putting any building there. We have not submitted the DOT Permit; we are in the process of putting that together now. We have a local traffic engineer's report. Our building coverage as proposed is 68.47% where 60% is permitted, again we are at 98% now, we are substantially reducing that. Previously Mueller's Florist had about 1-foot rear parking setback, we are at 8-feet. 15-feet is required, that is not typical for the area. We are proposing evergreen trees along the rear to provide a buffer to the residential units which didn't exist before. The existing fence will remain as well. We also require a side yard parking setback, the lot although it seems square it does have a slight skew to it on that right property line. Our parking tapers from 6.18-foot setback to a 1.6-foot setback from front to rear. Mr. Rubino asked about replacing the fence along the rear property line and Joe said they will replace that fence. He said Variances can be granted under both the C-1 and C-2 criteria, C-1 in that the lot was previously fully developed with almost 100% impervious. Under C-2 the variances can be granted as a benefit to the general welfare. The building front setback is being increased to conforming, impervious coverage is being reduced, the parking layout is safer it provides a more

conventional convenient layout. All of these are safety benefits to the general welfare. Mike Rubino said to get to Item #6 on Al's report, we do not have any tenants yet. We are imaging the type of retail tenants will be typical of what's up and down #71 and Main Street. Sometime between 6 and 8am and probably close somewhere between 8 and 10pm. We are not proposing any fast food as it is not even permitted by Ordinance. Joe Kociuba said they are not anticipating any tractor trailer deliveries but we do have a turnaround for delivery trucks. Mike Rubino said we will state that the collection hours will adhere to the Ordinance. The applicant agrees to provide plantings around the trash enclosure as requested. Al said not to trouble the Board with all the other engineering items he will work everything out with Joe Kociuba. Kevin Thompson asked how the architect is making out with that footage. Mike Rubino said he's got unit #201 is 713 square-feet and #202 is 701 square-feet. They will both be brought up to 750 square-feet or greater, all the others are 800 square-feet.

Mark Apostolou made a motion to open the meeting to the public, seconded by Kevin Thompson, all in favor none opposed.

Audience members coming forward and sworn in by George McGill:

Dr. Thomas Colicchio – 158 Curtis Place - He lives directly behind the old Mueller's property. He and his wife Rose and his family have lived there for 16 years. He had the opportunity to look at the site plan in the office of the secretary to the Board. He feels it is a very welcome change from the relic that was there for 40 years prior. He has concerns with the Bulk Variances that are being sought. The parking lot setback affects him and he has been before the Council many times about problems with Taxi's parking in the lot. There were lights on overnight, motors running, talking, etc. Mr. Rubino interrupted Mr. Colicchio saying during our contract negotiations with the Mueller's, Mr. Hamilton contacted him and told him that there was a severe problem with parking at the site with cabs parking overnight. He asked us to get rid of it. He called the owners and said we are not closing the deal until you get rid of the Taxi's, so they were gone before we even closed on the property. Next, Mr. Colicchio said the next thing is the parking lot setback from the side property. He asked why they changed the apartment size from the original plan of 800-square feet for all apartments to a lesser size. Mr. Kociuba said after they looked at living spaces, once they looked at the layout that's when it was changed. Mr. Colicchio said the time frame sounds like a pizza store. Mr. Rubino said we are going to put in there whatever is allowed by Ordinance. Mr. Colicchio said food is another concern that the residents and the public should be aware of, am I correct? Mr. Rubino said food is permitted. Mr. Rubino said if somebody wants to come in with a food operation they would have to go to the Town Hall and fill out the proper paperwork and if it's allowed they will allow it. Mr. Colicchio continued to discuss the parking in the case of a food store. Again, Mr. Rubino said what will be allowed there is what is allowed by Ordinance, if you don't like something in your retail zone then you will have to complain to the Governing Body. We don't have tenants right now, even if we did we couldn't guarantee that they would be there forever, there would be new tenants. The only thing that we can guided by and what the Board and the Governing Body has to be guided by is what's permitted in your Ordinance. Next, Mr. Colicchio asked what type of rentals are they looking for, are

you looking for vacation rentals as far as the apartments go. Mr. Rubino said we are looking for people who would be happy to pay the rent. Mr. Colicchio argued about short term rentals. Mr. McGill said I'm sorry doctor, we can't consider how the applicant is going to rent his units, that's not our consideration. It's a residential use that is permitted, they are proposing it, there are requirements which they have met. Beyond that we can't regulate how they rent their property, we can't control that. George said if they are not looking for approvals for a parking variance, we don't have any grounds or basis to say you need to do this with your parking. If they had less parking, we could intervene or condition an approval to make it more usable or better. But since they have enough there is nothing really we can do as a condition. We have no basis to say you must designate these areas. Mr. Young said we need to wrap this up because we have a 5-minute time frame per person. Mark Apostolou made a motion to close the public portion, seconded by Kevin Thompson, all in favor none opposed.

Mike Rubino gave his closing comments.

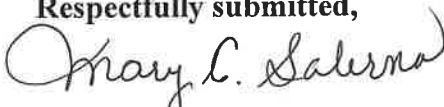
Kevin Thompson made a motion to approve the application, seconded by Mark Apostolou. George McGill went over the variances, undersized apartments (2), impervious coverage, parking setback for the side yard, the parking setback for the rear yard, and the variance to allow parking in the side yard when rear yard is required. Also, they stipulated to provide storage in the basement conditioned upon approval of the Board Engineer. Also, they will replace the fence in the rear yard:

Board Members Voting Yes:

Mayor Donovan, John Muly, Robert Young, Greg Love, Mark Apostolou, Kevin Thompson, Mark Larkin, John Burke

John Burke made a motion to close the meeting, seconded by Mark Apostolou, all in favor none opposed.

Respectfully submitted,



Mary C. Salerno

Planning Board Secretary