



**APPLICANT: JOSEPH MELHEM**  
**RESOLUTION GRANTING USE VARIANCE TO CONSTRUCT TWO**  
**TOWNSHOUSES ON LESS THAN FIVE ACRES**

**WHEREAS**, Joseph Melhem has made application to the Zoning Board of Adjustment of the Township of Lopatcong for use variance relief to construct two townhouses on less than five acres on the lands designated on the tax map of Lopatcong Township as Block 116, Lot 32, located on NJ Route 57; and

**WHEREAS**, the within matter was heard and considered at the regular open public meeting of the Zoning Board of Adjustment of Lopatcong Township on Wednesday, April 12, 2017 held at the Municipal Building, 232 South Third Street, Morris Park Phillipsburg, New Jersey 08865; and

**WHEREAS**, the applicant submitted a proper and complete Affidavit of Service of Notice of the instant proceeding upon all property owners within 200 feet of the subject property; and

**WHEREAS**, the applicant submitted a proper and complete Affidavit of Publication; and

**WHEREAS**, the aforesaid open public meeting was noticed, advertised and held in accordance with the Open Public Meeting Act; and

**WHEREAS**, this matter was opened to the public for both the questioning of witnesses and comments: and

**WHEREAS**, the Zoning Board of Adjustment considered the following:

1. Board of Adjustment Variance Application including Justification for Use Variance explanation prepared by Eugene N. Weber, P.E.,L.S., P.P.;
2. Survey plan prepared by Eugene N. Weber, P.E., L.S., P.P., dated November 21, 2016;
3. Use Variance Plan prepared by Eugene N. Weber, P.E., L.S., P.P., dated November 29, 2016, last revised February 28, 2017;
4. Memorandum from Paul Sterbenz, Board Engineer, dated February 22, 2017; and
5. Report prepared by Board Planner, George Ritter, P.P., dated March 29, 2017.

**WHEREAS**, the Zoning Board of Adjustment does hereby make the following findings of fact:

1. The applicant was represented by Mark Peck, Esq. The application was deemed complete at the March 8, 2017 Board meeting and scheduled for public hearing on April 12, 2017.
2. The applicant proposed to demolish an existing single family home and replace it with two townhomes. The property is located in the R-MF District. The existing single family dwelling is a non-conforming use. The proposed townhomes are not permitted in the R-MF District on lots of less than five acres.
3. The site contains a single family dwelling, garage, gravel driveway, macadam driveway, macadam driveway, concrete patio and concrete walkways. Vehicular access to the property is via two driveways, one located at the southeast corner of the lot and one driveway located on adjoining Lot 1. Existing utility infrastructure servicing the dwelling has not been shown. A 20' wide sanitary sewer easement that abuts the street line is located along the entire lot frontage.
4. In addition to the two proposed townhouses, the applicant proposes to install site improvements consisting of a paved driveway and 5 parking spaces. The existing stone/macadam driveway that extends to the midway point of the rear yard will be removed along with a concrete walk, wall and steps. No signage or outdoor lighting has been shown. No landscaping has been shown.
5. This is a bifurcated application. At present the applicant seeks only use variance relief to construct the two townhouses. If approved, the applicant will return to this Board seeking site plan approval together with any bulk variances that may be necessary.
6. The site is surrounded on three sides by townhouse and garden apartment uses. The proposed development is comprised of two townhouse units. Townhouses are permitted in the R-MF Zone on a tract that contains an area of at least five acres. The proposed tract is .37 acres. A use variance is required to permit the townhouse development on an undersized tract pursuant to N.J.S.A. 40:55D-70(d)(1). It appears that the proposed townhouses are compatible with the surrounding neighborhood and the site is well suited for the proposed use.
7. Eugene N. Weber, a professional engineer and professional planner with Finelli

Consulting Engineers, testified on behalf of the applicant.

8. Mr. Weber testified that the property currently contains an existing single family residential dwelling which has been vacant for some time. The existing dwelling has been rendered a non-conforming use by virtue of the creation of the R-MF Zone by the Township in 1998.

9. The applicant proposes to demolish the existing dwelling and construct two townhouses on the remaining foundation. The proposed townhouse use is technically permitted, however Section 243-68.C(1) of the zoning ordinance requires a minimum tract area of five acres to support a townhouse development. The property is only .37 acres creating the need for a d(1) use variance.

10. In support of the requested variance, Mr. Weber testified that in his opinion the site was Particularly suited for the proposed use for the following reasons:

- a. The permitted density in the R-MF Zone is 12 units per acre and the provided Density for the two (2) proposed townhouse unit is 5.4 units per acre so the Development will be well under the permitted density.
- b. Adequate parking and circulation will be provided as shown on the variance plan which has been submitted.
- c. The Zoning Ordinance requires that 30% of the tract be devoted to open space with  $\frac{1}{4}$  of the open space being devoted to active recreation. The plan proposes a lot coverage of 31% which will permit 69% of the tract to be devoted to landscaping or grass therefore meeting the requirement for open space. Mr. Weber opined that active recreation facilities are not warranted for a development with only two (2) units.
- d. The ordinance requires that adequate yards be provided (40' required side and rear yards) from tract lines. The proposed townhouse units will have a 28.5' side yard (west side) and a 39.1' rear yard based upon construction on the foundation of the existing single family dwelling. The deficiency in the rear yard is de-minus and the westerly side yard abuts property owned by Baltimore Street

Associates which is open space in perpetuity so there is no impact on the adjoining property.

11. With respect to the negative criteria, Mr. Weber testified that:

1. The proposed development which will replace an existing single family residence with two (2) townhouses is significant in scale and should have no substantial impact on the public good.
2. The proposed property is planned and zoned for townhouse development and should have no substantial detriment on the intent and purpose of the master plan and zoning ordinance including the impacts of the insufficient tract size as previously addressed.

12. No one from the public appeared to offer comment or testimony with respect to this application.

13. The Board finds Mr. Weber's testimony to be credible and for the reasons set forth above the statutory criteria for use variance relief has been more than amply demonstrated.

At the conclusion of the public hearing the Board voted to grant use variance relief to construct two townhouses on the remaining foundation of the home to be demolished on this property subject to conditions.

**NOW, THEREFORE BE IT RESOLVED** by the Board of Adjustment of the Township of Lopatcong, State of New Jersey, that Case Number 2016-12 of Joseph Melhem be and is hereby approved subject to the following:

1. This application is limited to the grant of use variance relief. The applicant must return to this Board for site plan approval together with any bulk variances that may be necessary.

2. Applicant stipulated that he would pay a fee in lieu of construction affordable housing units at the rate of \$20,000.00 per gross acre of the tract as a condition of site plan approval. The site is 0.37 acres, therefore the required fee would be \$7,400.00

3. Copies of all applications and supporting data for permits issued by other agencies,

responses thereto and copies of all governmental permits are required to be submitted to the Board Engineer.

4. The Board reserves the right to withdraw any approval hereby granted in the event there is any deviation from or alteration of the plans hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the board. Minor deviations and field changes may be authorized by the Board Engineer.

5. Any deviation from or alteration of the plans as hereby approved shall render this approval void and of no further effect.

6. The acceptance of this approval by the applicant, its successors and assigns and the performance by the applicants, its successors and assigns of any further work on the project in reliance of this approval shall operate as an agreement by the applicants, its successors and assign to be bound by the terms and conditions set forth herein.

7. In the event any other required regulatory approval conflicts with or materially alters the terms hereof, or in the event applicant or applicant's successors or assigns fail to post any tax map review fee, review fee, inspection fee or other financial imposition of the municipality, then in any such event, the Board reserves the right to withdraw, amend or supplant the within approval.

8. The applicant shall pay any outstanding invoices for fees and costs incurred in connection with this application prior to the issuance of any permits.

9. This approval shall be null and void unless the applicant obtains a state from the Chief Financial Officer of the Township of Lopatcong within 60 days that the applicant has paid all outstanding fees and costs associated with this application and further that sufficient monies have been deposited to pay all anticipated disbursements and finally that deposit monies are not overdrawn from prior applications.

10. The within variance shall expire within one year of the date of entry of the determination of this Board unless construction shall have commenced or the applicant has applied for an extension.

**CERTIFICATION**

I, Phyllis D. Coleman do hereby certify the above to be a true correct copy of a Resolution regularly and duly adopted by the Board of Adjustment of the Township of Lopatcong at a duly called meeting of the Board of Adjustment held on September 13, 2017.

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Phyllis D. Coleman, Secretary

**Motion by:** Member Rutledge

**Seconded by:** Vice-Chairman Larsen

**ROLL CALL:**

**AYES:** Members Horun, Rutledge, Bittone, Vice-Chairman Larsen, Chairman Gary

**NAY:** Member Devos

- Phillipsburg High School – 1 Stateliner Boulevard, Block 2, Lot 44, seeking a Variance to permit the placement of a 60 sq. ft. LED Message Board Sign at the intersection of Stateliner Boulevard and Belvidere Road to be mounted on a 14’ high podium, which will place the sign 20’ over grade.

Chairman Gary: Please.

Attorney Russo: Thank you sir. Uh, I just want to give a couple of introductory’s. I’m Jeffrey Russo on behalf of the Phillipsburg School District. Uh, couple introductory, um, comments. When we were here last time, um, there was confusion, rightfully so, um, as to, basically two, two important componets of this. Uh, one was, uh, exactly where the sign is going to be in relation to, uh, Belvidere Road and Stateliner Boulevard; the second issue being the height of the sign. Um, Mr. Ritter, I am sure that the Board has reviewed it, um, has reissued a review letter, or I should say an amended, uh, a review letter. I believe it was dated, uh, August, 28<sup>th</sup>, where, uh, hopefully, um, through the districts efforts, um, some more survey’s, um, I updated the plans several months ago, um, hopefully we’ve narrowed these issues down, um, and there’s no longer that confusion, um, over the sign, uh, in terms of height, uh, and also setbacks. Just we’re clear initially, what we’re seeking with respect to the variance is outlined in, in Mr. Ritter’s, uh, review letter, um, the sign, the prospective sign will be back 72’, um, 72’ back off of Belvidere Road; um, from that, from that, the corner of that intersection is outlined on the plans and then 19’ in, um, from Stateliner Boulevard. The sign, um, from (inaudible) as many of you are aware, there’s a great change there, um, from the traffic signal and then down. What we did was, um, aside from resurveying it, we had the asbuilts there and were able from a topographical standpoint to ascertain the

Attorney Russo (Con't): perspective height of the sign. Which I know is certainly a concern; um, and as it relates to the traffic signal there. Um, the sign will be 16' from that grade there. Um, the, what we're asking for is a variance with respect to height and obviously in addition to the other variances as outlined in Mr. Ritter's, uh, review, um, of a maximum of 18'. The reason being is, there are some, in fact there's not a lot of variables, um, in terms of, um, the construction; and you guys have schematics, um, but there's, you see there on the schematics there's a decorative, um, there's like a little decorative border. Um, the district was kind of on the fence whether they were going to, uh, install, but I believe that they are. Um, then, then that puts us up around 17' potentially, um, and I just wanted to give a tiny bit of thought for in there, um, you know, to allow for some construction tolerances. Um, but that's what we would formally be requesting with respect to the height, a maximum of 18'. So, um, without further ado, what I would like to do, um, is a lot of what, uh, Mr. Ritter's, um, review dealt with was the operation of the sign; whether it's oscillating; what is this thing; how does it work? Um, I'd like to offer the testimony of Mike, uh, Cichocki. Uh, he, he runs the Technology Department at the high school; he's intimately familiar not only with this sign, but also, um, the sign that's currently, uh, utilized at, uh, Phillipsburg Middle School, uh, which is the same exact manufacturer, same exact specifications other than the size. Where do you guys, where do you guys want him to, uh,

Attorney Sposaro: He can stay right there.

Attorney Russo: Okay.

Attorney Sposaro: Would you raise your right hand please? Do you swear; affirm the testimony that you will give will be the truth, the whole truth and nothing but the truth?

Mr. Cichocki: I do.

Attorney Sposaro: State your name; spell your last name please.

Mr. Cichocki: Michael and last name is C-i-c-h-o-c-k-i.

Attorney Sposaro: Go ahead counselor.

Attorney Russo: Thank you. Mike, where are you currently employed?

Mr. Cichocki: At Phillipsburg School District.

Attorney Russo: In what capacity?

Mr. Cichocki: I'm the IT Manager.

Attorney Russo: What does the IT Manager do?

Mr. Cichocki: Uh, we're in charge of all the technology in all the schools.

Attorney Russo: Okay. And you're, so you're, you're the head of all IT in the Phillipsburg School District?

Mr. Cichocki: Correct.

Attorney Russo: Now, um, is there currently, um, um, well strike that. Let me ask you this first; what's your understanding, um, of (inaudible) the sign that we're here for tonight?

Mr. Cichocki: It's an LED Stewart Sign. We, uh, purchased two of them; one for the, to be used at the high school and one to be used at the middle school. The one at the middle school, uh, replaced, uh, older LED sign that was there, and, um, we had that installed in (inaudible) the last school year, so.

Attorney Russo: All right, and now with respect to the, the signs the same manufacturer to the one that's currently at the middle school?

Mr. Cichocki: That's correct.

Attorney Russo: Are you familiar with how that sign operates and how in a general sense first, how does that sign operate?

Mr. Cichocki: Uh, we have programs that's installed in a couple of different, uh, computers at the middle school. It's more or less like a power point, uh, program where you can add text and, um, background colors and so forth. And it's used as a power point program and it, you can lay out the sign characteristics on the computer, um, that we saved those to a flash drive and then we in, in, input that program into the, uh, sign and it runs the program for whatever we have. Right now we're using it to put announcements up there, uh, birthdays, uh, early dismissals and, um, for our summer prime, uh, hours or something like that, just to, for people to know when we're open and stuff.

Attorney Russo: All right, but what type of display is it? Is it a rolling display; is it a flashing, how's, how are these messages displayed?

Mr. Cichocki: There's, you can have a rolling display, where it rolls the scroll of, uh, birthdays or something or you can have it swipe, um, to the left or to the right with new information coming in on it.

Attorney Russo: Okay. How about with respect to colors? Is it in color?

Mr. Cichocki: Yes it is in color.

Attorney Russo: Okay. And how about in terms of, um, besides the content, can you control all content?

Mr. Cichocki: Uh huh, correct.

Attorney Russo: Okay. Besides the content, what about, um, your control or the district's control over, um, like oscillation; brightness; um, certain times it becomes dimmer; certain time it becomes brighter. What, what

Mr. Cichocki: Yeah.

Attorney Russo: controls are

Mr. Cichocki: Built into both the signs that we currently have is a, uh, light aperture which will detect how bright or dark the, uh, surrounding area is and by that means it adjusts all the lights on it. So it will adjust as it gets darker out; it gets a little bit brighter as its bright sunshine shines on it, it gets brighter. As, I should say as it gets darker it gets dimmer. So it's just like your cell phone for those, the display will get lighter and darker as it picks up the Ambient light around it.

Attorney Russo: And that's automatically built in?

Mr. Cichocki: That's built into both of those signs.

Attorney Russo: Okay. And do you have, as document, do you have control over that?

Mr. Cichocki: We can, uh, turn the brightness down and, uh, we have overrides on all the whole system and stuff (inaudible). But we've never had an issue with it yet at the middle school and it's been running pretty well for these past many months that its been up and running.

Attorney Russo: Okay. Um, obviously you can turn the sign on and off, is that correct?

Mr. Cichocki: That's correct.

Attorney Russo: Okay. Does the, currently, does the middle schools sign operate 24 hours a day?

Mr. Cichocki: It operates 24 hours a day. Right now we have it going dim at 10:00 at night and turning brighter, at I believe its 5 or 5:30, somewhere right in there.

Attorney Russo: So in addition to the built-in, um, dimness feature, I should say,

Mr. Cichocki: Uh huh.

Attorney Russo: you have that, um, programmed in?

Mr. Cichocki: Yes, we can adjust the programs.

Attorney Russo: Okay. Um, now in terms of, um, in terms of the content,

Mr. Cichocki: Uh huh.

Attorney Russo: um, when you said it's like a power point,

Mr. Cichocki: It is, program is.

Attorney Russo: um, you also have control over whether things; I mean does it the capabilities of having, like, strobing or oscillating features, or is more of a scrolling?

Mr. Cichocki: It's more of a scrolling. It does have capability of having things pop up on the screen, but it would never have, you know, flashing lights or anything on it because that would just, it, it, you wouldn't be able to read what it was saying. So it's more of an informative sign that we can put up there and have the information (inaudible), having it so bright you can't see it (inaudible).

Attorney Russo: Now, with respect to, it's my understanding you're involved, at least somewhat, with, um, the placement of the sign. Is that correct?

Mr. Cichocki: That's correct.

Attorney Russo: Um, in, what did you do in that regard?

Mr. Cichocki: We had some of our maintenance people out on that intersection holding a banner to see about where height would be, because it's very hard to tell, just for us to get a visual where exactly it would be. So we had them move, and especially with the, uh, um, controller for the, uh, traffic lights to see where that sight line would be and about how high it would have to be.

Attorney Russo: All right. And you made sure when you did this mockup that it cleared that traffic controller at the intersection, is that correct?

Mr. Cichocki: Yes.

Attorney Russo: You also made sure it didn't interfere, was lower than the traffic signal is that correct?

Mr. Cichocki: Oh, absolutely.

Attorney Russo: Okay. Um, I don't have any further questions. If the Board, if you have some questions about the operation sign.

Attorney Sposaro: I just have one; are you proposing that this sign also will dim at 10 pm?

Mr. Cichocki: We can if that's; I don't know if we're proposing that, I'm saying that's one of the options that we have when we're programming the sign.

Attorney Sposaro: Well I guess I'm asking.

Mr. Cichocki: I mean, we certainly have that capability, obviously, um,

Attorney Sposaro: You're doing it at the middle school, that's why I asked.

Mr. Cichocki: I don't know if it's a different

Chairman Gary: Well, is, is that arbitrary, I mean why, why 10?

Mr. Cichocki: It was, it was just one of the things where we were going through and we hadn't set up a

Chairman Gary: It's probably, well it gets dark at, I mean this time of year, earlier.

Mr. Cichocki: No, and it's not saying that it goes dim, it goes, it goes dark at 10:00 at night.

Chairman Gary: Oh, oh, I'm sorry, I'm sorry.

Mr. Cichocki: It dims automatically, uh, with the, uh, with the light and it will adjust so we don't have to have that issue with the light sensor on it, so we don't, you know, it's not full, you know, on bright when it's darker out with the time changes and stuff like that. That's what that light sensor accomplishes, so we don't have to keep going in and reprogramming it. Right now, the sign goes dark at 10:00.

Chairman Gary: So there is no messaging

Mr. Cichocki: There's no messaging

Chairman Gary: past 10:00? Okay.

Member Bittone: What time does it come back on?

Mr. Cichocki: I believe, I apologize, off the top of my head, I believe it's in the morning, around 5:30-6:00. Um, we, I, I'd have to actually go into the program and take a look, I don't remember, but I know it's in the morning before we, people started arriving to the front of the school.

Attorney Sposaro: It may, maybe you can consult with your client. I don't know if this gentleman, excuse me, this gentleman has the authority to make that decision.

Attorney Russo: Yeah, I, I don't think he does. I, I certainly can do that. I don't know, you know, it, it may be one of those things that you don't know until the sign's in place, quite frankly. Um, I can certainly consult with the superintendent, um, but I don't know, especially, I mean, this, this sign is in a more visible location, um, then, that the, uh, middle school sign, uh, that there may be a need, uh, without any disruption, of course, to the community. Which, and, and again, we have to remember this thing is back now. It is really back, uh, on the property. Um, so I don't want to, I'll consult with the superintendent before the next witness, but I don't want to unduly restrict, um, you know the, the times of the sign if we don't have to. If we can, if we can compensate for that with the built in software and the dimming feature, so.

Planner Ritter: Well, if you, if you're, if the other sign is more remote and not impacting the neighborhood, you turn it off at 10, wouldn't it seem logical you could turn this one off at 10?

Attorney Russo: That may be, but that's something I would have to consult with the superintendent about.

Attorney Sposaro: Is the superintendent here?

Attorney Russo: Yes.

Attorney Sposaro: Okay. Well, why don't you call your next witness unless anyone else has any questions for this witness, and, um, we'll take it from there.

Chairman Gary: Well, just, just maybe, uh, you, you also propose, if I, I remember, that it is going to be angled, correct? It's, it's, uh, sort of at an angle away from the residents of the

Mr. Cichocki: Yeah, the planner can speak about that,

Chairman Gary: Okay.

Mr. Cichocki: yes, yeah, absolutely.

Chairman Gary: All right.

Mr. Cichocki: Yeah, exactly what we need there.

Planner Ritter: I have one other question; you said you did a mockup out there on the site and you actually held some signs up and you said it's well below the traffic lights. One of my concerns was is when you, when you looked at the different elevations, that the top of the sign would be 16', that appeared like it was going to be slightly below the traffic lights, but I don't know how much below. You're comfortable with this Board, uh, and the sign is not going to be within 1 or 2' of the bottom of those traffic lights? I mean, when you, from, if you're standing up on the main road looking down, where is the top of that sign in relation to the bottom of the traffic lights?

Attorney Russo: I, I think that we just went out back when, we went back out there with the planner, he can address it.

Planner Ritter: Yeah. Okay.

Chairman Gary: Any other questions? Okay. Oh, excuse me, uh, anyone from the public have any questions for this gentleman? Okay, I guess we can move on. Oh, yes.

Member of audience: (Inaudible).

Chairman Gary: Can, can you just go to the microphone please?

Member of audience: I got this letter in the mail; (inaudible), I own a house and I live in Flemington. (Inaudible).

Chairman Gary: This is Dry, Dryden Terrace?

Member of audience: (Inaudible) the fence.

Chairman Gary: Yeah, this is, uh, this is not what we're hearing right now. That, that will be next.

Member of audience: Oh, next, okay. I'm sorry.

Chairman Gary: That's okay.

Attorney Russo: I'd like to call Eric Snyder.

Attorney Sposaro: Were you sworn in last time Eric, did we (inaudible).

Planner Snyder: I didn't get a chance.

Attorney Sposaro: Okay. Do you swear; affirm the testimony that you will give will be the truth, the whole truth and nothing but the truth?

Planner Snyder: I do.

Attorney Sposaro: State your name for the record; spell your last name.

Planner Snyder: My name is Eric Snyder, S-n-y-d-e-r.

Attorney Sposaro: Um, I can tell the Board that Mr. Snyder has been recognized in the municipality and many others as a professional planner. His credentials are pro-established. Counsel, why don't you go ahead.

Attorney Russo: Thank you Counselor. Saved me some time there. Um, all right, Mr. Snyder, um, you were involved and retained by the Phillipsburg School District, um, with respect to, uh, this proposed sign, is that correct?

Planner Snyder: Yes.

Attorney Russo: And, what, what did you review, um, um, prior to tonight with respect to this sign and the proposed placement?

Planner Snyder: For the site, um, and, and the whole site as it turns out, uh, took some pictures, reviewed the zoning ordinance.

Member Bittone: Excuse me. Folks can we keep it down please. Can you take it outside please, so we can hear the testimony?

Attorney Sposaro: Maybe you could can go out in the hallway and talk.

Member Bittone: Please. Thank you. I'm sorry.

Planner Snyder: Not at all. Uh, reviewed the plans that were prepared showing the location of the sign and then as the attorney just pointed out, he and I just went out because of, of the concern that Mr. Ritter raised with regard to height. We just went out to, to double check and see how that would, uh, how that would be effective.

Attorney Russo: Well, why don't just, let's stick to that issue real quick.

Planner Snyder: Sure.

Attorney Russo: Um, in, in relation to the traffic signals at the intersection of Belvidere Road, um, and Stateliner Boulevard, um, how, where would the sign be, uh, placed in relationship, um, to those traffic signals?

Planner Snyder: Well, if you look at the exhibit, and I'm reasonably sure you have this as part of the application, the sign itself is cocked, it's set back 72' from County Road, Belvidere Road, 19' off the road. The traffic signal is here, so, the land drops off and I took a couple of pictures that I can pass around to the Board.

Attorney Sposaro: We'll mark those pictures, so the record is clear, Mr. Snyder you were referring to an exhibit, what is that?

Planner Snyder: It's, uh, entitled a Signed Electrical Plan, Intersection Improvements for County Road 646, Roseberry Street and the Phillipsburg High School Driveway, dated 8/1/2016, with last revised date 5/1/2017. Prepared by, uh, Maser.

Attorney Sposaro: Thank you. How many photos to we have here?

Planner Snyder: Two.

Attorney Sposaro: Why don't we mark, I'll take one set and will mark them, uh, A-1 and A-2.

Planner Snyder: Thank you. What the pictures show, um, is the two sides of the, the intersection closest to the high school and most importantly, it, it shows the fact that if you're going to look at the sign from Belvidere Road moving south, you're looking at an angle across the open space, uh, of the intersection behind the rear bumper of this vehicle that you see in, in the picture.

Attorney Sposaro: That would be A-1.

Planner Snyder: Correct. And then the other photo is, is the quadrant of the intersection where we propose to put the sign, um, and you'll see there's a disturbed area where originally it was proposed and has since been moved back. And again, if you look at the road itself, you'll see that in order to see the sign which is set back behind this disturbed area, you are looking away from the traffic light. There is no way that this sign will interfere or in any way obstruct people's view of this, of the traffic light, nor will it, it be something where one could confuse part of the message with what's going on with the traffic

light; even in the event that the traffic light was flashing or something like that. So, um, with that coupled with the fact that this also shows that the land drops off, which is one of the reasons that the sign has to be as high as it is, uh, in order to be properly seen.

Attorney Russo: (Inaudible), thank you Mr. Snyder. In addition to, um, you actually dismissed it about an hour ago

Planner Snyder: Yes.

Attorney Russo: and you, again, rendered observations coming from Belvidere Road towards the sign, um, all right, excuse me, on Roseberry Street towards the, facing, which would facing the sign.

Planner Snyder: Facing the sign.

Attorney Russo: Did you, um, notice or make any observations as to any potential interference with the traffic signal from that angle?

Planner Snyder: No, no, again, because it drops off and it's; the angle that you're looking at, again, I'll make reference to this exhibit, from here, if, if you're looking at a traffic signal which is roughly here, the sign is off to the side and because you have traffic signals and, and the anticipation of, of vehicles being stopped before they make a movement and so on, the likelihood of the sign being a distraction is far less than it might be were you simply to have a stop sign controlled intersection.

Attorney Russo: Let me, let me just go over here; besides, um, besides coming from Roseberry Street, um, looking down, coming from, uh, Belvidere Road going south, did you also render observations

Planner Snyder: Well, that's, that's, why, you know, I, I pointed out in the picture, if you look at the, the quadrant, and we'll call it the northeast quadrant of that intersection and that's a picture that I took, which is A-1, uh, you'll see that in, in order to look at that sign, you're looking behind the back bumper of a vehicle stopped at the traffic light across a clear area. So it has nothing to do with traffic lights at all.

Attorney Russo: All right, so coming south on Belvidere Road, no interference. How about coming north?

Planner Snyder: Coming north, because of the way the sign is cocked, you're not looking at it.

Attorney Russo: Okay. All right, thank you Mr. Snyder. Um, all right, as part of, um, your review of this, did you also, um, uh, review, uh, Mr. Ritter's, uh, review letter dated August 31, 2017?

Planner Snyder: I did.

Attorney Russo: Okay. And are you prepared with respect to, um, the variances outlined in Mr. Ritter's, uh, comments? Are you prepared to address those comments here tonight?

Planner Snyder: Yes.

Attorney Russo: Now, the first, uh, comments are with respect to, um, the height of the sign, um, proposed sign being, um, height of 16' from the, um, recessed grade, um, and we're asking for a variance of a maximum of 18'. Now you understand that in this, um, area, um, only 5' above grade is permitted. Do you understand this?

Planner Snyder: Yes.

Attorney Russo: Why do, why does the district need this sign to be 16' high?

Planner Snyder: Well, the principal reason is that in order to see it as far back as it is set, you need a size that is going to be workable. The idea behind the sign is that there be messages, uh, provided to the public as to what's going on at the high school; what's going on at the rec fields. Um, we talked at the very first hearing back in, I forget what month it was, but the first time, you know, even, even in the event of an emergency or whatever, um, schools often are areas where people are sent, uh, in the event of emergencies. Uh, you need to be able to see it as far back as its set. One of the things that, uh, we often do when we do regulate signs, is that we calculate their size in relation to the setback itself. I've written a number of ordinances over the years where you talk about, basically, a square foot for every foot of setback, because quite frankly you don't want to have to be staring at the sign to the exclusion of, of staring at the road and the traffic and so on, so forth. You want to be able to pick it up, understand what's said without materially taking your eyes off traffic and pedestrians and what have you. So the reason we need the sign size, sign height, is that given that we set it back so that it's not a safety hazard, we now need to deal with the fact that it needs also to be visible; easily visible.

Attorney Russo: And I think you've just addressed what was going to be my second question with respect to the height and size of the sign. The proposed sign is 60 square feet, um, only 25 square feet is permitted.

Planner Snyder: Same issue, and, and you're right. I addressed both of them because they both relate to the setback. Um, if you, if you think about the size of a sheet of plywood, which is what your 25', your 25 square foot is, think about it being 75', 72' off the road. And then think about the lettering that you would try to get on that sign to convey a message. That's what we need; that's why we're at 60'.

Attorney Russo: And by the way, your, the setback calculation or ratio you just, um, espoused, this would be under that, is that correct?

Planner Snyder: Yep.

Attorney Russo: Now, the, did you have occasion to, I know you had occasion to visit the, uh, proposed site, did you have occasion to, um, visit the school itself?

Planner Snyder: Yes.

Attorney Russo: And where is the school located in relation to, um, this proposed area of the sign?

Planner Snyder: I would say, ballpark,  $\frac{1}{4}$  -  $\frac{3}{8}$  of a mile up the hill.

Attorney Russo: Okay. Um, did you make any observations, uh, or take notice of any current signs, uh, on the Phillipsburg High School, uh, property?

Planner Snyder: Oh yeah, I mean there are any number of signs, uh, not including the traffic directional signs and no parking and all the rest of that. But, you know, you, you, you've got scoreboards and you've got the monument sign in front of the high school and you've got, I suppose, that rock that gets drawn and what have you in the front and, uh, you've got banners that say, you know, Stateliner Football and, and all that kind of business. There's a lot of signs that are normally associated with school of this, and facility (inaudible). It's also very attractive, I have to say.

Attorney Russo: Have you seen the old one?

Planner Snyder: But that's my own (inaudible). No, I haven't, actually.

Attorney Russo: Uh, no, it's beautifully up there. Um, now those, those signs, I mean you're talking well the, the scoreboards and what have you. That would be, for lack of a better term, on the lower campus?

Planner Snyder: Yes, okay, well below the high school itself.

Attorney Russo: Okay. But far, far back from the road, is that correct?

Planner Snyder: Well, you don't see them from, nowhere from the road.

Attorney Russo: All right. And you especially don't see the signs, um, at the high school from the road?

Planner Snyder: No.

Attorney Russo: All right. Um, so in addition to, um, um, how does that relate, all those signs, either taken by themselves or an aggregate alone, how does that relate to, uh, the need for an additional sign, uh, for, for the high school?

Planner Snyder: Well all those signs have their own purposes.

Attorney Russo: All right.

Planner Snyder: You know, some of them advertise soccer and some of them advertise football and what have you. Some of them, the, the, the monument sign in front of the high school says that it's the high school. Um, they have specific functions none of which are the function that are published with this sign, which is to notify the public about what's going on back at the high school. All of them have their own function. This is the only one that I saw, and I didn't see any sign even in front of the high school, that would duplicate this particular effort.

Attorney Russo: And as, as we sit here today, um, is there any signage, um, does the school have a sign?

Planner Snyder: No, not, not in terms of a presence on the highway.

Attorney Russo: Okay. Is there anything else you would like to add, or you would, uh, like to note, Mr. Snyder?

Planner Snyder: Well, just a sort of a general comment, um, by way of, of justification of the variances as well. We all know that, that schools are inherently beneficial. Uh, they're called out in, in Section 4 of the Land Use Law, as being one of the inherently beneficial uses. It kind of makes sense, they obviously, um, carry out an important health, safety and welfare function in the community. Very few things are as important as education. Very few things are as important as communicating what's going on, particularly in a situation as you have where the school and, and the facilities are just not visible from the highway. Um, you prob, heard testimony with regard to how the sign operates; how the, the information flows onto and off the sign, which suggests that there would then be no negative effect on the neighbors. Uh, again, looking at the picture that I took, I guess it's A-2, um, that shows the nearest building, uh, to this proposed sign is effectively masked by trees and topography. And so there really is no negative effect that I can determine that would occur by operation of this sign.

Attorney Russo: Thank you Mr. Snyder.

Attorney Sposaro: Mr. Snyder, do you want, uh, just utter the magic words as to the negative criteria?

Planner Snyder: No substantial negative impact to the neighborhood or zone plan.

Attorney Sposaro: Thank you sir.

Planner Snyder: You're welcome.

Chairman Gary: Anyone have any questions for Mr. Snyder?

Member Horun: Is, is there a, um, I, I just can't remember the roadway itself, is there a curbing next, on that road that's next to that sign? I just can't remember what

Planner Snyder: Not on Stateliner. There's a, there's a return off the county road, but for the most part, Stateliner is just, uh, a grass verge.

Member Horun: And is, is there going to be something placed next to the podium to protect it in anyway?

Planner Snyder: I don't know.

Attorney Russo: If you look at the mockup, um,

Planner Snyder: Okay, it doesn't suggest that there is anything. Now mind you, the sign itself is mounted on pillars, um, (inaudible)

(Inaudible) Several talking at the same time.

Attorney Russo: I don't, I don't believe that currently, if you're talking about, like those, uh

Member Horun: Oh no, the podium (inaudible).

Planner Snyder: I don't think you really want to put bollards up there.

Member Horun: I, I was just wondering if it has been proposed or anything.

Attorney Russo: No, it's not being proposed.

Attorney Sposaro: Thank you. (Inaudible).

Planner Snyder: Very good, thank you. I don't want to tell you that it couldn't happen, because anything can. But you have to move in a (inaudible)

Attorney Sposaro: I understand.

Planner Snyder: coming up to a traffic light.

Attorney Sposaro: Given the distance of the sign from the traveled way, does it make any sense to put any bollards in there?

Planner Snyder: I didn't, in my analysis, find it necessary.

Attorney Sposaro: Thank you.

Chairman Gary: Anyone else? Anyone from the public?

Attorney Sposaro: Mr. Russo, did you have an opportunity to speak with the superintendent?

Attorney Russo: Yeah, I, I, I did. I think that the consensus, um, is, um, quite frankly they don't know. Um, we don't know if there's going to be a need, um, to utilize the sign. After that, we don't know if, um, we don't know. We don't know how the signs going to operate. Um, I, I think what the built in controls, especially the way the signs angled, um, and the way the signs designed, it's almost an impossibility, and especially where it's located, it's not, like, you know we are in the middle of Hillcrest or in the middle of one of our Lopatcong neighborhoods here, um, or we're going to have a neighbor directly across from the sign. Um, it may be beneficial to the high school, to the community to on a weekend or at a football game, after a football game, to operate the sign to give instructions of parking or what have you. I, I would hate to, I would hate to, and I, and I think the township, you know, still can maintain the oversight there if there, if there's an issue, but I would hate to say, "No. You know, we have a black line rule, that's it. You can't, after 10:00". Who knows, I mean, we have wrestling matches up there. Um, tomorrow night we are having a premier of the Phillipsburg movie; um, there may be important things. Not like from the schools perspective, but from the community's perspective that are not going to interfere with the neighborhood, uh, or, or community, um, but positively impact the community with getting something out there. That's my only hesitancy; we just don't know.

Attorney Sposaro: Rather than a, excuse me, rather than a, a blanket prohibition beyond a certain time, uh, perhaps what I can recommend to the Board is that the school district will use its discretion and leave the sign on only so long as is reasonably necessary beyond 10 pm

Attorney Russo: I, I, I,

Attorney Sposaro: to use, to use your discretion.

Attorney Russo: yeah, and I thank, and I appreciate that suggestion Counselor, um, and I think that's exactly what the superintendent intended. I mean, the bottom line is this, we're here because of our partnership with Lopatcong. Um, it's very rare, quite frankly, um, that a school district is before, uh, the planning board with this type of issue, other than rather a courtesy review. But we feel a close bond with Lopatcong and that's why we wanted to go through, um, all of this and go through the extra the extra step. So we're certainly want to work with Lopatcong, obviously, which I think we've demonstrated, rather than against. But that's an excellent, excellent suggestion.

Planner Ritter: On, on the same vein, would you agree that if there are issues with the brightness of the sign, the town can contact your people and

Attorney Russo: Of course.

Planner Ritter: come up with a reasonable resolution of that? I'm not saying we

Attorney Sposaro: That's, that's a pretty bad pun you know.

Chairman Gary: Yeah, I, I, I would expect that.

Planner Ritter: Only, only because till you have in and installed, you don't know how bright it is, and, uh, it might be that just toning it down might be appropriate; but it would be something that could be worked out between the town and the school.

Attorney Russo: Yeah, I, I don't have any doubt that those types of issues would be worked out.

Attorney Sposaro: What, what, what I can include in the resolution, is that, um, if it becomes an issue the school district can and will confer with our planner, see if we can come up with a solution.

Attorney Russo: That's great.

Attorney Sposaro: I, I have all I need.

Chairman Gary: Any other, any other

Attorney Sposaro: Any one from the public want to be heard on this application?

Chairman Gary: Okay, we're ready to vote. Um, I have, uh, visions of the 5 Man Electrical Band streaming through my head. Problems if you don't even know what that's about. Remember that, uh, "Sign, sign, everywhere a sign". That's, that's all. Uh, then I would, uh, entertain a motion to, uh, approve the, uh, huh?

Attorney Sposaro: This will be to grant, uh, the variances that are more, uh, particularly set forth in the application and Mr. Ritter's report.

Planner Ritter: Yes, and, and one other thing, could you, uh, provide for the file, an actual drawing of the sign, just to have it in there of the proper height?

Planner Snyder: Do you want an asbuilt?

Planner Ritter: Well I don't care, you can give me an asbuilt, but we, we don't have anything in the file that actually shows the sign that's going to be installed.

Attorney Sposaro: Why don't you provide us with an asbuilt; subject to the conditions that I mentioned a few moments ago about, uh, after 10 pm, uh, brightness and providing the asbuilt.

Chairman Gary: Okay.

Attorney Sposaro: We have a motion?

Chairman Gary: We have a motion. Is there a second?

**Motion by:** Member Devos

**Seconded by:** Member Rutledge

**ROLL CALL:**

**AYES:** Members Horun, Devos, Bittone, Rutledge, Vice-Chairman Larsen, Chairman Gary

**NAY:** None

Attorney Russo: Thank you very much.

## NEW BUSINESS:

- David Zeigman – 5 Dryden Terrace, Block 113, Lot 11 – Seeking a Variance to install a 6' high fence along side of property where only 4' is permitted. This property is located in the R120 Zone on .31 acre - §243-64.1 "Fences and Walls".

Mrs. Zeigman: Uh, good evening everyone. I'm Renee' Zeigman. I'm here with my husband, tonight, David. Um, thanks a lot for reviewing the package. I appreciate it. I appreciate your time. Um, as you indicated, we're looking for a variance

Attorney Sposaro: I think we need to swear you in.

Mrs. Zeigman: I'm sorry? Oh of course.

Attorney Sposaro: Do you swear, affirm the testimony you would give will be the truth, the whole truth and nothing but the truth?

Mrs. Zeigman: Yes.

Attorney Sposaro: And would say, state your name and spell your last name?

Mrs. Zeigman: Sure. Renee' Zeigman, Z-e-i-g-m-a-n.

Attorney Sposaro: Thank you.

Mrs. Zeigman: Sure. As indicated, the property's located on the corner of, um, Dryden and Powderhorn. Um, we installed a pool this summer and, um, with that never ending project came the installation of a new fence. Um, after the fence was erected, our contractor was told that the fence running along the side on Powderhorn exceeded, um, local ordinance; because we're on a corner lot, they consider the side yard a front yard. Typically it wouldn't be an issue, but because of the location of the property, it was an issue; um, so we have filed a variance. Um, we feel that there's a few issues that make it appropriate to have a higher fence along Powderhorn. The first being public safety. Um, Powderhorn, if you know it all, is traversed daily by walkers, runners, a lot of kids, a lot of kids, usually unaccompanied minors and if the fence were reduced to 4', it would, the pool would easily be visible and we're fearful that children, maybe even adults, would be able to scale the fence and have access to the pool. Um, I've provided some statistics about drownings, near drownings, they're pretty grim. So our concern is that we need to keep the pool safe. Um, we of course were vigilant about complying with the swing; the gate swinging away from the pool; the, the self-locking gates, um, all of these in an effort to comply with ordinance and to keep kids out. That's the idea. So by lowering the fence, we seem to be really working against the very purpose of self-locking gates and mechanisms. Um, the second reason we feel that the fence height is appropriate, is the property slopes down greatly towards Powderhorn and there were some photographs in your package, um, but such that is not a level field, it's a very deep slope, the fence is at the bottom of that slope. Um, the other day I was sitting at the backside of our property; our neighbor's dog, whose a shepherd, was in there yard, I was seated, the slope is so extreme that I couldn't see that dog. He was at the bottom of that slope by the fence. I could not see him, seated. So, it's, it's pretty steep grade, um, that we're talking about. And lastly, I feel that the intent of this 4' restriction for fences along fronts of property makes sense in terms of aesthetics and probably safety; you're coming out of your driveway; you want to make sure you can see. Um, but in this case, we don't have any issues in terms of sight. The fence is well in, off of the road; off of the curb; there's no problem at that stop sign. Um, and we feel, aesthetically, it would look awful, that we're locked in to 4', impacting, potentially, our property; but our neighbor's property value as well. Um, so we're asking for the variance; we feel that by granting it,

Mrs. Zeigman (Con't): there's no substantial harm to the neighborhood, um, and in fact it really does support and complies with the intent of the var, or the zoning ordinances in the township.

Attorney Sposaro: I note that, uh, Mr. Zeigman is the applicant. Do you get to say anything?

Mr. Zeigman: No, she is the one smarter than I am.

Attorney Sposaro: Well, I don't, I don't know about that, but, um, I was just curious and maybe it goes beyond this meeting, but (inaudible), go ahead.

Mrs. Zeigman: No, do, do you agree with everything I have to say?

Mr. Zeigman: Absolutely.

Mrs. Zeigman: Okay. Very good; that's the right answer. There we go.

Attorney Sposaro: I'm sorry, I couldn't resist.

Mrs. Zeigman: That's okay; no problem, understood.

Chairman Gary: I, I have a question and maybe Mr. Ritter could answer this, uh, uh as it relates to the, the pool, um, the safety issue with the pool. The fence being the only, um, obstacle or the, you know the only thing keeping someone from the pool. I think that the ordinances that, the pool if it's a certain height, it needs a fence around it, uh,

Planner Ritter: Well they, they, all, all pools are required to have fences around them, regardless

Chairman Gary: Right, okay.

Planner Ritter: they have to be fenced.

Chairman Gary: Yeah.

Planner Ritter: Uh,

Chairman Gary: So is there

Planner Ritter: And there is a, there is a minimum height that they have to have, which I think is 4, is 4' is the minimum. It might be

Chairman Gary: 6.

Planner Ritter: No, I don't think it is, I think it's 4. It's not 6, let's put it that way.

Chairman Gary: Right, right.

Planner Ritter: Um, the, uh, so in that sense, you know they wouldn't of necessarily had to put up a 6' fence around the whole pool, that was their choice.

Chairman Gary: Right.

Planner Ritter: Um, the, the safety issue; I mean obviously there are pools that have 6' fences; there are ones that have the lower fences. I mean, I've,

Chairman Gary: Uh huh.

Planner Ritter: I've seen in

Chairman Gary: Sure.

Planner Ritter: both conditions and with open and closed slats. What, what the Board is faced with here, is that the 6' could have been installed 35' from the street and it would have been out of the front yard and we wouldn't be having this discussion. In this case, it was installed about, uh, 10.1' from the property line. Um, the ordinance allows fences to be installed in that area, but they are supposed to not exceed 4' and they also have to be 50% open. Another words, they have to have, uh, they can't be a solid 4' high fence in that zone. Uh, the, I guess the question that the Board has to struggle with here a little bit, is, uh, what they want to do. The fence is up with pictures included showing what it looks like on the street and really you have three things you can look at. One is obviously is the, the most drastic would be to have the fence moved back to 35'; the other would be to reduce the height of the fence where it sits, (inaudible) be; or you have to consider some type of variance of allowing the fence where it's currently located. Uh, if the Board were inclined to consider, uh, leaving where it is, I would think that how exposed the fence is and how, uh, there's actually very little transition between the fence and the way the (inaudible) it, they might want to consider landscaping on the outside of the fence to provide some buffers and some relief to the surrounding, uh, neighbors since the fence is pushed out in (inaudible-static). But that's really a question for the Board, uh, in terms of how they want to handle this. Um, I have, there are many pools that are installed with the minimum height and, that needs to go and, and. You know, I understand there are safety requirements with these fences, but there are pools installed with the standard height, 4' high fence around them. So it's something for the Board to decide what they want to do. I do think the Board considers the variance, but they might want to think some landscaping to try and blend that fence back into the neighborhood a little better. Uh, make a better definition between the public right-of-way and (inaudible – static).

Member Bittone: Is there enough room on the other side of the fence, being its only 10'?

Planner Ritter: Yeah,

Member Bittone: Assuming there is a sidewalk there as well?

Planner Ritter: We the sidewalks in the right-of-way. Uh, but there is 10'. It is set back, um, that we do have 10' to work with and you can get some shrubbery in there; get some stuff in there that would not have to be installed on the public right-of-way, let's put it that way. Um, and give the little things that soften, uh, the fence a little bit; give it a little better transition back into the neighborhood. I think the whole idea of 4' and I have nothing to do with the drafting of that, but, I think it was one more of scale with the idea of having, instead of having a solid, massive fence there, uh, there was a general sense that in the front yard, uh, there should be less intents use; not as heavy.

Mrs. Zeigman: And, and if I may thought; that just goes back to our point though, that you do, should consider the slope of our property. If it were a flat, baseball field type property and we had that 6' fence, I understand it would look like a stockade. It does slope downward; there is some slope there, uh, which I think (inaudible).

Planner Ritter: I understand what you're trying to say, but from the outside it's 6' high. I know what you're trying to do,

Mrs. Zeigman: Uh huh.

Planner Ritter: you're trying to get screening on the inside, uh,

Mrs. Zeigman: Mmm.

Planner Ritter: but on the outside it's a 6' high fence.

Chairman Gary: No matter where you stand it's 6 feet.

Planner Ritter: What?

Chairman Gary: No matter where you stand next to it, it's 6' feet.

Planner Ritter: Yeah. Oh, yeah, yeah,

Member Bittone: Right.

Chairman Gary: Yes, Kathy?

Member Devos: I have a question.

Mrs. Zeigman: Yes.

Member Devos: Shouldn't this 4', 6' differential

Mrs. Zeigman: Uh huh.

Member Devos: have been discussed before you put the fence in?

Mrs. Zeigman: Well, that's my question. We submitted plans; they were approved by the, the township, whatever, construction official, so that's my problem. Why were they approved? We were told, and also when he was there, and I'm not throwing him under the bus, that when my contractor was there, he stopped while installing the fence and he said the location is fine. No location issues were brought up; he said it's only the height that's an issue. So I, you know, have a problem with someone who is supposed to help homeowners out; they're making applications, we tried to do the right thing, not being advised properly at all. It was noted on the original plan that it was going to be a stockade fence.

Attorney Sposaro: What ended up bringing you before the Board?

Mrs. Zeigman: He issued a violation notice and said you either have to move it; take it down; cut it down; make it 4'; make it look hideous or get the variance. That's why we're here.

Attorney Sposaro: But you, are those posts set in concrete?

Mrs. Zeigman: Yes.

Attorney Sposaro: And I take it you spent a fair amount of money installing this fence?

Mrs. Zeigman: Yes we did. And believe me, it's a great improvement. It, I wish more of our neighbors were here, cause they love it. It was a hideous chain link fence before.

Chairman Gary: So there was a fence before?

Mrs. Zeigman: It was awful. It was a chain link. Yeah, it's, it's a nice addition to the neighborhood.

Member Horun: The chain link was along the same area?

Mrs. Zeigman: Close, yeah, yeah.

Attorney Sposaro: What was the height of that fence?

Mrs. Zeigman: 4 or 5?

Mr. Zeigman: 5.

Mrs. Zeigman: That was 5, yeah.

Member Devos: My only other comment would be, that in the neighborhood

Mrs. Zeigman: Uh huh.

Member Devos: there are 3 or 4 other pools that do have a 4' fence around them, not a 6'.

Mrs. Zeigman: Uh huh.

Member Devos: So the danger seems to be kind of a mute-point there.

Mrs. Zeigman: Well who knows until it happens, right? Until a kid jumps over a 4' high fence.

Member Devos: (Inaudible – talking over each other) 4' fence around the pools.

Mrs. Zeigman: Well, I, I'm just saying it's much easier to jump a 4' than a 6', much easier.

Attorney Sposaro: Let's find out if there's anyone from the public. Does any of the Board members have any other questions?

Vice-Chairman Larsen: This might be a mute-point, but I know you have several dogs, right?

Mr. Zeigman: Uh huh.

Vice-Chairman Larsen: And some rather large dogs.

Mr. Zeigman: No, (inaudible – speaking over each other).

Mrs. Zeigman: No, just one. Just one. Yeah, just one large one, yeah.

Mr. Zeigman: We have, uh, just the one lab and two French bull dogs, so.

Attorney Sposaro: is there anyone from the public that has any questions? Anyone from the public that wants to say anything? M'am, you were here earlier.

Yes, I'm the next neighbor

Attorney Sposaro: What is your name please?

My name is Aida Queiros.

Attorney Sposaro: Thank you.

Ms. Queiros: And, I think a little high, but that's a little high. It's okay for me. For me no have to (inaudible). That's okay, but I think a little high much. (Inaudible)

Attorney Sposaro: Thank you. That's your case?

Mrs. Zeigman: That's it.

Attorney Sposaro: Okay.

Chairman Gary: Are there any other questions? Okay. Um, is there a motion to grant the variance?

Member Bittone: I guess we have to hear it on a case by case basis. My concern is that the next guy down the line says, "Well, they put up a 6' fence, why can't I put up a 6' fence"? And now we have

Chairman Gary: But, but, but, you

Member Bittone: people coming in to apply

Chairman Gary: yeah, but you, you got your ans, you've answered your own question.

Member Bittone: Right.

Chairman Gary: It is case by case.

Member Bittone: Case by case.

Chairman Gary: So there's no, there's no, uh, reason that we would have to do, I mean that's, that's just not (inaudible).

Attorney Sposaro: And in this case, I think it's somewhat unique that I believe the testimony that, uh, a permit was issued, it was inspected along the way and then the violation issued. It's an unfortunate event, um, but to require these people to relocate or reduce the size of the fence, I think would result in significant economic waste as well. I think what's really up in the air here, is whether you want to see any landscaping on the other side of the fence or not. I think that's, that's really what's

Member Bittone: Well the fact that there is no opposing testimony against this, the fact that

Member Horun: True.

Chairman Gary: I, I just, I, I don't know if, uh, any additional landscaping would present a problem with the sight,

Member Bittone: Yeah.

Chairman Gary: sightline coming out of the street down there.

Planner Ritter: No.

Chairman Gary: No?

Planner Ritter: No, there would be no sightline problem. It's well back from the (inaudible),

Chairman Gary: Uh huh.

Planner Ritter: it's not a problem.

Member Horun: What was it for the applicants? Was anticipated you might do some type of landscaping out there or not?

Mrs. Zeigman: Um, we were talking about; I mean we already started inside, so it was just something down the road. Obviously it's a lot when you have a project of that magnitude, initially. Yeah.

Member Bittone: Do you want to make that a requirement as part of the resolution?

Attorney Sposaro: Well, that's up to the Board whether you want to require some landscaping that would be subject to our, uh, planner's review and approval. That's; you can include that in the motion or not, it's your choice Board members. Or you can make a different motion. I'm not trying to tell you what to do, just trying to tell you what your options are.

Vice-Chairman Larsen: I don't have an issue. I don't think the landscaping on the exterior is going to make a big difference to the pool.

Attorney Sposaro: Do not?

Vice-Chairman Larsen: I do not.

Attorney Sposaro: Okay. (Inaudible) someone make a motion.

Member Horun: Yeah, I'll make a motion to accept the, uh, the request as, as submitted without, without the requirement for the landscaping.

Member Larsen: Second.

Member Horun: And with the hope that perhaps maybe it will be some (inaudible)

Attorney Sposaro: There has been a motion and a second; Phyllis, do your thing.

**Motion by:** Member Horun

**Seconded by:** Vice-Chairman Larsen

**ROLL CALL:**

**AYES:** Members Horun, Bittone, Rutledge, Vice-Chairman Larsen, Chairman Gary

**NAY:** Member Devos

Mrs. Zeigman: Thank you very much. Thank you.

Chairman Gary: Sorry about that, uh, mix-up.

Mrs. Zeigman: That was, he needs to get, up his game. I'm serious. That was a problem.

Attorney Sposaro: You did a great job, I just wanted to let you know.

Mrs. Zeigman: He spent years in court as a State Trooper, so he doesn't want to talk anymore, he's done. Um, so, maybe someone could put a bug in his ear for future residents.

Attorney Sposaro: Thank you.

Mrs. Zeigman: All right, thank you very much.

**PUBLIC COMMENT:**

Chairman Gary: Is there any other public comment? Sir?

Mr. Betz: My name is John Betz. I live at 225 Red School Lane, Apt. 114. I would just hope that the motion to approve 2016-12, Joseph Melhem, uh, Resolution Granting Use Variance to Construct Two Townhouses on Less than Five Acres, would be used in that manner. That's all I have to say and not deviate from that, um, that's all I have to say.

Chairman Gary: Okay, thank you. Anyone else, else have anything? Okay, then, entertain a motion to adjourn

**MOTION TO ADJOURN:**

**Motion by:** Vice-Chairman Larsen

**Seconded by:** Member Larsen

**ALL IN FAVOR:** Aye

**NAYS:** None

Respectfully submitted,

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Phyllis D. Coleman, Board Secretary  
September 21, 2017

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Fred Gary, Chairman