

**REGULAR MEETING**  
**ZOOM VIDEO CONFERENCE**

Meeting Opened by Chairman Jack Dunning at 8:02pm

**Chairman:** What I would like to do tonight is take the two fairly simple residential applications first, followed by the other more time consuming matters.

**Attorney Mondello:** That's fine Mr. Chairman. I would suggest that we go through the normal protocols. We can, you know, read the notice that the meeting was published, we can do the salute to the flag and, if you want to waive that we can waive it, and then followed by a roll call.

**Chairman:** All right. Let's start then. This is a Regular Meeting of the Wanaque Board of Adjustment. We're doing it as a Zoom Meeting this evening. It's been duly advertised by notice in the Suburban Trends on January 16, 2022 and notice thereof has been posted on the bulletin board in the Municipal Building and a copy thereof is on file with the Borough Clerk. Can we have a roll call please?

**ROLL CALL:** Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Suzanne Henderson, Donald Ludwig, Helena Aumenta, Michael Sbarra, Dana Lynch and Charles Sahanas and Attorney Ronald Mondello and Engineer Christopher Nash

**Attorney Mondello:** It appears Member Frank Covelli is having some type of technical difficulties with his video and audio. (Member Covelli, on age 4, gave testimony that he was on the Zoom Meeting, but didn't realize he could not be heard.)

**Application ZBA2022-02 – CDJ Enterprises LLC, 8 McKinnon Place (Block 206/Lot 66)**

Edward Martin, attorney representing the Applicant, along with the Applicants as well as an Engineer to testify.

**Attorney Mondello:** I would simply indicate for the record that the notices were sent to residents within 200' and that the notice of this application was published in the newspaper therefore jurisdiction is vested in the Zoning Board to hear this Application. Again, Mr. Martin, if you'd be so kind as to enter your appearance into the record, spell your last name and give us your office address, and then spend thirty seconds or a minute indicating what the Application is about and what witnesses you have this evening?

**Attorney Martin:** Edward Martin, Esq., 52 Skyline Drive, Ringwood, New Jersey, on behalf of the Applicant, CDJ Enterprises LLC. The Application is basically for the construction of a one family residence at 8 McKinnon Place. There is a residence there; a structure there. The Application is to essentially have a tear down and a new one family home built. I do have the two principles of

**CDJ Enterprises present. Mr. Charles Huber and Mr. Gerald Longo are on and I also have our Engineer, Paul Lapatka, who is also on the meeting this evening.**

**Attorney Mondello: Fair enough. Who was your first witness?**

**Attorney Martin: I would call Mr. Gerald Longo.**

**Member Sahanas: Ron, can I interject for one second? I have to recuse myself from two matters tonight. Okay, I just want to put it on before we get going.**

**Attorney Mondello: Is one of them, Charlie?**

**Member Sahanas: This is one of them right here. Mr. Huber and myself were in business together at one point.**

**Attorney Mondello: You need not explain. You can, but you need not, it's up to you entirely.**

**Member Sahanas: Yeah, that's the reason why. And then the second one is going to be your next matter, which they are my neighbors and I'm within 200 feet of them.**

**Attorney Mondello: Fair enough. So I would simply ask that you shut your video off, you mute yourself and, you know, you're welcome to either go watch TV somewhere or whatever the case may be. But it should be crystal clear that you're not partaking in any of those hearings.**

**Member Sahanas: Okay, and maybe Mr. Grygus you can text me when the other matters come up.**

**Vice Chairman: I'll let you know Charlie.**

**Member Sahanas: Okay, thank you.**

**Attorney Mondello: I'm sorry Mr. Martin, who is your first witness?**

**Attorney Martin: Gerald Longo. He's one of the members of CDJ Enterprises.**

**Attorney Mondello: Gerald Longo, would you please unmute yourself and identify yourself?**

**Mr. Long: I'm Gerald Longo, 6 East Street, Wanaque, New Jersey.**

**Attorney Mondello: All right. The reason I couldn't find you Mr. Longo is that you are now Judy, so we'll change that in a minute. But please raise your right hand and I need to see raising your right hand. Do you swear or affirm the testimony about to give be the truth, the whole truth and nothing but the truth so help you God?**

**Mr. Longo: I do.**

**Attorney Mondello: Your witness**

**Attorney Martin: Mr. Longo, you are one of the members or owners of CDJ Enterprises LLC, is that correct?**

**Mr. Long: Yes, that is.**

**Attorney Martin: Am I correct that CDJ Enterprises owns the property located at 8 McKinnon Place in Wanaque?**

**Mr. Longo: Yes.**

**Attorney Martin: Just so the Board knows this. On the zoom, we see you sitting next to another individual and that is Charles Huber, is that correct?**

**Mr. Longo: Yes.**

**Attorney Martin: Is it correct that Mr. Huber is the other member of CDJ Enterprises?**

**Mr. Longo: One of the others, yes.**

**Attorney Martin: So, your LLC, CDJ, is the Applicant this evening and, if you could, just in your own words Mr. Longo, tell the Board what you're planning on doing or what you'd like to do with this property?**

**Mr. Longo:** What we're planning on doing is actually, you know the structure that is there, we'll tear it down because it's beyond repair. We're building a three bedroom bi-level house on there. It's actually for an investment purposes. It'll be up for sale when we get it finished up.

**Attorney Martin:** So the plan is to take down the structure that's there. Is that correct?

**Mr. Longo:** Yes.

**Attorney Martin:** And replace it with a new bi-level home; residential home; one family?

**Mr. Longo:** Yes, a one family home.

**Attorney Martin:** Ultimately, at least the plan now is to sell that property.

**Mr. Longo:** Yes, it is.

**Attorney Martin:** I provided the Board with copies of an engineering plan, a site plan made by or prepared by Paul Lapatka, an Engineer. Are you familiar with that plan?

**Mr. Longo:** Yes, I am.

**Attorney Martin:** The structure or the home that you're planning on building is set forth on that plan accurately, correct?

**Mr. Longo:** Yes.

**Attorney Martin:** To proceed with the plan as you wish, there is at least one variance that is necessary. You're aware of that?

**Mr. Longo:** Yes, I am.

**Attorney Martin:** That would be a front yard variance.

**Mr. Longo:** Yes.

**Attorney Martin:** I'll cover this with your Engineer, but there are two other variances that are actually pre-existing from the structure that is there now and that would be lot depth and lot area. Is that correct as far as you understand?

**Mr. Longo:** Yes, I do.

**Attorney Martin:** I don't have any other questions for Mr. Longo. Oh, actually, I do. Mr. Longo. What is your profession?

**Mr. Longo:** I am a home builder.

**Attorney Martin:** Is the plan for you and or your contracting company to do this work, to erect this new structure? Is that correct?

**Mr. Longo:** Yes, it is.

**Attorney Martin:** Mr. Mondale, I don't have any other questions for Mr. Longo, but he's certainly there to answer questions.

**Attorney Mondello:** Fair enough and thank you Mr. Martin. Any Board Members have any questions for Mr. Longo? All right, Chris, I see your hand is up. Please unmute yourself and go ahead.

**Engineer Nash:** I just want to point out that two of the variances have nothing to do with any structure on the property. So it doesn't matter where they put the house, they would still have these two variances. Mr. Martin correctly pointed out it's the front yard variance that's needed. But the other two, like I said, no matter where you put the house, they would still be there. So they're kind of a hardship, kind of conditions that are on the property.

**Attorney Mondello:** So that the record is clear, Mr. Nash, what variances are you referring to?

**Engineer Nash:** There is a lot area variance. The required lot area for this zone is 15,000 square feet, and they have 10,000 square feet. So there's nothing they can do about that. Then there's also the lot depth. The lot depth required is 150, and what's existing is 100.

**Attorney Mondello:** Thank you for that, Mr. Nash.

**Engineer Nash:** The variance they're asking for it, and I don't want to make their case for them, but you know the variance they are asking for is the front yard which is kind of related to the lot depth, The further they offset it from the front, it's going to create potential rear yard variance, so I think be given away the arguments, so let them make that.

**Attorney Mondello:** Thank you. Any Board Members have any questions before I turn it back to the Chair?

**Vice Chairman:** The deck off the back. Jerry, is that going to be a second floor deck because it says over a brick paver patio?

**Mr. Longo:** Yes, that's going to be coming out of the dining room. It's a bi-level so you're definitely going to be on the second floor. Yes.

**Vice Chairman:** And there'll be no steps coming down from that to the grade?

**Mr. Longo:** Yes, there will be steps. Yes.

**Vice Chairman:** Okay, because there's none shown on the plan.

**Mr. Longo:** I'm almost positive there are steps coming down.

**Member Covelli:** Mr. Mondello, can I be heard?

**Attorney Mondello:** All right. So Mr. Covelli has joined us via phone. Board Member Covelli, the floor is yours.

**Member Covelli:** I just wanted a parliamentary note of order. I've actually been on, but I didn't realize no one could hear me, which is why I was originally on video and then I switched to phone so you can hear me. I've been on since the beginning of this Application, and I've heard all the testimony, including Mr. Sahanas recusing himself from the Application.

**Attorney Mondello:** Thank you for that. Mr. Covelli.

**Member Covelli:** Please have the record note that accordingly.

**Attorney Mondello:** Any other Board Members with questions?

**Vice Chairman:** I'm looking at the site plan. I didn't look at the architectural and I'm just looking at the site plan and it does not show any steps coming down.

**Mr. Longo:** On the architectural plans, they do show steps.

**Vice Chairman:** You probably would want to just update the site plan.

**Chairman:** Their site plan shows steps coming down from the house.

**Vice Chairman:** It looks like you plan on having all the leaders from the building going into a detention basin.

**Mr. Longo:** Yes.

**Chairman:** You're showing a driveway completely around the house. Is that what we're looking at?

**Mr. Longo:** On the right side of the house, yes. It'll be on the right instead of being in the front of the house. No, they go directly in

**Vice Chairman:** No, that's a building line, I think Jack.

**Chairman:** I see it now. Yeah,

**Vice Chairman:** Or it's an elevation line; one of the two.

**Chairman:** Elevations. So you are going to have a little bit of pavers on the left side of the house. You got a two car garage, and you got a driveway in front of that which is approximately 32' long.

**Mr. Longo:** Right, yes. The driveway goes right straight in. There's existing macadam on the left side that'll be taken out.

**Chairman:** Okay.

**Vice Chairman:** Then that area to the left is just for construction access.

**Mr. Longo:** Yes, that's just going to be there and then there'll be grass.

**Chairman:** You satisfied parking requirements of a minimum of two cars.

**Vice Chairman:** Where do you think that you will put your utilities like HVAC units?

**Mr. Longo:** That's a good question. Probably on the left side of the house.

**Vice Chairman:** Okay. So in the area of the chimney chase?

**Mr. Longo:** Yes. Actually, the chimney chase is optional, which I don't think we're probably going to do. I don't think we're going to put the fireplace in there. In that area, yes, I would believe so.

**Chairman:** But somewhere you're going to put down a pad with the air conditioning system on that pad on the left side of the house?

**Mr. Longo:** Yes.

**Vice Chairman:** Chris, is that an architectural feature, the chimney overhang? Or would that change the side yard? You're muted Chris.

**Chairman:** From the architectural, it looks like the chimney.

**Engineer Nash:** Sorry, I didn't get that question.

**Vice Chairman:** I was just wondering and he says he doesn't think he's going to put it in, but it is on the plan. Is that chimney overhang considered an architectural feature or would that change the side yard?

**Engineer Nash:** It changes the side yard, sure.

**Vice Chairman:** So, are you definitely not going to put it in?

**Mr. Longo:** We are definitely not putting it in. No.

**Vice Chairman:** I mean you don't need a side yard, so it doesn't really matter.

**Mr. Longo:** No, we're not putting that in. That was actually a plan that was drawn up, you know, that's just being reused, basically. They just put some options in there that can be done, but we're not going to do that now.

**Vice Chairman:** All right.

**Member Covelli:** Would it be fair to say that the setback on the existing house is similar, or in fact, the new house will follow the setback of the existing house?

**Mr. Longo:** We're actually beyond. We're setting the house back a little further than the front house. If you notice on the site plan, most of the lots and most of the houses are set way, way in front of what we're setting it. We're trying to keep it even with the house to the right so that we are in line, but if you look to the house to the left, there only about 20' off the road or so. Every lot is 100' deep, so we can't conform to everything there like everybody else on that street.

**Vice Chairman:** He's actually proposing double what exists now.

**Member Covelli:** Yeah, that was my understanding that those houses are very close, and that you, in fact, would actually be further back than the surrounding and or the existing.

**Mr. Longo:** Absolutely, yes.

**Member Covelli:** Which I think is important to note for the record.

**Vice Chairman:** Stick built or modular Jerry?

**Mr. Longo:** Stick built.

**Member Aumenta:** I noticed that in Chris's report, there's a note here that talks about the stormwater seepage pit that the runoff should be located farther away from where it's noted on the plans, suggesting 5' rather than 1'. Is that a change that you'll be able to make based on that recommendation?

**Attorney Martin:** I'll certainly let Jerry answer that, but I was going to cover that with our Engineer who hasn't testified yet. But Jerry, if you could answer that feel free.

**Mr. Longo:** I would rather have Engineer answer that to be honest with you.

**Member Aumenta:** Fair enough; we'll hold it.

**Attorney Mondello:** Any other questions from Board Members?

**Chairman:** You show some shrub plantings as little details. Where are they going on the site any idea?

**Mr. Longo:** At this point, basically to the left of the front stairs. We'll do some plantings in there, you know, to dress it up. Have some decent landscaping in there. We're not really totally sure.

**Chairman:** You're not set up on landscaping.

**Mr. Longo:** No, not really totally yet. Until we finish the front yard and see what we can do to make it look nice at the front there to be honest.

**Attorney Mondello:** All right, any other questions from Board Members? Hearing none, seeing none from the Board, are there any residents within 200' of this subject property that would like to ask questions of Mr. Longo? Any residents within 200'? Hearing none, seeing none, any residents period, any members of the public that wish to ask questions of Mr. Longo now would be the time to unmute yourself and ask those questions? Hearing none, seeing none, next witness Mr. Martin?

**Attorney Martin:** Yes, Mr. Mondello, I would call Paul Lapatka, Professional Engineer.

**Attorney Mondello:** Good evening, Mr. Lapatka. How are you?

**Engineer Lapatka:** I'm fine and yourself?

**Attorney Mondello:** Great. Please raise your right hand. Do you swear and affirm the testimony you're about to give be the truth, the whole truth and nothing but the truth so help you God?

**Engineer Lapatka:** Yes, I do.

**Attorney Mondello:** You can put your hand down. Please state your name, spell your last name and give us your office address.

**Engineer Lapatka:** Paul Lapatka, 795 Susquehanna Avenue in Franklin Lakes, New Jersey.

**Attorney Mondello:** Although Mr. Lapatka I am very, very familiar with that last name and some of the folks that worked for you, I'm not sure whether these Board Members. Have you ever testified before this Board?

**Engineer Lapatka:** I don't believe so, no.

**Attorney Mondello:** So I would suggest that you briefly give the Board the benefit of your qualifications.

**Engineer Lapatka:** Sure. I have a Bachelor's Degree from NJIT. I also have a Master's Degree in Environmental Engineering. I've been licensed in New Jersey since 1994 and appeared before Boards in Passaic County and various counties in New Jersey as an expert witness as an Engineer.

**Attorney Mondello:** Can you name one or two of those Boards and Passaic County?

**Engineer Lapatka:** Wayne definitely and Ringwood.

**Attorney Mondello:** All right. Thank you. Any Board Members have any questions? Hearing none and seeing no objection to admitting Mr. Lapatka as an expert in the field of engineering, your witness, Mr. Martin.

**Attorney Martin:** Thank you, Mr. Mondello. Mr. Lapatka, I provided the Board with a site plan that you prepared dated October 28, 2021. Is that a document that you prepared?

**Engineer Lapatka:** Yes, I did.

**Attorney Martin:** I know Mr. Longo just gave some testimony but, if you could in your own words, explain the project for the Board please.

**Engineer Lapatka:** Sure, we are putting a bi-level building on there. The footprint of the building is approximately 1350 square feet. As was stated before, we meet all the setback requirements, except for the front yard, which is actually consistent with the front yards along McKinnon Place. It's actually set back further than most of them.

**Attorney Martin:** Okay, so the structure there now is actually closer to the road than this structure, is that correct?

**Engineer Lapatka:** That's correct. The distance from the road is about 13.2' currently.

**Attorney Martin:** The front yard setback, if you could just explain again, what's required and what are we proposing.

**Engineer Lapatka:** Give me one second to zoom on my drawing here. On the front yard setback, what is required is 40' and we're proposing 27.5'.

**Attorney Martin:** And the other variances noted, particularly on not only your plan, but Mr. Nash referenced them in his report, would be lot area and lot depth, is that correct?

**Engineer Lapatka:** That's correct.

**Attorney Martin:** And those are pre-existing, so to speak. Those are existing conditions now with the house that's there?

**Engineer Lapatka:** Yes. Actually the lot area of 10,000 square feet is the same as the one to the right and then the two lots to the left are 7500 square feet.

**Attorney Martin:** One of the Board Members raised an issue that is referenced in Mr. Nash's report regarding the stormwater seepage pit. If you could just explain what that issue is and why it is in the place where you put it and whether that can be changed.

**Engineer Lapatka:** Yeah, I put it in that place to keep it further away from the home as possible. But since our basement floor elevation is similar to grade there so we could move it to the 5'.

We'll move it over to the left and back a little. We can take care of that and move the pit.

**Attorney Martin:** So the issue raised by Mr. Nash, that is something that we could accommodate if you could submit an amended site plan, is that correct?

**Engineer Lapatka:** That's correct.

**Attorney Martin:** Okay. I don't think I have any other questions right now Mr. Mondello.

**Attorney Mondello:** Thank you, Mr. Martin. Any Board Members have questions for Mr. Lapatka?

**Member Covelli:** If we were to approve this, it would be applicable to the Applicant or agreeable by the Applicant that the size of the seepage would be consistent with specifications agreed to by the Applicant's Engineer and the Board's Engineer?

**Engineer Lapatka:** Yes.

**Member Covelli:** Is there a proposed size?

**Engineer Lapatka:** I actually sized it for the increase in impervious area between the existing and the proposed home and I used the 100 year storm of 7.7 inches of rain. We have the volume to accommodate that. The soils are very good there. I did a test hole and the soils are amenable to good seepage.

**Member Covelli:** We seem to be getting those 100 year floods at 7.7 about every 5 years.

**Engineer Lapatka:** Well, this should be able to handle it. The only thing that happens with seepage pits over time is they get clogged with leaves so if there's some kind of maintenance that they clean it that would take care of the issue.

**Member Covelli:** Is this graded on the top? Or is this sealed only, you know, it's all seepage and there's it's sealed on the top.

**Engineer Lapatka:** I have actually a locking and frame to grade proposed. The manhole cover is sealed, but it's an open grate.

**Member Covelli:** It's an open grate on the top so it could take water from the top and or overflow on the top if it needed to be.

**Engineer Lapatka:** Correct, and we placed the seepage pit with the grade on the low area of the site so if it did overflow it wouldn't go towards the house. The reason we didn't do it in the rear yard is because the grades a little higher and it's flat there and we didn't want water sitting around. It would go down the natural gutter in place if it did overflow.

**Member Covelli:** Thank you.

**Attorney Mondello:** I see that Mr. Nash has some questions.

**Engineer Nash:** Thank you. Actually, no question, so procedurally Mr. Martin and Mr. Lapatka, what we do is a conformed or compliance set, so it's not a resubmittal of the site plan in essence. What we'd like you to do is, should you get approval, take the conditions of the approval, and, you know, revise the plan. This makes it easier for Mike Hafner to do his job in deciphering what the exact approval is. Okay?

**Attorney Martin:** Revise the plan and resubmit it you mean?

**Engineer Nash:** Yeah, after the approval should you get an approval? I'm not pre-proposing anything.

**Attorney Martin:** Right.

**Attorney Mondello:** Any other comments or questions by Board Members for Mr. Lapatka? All right, hearing none, seeing none. Mr. Chairman, I'm going to unmute you, you were coughing so I took the liberty, and I hope you don't mind, of muting you. All right, hearing none, seeing none from Board Members, any residents within 200' of the site have any questions for Mr. Lapatka? Any members of the public have any questions for Mr. Lapatka? All right, hearing none, seeing none, your next witness Mr. Martin.

**Attorney Martin:** I don't have any other witnesses. Mr. Mondello.

**Attorney Mondello:** Fair enough. All right, I'll bring it back to the Board, but before I do that, are there any members of the public that simply want to make a statement, either for or against this application? Any members of the public wishing to make a statement either for or against this application? Hearing none, seeing none back to you, Mr. Chairman. I'm bringing it back to the dais, virtual dais for a Motion either way.

**Chairman:** Let's get somebody to have a motion and a second on this application for or against it.



**Vice Chairman:** I'll make a Motion to Approve the Application with 3 variances that are required. First is going to be for lot area which is 15,000 is required, where existing and proposed is 10,000 for 5,000 square foot variance that is a pre-existing condition. Second is lot depth where 150 is required, 100 exists, 100 is proposed for a 50' variance, which is also an existing condition. The third is for the front yard setback, where the zone requires 40', existing is 13.2, and the Applicant is proposing 27.5 which will give him a 12-1/2' variance.

**Attorney Mondello:** Thank you for that comprehensive motion. Bruce, is there a second?

**Member Covelli:** I'll say I have a second on that with a provision that we also have the seepage worked out with the Board's Engineer and the Applicant's Engineer, if that's acceptable to Bruce with respect to his Motion.

**Vice Chairman:** That's fine.

**Attorney Mondello:** No objection; Roll Call please.

**MOTION TO APPROVE APPLICATION ZBA2022-02:** made by Vice Chairman Grygus, seconded by Member Covelli. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Henderson, Ludwig, Aumenta, Sbarra, and Lynch Motion Carried

**Application ZBA2022-03 – Giangrande/Petrillo, 7 Humbert Place (200.22/13.01)**

**Attorney Mondello:** Alright, I see that Daniel and Jaclyn are with us. You can unmute yourself. I've had an opportunity to review the notices to residents within 200' and the notice that was published in the newspaper. Jurisdiction is vested in the Zoning Board to hear this case. Who is going to be testifying this evening? Is it Daniel or is it Jaclyn?

**Mrs. Petrillo:** I will.

**Attorney Mondello:** Okay if you could raise your right hand. Do you swear and affirm the testimony your about to give be the truth, the whole truth and nothing but the truth so help you God?

**Mrs. Petrillo:** I do.

**Attorney Mondello:** Okay, please state your name, spell your last name and give us your office address.

**Mrs. Petrillo:** Jaclyn Petrillo, 7 Humbert Place, Wanaque, New Jersey.

**Attorney Mondello:** So Jaclyn, why don't you please tell the Board what you want to do and why you want to do

**Mrs. Petrillo:** Sure, so we moved into Wanaque 13 months ago exactly next week. A month into moving into our home, the front overhang roof collapsed off of our house following the February snowstorm of last year. We are proposing to replace and rebuild that front overhang roof, due to the structural discrepancies, which we think were a result of the failing previous overhang roof. We would like to extend this roof a bit further out from our home with support columns.

**Attorney Mondello:** So do you know what variances you're seeking from this Board? If you do, please state them?

**Mrs. Petrillo:** I do. We are seeking a front yard variance. Currently, without our zone, the front yard variance or setback required is 60'. Currently, our home sits at 57.3', and we are proposing to extend and rebuild the front overhang roof 7', which would then bring our setback to 50.3'.

**Attorney Mondello:** Thank you for that. Board Members, questions for these Applicants?

**Chairman:** Alright, you want to build a porch, and essence.

**Mrs. Petrillo:** The front of our house has a stamped concrete slab in front of our front door. And the previous roof was about 3' long extending off of our house with no support columns, and it was 32' long. So we would like to replace that over the stamped concrete slab 7'.

**Chairman:** You are going to come out 7'.

**Mrs. Petrillo:** Correct.

**Chairman:** You are going to put some columns to hold it up by its own.

**Mrs. Petrillo:** Yes.

**Chairman:** It's going to just on grade that's at the front of the house now. You are not going to build it up at all because the door is at grade.

**Mrs. Petrillo:** Correct.

**Vice Chairman:** The only thing that I would like to add is when you purchased the house was the shed there that's in the front?

**Mrs. Petrillo:** Yes, it was.

**Vice Chairman:** Since you're a new owner, we don't know if it had a permit when it was built. I'm thinking that it probably didn't because it is oversize based upon the ordinance, and it's also just slightly in the front yard. So what we try to do when applications come in like this, we try to clean them up and just take care of anything else that's on the property that you know might not conform.

**Mrs. Petrillo:** Okay.

**Vice Chairman:** That doesn't look like anything that would be of any ease to move. Even if you did, it would still be oversized so you would require one for the size of the shed and one for it to be in the front yard.

**Board Secretary:** Bruce, may I just make a comment. They brought Joe Miceli's house so I think that may have been taken care of when he put the addition on when he came before the Board.

**Chairman:** When would that have been?

**Board Secretary:** It would have been within the past three years, I think.

**Vice Chairman:** He's never been before our Board in the last few years.

**Mr. Covelli:** I'm sorry, whose house was it?

**Board Secretary:** Joe Miceli.

**Mr. Covelli:** The land surveyor.

**Board Secretary:** No, the painter. He didn't come before the Board to do the garage?

**Engineer Nash:** He was before the Board because I know the family. I remember talking to him about it.

**Member Ludwig:** I remember it too.

**Chairman:** Yeah, we did that more than three years ago, I think.

**Board Secretary:** Maybe within the past five years (2018).

**Chairman:** Yeah, we did talk about the shed and it looked familiar. But Bruce's got a point that we don't know if it was or wasn't. If Chris can just scale it off briefly as to its distance to the property line to the right.

**Vice Chairman:** I think he's got the 5' fine with the property line. My question is Chris, is there any way for you to scale how far from the front yard? And now does the overhang change the front yard or is it still with the dwelling? Is that considered an architectural feature? Chris, you're muted.

**Engineer Nash:** The offset on the side yard?

**Vice Chairman:** That I believe is well beyond 5'. I wouldn't be looking if you could possibly tell us how far it's in the front yard?

**Chairman:** I think it's closer than 50'.

**Vice Chairman:** Which actually, it would need a variance for the setback also because the zone is 60', correct?

**Engineer Nash:** It wouldn't fall into that. The shed itself is not allowed in the front yard.

**Vice Chairman:** Okay, so it would be to allow for the shed, but I would like to try to put a number on it.

**Engineer Nash:** I can get that. Just give me give me a second thoughts amongst yourselves.

**Member Covelli:** Well, what I was going to add is, isn't there a physical constraint with respect to relocating the shed in the backyard? There's rock back there, and they couldn't move it back there.

**Chairman:** They can't. The backyard is very steep.

**Member Covelli:** Right, so at the end of the day, they can't relocate it, it's a matter of either accepting or denying. Is it the applicants' intention to keep the shed?

**Mrs. Petrillo:** Yeah, we had no intention that we would have to remove it.

**Member Covelli:** Okay, so then at the end of the day, we will be looking at, if we were to grant this variance, to Bruce's point of cleaning up the application, to approve the shed in its current location.

**Vice Chairman:** Correct. And that's why we just like to get a number so that, not saying this applicant would do it, but that, you know, down the road somewhere, it moves further in the front yard.

**Member Covelli:** For the benefit of the applicant who's not familiar with us, we're trying to clean everything up. When we grant the variance, if we were to grant you a variance, it's for the life of the property, not for as long as you own it, but for the life of the property.

**Mrs. Petrillo:** Understood.

**Vice Chairman:** And in this way, you know, neighbor can come along and complain and say that shed should have never been there.

**Mrs. Petrillo:** We understand. Thank You.

**Member Covelli:** Bruce, with all due respect, we can't stop neighbors from complaining.

**Vice Chairman:** No, no, but if we take care of it with this application, then there's no basis for it.

**Engineer Nash:** Bruce it scales 47' from the property.

**Vice Chairman:** Okay, Chris, but wouldn't the variance be how far it extends into the front yard?

**Engineer Nash:** I still think the shed is not allowed in the front yard, that's the variance. We can reference where it is.

**Vice Chairman:** The variance would be that it's to allow a shed in the front yard that is currently 47' from the front property line.

**Engineer Nash:** Yeah.

**Chairman:** What about the size of the shed? Isn't that an issue?

**Vice Chairman:** Yeah, could you scale that Chris real quick because I know that's over 10x10.

**Attorney Mondello:** Oh, while Chris is doing that, are there any other Board Members that have questions for this applicant? Hearing none, seeing none, any residents within 200' have any questions for this applicant? Any members of the public have any questions for this applicant? All right, hearing none, seeing none.

**Engineer Nash:** It scales 17x13.

**Attorney Mondello:** Variance to permit 17x13.

**Engineer Nash:** Also point out to the Board, you know, this is that R-40 Zone where there's issues that they created this zone and all of the lots that are in there are undersized, so there's actually seven variances. They're all bulk variances having to do with lot width, lot depth, lot area, front yard, side yard, side yard total and rear yard.

**Attorney Mondello:** All pre-existing.

**Engineer Nash:** All are pre-existing, yes. They're only exacerbating the front yard setback. So required is 60, the existing is 57.3 and the proposed is 50.3. That is the only change the applicant is making. Again, it's on a lot that's under size. You know, the zoning doesn't fit the lot. The bulk dimensions that are handed out to these properties are difficult to impossible to meet.

**Chairman:** This whole area shouldn't be in an R-40. That's the problem. Every lot is too small. This particular house does sit back quite a bit.

**Member Ludwig:** Didn't they do this with the new development?

**Vice Chairman:** We've had discussions with the Ordinance Committee regarding the zone and it is going to be handled in the future, but at this point in time, we have to deal with as it is.

**Attorney Mondello:** Don, you are breaking up and we can't understand what you are saying, and you're freezing up. Okay. Any other questions from Board Members? There's no questions from residents. Any residents at all want to make a statement either for or against this application. All right, hearing none seeing none, back to you, Mr. Chairman, for a Motion.

**Chairman:** Okay, somebody want to make a motion for or against this application,

**Vice Chairman:** I'll make a Motion to Approve the application for the three variances which are front yard setback where 60' is required by zone, 57.3' exists and they're proposing 50.3', which will be a variance of 9.7 feet. And the other variance is going to be for the size of the shed where 100 square feet is allowed and they have 221 square feet for a variance of 121 square feet, and also for the location of the shed to be permitted in the front yard, which is set back 47' from the front yard.

**Attorney Mondello:** Thank you Bruce. Is there a second?

**Member Ludwig:** I'll make the Second.

**MOTION TO APPROVE APPLICATION ZBA2021-12:** made by Vice Chairman Grygus, seconded by Member Ludwig. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Henderson, Ludwig, Aumenta, Sbarra, and Lynch Motion Carried

**Application ZBA2021-08 – Scenic Landscaping**

**Attorney Mondello:** All right, Mr. Chairman, as you know, this is a continuation of a prior application. I see that Mr. Rutherford is present. I would ask him to please enter his appearance into the record and sort of fill the Board in as to where we are and where we're going. And for the record, Board Member Sahanas has just rejoined us.

**Vice Chairman:** Mr. Mondello, just for point to get it on the record, I did have the opportunity to review the audio tape from the November meeting where there was original testimony on this application. I am fully qualified to sit in this application and vote.

**Attorney Mondello:** Thank you for that Bruce. Back to you Mr. Rutherford, go ahead.

**Attorney Rutherford:** Thank you, Mr. Mondello. For the record, Mr. Chairman and Members of the Board, my name is David L. Rutherford. I am an attorney appearing tonight on behalf of Scenic Landscaping, LLC. As Mr. Mondello just indicated, we did appear before the Board at your meeting of November 3, 2021. We offered testimony from Mr. Zimmer, who is a principal of the Applicant, and at that time two issues that arose. First of all, the Board gave us a very significant amount of time that evening for which we are grateful. The Board also heard from a number of interested parties. Two issues arose out of that hearing. The first is that the Board wanted to see a more detail site plan with respect to what we have proposed for the property. The Board will recall the property that's the subject of this application is undeveloped land at the moment. Scenic Landscaping and its related companies, Tranquility Pools and Tapestry Landscape Design, operate a landscape design business and a pool design and installation business on properties just to the south of this. The subject property of the application is going to be used for the storage of plant material after delivery and prior to installation. The Board heard a fair amount of testimony from Mr. Zimmer at the November 3<sup>rd</sup> meeting with respect to the nature of the operation and how the property is going to be used. As I indicated a moment ago, the Board asked to see a more detailed site plan which we have provided. There were also a number of issues and concerns raised about the proposal at that time to access the property from Jefferson Street. I will be very clear that is no longer part of our plan. We do not propose any sort of access whatsoever from Jefferson Street to this property. Rather, the property will be accessed from the existing yard, if you will, of the Applicant, which is located on properties directly to the south of the property. We are no longer going to have any Jefferson Street access. In connection with the revised site plan, my clients did engage the firm of DJ Egarian & Associates Inc. and they prepared a three page plan. Mr. Nash certainly can speak for himself, but I know that Mr. Egarian did have some interplay with Mr. Nash concerning that plan. We are in receipt of Mr. Nash's latest report, which is dated February 1, 2022.

**Vice Chairman:** Could you hold there for one moment please. Ron, I noticed in Chris's report, there seems to be a question as to proof that the property taxes aren't current.

**Attorney Mondello:** Yeah, that is not the municipal land use law. You still hear the application regardless of whether property taxes have been paid.

**Vice Chairman:** I thought we didn't deem complete, unless they were Jennifer?

**Attorney Mondello:** No, no, no.

**Board Secretary:** They're paid up to the end of 2021. February 1<sup>st</sup> is the day for taxes and then you have ten days after to pay. They are current up to today. They haven't paid the first quarter yet, but they're also not considered delinquent.

**Vice Chairman:** They are no delinquent. Okay, that's fine. I only bring it up in the past we did consider that as part of completeness.

**Attorney Mondello:** All right, well I have never been party to that because I know no authority to say, we're not going to hear your application because you haven't paid your property taxes. What I do know is that certainly a c.o. or even perhaps the Resolution could be delayed if property taxes are delinquent. But there is no authority to refuse to hear an application based on that. But I'm glad you brought it up. I'm glad that this applicant is current. And if I might, Mr. Rutherford, impose just one more time, if you could please repeat that there is no access anymore with respect to, I'm sorry, the street was Jackson, because many of the residents were extremely concerned about that access point. If I could just impose another minute or two, if you could repeat as to where the new access to the property is.

**Attorney Rutherford:** Thank you. Just with respect to the taxes, Mr. Grygus is correct. The taxes were made current through actually we were right at the at the fourth quarter payment November 1<sup>st</sup>, the last time we were here coincidentally. But yes, we're aware of that. I did have an email exchange with Ms. Fiorito yesterday with respect to that. I can assure the Board that these taxes will be paid in a timely fashion either by my client, as the contract purchaser or by Ms. Wasserman as the present owner. One way or the other, they will be paid probably in the next day or two so there's no issue there and I appreciate that concern. The second is just to clarify. Yes, when we were here in November, we had proposed a point of access from Jefferson Street. That is no longer the case. As I indicated a moment ago, the properties that are already used by my client with respect to the operation their businesses are located directly to the south of the property that's the subject of this application. Access will be through those properties, and no longer through Jefferson Street, Mr. Mondello.

**Attorney Mondello:** Thank you. Alright, first witness.

**Attorney Rutherford:** Mr. Egarian is our first witness, Mr. Chairman.

**Attorney Mondello:** Nice to see you again. Mr. Egarian. I believe you were previously sworn and you remain sworn. Your witness Mr. Rutherford.

**Attorney Rutherford:** Mr. Egarian, just give the Boar please a brief summary of your education, your experience and your professional qualifications.

**Attorney Mondello:** Mr. Rutherford, maybe it's my mistake. Was Mr. Egarian not sworn in and not accepted as a witness?

**Attorney Rutherford:** He did not testify in November. He wasn't here.

**Attorney Mondello:** My mistake. Mr. Egarian, would you please raise your right hand. Do you swear and affirm the testimony about to give be the truth, the whole truth and nothing but the truth so help you god?

**Mr. Egarian:** Yes.

**Attorney Mondello:** Please state your name, spell your last name and give us your office address.

**Mr. Egarian:** David J. Egarian, 271 Route 46, Suite C208, Fairfield, New Jersey.

**Attorney Mondello:** Mr. Egarian, you did previously testify before this Board. Did you not?

**Mr. Egarian:** Yes I have. Last year.

**Attorney Mondello:** I was confusing applications. In any event, I believe Mr. Rutherford would probably want you to place your credentials briefly on the record, so why don't you do so.

**Attorney Rutherford:** Thank you.

**Mr. Egarian:** I have a Bachelor of Science Degree in Civil Engineering from NJIT. I have an MBA from Rutgers University. I'm a Licensed Professional Engineer in the State of New Jersey since 1978, also in New York, and Pennsylvania and four other states. I'm the owner and president of DJ Egarian & Associates. We have extensive experience in land use matters, as well as environmental matters and water and wastewater, and so on. I've appeared before many boards in most northern counties in New Jersey.

**Attorney Mondello:** Including this one, right?

**Mr. Egarian:** Correct.

**Attorney Mondello:** All right. Any objection from the Board Members accepting Mr. Egarian as an expert in the field of Engineering? Hearing none, seeing none, your witness, Mr. Rutherford.

**Attorney Rutherford:** Thank you. Mr. Egarian you've prepared a three page plan that has been filed with the Board and it's entitled Plant Nursery Layout. It's a three page plan, as I indicated, it's dated December 9, 2021, and it was revised on January 21, 2022. Is that correct?

**Mr. Egarian:** That's correct.

**Attorney Rutherford:** And that was prepared by you or by persons under your supervision, and you have indeed visited the property as well. Is that correct?

**Mr. Egarian:** That's correct.

**Attorney Rutherford:** Mr. Mondello, just in the interest of moving this along, I'm going to have Mr. Egarian testify in narrative form with respect to the plan that he's prepared and point out to the board, the salient features of the site that we have provided.

**Attorney Mondello:** That's fine.

**Mr. Egarian:** I'd be happy to. Yes, we prepared revisions to the plan in response to Mr. Nash's comment letter, and in response to the last public hearing. We did have two drawings at that time and we added a third drawing, which is basically a detail sheet. I can screen share if the Board would like, but I can just go through and describe the changes. Since the last hearing, we sent our surveyor out to the site, and we located all the trees on the site in excess of 8" in diameter. Having that information in hand, we then re-laid out all the driveways so that the driveway would meander around the site, allowing access for plant storage but also missing most of the large trees on site. So it's really a tree preservation project to achieve a plan that would achieve Scenic's goal in plant storage but also to retain the larger caliper trees on the site and we did that. There are 10 trees that we were not able to save. They range in size from 9" to one at 23" inches. But we think we did a fairly good job in laying that out. The driveways are 12" wide.

**Attorney Rutherford:** I'm sorry I believe you mean 12' wide.

**Mr. Egarian:** 12' wide, I'm sorry. The roadways will consist of 6" of dense graded aggregate underlain by a filter fabric and we did include a detail of that cross section on a detail sheet. We also placed a detail on the sheet for a fence that would surround the property on the northerly, easterly and westerly sides of the property. That's also shown on the detail sheet. It will be 6' high and consists of black vinyl covered mesh with 2" openings and will be covered by a fabric, an attractive fabric.

Ingress and egress to the site will be via the existing yard, as previously mentioned. Other changes to the plan, since I couldn't respond to Mr. Nash's letter, we did note on the steep slopes plan I have a legend that depicts the slopes and so on. And that really entails the majority of the changes. We also included some photographs on the detail sheet as well to show the character of the lot showing that most of the lot is populated by small diameter trees, and there are rock outcroppings throughout the site. I think that's about it.

Attorney Rutherford: Mr. Egarian you've shown the topography of the property on your plan, correct?

Mr. Egarian: Correct.

Attorney Rutherford: And you mentioned the rock outcroppings just a moment ago. And then you've also shown a plant material storage area which is where my clients will be storing the plant material that Mr. Zimmer testified to with respect to at the November 3rd meeting, correct?

Mr. Egarian: Yes, I did.

Attorney Rutherford: We've also shown, and this is going to be for Mr. Zimmer's testimony in a moment, but you've also shown a 15' wide planting buffer around the perimeter of the property, the north and west actually property lines, the east property line abutting further undeveloped lands, correct?

Mr. Egarian: Yes, we have shown that.

Attorney Rutherford: When you referred to Mr. Nash's reports a moment ago, you're referring to his report, dated January 7<sup>th</sup>, that was subject actually of the revisions that you made on January 21st, and then we also received a report from Mr. Nash yesterday, dated February 1<sup>st</sup>. I just want to draw your attention to a few of those. Just as a sidebar for the Board. Mr. Nash, on page 2 in paragraph 1 referred to a Checklist U which was indeed provided to the Board yesterday. He also made reference to the property taxes that we discussed a moment ago. Then he had a descriptive, I'm highlighting the bold portions of his report, which were what was added since the prior reports, included in bold, just a general description of the layout that's proposed, and he talks about the trees that Mr. Zimmer is going to testify to in a moment. I think he had one comment, Mr. Egarian, that I'd like you to talk about and that's number 7 at the bottom of page 3, he talks about the path cut into the existing ground 6" with 6" of RCA and he talks about the cutting the entire topsoil layer out, could you just address that issue just for a moment please?

Mr. Egarian: Sure, we do show a 6" layer of dense graded aggregate that would be cut into the soil. And Mr. Nash makes the point that if there's any soft material that could underlie that material, it could cause rutting and sinking of the roadway. My opinion would be in discussion with Mr. Zimmer is that first of all, if during the excavation that there is any soft material encountered, it will be dug out to firm soil brought back up to grade and compacted so that we would be assured that there would be no settlement with that roadway. In accordance with Mr. Nash's other comment about vehicular traffic, the roadway itself will be maintained probably on a constant basis of any rutting with additional dents graded aggregate. We have worked on other large applications, nurseries and we've seen that firsthand where roadways are maintained in that manner.

Attorney Rutherford: Thank you. Mr. Chairman, Mr. Zimmer, who prepared the landscape buffer plan, is prepared to address the I believe the balance of the comments in Mr. Nash's February 1st report with respect to the replacement trees and the size and caliber of same. So



he'll address all that in a moment. And I think that's all Mr. Egarian unless you have anything to add with respect to this. That's all I would have for Mr. Egarian, Mr. Mondello.

**Attorney Mondello:** Thank you; Mr. Egarian. Any Board Members have questions for Mr. Egarian?

**Vice Chairman:** I don't know if it would be for Mr. Egarian, or for the applicant. Well, one for Mr. Egarian, the southeast corner of the property where the pathway comes out, is that also going to access the existing property or is it only going to be accessed through the one that's annotated on the plan?

**Mr. Egarian:** My understanding that would access the existing yard as well.

**Vice Chairman:** Okay, because that took away one of my questions. However, that question also still does exist in the northwest corner of the property. And listening to the tapes, there's different size trucks that would be accessing this area. If they get down to that dead end in the northwest corner, how do they turn around to get out of there?

**Attorney Rutherford:** I don't want to interrupt here. I'm sorry to say but Mr. Zimmer will be able to address that to the type of trucks and the type of equipment that's going to be back in there. I think he'll be able to satisfactorily answer that question.

**Vice Chairman:** Okay.

**Attorney Mondello:** Any other questions for Mr. Egarian from the Board Members?

**Chairman:** Yes. You're going to water these plants, right; you get some kind of irrigation plan of how these plants are watered?

**Mr. Egarian:** That's my understanding, yes.

**Attorney Rutherford:** Mr. Zimmer, Mr. Chairman, can address that as well.

**Attorney Mondello:** Any other questions from Board Members for Mr. Egarian on his testimony? All right, hearing none, seeing none, any questions from residents within 200' of this subject property for Mr. Egarian? I see somebody has raised their hand. Hold on. I'm asking Brenda Gonzalez to please unmute yourself. Welcome, Miss Gonzalez. After you state your name, spell your last name and give us your address, this is an opportunity to ask questions and questions only. There will be another period in this hearing during the application where you can just simply comment, but right now it is, what's the famous game show Jeopardy or something, and it's got to be a question. So go ahead, Miss Gonzalez, please identify yourself and then give us your address.

**Italo Hurtado – 5 Argyle Road**

I live across the street on number 5 Argyle Road, the property just across the street of the main entrance of the Scenic Landscaping. The house on the corner, the brick house on the corner.

**Attorney Mondello:** What's your question Mr. Hurtado?

**Mr. Hurtado:** How much is going to be more traffic than there is actually now. Sometimes we have those big trucks and sometimes they come one way or another and they cannot go back to the main street. So sometimes they got to go through my property, and it makes difficult, even the days when we have the garbage collection. They got the stuff they got in the car all the way from

the Main Street to the end, plus the traffic with the people leaving the landscaping company. It is going to be more impacting now. Thank You.

Attorney Mondello: Thank you. Mr. Hurtado. All right, Mr. Egarian, can you answer Mr. Hurtado? He is concerned about increase in traffic, increase in truck sizes, increase in intensity, so whether you or Mr. Zimmer, I'm not sure, but please, somebody take a stab.

Attorney Rutherford: Mr. Mondale, I'm going to ask Mr. Zimmer to answer that question. He's much more familiar with the operations of the business than Mr. Egarian is, that's number one. Number two, I can tell you that the acquisition of this additional property is really intended to increase efficiency on my client's property and is probably going to actually reduce activity and traffic. It's not part of an overall plan to expand the business or to increase the frequency or nature of truck traffic, but Mr. Zimmer will be able to address that. It's a legitimate concern, and I respect Mr. Hurtado for raising it. Mr. Zimmer can address that.

Attorney Mondello: So Mr. Hurtado, just so that you know another witness is more qualified, better qualified, to answer your question that you just posed. So hang in there, we'll get right back to you.

Attorney Mondello: All right, I see that Theresa Reilly, I'm going to ask that she unmute herself. I'm lowering her hand. You must put your video on Ms. Reilly. Okay, I'm going to ask you to put your video on. There we go. Welcome Ms. Reilly. Would you please state your name, spell your last name and give us your address?

Theresa Reilly – 28 Whistler Place

Attorney Mondello: What is your question for Mr. Egarian?

Ms. Reilly: Well, I don't know if it's from Mr. Egarian, but I was wondering if you guys share a picture of the plan because we're a little bit confused as far as how the access road is going to work or the access driveway.

Attorney Mondello: Alright, it's an excellent, excellent question. I'm going to share my screen with Mr. Egarian and he's going to walk you through this new access point, so just stand by.

Alright, Mr. Egarian I have made you a co-host and you are now able to share your screen.

Mr. Egarian: Can you see that?

Attorney Mondello: Yeah, and I would zoom in on that if you can. Take your time. This is an important issue that a majority of the residents have.

Mr. Egarian: This is the area of the existing yard.

Ms. Reilly: Of Scenic's existing yard?

Mr. Egarian: Yes, of Scenic's existing yard. Yes ma'am.

Ms. Reilly: I'm on the opposite side, like the complete opposite side. Okay.

Mr. Egarian: The existing yard will continue to be in service and the main entrance is off the paper, but it's in this area here. And the trucks on the site will access the planted materials by way of this entrance point and access the plant storage areas along the driveways within the wooded area. And they can enter and exit at this location and also enter or exit from this location as well, which is another entry point from the yard.

Attorney Mondello: This is very different than the last presentation where the entranceway was along Jackson Street isn't that correct?

Mr. Egarian: Yes it is.

Vice Chairman: Can you bring down that drawing down a little bit Mr. Egarian to just show her where that entrance comes in off Jackson so she can see that that's not being utilized at all.

**Engineer Nash:** It's Jefferson Street.

**Vice Chairman:** You just went past it. Just go back up, keep going, Right there. Just to show where that entrance comes in off of Jefferson Street and now she can see in the upper right hand corner there that that's, no up into the right, yep, over to the right, now just move your cursor over, where that 40W is, that's where Jefferson comes in, and you can see that that's not being proposed at all, which was part of the original plan.

**Ms. Reilly:** Okay, can you tell me, see that's my property also that rectangular property there, okay. Can you tell me how far that driveway directly behind our property is for my property line?

**Attorney Rutherford:** Ms. Reilly what lot number are you please?

**Member Aumenta:** I think it's 17.

**Ms. Reilly:** What am I, Helena?

**Member Aumenta:** You are 13 and then you have the one behind it, which is 17, I believe.

**Ms. Reilly:** How close is that?

**Mr. Egarian:** So the distance to the driveway?

**Ms. Reilly:** Yeah, from the longest property that you were hovering over, right directly.

**Vice Chairman:** Where your north arrow is.

**Member Aumenta:** Yeah, we're the north arrow is going down. Well actually go to the right and go down so that long rectangular, the driveway that's there compared to the end of lot 17. What's that buffer 15'?

**Mr. Egarian:** That's 15'. So there would be a cloth covered, vinyl, chain link fence here that's covered and the detail is on Drawing No. 3. I can show that to you.

**Vice Chairman:** There's also plantings that are going to be in that 15'.

**Mr. Egarian:** This is what the fence is going to look like.

**Ms. Reilly:** You might have said it but how high is that going to be?

**Mr. Egarian:** 6'.

**Ms. Reilly:** 6' and what color like black? Is that what it is?

**Mr. Egarian:** It's black mesh covered with a fabric.

**Ms. Reilly:** Pretty. Okay.

**Mr. Egarian:** And there also be a 15' planting buffer behind it.

**Ms. Reilly:** Oh, so the plants will come up 15' is that what you're saying? The plants will go over the fence? I want to know what I'm looking at.

**Mr. Egarian:** Mr. Zimmer will testify to this, but the plantings will be, I believe, 6', 7' or 8' high, all in this area here, and then the fencing around the entire perimeter, like so.

**Ms. Reilly:** And your guys are going to go over how the irrigation system is going to be laid out in there.

**Mr. Egarian:** Yes, Mr. Zimmer will cover that.

**Ms. Reilly:** Okay, all right, thank you. I don't want to get ahead of anybody.

**Attorney Mondello:** All right, so I see that and I apologize to Mr. Trajkovic, I'm going to ask you to unmute yourself. I'm going to lower your hand. Okay, can you hear us?

**Mr. Trajkovic:** I can hear you.

**Attorney Mondello:** Please state your name, spell your last name and give us your address?

**Mr. Trajkovic – 152 Jackson Street**

**I own the two-family house at 152 Jackson Street. It's the house that is on the dead end between Jackson Street and Argyle. So I have two questions. There was a comment made on the entrance that's going to be on Argyle, but which one of the two entrances is going to be used? Because there's a main entrance and then there's another entrance that's almost directly across the street from my property?**

**Mr. Egarian: Well, the main entrance will continue to be used as it is now.**

**Mr. Trajkovic: Okay, so kind of the gated entrance that's further north on Argyle, by the garage structure that is not going to be used for trucks?**

**Mr. Egarian: Mr. Zimmer would have to answer that, Mr. Rutherford.**

**Mr. Trajkovic: Okay, in terms of the grade, when the previous expansion was done, and they leveled the house and made that into a yard, my property ended up getting a lot of silt when it rained to the point where it'd be, you know, two or three inches thick, and my tenant would call the company and they would actually come over and shovel out the silt that was accumulated in my driveway. I guess my question is what is going to be put on top of the path that leads to the roadway? I'm concerned that there's going to be more silt that's going to wash down every time there's a heavy rain.**

**Mr. Egarian: Well, is this your property here?**

**Mr. Trajkovic: No, if you can go down a little bit further.**

**Mr. Egarian: I can't go any further. I stop here.**

**Mr. Trajkovic: So if you go left. I think you have to look at the other map.**

**Member Aumenta: I didn't see 152 listed on these plans when you said your address.**

**Mr. Trajkovic: I am south of where you are. It's the dead end of Jackson Street and Argyle.**

**Resident: He's across the street from the dwelling.**

**Mr. Trajkovic: I have two driveways, one driveway is accessed from Jackson Street and one driveway is accessed from Argyle. And I actually own a piece of that dead end and it's also part of that property. So if you're looking at your computer screen, it's on the left.**

**Mr. Egarian: It sounds to me that the proposed construction would have no effect on your property at all. We're going to cut the gravel driveway into the lot so that there's no fill, there's no cut and we're going to have gravel, dense graded aggregate so that gravel itself is going to have an absorptive capacity. It's going to tend to, like this is the high point of the property here, the water is going to shed this way and this way and these driveways are going to act as a buffer. The overland flow is going to hit these driveways and there's going to be 12' of gravel six inches thick, which is going to serve to mitigate. I don't think that there's going to be any impact on your property.**

**Mr. Trajkovic: Is anything going to change between the entrance of the new roadway and the existing yard? Is there going to be additional aggregate put down or anything else that's new that isn't there already?**

**Mr. Egarian: Well, that's not proposed in this project.**

**Attorney Mondello: Any other questions, sir?**

**Mr. Trajkovic: No. I'm done.**

**Attorney Mondello: Now, there will be another portion of this hearing where you'll be able to simply make comments. I do believe that Ms. Schmidt had her hand up and next in line. I hope I have this right. Okay. Ruth, if you could be so kind as to please state your name, spell your last name and give us your address.**

**Ruth Schmidt – 151 Jackson Street**

**Ms. Schmidt:** Ivan Trajkovic owns the house across the street from me so he is actually on the other side of the street. But I was kind of looking at this schematic. I'm the one that's listed as dwelling; that's me. I'm the next door neighbor of Scenic Landscaping. According to the schematic that you have here, it looks like the fence is going directly across this giant rock in my backyard. Is that true?

**Mr. Egarian:** It's going to be located 1' off the property line.

**Ms. Schmidt:** So you're going across the entire rock. So I'm going to have a giant black fence across the top of the rock in back of my yard. Is that what you're saying?

**Mr. Egarian:** Yea.

**Ms. Schmidt:** Super fun.

**Mr. Egarian:** You'll have a fence across the back of your yard. Yes.

**Ms. Schmidt:** Oh, that should be lovely. And just piggybacking on what Ivan was saying about the runoff from the rain. Every time it rains, before you guys even cut down trees and stuff like that, all of the rain like comes across out of the second entrance to the landscaping place and across and under that thing you have marked trailer on the thing, it comes across there and across my driveway and down the road and it pools in front of the house. It's like a river running through there. We have silt and

**Attorney Mondello:** Ms. Schmidt, This is a period for questions only. You will be able to comment at the end of the presentation and explain why you're for or against it, problems that you foresee, but at this time, ask him specific questions.

**Ms. Schmidt:** Okay, so you're saying that this will have no effect on the fact that we already have all of this water coming through here? Is that what you're saying that all of these roads and everything else that's going through the entire forest will have no effect on the water that's coming through?

**Mr. Egarian:** That's correct, as I previously stated.

**Ms. Schmidt:** Okay.

**Attorney Mondello:** All right, thank you, Miss Schmidt. Alright, I do believe Antonio is next. You're going to have to put your video on; you're going to have to state your first name, your last name. I'm asking Antonio's iPad to unmute themselves. Theresa, you're going to have to wait until Annette is done. Alright, Antonio's iPad, please state your name, spell your last name and give us your address.

**Maria Dacanay – 136 Jefferson Street**

**I am Antonio's wife. We are also directly involved. We are Lot 18. So they're going to have a fence and my concern too is**

**Attorney Mondello:** Alright, we're not going to discuss concerns. We're going to ask questions at this point. There will be another opportunity for you to actually express your concerns and dislike for the application or approval for the application. What is your specific question for Mr. Egarian?

**Mrs. Dacanay:** Are they going to blast or remove the rocks that's like in there and remove some of the trees?

**Attorney Mondello:** Good questions, and back to you Mr. Egarian. Blasting and removing trees.

**Mr. Egarian:** There will be no blasting. We are going to be removing some trees. The nearest tree to you to be removed is right here. We have two trees being removed right here and they are

about 90' from your property. In the intervening distance, there'll be a fence and there'll be a planted buffer in this area here. There are no trees being removed in this area. We specifically re-laid out the roadway to save trees. There's a large grouping of trees here and here. These trees are being saved.

Mr. Dacanay: Will there be irrigation there; a canal?

Attorney Mondello: I believe that that may be for the next witness. His name is Mr. Zimmer. Is that correct, Mr. Egarian?

Mr. Egarian: That's correct.

Attorney Mondello: All right, next question sir.

Mr. Dacanay: I think that's it, yeah for the time being.

Attorney Mondello: Don't forget there'll be another opportunity to speak.

Attorney Mondello: All right, I'm going to ask Annette Rycharski to unmute herself. Please state your name, spell your last name and give us your address.

Annette Rycharski – 135 Monroe Street

I live at 135 Monroe Street, but I'm a corner house, so my driveway and side of my house faces and is on Whistler.

Attorney Mondello: Understood, what is your question for Mr. Egarian?

Ms. Rycharski: Okay, how long do you think it will take to complete this project and when will you start?

Mr. Egarian: Well, I could opine about the construction time and Mr. Zimmer could answer the question about when operations would commence. This is merely an exercise of going in, cutting some driveways and laying down some gravel. And if it would take a month, that would be a long time, so probably three to four weeks to accomplish this.

Ms. Rycharski: Okay, and the beginning time?

Mr. Egarian: That would be Mr. Zimmer's question.

Attorney Mondello: Anything else?

Ms. Rycharski: Can Mr. Zimmer respond?

Attorney Mondello: He'd have to wait until he is sworn in and he's presented.

Ms. Rycharski: Okay.

Attorney Mondello: Any other questions for Mr. Egarian?

Ms. Rycharski: No, I think that's all. Oh, I have a question. Was there any study done for vehicular traffic? Like, will it increase? I know it was stated that they're not looking to expand their business.

Attorney Mondello: I know that Mr. Rutherford, he wasn't testifying, he was just simply stating some facts or giving us an opinion, but Mr. Zimmer will actually testify as to the improved efficiency, etc. We'll have to wait for that. So the next witness, I believe, will answer those questions for you.

Ms. Rycharski: Okay. My other question would be, based on what I'm looking at the images here, there's no traffic coming along Whistler of landscaping trucks and things like that. It doesn't appear to from that.

Mr. Egarian: No. There'd be no traffic along Whistler that would access the site.

Ms. Rycharski: Okay.

Attorney Mondello: Anything else?

Ms. Rycharski: No, just my other question about when it would begin.

**Attorney Mondello:** Okay. Any other members of the public, residents within 200' or general public, questions and questions only Mr. Egarian? I don't see anybody's hand is raised. Nobody has unmuted themselves to say anything, so with that, Mr. Rutherford appears next witness.

**Attorney Rutherford:** Yes, Mr. Mr. Rick Zimmer.

**Mr. Egarian:** Mr. Mondello, should I stop the screen share?

**Attorney Mondello:** You should.

**Attorney Rutherford:** And actually, Mr. Mondello, Mr. Zimmer is going to want to screen share. He's prepared a landscape buffer planting plan that he'll want to exhibit in a moment.

**Attorney Mondello:** He is now a co-host.

**Attorney Mondello:** I do see a Mr. Zimmer, welcome. Please raise your right hand. Do you swear and affirm that the testimony your about to give be the truth, the whole truth and nothing but the truth so help you God?

**Mr. Zimmer:** Yes.

**Attorney Mondello:** You can put your hand down. Please state your name, spell your last name and give us your office address.

**Richard Zimmer – 7 Argyle Road**

**Attorney Rutherford:** Mr. Zimmer, you testified at the November 3rd meeting as a principal and a person integrally involved on a day to day basis in the business of Scenic Landscaping, Tapestry Landscape Design and Tranquility Pools, correct?

**Mr. Zimmer:** Correct.

**Attorney Rutherford:** All right. I think what I'd like to do Mr. Zimmer, while it's fresh in my mind, I'd like to go down the list of concerns that we just heard from interested parties raise. Why don't we try to address them and then we'll work through your buffer planting plan.

**Attorney Mondello:** Mr. Rutherford, your bandwidth is weakening. You're cutting in and out. You can keep your video on but I'm going to suggest that, if it continues, you may want to shut the video off to preserve that bandwidth.

**Attorney Rutherford:** Okay. That's fine. Let me know if it's an issue, and I'll do whatever I have to do. So Mr. Zimmer, the last question that was raised by an interested party had to do with the time it would take to construct the gravel roadways shown on the plan and when, assuming that the Board saw fit to grant the application, when that work would begin. Can you answer those two questions, please?

**Mr. Zimmer:** Yes, I would agree with what Mr. Egarian had said, you know, if we were to do all the roads at once, probably no more than a month project. Our intention is to somewhat phase this in, just create the access point, either late spring or summer. If we do have approvals to try to start to use some parts of the property, and then over time, continue to expand in the roadways, as per this plan,

**Attorney Rutherford:** Okay, so it's not necessarily something that would all go in at one fell swoop. It may go in and kind of stages as you grow into this property. Is this accurate to say?

**Mr. Zimmer:** Yes.

**Attorney Rutherford:** Mr. Hurtado had questions about traffic. What I'd like you to do is just try to briefly refresh the Board and interested parties with respect to the volume of traffic that the

business presently generates, and then comment on the impact, if any, that this proposed acquisition of this property and the improvements you proposed will have on that traffic.

**Mr. Zimmer:** Yes, and as was mentioned, I mean, we have no intention of growing our business. This is purely to be able to make ourselves more efficient and functional on the current property. It is tight for us with the plant material taking up the space that it does and we'd like to relocate some of that plant material onto this property, enabling this property to function better. We are not planning to increase, there would be no more truck traffic, and it would operate as it has been. All of the access does come through the main gate that is off of Argyle Street straight at the end of our Argyle Street. We do have the other gate that's more towards, what's labeled as, the garage structure, our Tranquility office, which is used but not for any of the deliveries or vehicles. We would be looking to maintain our use at the main gate coming into the property.

**Attorney Rutherford:** So all the deliveries of plant material, etc. would continue, as they do now, coming through the main gate, correct?

**Mr. Zimmer:** Yes.

**Attorney Rutherford:** Okay. And it's accurate to say that if the Board saw fit to approve this project, that's not going to involve any quantitative or qualitative change in the nature or intensity of traffic currently coming in and out of the site?

**Mr. Zimmer:** No.

**Attorney Rutherford:** Okay, good. I know there was a question about the type of vehicles that will be accessing this property. Maybe you can talk about that a little bit.

**Mr. Zimmer:** Sure. I would say most often it will be smaller machines, such as bobcats or pickup trucks. There would be, you know, some other vehicles that would back into there for deliveries that would be unloaded. But for the most part, I would say it would be bobcat machines and pickup trucks. They would use the 12' roadway to be able to access for the plants to be both delivered, and also to be picked up to go out to our job sites. I understand that there was also a question brought up about the northwest corner and the challenges of turning around. I would think that the bobcat would be fine to make that turn, and any vehicle of larger size would simply not go down that section but would stay more on the main area of the road, the first turn and be able to turn around there to come back out.

**Attorney Rutherford:** Okay, so we don't have the specter of a large truck getting back in there and not being able to get out. You're going to use those roads with vehicles, the size and capacity of which are commensurate and appropriate with the width of the roadway and the nature of the property.

**Mr. Zimmer:** Yes.

**Attorney Rutherford:** There were also concerns about irrigation. I know that you mentioned this at November 3rd meeting, but maybe you could talk a little bit more about the type of irrigation system that will be installed and when and how frequently it's going to be used.

**Mr. Zimmer:** If you could see in the example pictures on our plans, the very left bottom picture actually shows one of the irrigation posts. Irrigation is run underground and it goes up on these posts to spray our plantings. As any irrigation on any property, we do need to keep the plants alive, so the watering does happen on a daily basis. But it's not excessive; it's to keep the plants alive. They are sprayed with these overhead poles that are probably roughly maybe 20 'to 30' apart that would be spaced wherever we would end up having plant material.

**Attorney Rutherford:** In that regard, the irrigation is most definitely seasonal, is it not?

**Mr. Zimmer:** Yes.



**Attorney Rutherford:** So maybe you could just comment again, and I know you mentioned this and testified about this in November, but comment again on the kind of annual life cycle, if you will, of your business, you know, when your busiest, when you get your most deliveries and then how the business kind of ebbs and flows during the course of the year.

**Mr. Zimmer:** Sure. Visiting the property now you would see that there is not much activity. Most of our plant material we do sell before the end of the season. We do keep some that we stockpile over but essentially it's very quiet at our property right now. In the spring, which is in April/May, we start to bring in our plant materials and that's when we would have, you know, some activity on this property, deliveries throughout that April and May period, and that would be the time of getting some of the plantings. Otherwise, throughout the summer months, starting in the spring, through the fall, we would have people in the yard, but only really in the mornings to load up materials. Otherwise, there would be people caring for the yard. We do have a few people in the yard, in the nursery, but the activity throughout the day is very limited; everyone's out at the job site. And as we know, this is just a nursery for our own clientele. It is not a retail nursery.

**Attorney Rutherford:** I think it's important to remember again that there's going to be no customers. Obviously you don't do retail, but there's no retail activity back there. It's really limited to the delivery of plant material and when the time comes for it to be installed, we will go in there with a bobcat or other appropriate vehicle and remove it and take it off and install it. Right, this part of the project?

**Mr. Zimmer:** Correct.

**Attorney Rutherford:** You've prepared a buffer. It's called a buffer planting plan, and dated January 21, 2022, and thank you, your screen sharing that. Just for the record, it consists of a plan that's essentially a duplicate of Mr. Egarian's plan, but it has different details shown on it. And then to the right, you've shown the photos of the various plants and some planting details. Then at the bottom, you have a plant schedule. So why don't you talk just a little bit about what you're trying to accomplish with the 15' buffer and related fence in the first place? What's the purpose of all of that, and then we'll get into the details of what you're actually proposing?

**Mr. Zimmer:** Yes, so of course we want to be sensitive to the neighbors and to keep privacy for both of us. So in combination with the fencing, we did propose this 15' buffer zone, which would consist of, not only some of the existing trees that we'd be working around, but we'd like to re-naturalize that area by introducing a number of evergreens, some flowering trees, some viburnum type shrubs, which are all shown in pictures on the plan. The plant key on the bottom does show the plantings. We have roughly 40 shrubs, 7 trees, and I think it's 35 evergreens that we would strategically place among the existing trees to create a very natural buffer along the western and northern sides of the property where the adjacent neighbors are.

**Attorney Rutherford:** So unlike most applicants where the landscape buffer is something that's clearly proposed as an integral part of the project, this is actually your business. This is what you do, correct?

**Mr. Zimmer:** Yes. Yes it is.

**Attorney Rutherford:** You've designed a landscape buffer, in many respects, just like you would for a customer or a client, correct?

**Mr. Zimmer:** Yes. I mean we want it to look nice for ourselves and also for the neighbors.

**Attorney Rutherford:** And that's also the purpose of the fence that provides a nice visual barrier as well as some security for your property as well, correct?

**Mr. Zimmer:** That's correct.

**Attorney Rutherford:** I think you talked about the irrigation. You heard Mr. Egarian's testimony, you're familiar with the volume of water that the irrigation system generates, and you heard Mr. Egarian's testimony, both with respect to the ability of the gravel roads to absorb water as well as the 15' buffer area as well to absorb water. Can you talk just a little bit more about what's going to be on the surface of the 15' landscape buffer?

**Mr. Zimmer:** Wherever we don't have plantings will be mulched. All of these areas that have the plant storage will have mulch areas, which will allow any water to recharge and be soaked up within the ground. So I don't foresee any issues with the irrigation being any more than the normal rainfall.

**Attorney Rutherford:** Okay. Again, seasonal in nature and obviously used regularly in the warmer weather, but in large part of the year it's not used at all correct?

**Mr. Zimmer:** Correct.

**Attorney Rutherford:** In other respects, you have taken pains in this plan to be kind of respective of the topography. Is it accurate to say that the plan that Mr. Egarian prepared and your plant buffer plan kind of reflects the topography of the property and the property conditions? You're kind of working around what's there to the greatest extent possible, is that right?

**Mr. Zimmer:** Yes, we are.

**Attorney Rutherford:** And in that regard, Mr. Nash provided a memo of February 1, 2022 in which he says that §114-1G of the Ordinance requires replacement plants to be 8' in height. Some of the plants that we have on our plan are 6' to 7' in height. Is it accurate to say that we certainly will comply with the Ordinance both with respect to the height of plantings as well as their caliper, is that right?

**Mr. Zimmer:** Yes, we will comply with the Ordinance and increase as needed.

**Attorney Rutherford:** Yeah, so if we have to increase heights or caliper size or whatever, you're certainly going to do that; whatever is needed?

**Mr. Zimmer:** Yes.

**Attorney Rutherford:** As Mr. Egarian stated, is it accurate to say also that the roadways were designed so as to lose as few trees as possible. Is that correct?

**Mr. Zimmer:** Yes, we made adjustments to the layout once we had the exact tree locations to try to avoid any large trees and work around whatever trees that we could on the property to lower the impact.

**Attorney Rutherford:** Finally, I had indicated in my opening statement that this is totally undeveloped land. So perhaps you can just comment briefly on how, if in any meaningful way, the trees and other vegetation on this property have been maintained or anything over the years. I'm going to guess that there's been no maintenance whatsoever, is that correct?

**Mr. Zimmer:** No, there has not been. And I think that what we're going to do is going to improve things in a number of ways, both aesthetically and functionally. As Mr. Egarian had said, with the roadways and what we're doing here, it should really improve the conditions of this property and make it a lot more attractive.

**Attorney Rutherford:** Mr. Zimmer, if you have other things to add, please tell me but I think we at least tried to address the concerns raised by the interested parties. I think you've answered all of those. But you're here and obviously they can renew their questions certainly. Mr. Mondello and Mr. Chairman, that's all I would have for Mr. Zimmer right now, please.

**Attorney Mondello:** Alright, I see, Mr. Nash has his hand up. Go ahead, Chris.

**Engineer Nash:** Yes, just a couple of things. In preparing the property for the storage of the plants, is it safe to assume that the trees that are shown with the "x" they'll be removed and the other trees would remain the larger, you know, 12" plus whatever. But the rest of the property is going to be basically cleared. So there'll be no low shrubs or bushes,

**Mr. Zimmer:** I would say we would selectively remove as needed just to make room for the plant material.

**Engineer Nash:** Okay, so it's not going to be like a complete devoid of any vegetation other than some trees sticking up.

**Mr. Zimmer:** Right. And as I mentioned, even to a degree phasing in the roadways, and what we're going to do to clean up the property, I could see us just really, you know, doing it sections at a time. And as I mentioned, we're trying to work around the existing trees. Of course, we do need to do some clearing to make room for the plantings and allow a little bit of light in there. But we are trying to work with things as best we can.

**Engineer Nash:** Okay. What time of day do you normally do the watering?

**Mr. Zimmer:** It varies. It could be throughout the day, and even in the evening, depending on the cycles of how long it needs to go for. It kind of happens at all times.

**Engineer Nash:** But these are not residential type watering devices, right? There a little larger in scale. Do they make any kind of noise that would be offensive in any way, in your opinion?

**Mr. Zimmer:** No, I would say not. I mean, they are up a little bit higher because we do want them to broadcast further. But I would say they'd be no different than larger spray heads for lawn area just up higher. And no, I do not feel that they make any noise.

**Engineer Nash:** And one last question. Was there any thought for the planting buffer to use native trees or plants?

**Mr. Zimmer:** I could certainly take that into consideration and try to use some more native plantings. I would be fine to do that. You know, plant availability these days, as you can imagine, can be a little challenging and certain native type plants can be a little bit hard to come by sometimes, but I'll certainly be open to that.

**Engineer Nash:** It's going to look somewhat unnatural. And you know I don't know if the purpose of the buffer is the buffer. You are a landscape architect and I assume the aesthetic would be the larger component of that. So I don't know how that resonant there because basically the state it's in now, you know, could use some TLC. But the plants there are, you know, basically native and that's what we would expect to see the Norway Spruce and Arborvitaes, but I'm not familiar with the Arrowwood, I'm not sure if that's native.

**Mr. Zimmer:** It is, yeah.

**Engineer Nash:** Evergreens are not native.

**Mr. Zimmer:** Yeah, the Dogwoods and the Arrowwood are native. I would say that as far as how those Evergreens look, you know, when you're used to seeing them planted in just either straight lines or really tight together, I know that gives a different appearance. If you look at the plan, I did space things out and I tried to intermix the Viburnum, which is native, so you know more naturally how nature would be. So I think even just the nature of spreading these out a little bit, letting them kind of grow naturally, I think it would have a very nice look and really be a benefit to the neighbors by mixing in some of these Norways because it would give a little more Evergreen and a little better buffer.

**Engineer Nash:** Yeah, year round buffer, right. Okay, that's all I had, Mr. Chairman.

**Vice Chairman:** On these Viburnum, is that the planted height or what is the maximum height of the Viburnum?

**Mr. Zimmer:** That is the planted height. We could actually get Viburnum at a fairly good size. So 4' to 5' Viburnums can grow up to 12' tall.

**Vice Chairman:** Okay. And then could you also explain what would be the largest size truck that you would foresee accessing this new area to offload product?

**Mr. Zimmer:** I would say rack body truck maybe 25 feet, or a trailer might back in again, around that size, you know, most likely just on that lower section road, just to get us close enough where we can efficiently take delivery of plants, unload them as quickly as we can. So I would say at the bottom section, there could be some longer type trucks. But throughout the property, you know, more pickup truck, bobcat, I would say for the most part just because of the way the typography works.

**Vice Chairman:** Could this extra storage potentially, I want to word this properly, but let's say that you took in larger deliveries, because you could store more, but you would get less deliveries, if that made sense.

**Mr. Zimmer:** I'm not quite sure I follow that.

**Vice Chairman:** In other words, obviously this is going to allow you to store more than you then you can now I would think, correct?

**Mr. Zimmer:** Well, we only want to bring in what we could plant. Our goal is not to store, you know, plant material, especially by the end of the year, we want to have used it. So since we're not looking to increase our operations, you know, there would be no need for us to bring in additional plant material beyond what we currently have.

**Vice Chairman:** To that end, then let me ask this question. Is there any opportunity to relocate the proposed material storage in the northwest corner and the northeast corner more into the interior of the site?

**Mr. Zimmer:** I'm not sure. I mean, anything is possible. Of course, we'd like to be able to make use of the whole property if we could. That's our goal. And I think with the buffer.

**Vice Chairman:** You have big sections in the center of that around that rock outcropping that you're not even proposing anything.

**Mr. Zimmer:** Well, it's possible that we might try to utilize that but, because of the rock outcropping, that would be just something that we're trying to work around some of those natural features.

**Attorney Mondello:** So, Bruce, there are a number of other Board Members that actually raised their hand. Maybe we can circle back to you, but Mike is up next. And Bruce, a suggestion like that is not unreasonable. I mean, it is the applicant's application but they may want to consider that very, very seriously. They're looking for a Use Variance. Use Variances are very, very difficult to get. With that, Michael you're up.

**Member Sbarra:** All right, let me let me ask this question. I actually have a couple questions here. I know you guys had said you were going to kind of phase in the use of this property. With regards to that 15' planting buffer and the fencing, is that also getting phased in or is that something that's going to be immediately put up?

**Mr. Zimmer:** The fencing we would look to immediately put up, and then I would say that we would probably phase in some of that buffer only, because if we're not going to bring the roads to the back areas over there, we wouldn't be clearing things out to plant it, so that might be phased in a little bit as well.

**Mr. Sbarra:** Okay, another question in regards to the fencing. So we have the north side, the east and west side is all getting fenced in and the south side is not which abuts to your current property. There is going to be no gates in that fence or anything, correct?

**Mr. Zimmer:** Correct.

**Mr. Sbarra:** You can let me know if this is doable or not, I guess. I know one of the residents that had recently mentioned that, you know sarcastically, she was saying that she didn't look at the black fence, I guess, in our backyard. Are you guys opposed in any way, or is it possible to kick the fence to the opposite side of that 15' buffer, so the residents in their backyard get to see the buffer and not the fence? Are you opposed to that?

**Attorney Mondello:** You are getting a lot of applause from other Board Members and Helena is up next.

**Member Aumenta:** So my questions right off the top. So thank you.

**Mr. Zimmer:** Well, my concern would be maintaining it. So I would want to keep it within our property to be able to maintain it.

**Member Covelli:** Mr. Zimmer, that was a good question.

**Member Aumenta:** Yeah, you could still keep it within your property line, but move it back so that your buffer still on your property, but have the fence move back so we're not having black fence.

**Attorney Mondello:** Just so that the record is clear. You're suggesting that there be the plantings, and then the black fence. Is that correct? Mike?

**Member Sbarra:** Correct. That is my question. In another word so the neighbors can look at the 15' buffers, the plantings, as opposed to the fence, understanding that the fence will still serve its security purpose for the Applicant. Is that something that they would consider?

**Mr. Zimmer:** That would be something I'd have to think hard about, because again, even though I know it's still on our property, being fenced off from us, would make it very difficult to maintain and provide maintenance for that buffer area. It's on the other side of the fence. I would say that I be very willing to make, you know, some adjustments to the fencing around certain features, like the rock outcropping in that corner, if it just, you know, obviously doesn't make sense to have it go over a certain feature, and we need to bring the fence in or adjusted, I'd certainly be willing to do that. But I feel like it would be really difficult to care for and maintain and allow these plants to thrive if they were on the other side of the fence.

**Vice Chairman:** Can't you put gates in periodically to get into the area to service.

**Mr. Zimmer:** It's possible, but it would make it more difficult.

**Vice Chairman:** I mean, from a security standpoint, 6' is not going to provide a lot of the type of security that you're looking for.

**Attorney Mondello:** All right, Elena, you're up next. We can't hear you.

**Member Aumenta:** Can you not hear me?

**Attorney Mondello:** I couldn't. The first thing you said it was it was phased out. You may want to turn your video off.

**Member Aumenta:** Am I better now? I can turn the video off. Hold on. Alright, so we'll do it this way. Can you hear me now?

**Attorney Mondello:** Okay. Go ahead.

**Member Aumenta:** So a couple of questions that I have as well, and forgive me if I'm missing it. But looking at all of the plans, I don't see where we have noted where the actual poles will be that does the watering. Is that identified anywhere on any of these plans?

**Mr. Zimmer:** It is not yet.

**Member Aumenta:** So when we're talking about the buffer, and we're talking about the watering, and these need to be watered as well, and that's right against the property of the residents. How often is that going to be watered and is that going to be part of what you're watering during that process of making sure that all of the plants that you have there are growing and thriving,

**Mr. Zimmer:** It would most likely be a different type of system. I think the overhead is better for the above ground type plant material, but we probably would either run soaker hose lines or even hand water the plants as needed until they establish in the in the buffer zones, which again is part of the care that I'm concerned about keeping them within the fence line so that we can care for the plants and potentially hand water them or replace them if need be more easily.

**Member Aumenta:** And part of your maintenance plan is also going to take care of any of these plants that are growing over that fence, I looked up the Arrowwood and it looks like it gets pretty big pretty fast and looks like that that might be an issue that you're going to have as that grows, that it's going to overflow into the property around it.

**Mr. Zimmer:** Well, we have a 15' buffer zone so I think that should be plenty of room for that plant to be able to grow to its potential and create the natural buffer that we're looking for. And we'll definitely make sure that it doesn't grow over the fence.

**Member Aumenta:** And then for the watering, you say that you do it all the time, you know, it happens day or evening or could be any time during the day, do you take into consideration if it rains, so that those waters are not consistently running, if we've had a lot of rain, or there's a lot of rain coming down at the time so that we're not adding additional water to that area.

**Mr. Zimmer:** There are sensors for that. And, you know, that's it's a really tough thing when it comes to rainwater and whether or not you get enough to actually thoroughly water any plant material. So we do have to err on the side of caution and keep these plants watered. But certainly if there's lots of rain, there are sensors that we have on this, that we would be able to turn off the system as needed, if it's really that much rain.

**Member Aumenta:** It's not something that you consistently monitor at this point on a daily basis as to whether or not that is happening.

**Mr. Zimmer:** I have full time people that are taking care of this nursery and an eye on what the watering situation is always at all times.

**Member Aumenta:** Okay, because we've got two of these places that were holding our plants even though there's a 15' buffer there, that's right up against, again, the property lines there and might have some impact. Now for the trucks that are coming into the area, when they come in, are they idling on these roads right outside of, you know, again, the residential properties that we have there?

**Mr. Zimmer:** No.

**Member Aumenta:** Okay, so they're driving in and stopping and not sitting out there idling at all.

**Mr. Zimmer:** That's correct. We do have signs up for that and we have talked to all of the drivers about that.

**Member Aumenta:** Okay, and what's the earliest that those folks would be coming into that area typically?

**Mr. Zimmer:** 7:00/7:30am.

**Member Aumenta:** Okay, so that's before the noise ordinance for if it's a residential zone, I believe it's eight o'clock so something to be aware of as well. I think that's all my questions for now. I reserve the right but at this point, I think that's what I have for now. Thank you,

**Attorney Mondello:** Mr. Covelli, you've been waiting patiently. You're up.

**Member Covelli:** Patience is not my middle name, is it Mr. Mondello?

**Attorney Mondello:** No comment.

**Member Covelli:** Mr. Zimmer, thank you for your efforts. I think you've made a dramatic improvement on what you've submitted over where you were and you've come a long way.

**Mr. Zimmer:** Thank you.

**Member Covelli:** I'm amazed to hear you say you're not interested in growing your business. I don't know anyone that's in business that doesn't want to grow your business. I'm very sorry to hear that. You're not interested to grow your business. Mr. Zimmer, this property is approximate two acres, little over two acres.

**Mr. Zimmer:** That sounds right.

**Member Covelli:** Your entire operation is in the middle of a residential zone, and you've been there for 35/40 years?

**Mr. Zimmer:** A little less. We've had the business for that long. My business partners had it for 45 years. But on the property, I want to say maybe 25/28 years.

**Member Covelli:** So Mr. Mondello pointed out that you're seeking a D-1 Variance, which has the greatest hurdles to achieve in the middle of a residential zone. And I think you have the makings of a very good application, but I think we need to make a little bit more improvement on this. We're going to give you some thoughts to consider, as we consider to approve this variance or not approve this variance. My two colleagues on the Board made the case and I'm going to be the third to make the case that I really hope that you'll consider switching that fence and the buffer. Because I think if you want to be a long term neighbor in this neighborhood and ask for this kind of expansion in that area, they have to have something appealing to look at and you're proposing some very, very attractive plants that you're going to hide behind a black fence, and all your workers get to see them inside the fence, and all the neighbors get to see a big black fence. So I would hope that considering that this is your trade you're not an applicant that's making an improvement on their property to build widgets, and by the way, you have to talk to the landscaper and how much is it going to cost me to maintain this in the neighborhood, you're actually the guy that does it. You get paid to do that; so you're the best able to be able to do that. So with that said, I would really hope that you would reconsider, or consider moving that fence and switching it. I'm not asking you, I'm not going to speak for my colleagues, but I'm not asking you to make the buffer bigger, I'm asking you to make that buffer, an attractive feature of this application. And you have five property owners to your west, you heard from the property owner to your north, and I think again that you can make this a really nice application. And by the way, a showpiece of your work, anyone that comes to visit to see your operation, will see your handiwork right outside.

**Mr. Zimmer:** Fair enough.

**Attorney Mondello:** Sorry Mr. Covelli.

**Member Covelli:** I think Mr. Mondello is giving me the hook. And that was the impetus of my questions and observations to this revision.

**Attorney Mondello:** Yeah, so I mean, you know, we need to put the elephant under a carpet in the room, Mr. Zimmer, that the question is simplistic. Are you going to change this so that the plantings are in front of the fence? Yes or no?

**Mr. Zimmer:** Can I take a few minutes to consult with my professionals?

**Attorney Mondello:** All right. I'm sure that the Chairman will have no objection to that. But before you do that, are there any other questions from Board Members? Mr. Grygus, go ahead.

**Vice Chairman:** In addition to that fence, I would also like to see if you could relocate the northwest and northeast plant storage areas to some of the other plethora of locations on the site that are not proposed for that use. And my other question I would have, do you use any fertilizers or pesticides at all, to maintain any of the plantings before they leave the site?

**Mr. Zimmer:** Typically, no. If for some reason there is something that happens, you know, in the nursery trade or even in general, if something maybe comes in with something, we would treat it as necessary then but not on a regular.

**Vice Chairman:** Okay. Thank you. That was the only questions I had.

**Attorney Mondello:** Any other questions from Board Members? Back to you Mr. Chairman.

**Chairman:** We've talked about this fence. I think you got to revisit the fence issue.

**Attorney Mondello:** Mr. Chairman, they're going to do that. I was going to ask you if we could perhaps take a five minute or ten minute break.

**Chairman:** Let me finish with my other thought. Where this cross hatched parts of drawing are there's all plants there. You're going to have to water them occasionally, okay. How do you get water all over the site? Are you going to put a permanent water system in or is it portable or what is it?

**Mr. Zimmer:** There would be irrigation lines that get buried and run to the poles that I mentioned that are spaced throughout wherever we have the plant material. So it is a permanent system.

**Chairman:** Is there any way you could show us a plan how all this works. You're talking poles that are 20' or 30' high?

**Mr. Zimmer:** Well oftentimes you don't even notice them because they're next to taller plants that are just as tall as they are.

**Chairman:** So you're going have plants that are 20' to 30' high?

**Mr. Zimmer:** Well there may be 15'/20' these plants and, yes, some of our trees are about that size. The shade trees, maples, oaks, yeah, some of those trees are that tall.

**Chairman:** Along the western area you've got your decorative plants that are permanent, and then you got a small area between that and a roadway for plant storage. How does all that get watered? Are you having two separate systems to water the permanent plantings?

**Mr. Zimmer:** Well, possibly. As I was mentioning, you know, typically that above ground on the on the stakes works better for the above ground plant material. And then whether we choose to do a different type of either drip system or even just hand water those plants as needed until they establish in the buffer zone.

**Chairman:** Right and then how do you stop that from running into the neighbor's property?

**Mr. Zimmer:** Yeah, I don't think that the topography allows that to happen. And I think the nature of the plantings and the mulch would absorb that water.

**Chairman:** Well, if you look at your detail plan, plant nursery layout, they're all over the place. So it's going to be hard for you to control that water. And what you don't want is problem with



the neighbors from Jackson Street that all this water may be coming into their backyards or trying to bring some sort of soil with it.

Mr. Zimmer: I could let Jeff speak to it as well. But I do not think that we will be creating any issues with runoff.

Chairman: Is there any way of building a berm on the fence side to keep the water in your property?

Mr. Zimmer: I mean we could lightly berm it if it's necessary to keep the plan. Typically, when you do plant, we plant a little bit higher and let it slightly berm, so that'll be fine.

Chairman: The topography on the plan goes up and down, up and down, it's not that close to level. There's going to be water issues there. There's no doubt about that.

Mr. Zimmer: We definitely plan to do things to make it as, you know, as clean a site and maintenance friendly as possible. We'll be putting in the maintenance to it and making whatever adjustments, if we do see areas of the water. But really just like grading and the natural topography of it, we feel contains on the site.

Chairman: And the other areas, the same thing. You've got plant storage all over this property; you're going to have water systems to feed all of those plants either poles, spray hose or something.

Mr. Zimmer: Ultimately, wherever we do store plants, and to be honest, I'm not sure that it will be fully to the extent that we have here as I mentioned, we probably phase this in, but wherever we have plants we would need to have water, very typical.

Chairman: It's a tough piece of property. No doubt about that.

Mr. Zimmer: It is.

Chairman: But you're going to put a lot of plants on here and you can't let these plants die. You need to sell them to work them into your site work. If you could show us some way of how you're going to water this area, I think that would help.

Mr. Zimmer: Okay.

Chairman: You're going to have to figure it out some way someday if this ever gets approved. The other thing is the roadways. You got that dead end so you said the bobcats are going to do 90% of the work. Other than that, you've got a narrow roadway so you can't bring big trucks in here.

Mr. Zimmer: Yeah, pickup trucks for the most part I would say.

Chairman: Yeah, small trailer or something because you're not going in here with a 40' trailer.

Mr. Zimmer: No, not in most of it. In the bottom section maybe a little bit, like I said, just for deliveries but right, throughout the site with the topography as it is, it's it would be difficult to do.

Chairman: Now, as far as replacing trees for the ones you cut down, if that's what's going to come out of this, there's none marked where it's a new tree, other than what's along the edges. There's enough trees there to supplement where you're cutting out.

Mr. Zimmer: I think we've exceeded it, except for some of the height requirements. So I think we just need to change either it was four or five, I believe, of these trees just needed to be an 8' height. But otherwise, I think we've well exceeded what would be required for what we're doing.

Chairman: Have your approach to town with that yet to find out what they want?

Mr. Zimmer: As far as I'm sorry.

Chairman: You're taking 10 trees down, you got to replace 6 of them. What is it and how does that work?

Mr. Zimmer: Are they not a part of our buffer? Does that not count for the replacement trees?

Chairman: I don't know. You're going to have to talk to the town about that.

**Mr. Zimmer:** That was my thought but, but certainly if there's additional trees required beyond what we have, we're certainly open to planting them.

**Chairman:** It would be a good thing now to approach that. I've had trees cut down on my yard; they've got to come and inspect it and put a tag on it to say that's okay to cut it down. You'll probably run into the same thing.

**Mr. Zimmer:** Yes. Anything that we remove will go through the right channel.

**Chairman:** If you have to replace 50% of them, you say I got 40% there so I have to throw ten more trees. I think you should find that out before we go too far.

**M. Zimmer:** Okay.

**Attorney Mondello:** Anything else Mr. Chairman?

**Chairman:** I think that covers me right now.

**Attorney Mondello:** So, Mr. Chairman, if we could, it is 10:19, almost 10:20. Perhaps we come back at 10:30. There are several fairly large items that Mr. Zimmer needs to discuss with his professionals. Number one, the situation with plants versus the fence and number two, to Bruce's point, moving some of these plantings towards the center of the property.

**Chairman:** Alright, let's take a 10 minute break.

**Attorney Mondello:** We will reconvene at 10:30. Thank you.

**Board requests recess.**

**Recess: 10:20pm**

**Reconvened: 10:31pm**

**Application ZBA2021-12 – 1049 Ringwood Avenue, LLC (Block 430/Lot 1)**

**Attorney Mondello:** I'd like to discuss the last application that we have, 1049 Ringwood Avenue, LLC. It appears that it is not going to be reached this evening so Jenn why don't you take a Roll Call, and Mr. Chairman if you can unmute yourself.

**ROLL CALL:** Chairman Jack Dunning, Vice Chairman Bruce Grygus, Members Suzanne Henderson, Donald Ludwig, Helena Aumenta, Michael Sbarra, Dana Lynch and Charles Sahanas

**Attorney Mondello:** Mr. Chairman, there is another matter 1049 Ringwood Avenue, LLC. It is apparent to me that it is not going to be reached this evening. Perhaps the Board should just consider carrying that to the next meeting.

**Chairman Dunning:** We need a Motion to carry this application to the next meeting.

**Member Ludwig:** I'll make the Motion.

**Member Aumenta:** I'll second.

**Attorney Mondello:** Mr. Molinelli, you have been patiently waiting. It is very nice to see you again. The Board typically winds down at about 10:45pm and it is now 10:33pm so the Board will be carrying your client's matter to the next scheduled meeting, which I believe Jenn is March 2<sup>nd</sup>?  
**Board Secretary:** Yes it is.

**Attorney Mondello:** You will be under old business as opposed to new business.

**Attorney Molinelli:** I appreciate that Mr. Mondello. I've actually enjoyed watching the Board Meeting tonight. I assume that the Board will not require me to re-notice. That the notice you have just given will be sufficient to carry to March 2<sup>nd</sup>.

**Attorney Mondello:** You are absolutely correct. If anyone is here for the application 1049 Ringwood Avenue LLC, and that would be at 1049 Ringwood Avenue, Block 430, Lot 1, it was the second matter on the Agenda. That matter is being carried to the March 2<sup>nd</sup> Meeting. No further notice is required.

**Attorney Molinelli:** Thank You, Mr. Mondello.

**Attorney Mondello:** Mr. Chairman, we'll go back to Mr. Zimmer and see how he has made out with his professionals with respect to the two items; the one Bruce mentioned and then the one the three other Board Members mentioned.

**Attorney Rutherford:** Mr. Mondello, I can address that. I did have an opportunity to speak with Mr. Zimmer and Mr. Egarian during the break. We understand the concerns of the Board and the interested parties are the buffer and fence combination, location of plant storage areas in the northwest and northeast corners of the property and perhaps the need for some additional detail on the irrigation system. We are going to need a little bit of time to address that. I don't think it is as simple as we'll move the fence, but we believe there may be some solutions there that might be acceptable, but we are just going to need some time to address that. Mr. Zimmer's partners also cannot be here this evening and he needs to consult with them as well. Respectfully, Mr. Mondello, what I would like to do if we can is to devote the remaining time this evening to further questions from interested parties for Mr. Zimmer. That way we'll know if there are additional concerns about this, we'll know what they are and then we all put our heads together between now and the next meeting and figure out what we can do to address them. I think that is the reasonable way to proceed, but whatever time is left, I liked to use just to see if there is any other questions for him that we can address in the interim.

**Attorney Mondello:** Yes, thank you. Fair enough. Any other questions from Board Members with respect to what Mr. Zimmer's testimony to date?

**Mr. Sbarra:** One other item that I've been aware of, in looking at the site plans here, to the western side of the property, understanding that there are some sheds that are, I guess, encroaching on this property, particularly Lots 7 and 8 on the plan there, it does state that those sheds are to be removed and I completely understand that with them encroaching, has there been any discussion with those property owners about the encroachment? If so, as opposed to just particularly just removing the sheds, has there been any dialogue in regards to relocating those sheds to align with their property lines?

**Mr. Zimmer:** We have not had any discussions as of yet. Certainly, we would be willing to do that. Of course, we want to work with the neighbors as best we can. If we can help with relocation, instead of just taking down those sheds, absolutely, we can have that conversation.

**Mr. Sbarra:** Fair enough.

**Vice Chairman:** Mr. Zimmer, since you are going to be coming back, I just want to throw something out to you there that, as Mr. Covelli had stated so eloquently before that you're pretty big commercial operation surrounded by residents, and you are going to be making a tremendous effort to buffer this new area, and I just going to throw out to you the possibility of considering maybe extending some of that buffer along your current existing operations along the roadway there.

**Mr. Zimmer:** Okay, I can take that into consideration for along the existing.

**Vice Chairman:** In other words, to the left of where your main gate is, maybe all the way up to where the second gate is. It is a very nice fence that you have, but you know, it is a pretty intensive site as far as a lot of different things going on and you do have some residents right across the street from it. This is just a thought while you are there doing what you're doing and maybe it just keeps neighbors a little bit more happier.

**Mr. Zimmer:** I am very open to that and speaking with the neighbors and seeing what we could do to clean it up. We do typically keep plant material all along that frontage so I think it is fairly attractive to look at but, as you said, I mean we could do some things to maybe clean up along that roadway and improve the look to the neighbors.

**Vice Chairman:** I appreciate that.

**Member Covelli:** Something interesting to note Mr. Zimmer is that, as Bruce just said, and we've had discussions with you, I think it is interesting that maybe part of this process is an awareness of both sides so you, as the business, operating in the middle of the residential zone, and the fact that the business that you operate, you beautify properties. That is your business, and you are very good at it. I was teasing you before about growing your business, but you are very good at what you do, and you've done a beautiful job in the Borough of Wanaque on the Welcome Park and on other places around the Borough and at Borough Hall. You are very good at what you do, and maybe one of the things we are asking you is that we want you to take that same level of expertise and care and apply it to yours so that the people there benefit from seeing that. They also have remember that, even though you are a non-conforming use, maybe you are a lot better to look at then high density housing, for example, so there is an awareness that you provide something to that neighborhood and a benefit as well. So maybe that is a little takeaway towards the end of the night for everyone to recognize that you are all neighbors and at the same time you can each benefit from the other being there.

**Mr. Zimmer:** I think that is very fair.

**Vice Chairman:** Just to piggyback a little bit with Frank, there are certain things that go on that inherent to your business that you are never going to be able to mitigate and still operate; trucks coming in and out, things of that nature. So anything you can make it better, I think just makes the whole acceptance of the business in the residential zone a lot more palatable.

**Mr. Zimmer:** I very much appreciate what you are saying.

**Member Covelli:** Bruce, to that point, Mr. Zimmer and his crew is not having loud parties on Saturdays and Sundays either. So the residents need to recognize that Mr. Zimmer is running a business. At the same hear are all the good things that Mr. Zimmer brings to the neighborhood that aren't happening that could be happening.

**Attorney Mondello:** Any other questions from Board Members before we move onto the public? Hearing none, seeing none, I do believe that Ms. Reilly was first up at bat and I'm going to ask her to unmute herself and turn on her video. Ms. Reilly, questions for Mr. Zimmer.

**Ms. Reilly:** I apologize if it is already on the plan, but as far lighting in that area back there, where will the light placement be? Will they be motion detectors because there are animals running in and out of there so I would think anything would set it off?

**Mr. Zimmer:** No lighting. We won't have any lighting back there.

**Ms. Reilly:** Okay. What about security cameras; placement of security cameras?

**Mr. Zimmer:** That is possible, but it hasn't been determined yet at this stage, but it is possible. We do have a few security cameras and I could see us having a few. Part of it is security of the property and we do have to keep the property secure so it hasn't been thought through, but I would imagine there might be a few security cameras.

**Ms. Reilly:** Of course, and I would think they would have to be pretty precisely placed to not be pointing in the wrong direction.

**Mr. Zimmer:** Of course.

**Ms. Reilly:** I don't know if I can explain it properly on the plan, there is an easement off the Jefferson Extension that is into our backyard. Honestly, I don't know exactly how easements work, but from what I understand, we wouldn't be blocked off from entering our yard. The last house on Jefferson, if you make a right off Whistler and that last house on Jefferson, behind that is an easement that goes into our yard that's actually on our survey. How would this affect that easement, or would it affect it at all?

**Mr. Zimmer:** I probably would have to refer to that Jeff Egarian, the Engineer. I am not aware of an easement or I've never seen it on any of the plans.

**Attorney Mondello:** Let's do this. Mr. Egarian, are you still with us? Could you respond to Ms. Reilly's question about this easement?

**Mr. Egarian:** No. I am not aware of an easement. We would have to look into that.

**Ms. Reilly:** I have my survey and I would be happy to share it with you.

**Mr. Egarian:** That's fine.

**Attorney Rutherford:** Ms. Reilly, just to be clear. Is the easement on your property, you are not contending that it's on my client's property?

**Ms. Reilly:** Honestly, I believe it is that property because that property kind of wraps around. We have an evergreen that is on the tip of the property where we were looking before and that's where it kind of wraps around. Where that loop-de-loop is there, in front of that is where the easement is because it's like a driveway into our backyard. I do believe that it is technically his property, but an easement, which I don't know if that word has any weight because I'm not 100% sure I understand.

**Attorney Mondello:** Mr. Rutherford, may I suggest this. It is now 10:45pm and the Board is going to wind down rapidly. Perhaps you can resolve this issue or question with Ms. Reilly offline. I'm sure she can find your phone number on the internet and take it from there.

**Mr. Egarian:** I would like to confirm if Lots are 13 and 17 are her lots.

**Attorney Rutherford:** Yes, that's my understanding.

**Member Aumenta:** Yes 13 and 17.

**Attorney Rutherford:** Ms. Reilly, please feel free to call me. Mr. Mondello, I think I have in my file, but I have to look for it, a copy of the title search that was done for the property in question so, yes, we will be happy to address that issue and hope we get it resolved prior to the next meeting.

**Attorney Mondello:** We are going to take one other question from Ms. Schmidt. Question only and then that's it. We are going to be adjourning this matter for the March 2<sup>nd</sup> meeting. Ms. Schmidt, questions only for Mr. Zimmer.

**Ms. Schmidt:** For my own clarification, I am directly next door to Scenic Landscaping. I am the house next to the shed, or trailer, that they have listed there. So the fence would go right across the top of the rock because I only own the front half of the rock. Obviously, you cannot plant trees on the rock. This certainly concerns me; like you would really put a fence across the top of the rock. Is that the plan?

**Attorney Mondello:** So I am also going to suggest because, quite frankly, we don't have the time that you perhaps reach out to Mr. Rutherford and discuss this matter. Maybe there is a solution, maybe there isn't. I understand your question and it seems a bit off-colored to have a fence on top of a rock, but perhaps Mr. Egarian and Mr. Rutherford can explain how that is going to occur or maybe, I don't know, they'll get around the rock somehow.

**Ms. Schmidt:** I appreciate the Board Members actually maybe talking about going around the rock. I don't want to look out my back window and see a big, black fence. It makes me very unhappy. I know it is not all about me but come on. We are doing this again on the 2<sup>nd</sup> of March?

**Attorney Mondello:** Yes. Any other questions, questions only. Mr. Hurtado that was the last question. You will have to wait until March 2<sup>nd</sup> to ask your question that's when we will resume. Mr. Chairman, I am going to ask that one of the Board Members a Motion, followed by a second, to adjourn this matter to the March 2, 2022 Meeting. No further notice, meaning that the applicant is not going to be mailing you a notice. If you have an interest in hearing the continuation of this application, you must appear March 2<sup>nd</sup>. I do not know whether it is virtual or whether it is going to be in person. We'll have to perhaps resolve that this evening. Mr. Rutherford, before we do the Roll Call, and we are just going to do it by voice, anything you want to add, anything else you want to say. It seems as though you and Mr. Zimmer have your hands around what the Board is looking for, questions that they have, additional details on the site plan that they are looking for. Anything else you want to add before we adjourn your application?

**Attorney Rutherford:** No. We appreciate the fact that the Board has been very forthright in its comments and by the interested parties. So no, I think we understand what the issues are. I re-noticed Mr. Mondello for this evening really because it was Zoom instead of in person so I guess, I don't want to put the Board on the spot here, but I think it probably would be appropriate to announce whether the meeting is going to be Zoom or in person.

**Attorney Mondello:** I agree whole heartedly and would love to be able to resolve that in less than thirty seconds.

**Member Covelli:** Jennifer, isn't the Mayor & Council Meeting by Zoom in March?

**Board Secretary:** I have no idea. I definitely know their February 14<sup>th</sup> is, but I don't know about March.

**Attorney Mondello:** In order to expedite this, I am going suggest that the meeting, just for March, remain virtual, unless of course the Board Members have a strong opposition to that suggestion.

**Member Covelli:** I believe the Mayor & Council will be meeting in March via Zoom.

**Attorney Mondello:** All right, that answers that question. The meeting will continue virtually. I will send out a link. Again, anybody that is interested in this application, there will be no further notice. It will be conducted virtually via Zoom March 2<sup>nd</sup> at 8pm. No further notice.

**MOTION TO CARRY APPLICATION ZBA2021-08 TO THE MEETING ON MARCH 2, 2022:** made by Member Ludwig, seconded by Member Lynch. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

**RESOLUTIONS: ZBA2021-11 – 435 Ringwood Avenue, LLC**

**Attorney Mondello:** This Applicant came before the Board to permit the construction of a first and second floor addition to an existing two-family dwelling in a zone where two-family dwellings are not permitted. The typical conditions were placed in the Resolution. The existing shed will be removed and the addition will be made to look uniformed with the existing homes. No utilities shall be placed on the side of the house and the Applicant will be installing some type of french drain. I'll entertain any questions, comments the Board Members may have at this time.

Hearing none, seeing none, I'd ask for a Motion followed by a Second.

With your permission Mr. Chairman, I'll call those Members eligible to vote.

**MOTION TO MEMORIALIZE THIS RESOLUTION AS PREPARED BY BOARD ATTORNEY:** made by Member Aumenta, seconded by Member Ludwig. Voting yes were Chairman Dunning, Members Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas Motion Carried

**ENGINEER'S REPORT:** No new applications, but I do actually have something to talk about but will present it next time which was the Governor's signing of the Bill to streamline the permitting of electric vehicles charging stations. The Bill actually defines under the Municipal Land Use Law as an inherently beneficial use and the applications don't require site plans and they don't require variances. I don't know what happened to home rule in this State.

**Vice Chairman:** They are putting them all over the place. They just did one in Pompton Lakes.

**Board Secretary:** They are going to be putting them in Stop & Shop.

**VOUCHERS:** submitted by Ronald Mondello, Esq. for 435 Ringwood Avenue LLC Application in the amount of \$990; and attendance at the February 2, 2022, Meeting in the amount of \$400.

**MOTION TO APPROVE:** made by Member Ludwig, seconded by Member Aumenta. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

**VOUCHERS:** submitted by Boswell Engineering for Ramos Application in the amount of \$106; for 435 Ringwood Avenue LLC Application in the amount of \$742; and 1049 Ringwood Avenue LLC Application in the amount of \$318.

**MOTION TO APPROVE:** made by Member Aumenta, seconded by Member Lynch. Voting yes were Chairman Dunning, Vice Chairman Grygus, Members Covelli, Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas

**MOTION TO APPROVE JANUARY 5, 2022 MINUTES:** made by Member Aumenta, seconded by Member Henderson. Voting yes were Chairman Dunning, Members Henderson, Ludwig, Aumenta, Sbarra, Lynch and Sahanas  
Vice Chairman Grygus and Member Covelli abstained

**MOTION TO ADJOURN AT 11:00PM:** made by Member Ludwig. Motion carried by a voice vote.

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**Jennifer A. Fiorito**  
**Board of Adjustment Secretary**