

MINUTES OF THE
EAST BRUNSWICK TOWNSHIP
BOARD OF ADJUSTMENT

February 4, 2021

STATEMENT - Open Public Meetings Act

FLAG SALUTE

ROLL CALL -

PRESENT:

Christine Rampolla, Chair
Chester Brandt
Robert Zuckerman
Steve Philips
Dinesh Behal
Leon Gurevich
Steve Pepe

ABSENT:

Ivan Wynter
Deepak Arora
Amy Papi

ALSO PRESENT:

Jay Weiner, Esquire
Aaron Blessing, Zoning Assistant
Colleen McGurk, Planner
Jason Cline, Engineer
Keith Kipp, Director of Engineering/Planning

MINUTES

January 21, 2021 - Motion to approve by Mr. Behal,
second by Mr. Gurevich. Minutes approved.

RESOLUTIONS

Chair - Motion to adopt by Mr. Behal, Second by Mr.
Brandt. Resolution adopted.

Vice Chair, Secretary, Recording Secretary,
Attorney, Conflict Attorney - Motion to adopt by Mr.
Pepe, second by Mr. Brandt. Resolution adopted.

Engineer - Motion to adopt by Mr. Philips, second by
Mr. Behal. Resolution adopted.

Conflict Engineer - Motion to adopt by Mr. Behal, second by Mr. Pepe. Resolution adopted.

Application #Z-20-16 - Lyman - Proposed in-ground pool at existing residence with bulk variances located at 122 Willow Street, block 122, lot 8.02, in the R-4 zone. Motion to adopt by Mr. Behal, second by Mr. Philips. Resolution adopted.

OLD BUSINESS

Application #Z-20-05 - Rockland National Development, LLC - Proposed single-family dwelling located at 295B Milltown Road, block 317.13, lot 36.04, in the R-3 zone. Mandatory date March 31, 2021. Motion to approve by Mr. Zuckerman, second by Mr. Behal. Application approved with conditions.

ADJOURNMENT

Motion to adjourn by Mr. Philips, second by Mr. Gurevich. Meeting adjourned at 9:15 p.m.

THE CHAIRWOMAN: The township is using the telephone meeting format in an effort to mitigate the chance of exposure to COVID-19 as part of the township's ongoing effort to slow the rate of transmission and avoid overwhelming our treatment centers. The dial-in information and agenda have been posted on the township web site and are posted on EBTv for members of the public. Members of the public can call in with the number provided if they have any questions for the zoning board members. You will have 3 minutes to speak. Should you have any further comments or questions, the planning and engineering office is always available by e-mail and phone. Each member of the public shall only have one opportunity to speak during the public portion. Thank you in advance for your patience as we implement this new technology to continue to move the township forward during this health emergency.

This is the February 4, 2021, East Brunswick Township Zoning Board of Adjustment meeting. In accordance with the Open Public Meeting Law, on December 22, 2020, notice of this meeting stating the time, date, and location was sent to the

Home News Tribune, filed with the township clerk, and posted on the bulletin board in the lobby of the municipal building. A copy of this notice will be incorporated in the minutes of this meeting.

The zoning board will not hear any case beyond 10 p.m. with the exception of any hearing in progress at that time and will terminate all testimony at 10:30 p.m. The Chair reserves the right to call any application in an order different from that appearing on the agenda.

Keith, can you add the flag to the screen so that we can ask everyone to please rise for the pledge of allegiance.

MR. BLESSING: I've got it.

(Flag salute)

THE CHAIRWOMAN: Thank you.

Mr. Blessing, can you call the roll.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Here.

MR. BLESSING: Thank you. Mr. Pepe.

MR. PEPE: Here.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Here.

MR. BLESSING: Mr. Arora. Miss Papi.

Mr. Wynter. Mr. Zuckerman.

MR. ZUCKERMAN: Present.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Here.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Here.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Here. Thank you.

First we have the minutes for January 21, 2021, which there was a second version sent out with small revisions. Is there -- were there any updates, changes, or comments to those minutes? Hearing none, can I have a motion on those minutes.

MR. BEHAL: I'll make a motion to move.

THE CHAIRWOMAN: Thank you.

MR. ZUCKERMAN: Second.

THE CHAIRWOMAN: That was Dinesh and

then Rob?

MR. BLESSING: Pardon me, Chairwoman.

The records I have, Mr. Zuckerman was not present for the meeting on the 21st.

MR. WEINER: We need another second.

THE CHAIRWOMAN: Okay. Can someone else second?

MR. GUREVICH: Second.

THE CHAIRWOMAN: Leon, thank you.

Mr. Blessing, can we have a roll call.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes. Thank you, Aaron.

We have a number of resolutions to go through.

MR. WEINER: Madam Chairwoman, if I may, and I apologize for interjecting. A lot of times in the past we would do these resolutions in a block, and I know you and I had discussed whether to do that or not. We -- it's not going to be appropriate this evening because some of those resolutions there was -- there are abstentions, so it's not the same people that voted for -- were eligible to vote for every resolution. So before we call a vote, what I wanted to do is also I believe two of the resolutions had some minor technical changes grammatically for pronouns or gender, things of that nature.

Aaron, were those corrected and resent to everyone on the board?

MR. BLESSING: Yes, they were.

MR. WEINER: Okay, so we're voting on now, those are the final revised versions, and what I would ask, Aaron, is perhaps you can pull out the three that had the abstentions. I believe there were three resolutions that had abstentions.

MR. BLESSING: Okay.

MR. WEINER: Do you know which ones they were quickly?

MR. BLESSING: Yes, the nomination for chairperson --

MR. WEINER: Okay, so why don't we do that one first.

MR. BLESSING: Okay.

MR. WEINER: Is there a motion on the nomination -- the resolution for nomination of our chairwoman.

MR. BEHAL: I make the motion.

MR. WEINER: Okay. And a second.

MR. BRANDT: I'll second that.

MR. WEINER: Okay. And then, Aaron, I

guess if you can call the roll, and obviously, the abstention would not be eligible.

MR. BLESSING: Certainly. Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes.

I think the next one --

MR. WEINER: I guess -- well, we may not be going in order because I want to -- the next of the -- there were two more that had abstentions. So, Aaron, which one is next with the abstentions?

MR. BLESSING: That would be for secretary; however, the individual who abstained is not with us this evening.

MR. WEINER: So we can leave that with the bundle, and then what was the last one?

MR. BLESSING: Next one is for the engineer.

MR. WEINER: Okay, so if we can do a stand-alone motion for the resolution for board engineer.

MR. PHILIPS: Well, there's two engineers.

MR. WEINER: Was it the Remington Vernick or CME, Aaron?

MR. BLESSING: Yes, it was Remington Vernick, not the conflict --

MR. WEINER: Not conflict.

MR. BLESSING: -- specifically.

MR. WEINER: So this is for Remington Vernick, the resolution. Is there a motion on the floor?

MR. PHILIPS: I'll move that.

MR. BEHAL: I second it.

MR. WEINER: And we can call the roll.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brand.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes.

MR. WEINER: And then for the other resolutions, which were for vice chair, secretary, as we just mentioned, recording secretary, attorney, conflict engineer, and conflict attorney, since everyone present is eligible to vote for those, can we get a motion to move all of those resolutions simultaneously.

MR. BLESSING: Excuse me, Jay, I'm looking over the notes now. I see just as well as conflict engineer also had an abstention.

MR. WEINER: Let's pull that one. We'll do that one last. But as to all the others I mentioned, conflict attorney, board attorney, recording secretary, board secretary, and vice chair, if we can have one motion for all of those at one time.

MR. PHILIPS: I'll move.

MR. PEPE: I'll make a motion.

MR. WEINER: We have a motion. Is there a second?

MR. BRANDT: I second.

MS. CLARKE: Pardon. Who mentioned?

MR. PEPE: Steve Pepe.

MR. BLESSING: And who second, Mr. Brandt?

MR. BRANDT: Yes, sir.

MR. BLESSING: Okay.

MR. WEINER: You can call the roll.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes.

MR. WEINER: And then the last resolution is for board conflict engineer, CME Associates. If we can get a motion on that.

MR. BEHAL: I make a motion.

THE CHAIRWOMAN: That was Dinesh. Thank you. Is there a second?

MR. PEPE: I'll second it.

THE CHAIRWOMAN: Thank you, Mr. Pepe.

MR. WEINER: And, Aaron, if you can call the roll.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes.

MR. WEINER: And, Madam Chairwoman, I will turn the meeting back to you.

THE CHAIRWOMAN: Thanks, Jay. All right. Our last resolution is application Z-20-16, Lyman, a proposed in-ground pool at existing residence with bulk variances located at 122 Willow Street, block 122, lot 8.02, in the -- sorry -- in the R-4 zone. Can I hear a motion on Z-20-16.

MR. BEHAL: I make a motion to approve.

THE CHAIRWOMAN: Thank you, Dinesh. Is there a second?

MR. PHILIPS: I'll second it.

THE CHAIRWOMAN: Thank you, Steve.

Aaron, can you call the roll.

MR. BLESSING: Okay. Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: Yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: Yes. Thank you, Aaron.

In old business, we have application Z-20-05, Rockland National Development, LLC, the proposed single-family dwelling located at 295B Milltown Road, block 317.13, lot 36.04, in the R-3 zone.

First, just a few housekeeping things. We want to -- I want to put on the record that we have a few members of the board who were not present at the last meeting but who have signed certifications that they've read the previous minutes where this application was heard, and so they're now considered eligible to vote on this application. Those three members are Rob Zuckerman, Leon Gurevich, and Steve Pepe.

At the last -- at the last meeting, Mr. Weiner, you had let us know that you had already reviewed the notices and found them acceptable.

MR. WEINER: Correct.

THE CHAIRWOMAN: Also that we have jurisdiction, but in the notes that we've received since the last meeting, I think there are some changes to the variances that they're asking for, so can you just give us some feedback on that.

MR. WEINER: Yes. The board still retains jurisdiction on this matter. As everyone should recall, the application involved two lots, I'll say the mother lot, referencing the lot where the home is proposed to be built, and then there was the adjacent lot fronting Milltown Road where the easement exists and is to run across. If you're -- if everyone will recall, there was an issue last time about with relation to the easement on that second lot regarding impervious coverage and striping for parking, and there may have been a couple of other matters in there. The applicant has revised the plans, as everyone has seen, to address that; however, the application and the notices reference both lot and block numbers, so that's a nonissue because it's -- as far as notice-wise to the public and so forth, anyone who needs to be notified about any application affecting either of those lots has been included in the notices.

Additionally, the ownership of the adjacent lot where the driveway is fronting Milltown Road, Mr. Pickus has provided us with a notarized letter from the ownership of that lot confirming that they are joining the application as an additional applicant, so therefore, there is no question as to whether or not the board's rulings as to these properties, since they're under different ownership, would be -- that the board would have jurisdiction because they are acknowledging that they're joining the application, and that was done today formally. I received that letter from Mr. Pickus. So based on the two, there's no issues, and the board can vote on this as one single application regarding to all of the relief that's sought as it effects both lots, and the notices also are sufficient to cover the additional relief that is now being sought based on the revised plans based on the language of the notices, so that's sufficient, as well. So based on all of that, we're good to go.

THE CHAIRWOMAN: Thanks, Jay.

MR. WEINER: And just to add, Madam Chairwoman, on the technical side, if I misspoke about what the issues were, I'll ask Colleen to please jump in and correct me.

MS. MCGURK: Hello. Well, you stated landscaping, lighting, curbing, and striping. Those are the issues that need to be addressed in the front lot.

MR. WEINER: And the variance is for impervious coverage, if I'm --

MS. MCGURK: There's a variance required for the lot 34 for impervious coverage and then the existing variance for minimum lot width for lot 36.04 where the house would be built.

MR. WEINER: Yes. And with that said, Madam Chairwoman, aside from my preliminary comments as well as Colleen's, we can probably move forward now and pick up the application.

THE CHAIRWOMAN: Okay. Mr. Pickus. Hello. I think you're on mute. I think you're still on mute. There you go.

MR. PICKUS: Thank you very much, Madam Chairwoman.

THE CHAIRWOMAN: Before you go on with or start with the application, is there -- I see Mr. Leber is here. Will there be other experts?

MR. PICKUS: Mr. Leber will be our only expert.

THE CHAIRWOMAN: Okay. Great. Thank you.

MR. PICKUS: All good?

THE CHAIRWOMAN: Just asking for timing. You can go ahead. Thank you.

MR. PICKUS: Madam Chairwoman, ladies and gentlemen of the board, and township staff, thank you very much for your time tonight. My name is Evan Pickus. I'm with the law firm of Pickus & Landsberg in East Brunswick, and I represent the applicant in this application tonight.

As most of you are aware, we were here a couple of weeks ago. We presented our plans. We presented our testimony from our expert, and during the question-and-answer session, some of the board members raised some concerns, and they were valid concerns. So we've taken the time over the past couple of weeks to revise the plans, and I believe we've been able to satisfy all of the concerns that the board members raised during our last meeting.

I have today with me Marc Leber, who is our expert witness in this matter. Madam Chairwoman, Mr. Leber is still under oath, that's correct?

THE CHAIRWOMAN: Yes, he was sworn in at the last meeting so thank you for the reminder to

Mr. Leber that you're still under oath. Thank you.

MR. PICKUS: So then what I'd like to do is I'd like to turn this over to Mr. Leber so he can explain the changes in the plans and let you know what we've done to ameliorate the concerns of the board.

MR. LEBER: Thank you. Hi. Good evening. In the last meeting, I had actually presented a color rendering, which was Exhibit A-3 of the variance plan. That plan has since been updated, and I have a new version of that plan that I'd like to share tonight, and I think we're up to A-5, if I'm correct. Would it be A-5?

MR. WEINER: A-5. I'm sorry.

MR. LEBER: So A-5 is going to be the revised variance plan. So I'm going to bring that on the screen momentarily.

MR. PHILIPS: Aaron, is this what was included with your packet?

MR. BLESSING: Yes.

MR. LEBER: So this drawing is revised with a date of December 1, 2020, and I'm going to explain what the differences are versus the plan we showed at the prior meeting. You know, there were some issues about improvements that were originally approved in the early 80's when the lot was a realtor, and there's since been an agreement that was put into effect between the property owner and the township, to which I believe they filed for all the required construction permits this week to finish the open lighting and landscaping improvements, and I think there were some other striping details and things that were not completed for whatever reason. Because of that agreement, I'd actually put a note on this plan that states existing improvements located on lot 34 are subject to the January 21, 2021, legal undertaking on file with the township planning office, and what this really means is that we're not actually asking for a site plan approval on lot 34. There were some comments about, well, what does this do to the lot coverage, you know, paving the driveway to the lot in the rear, and there were other questions about what is the overall lot coverage versus what's permitted, and I believe Mr. Philips had asked that question. So what I had done is I took a high-resolution scan of the 1980 plan, and based upon what was approved, I estimated that the lot coverage was about 8,150 square feet.

Now, we had a brand new as-built survey

done of that lot prior to filing this application, and I calculated the lot coverage based upon that new survey as 8,870 square feet. So it is a little more than what was previously approved in 1980, and then the current application, which is to more or less pave the driveway to the rear, is going to add another 730 square feet of coverage to lot 34, which would bring the total to 9,600 square feet, which is approximately 59.9 percent lot coverage for lot 34. Now, that information is added on the bottom of this plan here, which indicates that I'm at 59.9.

Now, being in this R-3 zone limitation, lot coverage limitation is only 30 percent, and frankly, the only explanation for this is that lot 34 was actually previously zoned OP-1. It was a nonresidential zone district. I believe that might have changed in 2018 through the enactment of a new ordinance. Had it still been OP-1 zone, then the lot coverage limitation would be 65 percent. So, you know, the easiest and simplest explanation as to why we're at 59.9 is more or less that we started off at 55.4 before we even put this project together, but the board, you know, would have to weigh the fact that this was previously zoned in an office zone district.

The other change to the plan was the alignment of the left edge of the new driveway I was able to move north about 4 feet, and the reason I was able to do that is because the striping in the rear of the painting business building was not done in accordance with current code. This plan here shows in red 9-by-18 parking stalls with a 25-foot-wide aisle and then another row of 9-by-18 parking stalls, and beyond that 9-by-18 parking stalls on the left I can start my access driveway, which I have dimensioned here as 14.11 feet. I was really only aiming to have a minimum of 12 so having 14 was actually pretty good. And in doing so, we can fit that entirely within this 15-foot-wide utility access easement -- utility and access easement, which would be formed for the benefit of the owner of lot 36.04 in the back.

In addition to having the driveway, they'll be able to run their sewer, water, and gas line out to Milltown Road to bring those services into the house.

There were some other minor revisions to the plan. The block on the bottom down here, the signature block, previously said planning board. I amended that to indicate zoning board. And I

deleted the term minor site plan as we're not asking for a site plan approval on lot 34.

And I looked through the comments from the prior staff report, which was dated June 10, and I'm also in receipt of the updated report from Mr. Cline dated February 1, and I'm pretty confident I can address all the issues in there.

In looking at item 1, which is an update to the title block, I had added both lots 34 and 36.04 to the title block on the bottom corner to reflect the fact that the application really does involve the two lots.

In item 2, Mr. Cline indicates that this is an improvement over the prior plan. It allows for more or less a straighter access, simpler removal of snow, and for maintenance and whatnot.

Item 3, he also notes that these lots were previously zoned OP-1, and that changed in 2018.

And item 4 goes through the lot coverage information, which I had indicated earlier.

Item 5 is a statement that we are going to go to 59.9 percent on lot 34, and frankly, from a practicality standpoint, I don't think that the extra 730 square feet is of any significance. I think it's rather negligible, and I would offer that we wouldn't need to construct any kind of stormwater management for such a small area. So in response to 6, I would ask that the board would consider that 730 square feet negligible.

For item 7, my plan does not show hairpin striping, but we have no objection to doing hairpin striping. That's the town standard, and we would like to comply with that.

Item 8 is a deferral to the building department regarding ADA accessibility, and frankly, we would have to comply. There's no waiver from that.

MR. CLINE: Marc.

MR. LEBER: Yes.

MR. CLINE: Apologies. The point of that is whether, you know, because I wasn't certain if you had room for ADA -- for hairpin striping and if you had room to put an ADA parking space. That's a commercial lot up front, and ADA space, and I know you're very tight on parking count. That's the thrust of that comment.

MR. LEBER: Okay, so to provide the ADA space would result in a loss of one parking space because you have to have the accessible aisle to the

site.

MR. CLINE: I don't think that curved striped area you have right next to the eastern -- the easternmost parking space, I don't know if you can actually expand that without causing a problem. If you can turn that into an ADA space, that may be appropriate.

MR. LEBER: I actually can expand that. The width of that radius is slightly over 30 feet. Practically, I only need 25, and because there's no parking on that aisle, I can even reduce it further as it's just an aisle where cars pass each other. So I think I could make that first space the ADA space.

MR. PHILIPS: Marc, could you use your cursor and show us where that is.

MR. LEBER: Sure. From the corner of this concrete to the radius, which is in red, is 30 and a half feet. Now, a normal aisle in a parking lot is 25 feet, but 25 feet is provided because you have cars backing into the aisle and trying to get out. In a situation where you just merely have an aisle where there's no parking on the aisle, it's pretty common to reduce those widths as low as 22 feet because there's no parking on the aisle. So if I reduce the 30 and a half to let's say 25 feet, I can probably turn this into the ADA aisle adjacent to this first space, which would become the ADA space.

MR. PHILIPS: Is that the closest spot to the access to the building?

MR. LEBER: It's the closest to this entrance where there's actually a concrete sidewalk up by Milltown Road, but probably this spot is closest to the back entrance.

MR. PHILIPS: But is there ADA access at that spot?

MR. LEBER: You know, it's probably predating the regulations because I think this building was originally built as a house.

MR. PHILIPS: Uh-huh.

MS. MCGURK: I don't -- Chairman -- sorry -- Chairwoman, I don't believe that there's any ADA access to that building. I checked that. So ADA stall might not be required, but we would need to determine tonight if there's room; otherwise, they would need to seek a variance.

THE CHAIRWOMAN: When you say ADA access, are we just talking about the parking, or are we also talking about sidewalk access ramp

access?

MS. MCGURK: Access into the building.

MR. KIPP: As opposed to steps, ramps, you know, something ADA accessible. We don't believe it's there.

MR. LEBER: Unfortunately, the drive aisle, itself, would fail the maximum slope to the door. In other words, if you were to say the ADA path to this concrete landing up by the building was to go up the driveway, this is far too steep to comply with ADA. So I don't know if that's, you know, I don't know if that's the appropriate ADA path.

MR. CLINE: And actually, Mr. Leber, I'm looking at that concrete sidewalk where it comes out towards Milltown Road. Streetside mapping says that that's a step of approximately a 6 to 8-inch reveal where --

MR. LEBER: There is a lip there.

MR. CLINE: So unless there is a path in the rear to get into the rear door that is ADA accessible --

MR. LEBER: So there's a rear door right where my hand is on this drawing at the, you know, the corner here, but this concrete has a lip, as well. Might be like a 4-inch lip. You know, that could be changed -- let me see something here.

MR. PHILIPS: Marc.

MR. LEBER: Because I think there's another door in this corner that goes into the lower level.

MR. CLINE: Pictures that shows that one of your previous exhibits where you took shots from the residential site shooting back.

MR. LEBER: Let me flip and see. Let me see what I have there. I have a photo from A-2. I don't think it's a very good photo though. You can see the door that's further in from the park -- here's the concrete area with the lip that I was saying, but, you know, I don't know if there's -- you know, there's really no way to zoom in because it's obscured, but it seems like that would be the best door to provide access to.

MR. PHILIPS: If you place the ramp there, then you'd be able to be ADA compliant.

MR. LEBER: Yeah, and I think that's doable.

MR. CLINE: Yeah, it looks like that storm door that's barely visible past the back end of that van, at most it has a lip of 2 or 3 inches

rather than the concrete sidewalk to the left.

MR. LEBER: Right.

MR. CLINE: -- of that -- and that -- the distance from that doorway to the area we were talking about already has the potential to stripe is going to be very, very close to the same distance as from that parking space to the northwest, the one right next to the concrete walkway.

MR. PHILIPS: Where the pickup truck is.

MR. LEBER: You know what, I actually have a better photo. I'm going to put it up. We can mark this photo I guess A-6. But I agree with you. I think that is the best spot. Let me just get this other photo downloaded.

MR. WEINER: While we're loading that photo, just to make sure I'm getting this correctly, we're looking about -- on lot 34 adding the ADA space to the first spot in the southeast row if I'm correct, and on lot 34, we're looking to add an ADA ramp and access to the southeast corner of the building.

MR. LEBER: Yes.

MR. PHILIPS: (Audio disruption)
discussing, yes.

MR. WEINER: I just want to make sure what we're talking about so if we go further I have my notes correct now.

MR. LEBER: Let me switch to -- we're going to call this A-6 is a photo of the rear of the building.

MR. GUREVICH: Can I ask just before we move off of this image, when we're talking about striping and painting, is there any other borders or boundaries that will be put in place in terms of designating those spots, especially relative to the easement driveway?

MR. LEBER: Other than the striping and, you know, some signs, you know, don't park on the easement, no, it would just be striping. The problem with like a fixed, you know, barrier is it always kind of messes up the drainage.

Let me bring up this picture. I think it's going to be helpful. That's the door that has the best access and that parking spot will be right here on the right of the photo.

MR. GUREVICH: Is it not possible to put a parking spot right near that door without obstructing or blocking?

MR. LEBER: I would need 16 by 18 to do that.

MR. GUREVICH: I'm just looking at the distance over here in the diagram and with the side on the east corner of the house. Looks like quite a bit --

MR. LEBER: What would be likely is the accessible aisle would be to the left of the vehicle, which would cover the area in front of the door. That would be striped out as an aisle. And then the vehicle would have to park head in towards like the recycling cans.

MR. GUREVICH: Exactly.

MR. LEBER: I mean, I have the exact dimension from the back of that space to the radius to see if it, you know, can have two cars pass. Just, you know, estimating, I think it's not going to be able to clear two cars because it's going to, you know, stick out into that aisle on the bend.

MR. GUREVICH: Yeah, but that actually potentially gives you that entire space that is currently at the bend that you can eliminate, right, and still maintain the same number of spots.

MR. ZUCKERMAN: The only thing is would they have -- how would they pull into that spot if they came into this lot? They'd have to turn around to pull in?

MR. LEBER: Or back in.

MR. ZUCKERMAN: Or back in, but --

MR. LEBER: Then when you have to leave, then it's the same issue.

MR. PHILIPS: Is there sufficient space for K-turning in there assuming it was full of cars?

MR. LEBER: I mean, no, not really. A 25-foot aisle is not going to be enough for a K-turn.

MR. PHILIPS: So if they -- if it was that spot, how would then get access and then leave?

MR. LEBER: I mean, unfortunately, right now on the property, if this striping scheme was put into effect, the K-turn area becomes where we're discussing putting the handicap spot. Like someone pulls in here, okay, there's nowhere to go so they back in here and then they can get out. You know, I mean, I -- personally, I will be happy putting the ADA spot here and then just striping this off No Parking or something so no one blocks that doorway.

MR. GUREVICH: Exactly.

MR. LEBER: Wait. I think I'm looking -- which screen are you looking?

MR. KIPP: We're looking at the picture, Marc.

MR. LEBER: Okay, I'm sorry. I have to go back to the --

MR. PHILIPS: You're moving the cursor through the picture.

MR. LEBER: Yeah, it gets confusing after a while. So let me backtrack a little bit. I'd be perfectly putting that ADA space here and general just striping this area off No Parking.

THE CHAIRWOMAN: Marc, can you just describe here so it's in the minutes.

MR. LEBER: Yes. In the rear of the building, looking at the rear of building on the right side, that's where we would stripe it No Parking, and, you know, it actually might work out well because they store their containers there for garbage and whatnot, so it's probably better if someone doesn't park there, but if they need to make a turnaround, it's probably a good spot.

MR. PHILIPS: At the risk of asking (audio disruption) the access road for the house that you're intending to put there, what would stop somebody from using that as part of a K-turn maneuver?

MR. LEBER: Oh, they absolutely can because that driveway is shared between access to this parking lot and the house, so --

MR. PHILIPS: Right, there's nothing to block somebody from riding over the imaginary line.

MR. LEBER: Correct, but, you know, it's an easement, so as long as they don't park a vehicle there and leave it unattended, that's the whole idea of having a shared access is that everybody has to understand that it's shared between two parties and that they shouldn't, you know, park a vehicle there and block somebody in.

MR. WEINER: If I may on that note, I mean, one of the I think -- probably the next thing we were going down the order on addressing in Mr. Cline's memo, number 8 dealt with the -- addressing things regarding the functionality of the access easement, and the three position points in there, which I'm in agreement with, relocating parked vehicles that line the driveway, keeping the driveway open and unobstructed, and responsibility for maintenance, snow removal, et cetera --

MR. LEBER: Yeah.

MR. WEINER: -- all need to be addressed as to who's responsible to assure all of that in the access easement, and what we would need to do, should the board grant favorably on this

application, is as a condition, applicant's counsel would need to provide me, the -- as board's attorney a draft of the access -- of the access easement, itself, for review to make sure these things are properly addressed so there's no issue later on and both the non-burdened property owner knows that the other property owner is taking care of it and the township as far as any enforcement issues knows who's responsible to take care of it. So that would have to be addressed in the easement document, itself, which would be recorded with the county and become public record.

MR. LEBER: I think Evan Pickus would take care of that.

MR. PICKUS: Yes.

MR. WEINER: Evan, are we consistent on that?

MR. PICKUS: We are consistent.

MR. KIPP: Hey, Marc, this is Keith. I do like the idea of where you're proposing that ADA handicapped parking stall and modifying that gore area that you're showing; however, I do have a concern with since the driveway is technically two-way traffic, if you're coming into the house, you're kind of transitioning from the right side to the left side, and now you're going to put potentially someone in a wheelchair in that path. So I like the idea, Marc, but I just think for channelization, you might want to add a couple of bollards or something or some type of signage to indicate, you know, that there is a potential movement in that direction.

MR. LEBER: Okay. Let me think about what we've done elsewhere for that scenario.

MR. CLINE: I would look at it as trying to do something with pavement markings, perhaps reflectors or things like that, because putting bollards or even like the typical ADA sign is going to actually impact pushing snow around or the aforementioned K-turns, but I think Keith is right that, you know, if someone is pulling in off of Milltown Road to go to the house in the back, there is a spot somewhere along that downslope where they're going from hugging the right side of the driveway to effectively hugging the left side of the driveway and interactions between somebody crossing. You know, maybe the striped area that you're talking about outside the rear door of the building and the striped aisle next to the ADA space are joined by a striped crosswalk with reflection or something.

MR. KIPP: Well, for the ADA stall, he's going to need a bollard no matter what because you're going to have to put that sign at the end of --

MR. CLINE: Right at the head of the space. You're right.

MR. KIPP: Standard indicates a bollard there.

MR. GUREVICH: That's why, you know, as I was kind of thinking about that space closer to the building and removing that other space, giving more room for a K-turn, potentially solves two issues in terms of placing the car door closer to the entrance and at the same time not putting that person in the middle of traffic.

I had another question just in regards to the property being, you know, separated from Milltown Road. Is there any concerns in terms of the width of the driveway with respect to fire department access or emergency vehicles given I believe standard width requirement being 20 feet, or is that not applicable in this case? So how far --

MR. LEBER: Twenty feet's usually the standard, and I don't know how they apply that to a residential dwelling because most residential dwellings don't have a 20-foot continuous paved access, although on the other hand, I don't have a comment from the fire department on the application. I mean, candidly, what I can tell you is that if there was, you know, some reason to go to the rear of this property with a fire truck, you know, they're probably going to pull straight through the parking lot and, you know, be somewhere on the lot line, you know. The trucks don't generally want to get too close to buildings if there's an active fire, you know, because it's unsafe for the equipment, but, you know, if that's something that is a concern and, you know, you want me to, you know, speak with them about that, you know, assuming the board were to approve this, I would be happy to do that.

MR. WEINER: Jason, any thoughts?

MR. CLINE: Yeah, the 14-foot aisle or 14.11-foot aisle, which is at the net kind of at the bottleneck as you go past the parking, that's very akin to a travel lane on a road, which a fire truck can navigate. It's actually almost -- it's roughly 23 feet at the beginning of the driveway coming in off of Milltown, and then it narrows because of the striping, and there will be -- Keith is right --

there will be a bollard there. I think 14 feet is wide enough to get a truck back there. They won't -- they won't -- it's not something they prefer because effectively it becomes they're the plug in the bottleneck, and, you know, backing out to Milltown Road is not -- is not fun, but, yeah, I believe, Marc, you probably have enough space. I do believe you should have discussion with the fire company because the alignment or width of the driveway, the proposed driveway on lot 36 -- on the rear lot, 36.04, that may be tweaked at their request to make sure that their transition from -- that their access is maximized, and I don't have a problem with that.

MR. LEBER: I mean, the simplest thing for me to do is to just leave this piece of pavement that's out there now, you know, and then they have a very wide more or less an apron into this property.

MR. CLINE: Get their opinion on it. They may have a minimum that they want you to do. There's some of that pavement that definitely needs to come up, like the piece that isn't on either of these two lots, that definitely needs to come out. There's some of that that can come out no matter what, but, yeah, I'm definitely solicitous of fire departments' prerogatives. It's an 80,000-pound truck that we need to make sure that they can get back there timely.

MR. GUREVICH: Obviously, it depends on where the pumping areas and the hydrant versus access to the house. That was the reason that I asked in regards to the striping with the parking spots bordering onto the driveway, the shared driveway. I mean, obviously, you know, 14.1 feet might be adequate. As we all know, when there is a stripe, that typically means that my tires touch the stripe and my hood extends beyond that stripe potentially. So in terms of not aggressing beyond that, finding a way to prevent that 14.1 feet becoming 12 feet or less is I guess the question in terms of some sort of, you know, physicality over there, but I'd leave that to the board, just service that as a question.

MR. WEINER: Jason, if I may ask you a question, as well. With regard to this issue and not having a commentary from our fire district folks, are these issues something that we're more comfortable having addressed before a vote, or is this something that you would be comfortable -- is there a way that you would feel comfort level to

advise the board of your comfort level if it's something that could be addressed as a condition?

MR. CLINE: I think since effectively fire is also considered an outside agency, we can treat it that way and acknowledge that one of the conditions will be seeking comment and approval from the fire official. I don't think we're in a place that we have to have that agreement from the fire official prior to voting on it. Marc may have, you know, because there's a few things we've already discussed that are effectively on the table, and if any of those solutions -- the board is comfortable with any of those, Marc can go to the fire official, and if any of those are what the fire official wants, he's in good shape. If there's something that the fire official wants that's kind of we'll say wildly outside the scope of what we've talked about here, then they would probably want to come back, but I think --

MR. WEINER: That was where I was going to is that if this becomes a condition and the changes -- it would be subject to complying with the fire official even in the event if it requires coming back for a modification on a site plan approval.

MR. LEBER: I mean, in practicality, if I -- and normally, the applications go to all the departments, and I don't know if they just didn't have any interest in this one, but if I approached him and he says, you know what, I want a 40-foot radius cul-de-sac, you know, clearly, that's outside what we're looking at tonight, in which case, you know, Colleen would advise us to return to the board to amend our approval, but, you know, if he's okay with what's drawn on the plan as is, then I presume we'll just send an e-mail over to the planning and engineering department that, you know, he has no comments. I mean, I personally am not concerned about it. You know, the scope of the whole project is, you know, it's a landlocked parcel, and, you know, there's going to be a house back there, and he's got, you know, more or less a 14-foot-wide access, and, you know, I personally am not worried about it, but --

THE CHAIRWOMAN: Marc, did the width of that easement change at all from the initial plan that you had presented to us?

THE WITNESS: No, it's always been a 15-foot, but the bottom of the easement used to be past this shed, so we're trying to move it away from

lot 35.01 as far as possible to preserve the amount of new paving that was proposed. So on the original plan, we were actually going slightly down the corner of the shed with the driveway. So everything just kind of moved up.

THE CHAIRWOMAN: Okay. I'm just thinking if they didn't have a comment based on the original plan that you had presented and the width there didn't change, but I guess --

THE WITNESS: No, it was 15 foot, as well.

THE CHAIRWOMAN: Okay.

MR. LEBER: I mean, not to reference any other applications, but I had done some lots on Dutch Road that two houses share a driveway, you know, it's a 15-foot or something of that where it comes off Dutch Road, you know, and splits into two houses, and they had no comments on that.

MR. WEINER: I would just add -- and I know my language may be a bit redundant, but the note that I'm taking again as a potential condition should the board ultimately move favorably on this would be to the extent that the -- going to need comment and approval from -- it's subject to comment and approval from the fire official, and the applicant understands that if the fire official requires changes that would necessitate a site plan -- a site plan modification, that the applicant shall comply.

MR. LEBER: I think that's very appropriate.

MR. WEINER: Obviously, that's the law. The applicant's going to need to comply, but I would feel more comfortable under that instance if this got to the point of an approval that it's set forth in the resolution, as well, so there's no issues as to that. Obviously, if (audio disruption) can work it with some type of ultimate resolution that works for the fire official and our staff is okay with it where it doesn't trigger a site plan approval, then better for it, but just in case so there's no questions later on about whether or not it was needed.

MR. PICKUS: We have no objection.

MR. WEINER: Okay.

MR. PHILIPS: Mr. Leber.

MR. LEBER: Yes.

MR. PHILIPS: I have a timely question for you.

MR. LEBER: Yes, the snow?

MR. PHILIPS: Where are you putting the snow?

MR. LEBER: The snow would be able to be plowed straight back into this right corner.

MR. PHILIPS: What -- and as far as the parking lot's concerned, the same thing, all that snow is going to go in that spot on the other guy's property?

MR. LEBER: Well, along the drive, itself -- sorry, it selected everything -- along the drive, itself, they could push the snow right off to the left, you know, as they come in. Like all this is --

MR. PHILIPS: I'm asking because it's relevant considering what we're trying to do here, balancing a piece of property between two owners.

MR. LEBER: I mean, I've never operated a snow plow, unfortunately. It looks like a lot of fun. But I think, you know, they would probably plow this to the left and then plow this all straight back, you know, and pile it up.

THE CHAIRWOMAN: I understand the question because that's an issue of -- I mean, is there a way to include language about that in the agreement about the easement, the access easement there?

MR. LEBER: Yeah, the --

MR. WEINER: We have -- I'm sorry -- snow removal language and so forth and maintenance is all part of the easement, so those issues should be addressed in there.

THE CHAIRWOMAN: So I think -- if I'm understanding Mr. Philips' question, though, correctly, I understand snow removal being a responsibility of the back lot, 36.01, but I think the question is the snow along the easement being pushed into their lot, is that going to cause an issue.

MR. PICKUS: That would be part of the easement document to allow that.

MR. WEINER: That could all be added, so the placement of snow -- placement of snow being removed amongst the lots to be addressed in the easement.

MR. LEBER: I mean, if it would help the future owner, we can make like an exhibit to the document that shows like a designated spot, you know, with an X, like put snow here or something like that.

MR. WEINER: Yeah, and that would be

something that aside from the easement being run by me for approval, it would have to run by our planning and engineering staff, as well, so they could look at the exhibit and make sure it's where they anticipate it to be placed.

MR. GUREVICH: Can I ask a question just in regards to that? That was actually on my list of topics. Like, when we designate the easement between the two -- you know, right now we're dealing with a common owner. Once this is built, it's going to be sold to somebody else. In terms of maintenance -- and snow is a great example because, obviously, you know, the storm that we had just a few days ago, if that is not plowed within a certain period of time, then, quite candidly, the person in that back house could be trapped back there, right. That's a pretty long driveway in terms of being blocked with snow. So whether, you know, maintenance, removal, any sort of maintenance that isolates that property because it's not a public access road that leads to that property, how does that -- how will that be handled?

THE CHAIRWOMAN: I think initially when we first spoke about it, Mr. Weiner had recommended or suggested that it would be that back lot, 36.01, that would be responsible for the snow removal, not the front lot, 34. So the responsibility would be on that back lot to clear that path. So it's not that they would be stuck back there because they would be the ones responsible for removing that snow.

MR. CLINE: I believe that's correct.

MR. GUREVICH: -- to be able to do that, right. I mean, that would require that lot to maintain equipment necessary to accomplish that task.

MR. PICKUS: That's part of the easement agreement.

MR. CLINE: My understanding of the responsibilities is the front property owner, their primary responsibility is to not block the driveway or the space for the access, and the rear -- and also, that -- the person owning the front lot cannot plant, for example, shrubs all along the eastern edge of the property -- of the driveway because the homeowner in the rear is coming up that driveway with their plow on their truck or their snow blower or whatever, as they're coming up towards Milltown Road, a lot of that's going to be pushed to the grass to the right of the driveway coming up the

hill, and then some of it will be pushed back down probably into that corner where Mr. Leber had pointed before, but the responsibility for actually doing the removal is largely in the rear. The responsibility in the front is largely keeping things unobstructed so that that can be done.

MR. GUREVICH: And what is the responsibility of the town in terms of any sort of conflict resolution between those?

MR. WEINER: I'm going to jump in on that, Leon, because I was just about to address that because that was part of your initial question. Because the easement -- and the language of the easement is part of the condition of any such approval, should there be an approval, the -- to a certain extent, there could be an enforcement issue because the township has an enforcement officer, and if there was a violation because they're not compliant with the terms of the approval, that would fall under enforcement. Beyond that, any issues regarding property rights between one property owner and another property owner, unfortunately, that falls on the property owners, and unfortunately, at times they end up in court if they can't be resolved amicably; however, what's important to note before anyone asks questions about what we don't want that to happen, what about successive property owners, is the easement is recorded, so when -- before this matter is approval and everything is signed off on and the project would be complete, that easement would have to be recorded in the land records with the county, and what that means is that in the future when either of these properties are sold, a proper title search for a new purchaser would reveal, because it's a search of the land records, the existence of the easement, and then any purchaser of either property would have the opportunity to review that and make a business decision as to whether or not they want to take that risk in purchasing the property. It wouldn't be something that's hidden. That would be something that's in the land records, and just like any other issue that comes up in a title search, that's something that if it's done properly should come up in a title search, as well as -- although again, it's a bit hypothetical here, but contractually in any real estate transactions under New Jersey law, generally, New Jersey is what's called a full-disclosure state, so that would be something generally that a seller would most likely, unless

contractually the terms were negotiated differently, would from a default standpoint have to disclose to a buyer of the property, as well, that there's an easement there and what the terms are, and as I said, even if it fell through the cracks and it wasn't disclosed even non-nefariously, a title search would reveal it.

So those are issues well beyond anything that effects the township. It's not the township's ball of wax or anything of that nature to be involved with or to be concerned with other than that if the township enforcement officer happens to get a complaint or look at the property and see that someone's not complying with the easement terms, which are part and parcel of an approval, then they're not compliant with the approval, and the construction -- the zoning official, enforcement official would have authority to address that accordingly.

MR. GUREVICH: So, Jay, I only asked this from a perspective of, you know, to guide any sort of decisions from the zoning board from the perspective of, you know, us looking at this plan and us looking at -- what's it called -- like you very rightfully said, a hypothetical situation like this, should this even be something that we consider or should it not be a consider. Could you guide us or others, you know, for that pure hypothetical that we have, you know, two or an accessway across private properties that is, you know, not necessarily enforceable by, you know, any sort of law enforcement because of a potential dispute between two property owners in the future, hypothetical, that causes one to be isolated from access to the main road, which would be enforceable and accessible to that --

MR. WEINER: When I'm going to -- the answer to that is I don't think so. I think that's going beyond the consideration of the board. When the board is considering any variance application, we're always looking at the positive and negative criteria; however, we're looking at real criteria as they exist and making an evaluation now, is this a benefit, is it a harm, you know, we're going to go through all the criteria for approving the variance in accordance with state statute; however, that is outside the jurisdiction of the board to start making a consideration on a hypothetical. That is something that it's not the board's jurisdiction to deal with. As I said, that's something -- if I'm

going to buy one of those properties, I'm going to do it -- it's my right to do a title search. It's my right to search the land records, and then I'm going to make a business decision whether or not I want to take a property where maybe I could get into a boundary -- not a boundary dispute, but an easement enforcement dispute with a neighboring property owner. That's something that's going to be before me before I go buy the home. If I go buy the home, then I buy the home with open eyes, and that is well beyond the jurisdiction of this board to get into that as part of its consideration. That would not be appropriate.

MS. MCGURK: Madam Chair, yeah, I agree. Private access agreements or utility easements are really a matter between the two property owners. Access easements are fairly common with things like flag lots so that the owner of the second lot can actually have access to the property, and this is an existing separated lot already.

MR. GUREVICH: Okay. Thank you.

THE CHAIRWOMAN: Thank you, Colleen.

Mr. Leber, I don't know -- I think we left off on number -- you were initially -- we sort of veered off, but you were going through all of Mr. Cline's recommendations. Did we get to number --

MR. PICKUS: I think we were at 6 if I'm not mistaken; is that correct, Marc?

MR. WEINER: No, we were on the ADA number 8.

MR. LEBER: So I would --

MR. WEINER: The driveway, and then we veered off on number 8 with the easements and all of that with the ADA.

MR. PHILIPS: We're on 10, is there maintenance, snow removal, and the like, 10C.

MR. WEINER: 8C.

MR. LEBER: 10.

MR. WEINER: Okay.

MR. LEBER: The last comment was just a statement anyway. That's number 11.

MR. PHILIPS: Can you -- Marc, I have a question. If you could show the whole property, the property in question, the lot in the back. If you -- as I'm looking at it, the back is 82 feet is the shown distance there, and the dwelling is 95 feet, so there's a reasonable size slope around the back of this house, correct?

MR. LEBER: Yeah, the numbers you're referring to are the elevations?

MR. PHILIPS: Yes.

MR. LEBER: Right. We were going to take advantage of that slope by creating a house with a walkout basement.

MR. PHILIPS: All that's well and good. I have a question because -- where is the water going? Are you going to have guarantees about the amount of -- eliminating any chance for runoff?

MR. LEBER: I'm looking now because it's standard that for something like this we would have a note on the plan that, you know, at the time of the plot plan we'd have to provide a dry well in accordance with the town code for at least the roof runoff, and that's --

MR. PHILIPS: Well, here's the thing that's come up. There's a lot of trees back there.

MR. LEBER: Yeah, I looked at the town code for the trees, and it states that for a non-subdivision application that you have to submit a tree removal plan at the time of plot plan, and I could tell you it was chapter -- just bear with me -- 192-38. So when the lot was surveyed, we didn't have the trees located. I spoke with the land surveyor, and frankly, there just wasn't any time in his schedule to go out there and locate all the trees, so when I started to research the ordinance, I realized that the requirement for the tree removal plan only kicks in when you submit a plot plan for a house.

MR. PHILIPS: My concern is is that somebody moves in there and says I want a larger open back yard and they begin on their own to remove a whole bunch of trees, now there's nothing to hold the water from the slope out.

MR. LEBER: You know, I'm pretty sure -- and, you know, you can correct me if I'm not correct, but if someone who has a single-family dwelling wants to remove more than two trees, I believe they have to file a tree removal permit with planning and engineering, and then at that time, there would be additional review based upon what was going on, you know, and I think that would apply in the situation because it's just one house.

MS. MCGURK: Any more than one tree.

MR. LEBER: One tree? Okay.

MR. PHILIPS: Okay. I'm just looking at the slope or the ground, and whenever you disturb land, there's always a great opportunity to create a nuisance for a neighbor.

MR. LEBER: Well, I mean, to be

perfectly frank, let's say someone purchased this house and in a few years they decide they want to construct a pool. So they would prepare, you know, a pool permit plan, submit it to planning and engineering, and at that time, it's going to go in for a grading review, and if there was some significant amount of coverage being proposed and they would necessitate some additional drainage for the, you know, the pool, patio, whatever else was going to go back there, you know, and that's really a system in place to protect whoever is downhill from getting all extra impervious flow.

MR. PHILIPS: Uh-huh.

MR. LEBER: You know, and one never knows. I mean, the lot seems to be a nice size, nice shape, and it could certainly support some additional things in the back yard, but, you know, once they file for a permit, the requirements to address drainage would probably kick in at that point.

MR. PHILIPS: Okay.

MR. PICKUS: Mr. Leber, I received a memorandum from the department of planning and engineering dated February 3. Do you have a copy of that?

MR. LEBER: February 3. Don't believe I do. Who is it from?

MR. PICKUS: It's from the department of planning and engineering, Mr. Kipp and Miss McGurk.

MR. CLINE: It's titled CM review, Marc.

MR. LEBER: One second.

MR. BLESSING: Marc. I had e-mailed that to you 9:39 a.m. on Wednesday, the 3rd.

MR. LEBER: All right. Hold on one second. Yes, all right.

MR. PICKUS: Got it?

MR. LEBER: Okay, yeah, I'm opening it right now.

MR. PICKUS: All right. If you go to the last page, there are some recommendations there that I think are pretty rudimentary, but I just want to assure the board that we're going to comply with those recommendations.

MR. LEBER: Okay, so 7A, the status of the business on lot 34, I think that's an absolute condition that has to be agreed to, and, in fact, I think the permits have been filed to address that.

MR. PICKUS: Correct.

MR. LEBER: B, we'll deliver, you know, a draft deed of easement with any attachments to

describe, you know, either snow removal and placement of snow and utility maintenance.

C we agree to. D we agree to.

E, you know, when we do the design of the plot plan for that dwelling, if we could contain the water doing something of low impact, we will. And then F we already agreed to.

MR. PICKUS: Madam Chairwoman, I believe that concludes our presentation. If the board has other questions, we're happy to answer them.

THE CHAIRWOMAN: Marc, can we just go back to -- it was number -- sorry -- Mr. Cline's recommendations. I thought we were just going to go all the way through and just go back to ones. I have a question about the front lot, impervious coverage on the front lot. I think -- was your response to number 6 about attenuation on the front lot that you -- there aren't plans to -- for any attenuation for the runoff on the front lot?

MR. LEBER: Right. I felt that this additional square footage was more or less de minimus, and even in East Brunswick, the stormwater management requirements really only become in place when you add a quarter acre of impervious. So this was 730 square feet. You know, if that were to become a concern, then what we could do along the -- I guess that's the easterly edge of that driveway is, you know, create like a little gravel swale so that the water would run into the gravel on that side. I think that would be a practical way to address that.

MR. WEINER: If I may interject and throw this to Jason, I think Mr. Leber earlier in reference to this had used the term de minimus and saying they basically didn't believe it was necessary. Are you in agreement with that, or is there a particular thing such as what Mr. Leber just suggested now, is that something you'd be more comfortable with? What are your thoughts?

MR. CLINE: I actually was torn on the discussion because, yes, I don't -- the overall flows that we're talking about in a gross fashion are not large. I actually -- because we're all virtual and Zoomed, I didn't get a chance to actually pick Mr. Kipp's brain on the item, as well, which is why it's word's as to the satisfaction of the planning department. The solution that Mr. Leber proposed of effectively a pathway along the eastern edge of the driveway, actually that makes sense. I do believe that the existing

condition, the level of impervious that's on the property at this time right now as it stands is not a problem because it's been that way for sometime and we would have heard about ponding that would have been -- have entered the record. So we're strictly looking at the 730 square feet of additional parking -- of additional impervious -- and actually, let me check something very quickly.

MR. LEBER: Want me to turn off that screen share?

MR. CLINE: No, I'm fine. I'm just actually doing a quick calculation. Hold on.

MR. KIPP: Yeah, Jason, if I may, this is Keith. I'm in agreement with Mr. Leber that it is a very small addition, and I do agree with the grading plan that will be submitted for the new house. We'll take a good look at that and make sure there is no additional impact. I do like the fact that we have that large grass area to the one side of the lot that allows us, you know, to -- the runoff can be directed over there. Snow could be directed over there. So I really don't think it's critical for storm drainage on this particular project.

MR. CLINE: Okay. I was -- I was willing to be the heavy until I was told that it was okay, so that's -- I have no objection.

MR. WEINER: I guess I'm just -- again, for potential conditions on this one, I'm going to make sure I got this right, that any necessary attenuation of the impervious coverage and drainage matters should be to the satisfaction of the planning department staff.

MR. CLINE: Yes. Planning department staff is not requiring attenuation at this time. If it becomes necessary in the future, they will satisfy the planning department.

MR. WEINER: Yeah, that's why I just have any necessary, so if it's applicable. Okay.

MS. MCGURK: Madam Chair, if they're going to do anything as opposed to just the gravel, the bioswale I think is low maintenance and effective.

THE CHAIRWOMAN: Could you give us a little more information about that.

MS. MCGURK: A bioswale? It's the rocks but with plants interspersed in it so it would give it more of a residential look, more attractive, low maintenance, and effective.

MR. PICKUS: The problem with that is,

getting back to the snow removal, if we're to put plants there, it might impact the plants by piling so much snow on top of it.

MS. MCGURK: Oh, I didn't mean the entire section, maybe just a portion.

MR. PICKUS: Okay.

MR. CLINE: There is a whole tool box that you will find that various professionals prefer if it becomes needed. If Mr. Kipp feels that the amount of the increase isn't enough that we need it at this time, I'm fine.

MR. WEINER: Yeah, I would just say to Keith, Jason, and Colleen, if the more general language of just being to the satisfaction of the department might work better at this point, not knowing what may be needed rather than pigeonhole something in advance and leave it more to the discretion later on. If you all would agree, I think that might be a better way to handle it.

MS. MCGURK: I would agree. I was just planting a seed --

MR. KIPP: I agree.

MR. CLINE: Agreed.

MS. MCGURK: -- for the idea in the future.

THE CHAIRWOMAN: Okay. Do any members --

MR. WEINER: I just wanted to -- one other question. I just want to make sure we're clear. On item 11, the removal of the pavement encroaching onto the property in the west; is that being addressed?

MR. LEBER: Yeah, that's going to be removed.

MR. WEINER: Okay.

MR. CLINE: That was me acknowledging that they had proposed to remove it and that it was calling out effectively an unadulterated good. That should happen no matter what.

MR. KIPP: I agree absolutely.

MR. PHILIPS: Keith.

MR. KIPP: I do have a concern. The township standard for the new single-family home is that all utilities are to be run underground, so to me, that means the power has to be run from the Milltown Road right-of-way through that easement to the house, not an overhead wire put to a pole somewhere on the existing lot and then underground to the new lot. Does that make sense, Marc?

MR. LEBER: It does, and unfortunately,

I can only answer if it's JCP&L over there.

MR. KIPP: No, it's PSE&G.

MR. LEBER: Okay, so my answer is not going to help. I mean, I don't know what PSE&G is going to do. I presume that they're going to prefer underground anyway because it seems that's the way they're doing things these days. You know, underground wires, you know, are not subject to damage so, you know, I --

MR. KIPP: What I want to put on the record is that if they're going to set a pole --

MR. LEBER: Right.

MR. KIPP: -- the pole should be put out in the Milltown Road right-of-way and then underground through the existing lot to the new lot. Not put a new pole with more ugly overhead wires running through the lot that the residents on either side are going to have to look at.

MR. LEBER: All right.

MR. WEINER: I'm making a note here. Bear with me on this, and then I'm just going to read it into the record.

MR. LEBER: Aaron, I'm going to stop this screen share.

MR. BLESSING: Okay.

MR. KIPP: And one other comment I had -- and I don't know if Colleen can answer this -- is I know there was concerns with landscaping. Are they to your satisfaction, Colleen, on the front lot, both lots?

MS. MCGURK: Currently, no, so they do have to comply with the required landscaping and (audio disruption) part of a legal agreement, and that was going to be provided later as part of the construction permit.

MR. WEINER: I will just add, that understanding was before they were coming back with now the variance on that lot, which opens up everything to that lot with the applicant joining the application, and I would be more comfortable making those terms as part of the resolution now for that lot.

MS. MCGURK: Well, right, that's why I added it in as recommendation A, that they have to meet the landscaping, lighting. They already proposed the striping. I'm not sure what's happening with the curbing. But they do have to provide the landscaping and lighting as per the original site plan agreement 81-40, and that would be a condition of approval.

MR. WEINER: Yes, and that's the recommendation there. That would be a condition of approval now in addition to the separate agreement.

And then I just wanted to jump back, make sure, Keith, if I was jotting down what you were expressing as a potential condition. If electrical poles are to be set, then they are to be in the Milltown Road right-of-way and service to be run beneath ground through both lots to serve the proposed house.

MR. LEBER: Mr. Weiner, sorry to jump in, but I did have the benefit of speaking with the client, and he agrees to run underground electric.

MR. WEINER: Okay, but I think what Mr. Kipp was getting at, he wants to make sure serving the new house underground, but it's going to be underground all the way from Milltown Road.

MR. LEBER: That's --

MR. WEINER: Across the other property.

MR. LEBER: That's correct. That's what I explained to him over the phone that exactly as Keith described it, they would set a new pole from that pole, the wire would go down the pole underground and then all the way to the house.

MR. WEINER: Okay. Well, Keith, was my wording satisfactory to you?

MR. KIPP: Yeah, both explanations are perfect.

MR. WEINER: Okay.

MR. PHILIPS: Hey, Keith.

MR. KIPP: Yes.

MR. PHILIPS: Just to cover one more base. Is that Winterberry Court that's actually catercorner behind this property?

MR. KIPP: Off the top of my head, I'm not sure, but I can --

MR. PHILIPS: Well, I'm looking at site map so I'm going to tell you it's Winterberry. So the question is just to make sure we have no people in Winterberry that are complaining about a runoff problem. Is that to your knowledge, correct?

MR. KIPP: That is correct. Briar Ridge, we've heard no concerns from this site.

MR. PHILIPS: Okay. Thank you.

MR. CLINE: And we have no raised hands from the one phone call-in listener. There's still a participant on the call.

MR. LEBER: The phone call listener is the applicant.

MR. CLINE: Ah, hello, applicant.

MR. WEINER: I think Mr. Pickus closed his case. Am I correct, Evan?

MR. PICKUS: I did, sir.

MR. WEINER: Okay, so, Madam Chairwoman, at this point, we need to open the meeting to the public.

THE CHAIRWOMAN: Okay.

MR. WEINER: Is there anyone out there?

MR. BLESSING: No. As Jason stated, we have one dial-in listener, but apparently --

MR. WEINER: I will ask our representative from EBTV if you can confirm. Are there any other folks out there? Okay. Why don't we --

MR. KIPP: Madam Chair, you may want to read that phone number in case someone is watching on EBTV and let them know that they can call in.

THE CHAIRWOMAN: Aaron, do you have that number accessible to you? I don't -- it's not -- we referenced the web site I think in our initial opening. I didn't say the number out loud.

MR. BLESSING: I can get it, yeah. Let's see. The dial-in information is posted on the East Brunswick agenda center for the zoning board. It's up with the tentative agenda that was posted. What I have here -- it gives a number of different telephones. I'll just read off a few of them. 301-715-8592. Another one is 312-626-6799. There's four others if I -- if you want me --

THE CHAIRWOMAN: I think those two are sufficient, but maybe we should just give it just a minute to see if anyone does call.

MR. WEINER: What I was going to suggest, Madam Chairwoman, is perhaps since they weren't given earlier in the meeting and we're reading it out now is maybe a 5-minute adjournment might serve and at least give the 5 minutes -- it's 8:55 now on my clock -- maybe until 9 p.m. and give 5 minutes. If anyone wants to call, give them a couple of minutes to get into the queue, and then if there's no one there once we come back, then we can -- the Chair can obviously close the public portion.

THE CHAIRWOMAN: Okay. That's a great suggestion. We'll take a 5-minute break. We'll come back in 5 minutes.

(Board recess)

THE CHAIRWOMAN: A little over 5 minutes to see if anyone's called in and wanted to participate in our open public session. Aaron, did we receive any phone calls?

MR. BLESSING: No, Madam Chair.

THE CHAIRWOMAN: No. Okay. Seeing as we have no comments from the public, we'll close the public portion.

I think we already went through the recommendations with Mr. Pickus, so I think, Mr. Weiner, do we need to go through each of the conditions?

MR. WEINER: Yes, we can start that. Mr. Pickus and I guess if Mr. Leber wants to join in with you. I would think -- why don't we start with -- since we have two memoranda we're working off of, let's start with Mr. Klein's memoranda first, and I believe -- and, Jason, if miss one, please jump in, but I think going down to number 6, the condition, any necessary attenuation of the impervious coverage and regarding drainage matters should be to the satisfaction of the planning department staff. Mr. Pickus, are we in agreement on that?

MR. PICKUS: We're in agreement.

MR. WEINER: Okay. The next one, hairpin striping to be provided as required by the planning department.

MR. PICKUS: In agreement.

MR. WEINER: Okay. The ADA requirements I have written separately so I'm going to get to them in a moment, so I'm just going to jump down to as well as the undertaking because that's going to be addressed in a condition so we're going to skip over 8 and 9. Ten, next condition, the functioning of the proposed revised access easement should be briefly reiterated and set forth and -- in the body of the easement, itself, including but not necessarily limited to relocating the parked vehicles that line the driveway, keeping the driveway open and unobstructed, responsibility for the maintenance, snow removal, et cetera, and the like would be better language, as well as placement of snow being removed amongst the lots should also be addressed within the body of the easement, and the easement document is to be reviewed and approved by both the board attorney as well as by the staff, including the exhibit reference to be in the -- where the snow removal is going to be located. The pavement -- are we in agreement on that, Evan?

MR. PICKUS: Yes, we are in agreement.

MR. WEINER: Okay. Next item, pavement encroaching onto the property to the west is to be removed. Is that agreed?

MR. PICKUS: Yes, that's already in the

plan.

MR. WEINER: Okay. Then next I'm going to look to the second memoranda, the one of Ms. McGurk and Mr. Kipp. We have the recommendation regarding lot 34, that the exist -- noting the existing business on lot 34 is in disrepair and not in conformance with the prior resolution under application 81-40-V, and it is understood and agreed that no construction permit will be issued for this application prior to that lot being brought into conformance with the previously approved site plan, and these matters include what was required in that resolution as to proposed lighting, landscaping, striping, and curbing, which all must be approved by the staff.

MR. PICKUS: Agreed.

MR. WEINER: Is that agreed to?

MR. PICKUS: Yes, sir.

MR. WEINER: Okay. Next, all proposed services must be underground, and specifically regarding electrical service, any electrical poles that are to be installed are to only be set within the right-of-way of Milltown Road, and all -- from there, all service is to run totally beneath the ground, across the outer lot, and -- underground across the outer lot as well as underground through the interior lot where the home is to be built and only exiting the property where it's needed to attach to the home and serve the home.

MR. PICKUS: We're agreement.

MR. WEINER: We're agreed on that. A tree permit will be required together with the construction permit, and that will be applied for.

MR. PICKUS: We're agreed.

MR. WEINER: Okay. We went over the driveway utility easement, and there were a couple of other items. On lot 34, an ADA space is to be added to the plan in the first parking spot in the southeast row. Additionally, there should be pavement markings indicate -- as well as a crosswalk indicating -- or indicating that there's a crossing in that area as well as placement of a bollard to the satisfaction of the staff.

MR. PICKUS: Agreed.

MR. WEINER: Okay. Also on lot 34, ADA ramp and access to the satisfaction of staff shall be placed at the southeast corner of the building.

MR. PICKUS: Agreed.

MR. WEINER: Okay. No parking -- striping delineating no parking shall be placed by

the rear door at the southeast corner of the building on lot 34.

MR. PICKUS: Agreed.

MR. WEINER: Okay. Comment and approval from the fire official must be obtained, and the applicant understands that if the fire official requires any changes that would necessitate a site plan modification, then the applicant would have to come back before the appropriate board to get such site plan modification.

MR. PICKUS: Agreed.

MR. WEINER: Okay. And I believe those are all the conditions that I have here unless, Colleen or Jason, if there's one that I didn't recite while I was going through these, please let us know now.

MS. MCGURK: No, I didn't have anything else. I am a little concerned with the ADA stall if they need to lose a parking stall, but we've already closed the public portion.

MR. CLINE: No, Colleen, the aisle coming down the driveway to curve to the right to go into the parking area --

MS. MCGURK: No, I know. Just in case it didn't work out for some reason, that if we require the ADA and they end up losing a stall, they would need a parking variance.

MR. PEPE: The other thing was the swell along the driveway.

MR. CLINE: No, that's to the satisfaction of the staff.

MR. PEPE: Okay.

MR. CLINE: If the staff thinks it's necessary, they can impose that or any number of things.

MR. WEINER: That was the area we were talking about with the attenuation related to drainage and impervious coverage, so we've left that quite broad.

MR. PEPE: Okay.

MR. GUREVICH: Jay, just to confirm likewise with regards to that northwesterly corner in terms of maintaining without landscaping or something else in case of utilizing that space for snow or other --

MR. WEINER: That's addressed twofold. One, in the easement language, which also includes an exhibit where it was going to be designated, which is subject to the approval of staff, as well as any landscaping plans and so forth are going to

be subject normally to the approval of the staff, as well.

MR. GUREVICH: Okay, great. Thank you very much.

THE CHAIRWOMAN: So back to Colleen's concern, Mr. Leber, you're not able to say for sure that you won't lose a space, that you wouldn't lose a space if you -- when you add in that -- the ADA spot?

THE WITNESS: No, I think it's going to be fine because, you know, that aisle is 30.5 feet wide, and there is no reason to have an aisle -- I can even do 22 feet wide in that area because it's just an area where cars can pass each other. It's not an area where there's parking perpendicular to the aisle. So, you know, I think I'm going to be fine over there.

MS. MCGURK: Okay.

MR. WEINER: And I would just add that if -- once those calculations are done and everything is laid out and they're losing a space and that would trigger the need for a new variance at that time, then the applicant is going to have to come back before the board for approval on that.

MR. LEBER: I understand.

THE CHAIRWOMAN: So that becomes an additional condition, correct?

MR. WEINER: Well, it's not a condition. It's a condition as far as the placement of the ADA spot and so forth, but if they ultimately can't accomplish it without the need of a parking variance, they're going to have to come back with a new application just as to that variance.

THE CHAIRWOMAN: Okay. All right.

MR. WEINER: And I would just say that the other variances, if the board -- any other comments or anything on that as to the requested variances that the application is seeking?

THE CHAIRWOMAN: I think that covered all of the conditions that we spoke to unless someone -- with that, are there -- is there a motion from any of the board members on this application?

MR. ZUCKERMAN: Motion.

MR. WEINER: Motion -- if you can just elaborate. Are you moving to move with the conditions or something else?

MR. ZUCKERMAN: Motion to move with the conditions.

MR. WEINER: Okay.

MR. BEHAL: I second it.

THE CHAIRWOMAN: Thank you, Dinesh.
Thank you, Rob. Thanks, Dinesh, for the second.
Aaron, can you call the roll.

MR. BLESSING: Mr. Zuckerman.

MR. ZUCKERMAN: Yes.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Behal.

MR. BEHAL: Yes.

MR. BLESSING: Mr. Philips.

MR. PHILIPS: The back lot would be otherwise deemed unusable under other circumstances, and it becomes a hardship. What the applicant has tried to do is mitigate as much as he can in order to limit that hardship, and considering it's now going to meet the requirements of the zone that it's in, I will vote yes.

MR. BLESSING: Chairwoman Rampolla.

THE CHAIRWOMAN: I'm relying on Mr. Leber's testimony where he pointed out that they have a practical difficulty I think was the term they used for that back lot and that it is landlocked, causing them a hardship. I think they made a great point about preferring to expand that back lot 36.04 into -- bringing it into a residential usage where, you know, since it's already zoned for residential usage there. I think that it's an overall improvement of the usage. As Mr. Philips said, it would be deemed unusable really since it is landlocked. So I think this -- I think it makes sense for this purpose, and I think that we put so many conditions in place that I think that it improves the ability to do so, and we really didn't find any detriments to the municipality overall. So for all of those reasons, I'm going to vote yes, also. So it looks like the application passes.

MR. PICKUS: Ladies and gentlemen, thank you very much for the approval. Thank you very much for your time.

MR. LEBER: Thank you.

MR. KIPP: Thank you, Mr. Pickus. Thank you, Mr. Leber.

MR. PICKUS: Mr. Weiner, I'll be in touch with you regarding the easement.

MR. WEINER: Madam Chairwoman, is there any other business for the board tonight, or do we

need to announce when our next meeting is.

THE CHAIRWOMAN: I believe that's it. I believe our next meeting will be February 18.

MR. WEINER: Aaron, is that correct?

MR. BLESSING: That is.

MR. WEINER: Okay, and I guess if there's a motion to adjourn.

MR. PHILIPS: A motion to adjourn.

THE CHAIRWOMAN: Thank you, Mr. Philips.

MR. GUREVICH: Second.

THE CHAIRWOMAN: Mr. Gurevich, thank you for the second. All in favor.

MS. MCGURK: Thanks, good night, everybody.