I		Page 1		Page 2
	TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTME		1	APPEARANCES
	SOUND BOARD OF ADJUSTING	21.4.1	2	CLIFFORD GIBBONS, ESQUIRE
	X		3	Attorney for the Board
	IN THE MATTER OF:		4	VOGEL, CHAIT, COLLINS and SCHNEIDER, PC
	TRANSCRIPT APPLICATION OF: OF			BY: THOMAS MOLICA, ESQUIRE
	ANELLO - 22 FOOTHILLS DRIVE		5	Attorneys for the Applicant
	POMPTON PLAINS, NJ REMOTE Block 202, Lot 4	PROCEEDING	6	
	X		7 8	
	Thursday, September 3, 2020 Remote Zoom Hearing			
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	BOARD MEMBERS PRESENT: PAUL DOLENGO, Chairman		11	
	JOHN DRIESSE LOU HERBERT		12	
	CHARLES MELLENO		13	
	THOMAS AIKEY KIMBERLY QUIGLEY		14 15	
	WILLIAM HART		16	
	ALSO PRESENT:		17	
			18	
	LINDA ZACHARENKO, Board Secre JILL HARTMANN, Planner	tary	19	
			20 21	
			22	
	PRECISION REPORTING SERVICE	Ξ	23	
	Certified Court Reporters (908) 642-4299		24	
			25	
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1	TABLE OF CONTE	NTS	1	CHAIRMAN DOLENGO: Ms. Zacharenko, I
2			2	don't have a format of what's next. What
3	WITNESS:		3	SECRETARY ZACHARENKO: Next is
4	FREDERICK C. MEOLA	Page 6	4	Anello.
5	DAVID R. TROAST	Page 26	5	CHAIRMAN DOLENGO: Okay. Who's I
6 7			6	see Mr. and Mrs. Anello. And are you representing yourselves
8				And are you representing yourserves
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	EXHIBITS		8	or are you having a
9 10	EXHIBITS (No exhibits marked)		8 9 10	
9	EXHIBITS (No exhibits marked)		9	or are you having a MR. MOLICA: Good evening,
9 10			9 10	or are you having a MR. MOLICA: Good evening, Mr. Chairman, and Board members.
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necessary COVID verbiage. So I believe that the notice materials are in order.

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Again, as the Board is well aware, this is a variance application that may or may not have become needlessly complicated. And before we really get started, I want to explain to the Board and to the people that don't know who I am and what I do, I myself do a lot of work for public clientele in zoning and land use matters. I understand what it's like to be in situations where variances are needed by private property owners and the upset that sometimes is caused when people don't follow the zoning ordinance.

What I'm suggesting to you is we have a tabula rasa, a clean slate. You're going to hear testimony from someone you haven't heard from in this matter, a professional planner, David Troast. You're also going to hear Mr. Meola talk about plan revisions that he made in an attempt to prove to you that the variances that are needed for this property should be granted.

I don't think it matters what's
happened in the past and I don't want to play

the blame game with people, which I think is becoming all too frequent in today's day and age. Okay? I'm here tonight suggesting to you that we can simply move forward. You're going to hear expert testimony from not one, but two, witnesses.

And with that, I'm going to suggest that Mr. Fred Meola summarize to the Board the plan revisions made for the property and specifically those that relate to the impervious coverage condition that exists in the rear yard.

MR. MEOLA: Good evening, everyone. I think --

MR. MOLICA: I believe you were previously sworn in. I don't know if counsel wants to swear Mr. Meola in again. I did renotice, but he is on --

CHAIRMAN DOLENGO: I think he should be sworn in again, yeah.

FREDERICK C. MEOLA, having been duly sworn, was examined and testified as follows:

MR. GIBBONS: Please state your name and spell your last name for the record.

Page 7

THE WITNESS: Sure. Frederick C. Meola, M-E-O-L-A.

MR. GIBBONS: Very good.

Mr. Molica, your witness.

DIRECT-EXAMINATION

BY MR. MOLICA:

Q. Fred, I know you've done this before before this Board, but, briefly, why don't you summarize for the Board your professional qualifications and affiliations, please. And also confirm the date of the latest plan revision you've prepared and that your engineering and surveying licenses are current.

A. Sure. I'm a licensed professional engineer and land surveyor in the State of New Jersey. I'm also a certified floodplain manager and a certified municipal engineer. My licenses are current and in place. And the plans that we're looking at should be Revision 4, July 30th, 2020.

MR. MOLICA: Okay. And those have been provided to the Board secretary via hard copy delivery and, also, it's been uploaded on the municipal website.

Does anyone have any questions about

Page 8

1 Mr. Meola's qualifications and areas of

2 expertise? Again, you have seen Fred before.

3 I believe he's been accepted as an expert

4 before. I'd ask that he be accepted again as

5 an expert in the field of civil engineering

and also in the field of land surveying.

7 CHAIRMAN DOLENGO: Mr. Meola, I --

we accept all his credentials. He's been

9 before us many times. I think he actually

10 represented a town. Was that true?

11 THE WITNESS: I -- I did the

flood certifications for the town for many years.

CHAIRMAN DOLENGO: No, he's well known and accepted by the Board. Thank you.

MR. MOLICA: Thank you,

Mr. Chairman.

18 BY MR. MOLICA:

Q. Fred, can you summarize to the best of your ability the plan revisions that you effectuated and that are depicted on the July 30, 2020 existing conditions and variance plan that you prepared?

A. Sure. And these revisions basicallywere based on the March meeting, suggestions from

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the Board, questions from the Board about certain things.

So we went out and visited the site again and also met with the client to try to determine where we could reduce the impervious coverage. The impervious coverage on this site was at 42.97 percent.

I'll start with the odds and ends. I was asked about the storage area above the garage and --

Q. Just for the record, Fred, and before you continue -- and I apologize. I should have said this earlier.

MR. MOLICA: Does everyone have a copy of the July 30, 2020, existing conditions and variance plan that Mr. Meola is testifying about and describing?

MS. HARTMANN: Is it possible for you to put them up on the screen?

MR. GIBBONS: Can you upload it, please?

MS. HARTMANN: Share them? MR. MOLICA: I think Linda or our court reporter, Bridget Lombardozzi, can probably do that if they're given the requisite authority given the Zoom program.

THE REPORTER: I can do that if you give me a moment. I didn't know I was going to do this, but I don't have a problem.

(Whereupon, a discussion is held off the record.)

BY MR. MOLICA:

Q. Fred, with reference to the plans that we're calling the "Existing Conditions and Variance Plan," why don't you walk the Board through what we did in the rear yard to reduce the previously existing I think it was 42.97 percent impervious coverage figure to under 40 percent and explain the total square footage that was actually --

A. Sure.

Q. -- proposes to actually take out. Okay.

THE REPORTER: And, Fred, you should be able to control the screen now.

THE WITNESS: Yes. THE REPORTER: Okay.

A. If everybody can see my arrow, we removed all the pavement alongside of the three-car garage. Also changing the radius coming into the garage because we don't need the extra

Page 11

radius. So that was taken out.

We gave back an area on the pool that we could reduce. We removed a concrete walkway that we didn't think was necessary anymore.

So with those reductions, we were able to bring the total impervious lot coverage to under 40 percent. We're at 39. -- 39.62. With that --

Q. And, Fred, I think it's important to note, although the Pequannock ordinances don't authorize a further reduction based upon the type of materials, specifically the paving stones used in the rear yard, there are some towns that do.

So it's common that in this setting that figure, if we were in a different town, would be even lower than 39.61 percent, is that correct?

A. Yes. There are towns that I work in that give you a reduction of impervious coverage for brick pavers on a sand base. When I was out there, I specifically looked at that and the brick pavers around the pool area are clearly on a sand base.

Madison, for example, gives you 85

Page 12

percent. Usually the range is anywhere from
 80 to 90 percent.

Q. Yeah. And as you know, New Jersey is -you know, every town has their own ordinances.
And obviously Pequannock wouldn't allow for the
further reduction, but it is a point worth noting,
I think.

And you reference the 39.61 percent figure. Is that --

MS. HARTMANN: Mr. Molica, it is a point worth noting that you should understand the history of why this is not allowed to be open space and that is because the town made a conscious decision and effort to keep those lots green. And that means anything that isn't green becomes impervious surface.

So while I agree with the comment that other towns allow pervious pavers and things of that nature to, in fact, count toward open space, we used to permit that and we chose not to. So I think that is an important distinction.

 $\label{eq:MR.MOLICA: I understand that, Jill.} MR.\ MOLICA:\ I\ understand\ that,$ Jill.

MS. HARTMANN: Okay.

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MR. MOLICA: By no means am I maintaining that the town -- I just want it noted for the record because Fred did note that, I believe, in the correspondence that was delivered with the plans.

MS. HARTMANN: Correct. But I just think it's also --

MR. MOLICA: So it's part of the record and I thought it would be worth noting.

MS. HARTMANN: And I don't disagree with there. I just think that the history of why we changed the ordinance is as important as noting that other municipalities, in fact,

14 allow you to have that. That's all. 15

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MR. MOLICA: It makes sense to me. And, again, you're going to have another expert witness, Mr. Troast, talk about the actual need for the variance and the statutory criteria. Fred's job is essentially to summarize the engineering revisions that he's effectuated. Okay?

21 22 BY MR. MOLICA:

23 Q. So, Fred, by reducing the coverage figure from 42.97 percent to 39.61 percent, what 24 25 does that equate to in total square footage?

A. We basically reduce the impervious coverage by 1,568 square feet, which is a substantial number. You know, it was honestly hard getting it down to that number. We did a lot of moving things around and trying to do whatever we could to save that. So I knew the impervious coverage was important. That's why I hit that

Q. I appreciate that, Fred.

In addition to addressing the Board's concerns -- and, again, you don't have to get into the variance relief and the ultimate statutory criteria that we need to discuss. Mr. Troast will handle that.

But in addition to dealing with the impervious coverage condition at the property, the Board also asked you to confirm some measurements. Number one, first and foremost, the measurement of the highest point of the roofline.

A. Yes. And we did go out and confirm this and we shot it. And the -- the elevation -- the elevation from the average grade around the foundation to the highest point of the highest peak of the roof is 37.9.

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- Q. That represents that 2.9 foot increase over the 35 foot permitted maximum height limitation in the zone, correct?
- Yes, that is correct.
- Q. Okay. So we've identified that measurement, which Mr. Troast will discuss in his testimony in support of the variance relief that's required for the 37.9 foot measurement.

What else was the Board looking for you to confirm? I believe that there was another measurement that needed to be confirmed regarding the pool house, is that correct?

A. Yeah. There was two things. They wanted a confirmation on the heighth of the garage and the heighth of the garage was 23.6 feet. And, again, that was from the average grade to the highest reach pole. And also --

O. Fred, listen. Does that result in the need for a variance, the height of that accessory structure?

A. I -- I do not believe so. I think it was within what was allowed. The garage was granted a variance originally.

Q. Okay. And you're referring to the 2005 approval?

Page 16

- A. Yes.
- Q. There was another measurement relating to the garage/pool house structure that we're talking about here.
 - A. Yeah.
- Q. Could you please identify that and tell us about that?
 - A. Yes.

MR. GIBBONS: Can I jump in for a second?

CHAIRMAN DOLENGO: Who's that? MR. GIBBONS: Just with regard to the garage, the 23.6 feet, I want to make sure. Now, that is -- did you increase it over the previous approval? Did it increase over the previous approval granted by the Board in 2005? That's -- please confirm or

THE WITNESS: I have to find the approval to confirm it. Just bear with me for a minute. I'll see if I can come up with it quickly.

MR. GIBBONS: Okay.

24 MS. HARTMANN: It's my understanding 25 that the pool house was approved at 23 feet.

	De co. 21		Page 22
	Page 21	,	
1	MR. GIBBONS: That's your testimony?	1	any appurtenances that made the Board be
2	MR. MOLICA: Yes.	2	concerned about a kitchen being located in the
3	THE WITNESS: Yes, that is correct.	3	pool house/garage accessory structure. We'll take the hood. I think that was proposed at
4	MR. GIBBONS: All right. We need to	4	
5	make sure that's clear because we're talking	5	one point. Okay?
6	about where we're measuring and how we're	6	So what I'm telling you is that the pool and garage house will be used only as a
7	measuring. The bottom line is, does it comply	7	
8	or not? And if not, what are we going to do	8	pool house and garage. Mr. Troast will
9	with it? All right.	9	explain the need for the half bathroom, but
10	MS. HARTMANN: Well, the other	10	the applicant will not be putting kitchen
11	aspect of it, also, if we're still on the	11	facilities in there. Okay?
12	mezzanine I'm sorry, if we're still on the	12	And the applicant will also agree to
13	accessory structure is I think we need to	13	record a deed restriction against the property
14	discuss what they're going to do inside that	14	if this variance application is approved
15	building.	15	confirming that the accessory pool house and
16	MR. GIBBONS: Yes.	16	garage structure will never be used as a
17	MS. HARTMANN: Because they were not	17	residence.
18	allowed to have a bathroom and there's a	18	COMMISSIONER MELLENO: Will the
19	bathroom there now.	19	second floor be for storage only, as
20	MR. MOLICA: Well, Mr. Troast will	20	MR. MOLICA: Yes.
21	delve into this more, Ms. Hartmann, in	21	COMMISSIONER MELLENO: the
22	testimony.	22	variance that was given to it?
23	MS. HARTMANN: Okay.	23	MR. MOLICA: Absolutely.
24	MR. MOLICA: But we would like to	24	COMMISSIONER MELLENO: All right. I
25	keep the half bathroom. We're going to remove	25	saw you wanted to remove that floor.
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	Page 23		Page 24
1	_	1	
1 2	So the second floor is strictly	1 2	Page 24 MR. MOLICA: Bigger than it's bigger than the homes I see in certain
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	Page 25		Page 26
1	case. I think he may have a lot to say, or a	1	THE REPORTER: Do you want me to
2	little to say depending on what the Board	2	take off the plan or to leave that up?
3	wants to do. But he's a professional planner.	3	Because then you'll be able to see more
4	He's appeared recently before you in	4	speakers.
5	connection with other cases and his name is	5	MR. MOLICA: I think we should we
6	David Troast.	6	could take it off for now and if there's a
7	MR. GIBBONS: Mr. Troast?	7	question about it, we can put it back up
8	CHAIRMAN DOLENGO: I don't see	8	maybe, Bridget. Okay?
9	Mr. Troast yet.	9	We also have another exhibit that
10	MR. GIBBONS: I think he well, he	10	Mr. Troast prepared that we may need to put up
11	may be on speaker. David?	11	on the screen. That's his report.
12	MR, TROAST: I'm here.	12	MR. TROAST: Okay. I'll see if I
13	MR. GIBBONS: Okay. I can't see	13	can do that because I have it on my screen.
14	you.	14	MR. MOLICA: Okay. Great. That
15	MR. MOLICA: We need to see you. We	15	would be great, Dave.
16	need to see you.	16	MR. GIBBONS: Thank you, Bridget.
17	MR. GIBBONS: I'm going to swear you	17	MR. MOLICA: Can you grant David
18	in.	18	Troast the ability to screen share?
19	MR. TROAST: I'm on my screen.	19	MR. GIBBONS: He's there now. I see
20	COMMISSIONER MELLENO: There he is.	20	him now.
21	CHAIRMAN DOLENGO: There you are.	21	David, keep your right hand raised.
22	MR. TROAST: I'm on my screen.	22	DAVID R. TROAST,
23	MR. GIBBONS: Okay.	23	having been duly sworn, was examined and
24	MR. TROAST: It has to wait until I	24	testified as follows:
25	speak and it moves me up the chain.	25	MR. GIBBONS: Please state your
	Page 27		Page 28
		1	the City of Passaic, for both the Zoning Board,
1	name, spell your last name for the record.	2	Planning Board and the City Council. And I have
2	THE WITNESS: David, middle initial	3	been Board planner for Frankford, for the Borough
3	R., Troast, T-R-O-A-S-T.	4	of Prospect Park and Passaic, Wantage, Vernon as a
4	CHAIRMAN DOLENGO: Thank you.	5	special planner, and various other
5	THE WITNESS: I reside in	6	CHAIRMAN DOLENGO: That's good for
6	Hawthorne, New Jersey. I've got 35 years of	7	now. Mr. Molica, we do accept all his
7	experience. The majority of my career has	8	credentials.
8	been in public service for multiple towns,	9	MR. MOLICA: Thank you,
9	specifically for Randolph, Sparta, and the	10	Mr. Chairman.
10	City of Hackensack.	11	CHAIRMAN DOLENGO: Yes.
11	My licenses are current as a	12	BY MR. MOLICA:
12	professional planner and I'm a member of the American Institute of Certified Planners and I	13	Q. David, you're familiar with the subject
13		14	property at 22 Foothills Drive, correct?
14	also have a license as a landscape architect.	15	A. Yes. I've been there on three separate
15	And I'm recognized I've been recognized as	16	occasions.
16	an expert in court, Superior Court, as well as	17	Q. Okay. And have you prepared a report in
17	a professional mediator.	18	connection with the relief that we're seeking here
18	DIRECT-EXAMINATION	19	tonight?
19	BY MR. MOLICA:	20	A. Yes, I have.
20	Q. And, Dave, in addition to those	21	Q. Okay. Can you just identify that report
21	qualifications, you do have extensive	22	for the record, please?
22	experience working for municipalities, is that	23	A. Sure. It's titled "Pequannock Township,
23	correct?	24	Anello Residence, 22 Foothills Drive, Bulk
24	A Vog I'm not only full time hagie hiif		
24 25	A. Yes. I'm not only full-time basis, but I've been planner for currently the planner for	25	Variances, Block 202, Lot 4, Planner's Report

First of all, the previous owner installed a toilet and a sink, which is definitely inconsistent with the approval that the Board granted.

Second, there are two bulk variances

that are required in addition to a third one that has been identified this evening for the height of the pool house/garage which was also part of that

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Outline for Testimony dated August 19th, 2020, Public Hearing September 3rd, 2020."

Q. Thank you.

MR. MOLICA: Does -- does everyone have a copy of that report? Do the Board members and professionals have a copy of that report?

CHAIRMAN DOLENGO: Yes. The Chairman has a copy of that report.

COMMISSIONER MELLENO: I have a copy.

CHAIRMAN DOLENGO: Thank you. It was in our packets.

MR. MOLICA: Great.

BY MR. MOLICA:

Q. David, can you summarize for the Board the findings and conclusions set forth in that report that you just cited?

A. For anybody that knows me, it's hard for me to summarize. So I may -- I may go on.

THE WITNESS: If you feel like you've heard enough, you can give me the nod, Mr. Chairman.

MS. HARTMANN: All right. David, try.

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original approval: First is maximum impervious coverage, where 30 percent is allowed, 42.97 percent as-built condition, and then the 39.62 or 1,568-square-foot reduction from the as-built.

There's also a height variance where the height is 35; the request is 2.9 feet higher, which is a 37.9 foot height.

Q. Dave, just confirm for the record, with a yes-or-no answer, that the height variance you just referenced, the 2.9 percent increase over the 35-foot maximum permitted in the zone, that's sought pursuant to 40:55D-70C as opposed to D-6, correct?

A. That's correct, because it's less than 10 percent of the --

Q. Thank you. So we can deal with that later, but continue, please.

A. Sure. My testimony is based on facts and previous testimony. And the first thing I'd like to bring you through is the photographic information. Now I'm going to see if I can share the screen. Okay.

MR. GIBBONS: You mentioned three variances. What's the third one?

THE WITNESS: The third one is a

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variance/a change to the resolution allowing for the height of the pool house/garage which was previously discussed.

MR. MOLICA: 23.6 feet, Cliff, instead of 23 feet. 23.6 represents the as-built. I'm going to suggest -- and Mr. Troast will testify as to why -- that the .6 or the half-foot increase is de minimis in nature.

MR. GIBBONS: All right. Very good. THE WITNESS: Can everybody see my screen?

CHAIRMAN DOLENGO: Yes. MS. HARTMANN: Yes.

A. Okay. The first picture is a picture of the Anello home from — if you're standing in the street, it's to the left side. It's taken from the left side. You can see the house.

The second one is from the right side you can see the house.

The third includes the neighbor to the left, which is really the only house on that side of the street that is visible with the house together.

The fourth photo is significant because

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it shows the garage to the right and the pool house and it also shows the house in the rear.

Now, I'm going to point out the area where it's 2.9 feet higher than the 35. It's that little peak right there.

CHAIRMAN DOLENGO: So.

- Q. So that's the only area of the roofline, correct, Dave?
- A. That's the only area of the roofline that, first of all, can be seen from anywhere is from the rear of the house. It cannot be seen from the front of the house, from the street. I'm across the street on the other --
 - O. We're up to photo 2.
- A. And there, again, you can't see it. And that's important to the proofs because you've got to show that the negative criteria -- there is no negative impact because you can't see it.
- Q. And --

A. The only way you will know that's over the height --

MR. HANDEL: Can I speak?

A. That's the photo. This is a picture of the pool house/garage. I -- you know, I know, and I've dealt with this for many, many years, I mean,

- the .6 feet is a variance. There's no question about it. But I can't see that 6 inches, that that's 6 inches higher than what was approved. I couldn't tell you that in a million years. It doesn't look overly large for a garage or a pool house. This looks like a typical detached garage and pool house that I've seen around many communities in North Jersey.
- Q. And, again, Dave, maybe Board members may disagree and think that it's larger than homes in certain areas of the town, but I think that that's obviated by the fact that we've agreed to record a deed restriction if our application is approved confirming that it will never be used as a residence.
- A. Absolutely. And, you know, it's all relative to the size of the house. I'm not going to say that the Anello house isn't a large house. It is. When I look at my house where I'm at right now, the whole lot is 3,750 square feet. I mean, impervious coverage is, what we're reducing, is over 1,500. You think of that and you say, holy cow, I wouldn't have a house anymore.

So it's all relative, the size of the property, the size of the structures that are in

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the area, and this is not inconsistent with that.

- O. Thank you, Dave. Please continue.
- A. This is a photo of the massing and size of the house across the street. I do have a lot of other photos of the neighborhood which I decided not to bore you with. And that will really end my screen sharing unless somebody wants to see the photos again.
 - Q. When were those photos taken?
- A. They were taken about two -- two months ago, three months ago when I was retained by Mr. Anello.
 - O. In July of 2020.

MR. MOLICA: If you need a specific date for authentication purposes, we can provide that. I ask that it be done as a condition of any approval?

MR. HANDEL: May I ask a question?
CHAIRMAN DOLENGO: Certainly.
SECRETARY ZACHARENKO: You can

20 SECRETARY ZACHARENKO: You cannot 21 ask any questions.

MR. MOLICA: Just for the record -this is Tom Molica, attorney for the
applicant. Just for the record, I thought it
was the Board's practice to keep all public on

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mute until the public portion of the meeting. Is that correct?

MR. GIBBONS: That's correct.
MR. MOLICA: Okay. Thank you,
Counsel. So that's what should be done in
this instance.

A. So I've stopped sharing that and here we are back. Boy, I'm successful. That's the first time I've ever done that so kudos to me.

Okay. So the first -- first thing, and I'd like to continue the testimony, is I do understand the Board's frustration and the professionals' frustration over this application. It's been a long-going saga from 2005 and I guess tonight is an opportunity we can -- we can kind of end that and legitimatize it and move on.

First of all, the previous resolution of December 1, 2005, specifically condition 1, to be modified to include the revised architectural plans by Byrne Design, noting the two-fixture bathroom, consisting of a sink and a toilet only, no shower and a limited wet bar area which opens up to the pool.

The second is condition 3, to be modified by eliminating the last sentence about

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being finished for storage only because there is a wet bar area there and there is a bathroom which are uses that obviously are not storage.

And then condition 5, to modify -- and this hasn't been addressed yet. To modify the condition to allow a sanitary connection to the house for the toilet and the sink. And that connection has been verified, that it is in -- in the house, which is the appropriate location.

And fourth is to modify the height that is noted in that resolution to be changed to 23.6 feet.

- Q. Height of the accessory structure, Dave, correct, not the pool house structure?
 - A. Correct.

Q. Thank you.

A. Why should you entertain this? That's a good question. The Anellos are asking for fairness to be considered. They have attempted to correct the previous actions to try to gain compliance as close as possible without having an undue hardship placed on them.

And you'll see by my testimony there really are not significant detriments to viewing these ordinances in that light. And there are --

Q. Let me just -- let me just interrupt you for a second, Dave, because I want everyone to hear this.

When I was younger I was in front of Judge Stanton in Morristown, who was the assignment judge. He heard all of the objections in lieu cases. Okay? That's when someone challenges governmental approvals.

He would say to me in connection with variance cases -- and you can tell me if he's right or wrong or what you think -- that any time there's a variance, a detriment exists because you're deviating or someone is doing something which was not permitted by municipal legislation. So that was his feeling.

But here, I think we're going to hear from you that there's a difference between a variance, in fact, and a true variance because of the detriments, because of what it's actually doing to the zone plan and surrounding area, correct?

- A. Yes, that is correct.
- Q. I'm sorry for that little interruption.
- A. That's okay.

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Q. Please -- please continue.

A. I had to -- I had the privilege of working with Judge Stanton in a mediation case and it was the privilege of a lifetime. I know Cliff can relate to that.

MR. GIBBONS: Oh, absolutely.

A. Planning reasons and justifications. I go to photo 4, which shows the rear of the property. This regards to the height and it goes in regards to specifically the bathroom. The pool is an entertaining area and you can note that there's a large sitting area to the rear, close to the pool house. What you don't know is that the bathroom in the house is on the first floor towards the front of the house, the front third of the house.

And if you recall that picture there, you have to run around the pool, go through a gate, go up a set of stairs onto the deck and into a sliding glass door and then partway through the house.

Now, I don't know about you, but as a person that's that's approaching 61, my body doesn't function the way it used to. And I would be running, especially near water.

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Second of all, the Anellos do entertaining. They have young children. And I have grandkids and I watch them all of a sudden have to go to the bathroom and they wait till the absolute last minute because they don't want to get out of the pool. The last thing you want them to do is pee in the pool or pee on their way to the bathroom.

- Q. Or have them left unattended?
- A. And if you're the mom there and you've got three kids in the pool and little Johnny needs to go, you're running. And it's not only a tripping issue, it's the length of time. They're not going to make it.

And the other thing is the elderly folks. I know the Anellos have elder parents that are going to want to be there with the kids

And pool houses traditionally, and most pool houses I have seen, they have bathrooms. And part of the need for the bathroom is the shape of the house -- or the shape of the property. This is a very long piece of property. And the placement of the pool is in relationship to that length of the

11.

property. It's set back into the lot. If it was wider than -- if it was as wide as it was deep, you would have just the opposite effect where you could put it close.

1.8

So I'm saying due to the timing, Board, accidents and bodily harm, there's safety concerns. And removing that bathroom could really cause a hardship for the users of that -- of that pool area.

The same thing could be said or a similar argument could be said about the wet bar. To haul out a bunch of drinks to the bar, it's hundreds of feet. Hundreds of feet. The key is that there's no stove. There will be no baking. And I think, again, having a refrigerator and a place where you can store snacks and cold drinks I think fits with the function of the pool house.

And then there were the variances requested in height and impervious coverage.

But the first thing is your master plan. Your master plan is a 2019 master plan and that is critical to any viewing of any ordinances that are being sought as far as relief mainly because it's so new. And I looked through it,

read through it, and there's only a few things that really relate to this situation.

And it's goal number one, maintain the character of the township in establish neighborhoods. This is an established neighborhood. What is being sought is not changing the character one bit. You can't see the height. Due to the shape of the property, you really can't even tell that there's too much impervious coverage. And you can't see the height of the pool house from anywhere other than the neighbor which is kind of blocked by the landscape.

Land use recommendations section, residential, number 8: Remove flag lot from provisions of the zoning code. Now, this is a interesting one and I definitely don't want to get into a planning argument. When I first saw this and looked at the lot, the lot is more than two times larger than the zone permits.

So technically -- and I've seen this all over the state -- one could come in with an application with that driveway and seek a flag lot and a house in the rear of the property.

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Now, is that approvable? I don't think so by this Board, but there could be a legal argument that could be presented. We don't -- definitely don't want to do that. We want this yard as a single-family home with a nice pool and a nice garage and a pool house.

So I applaud you for getting rid of the -- and I hope your ordinances do -- have been modified. Flag lots can be really a problem especially in this situation.

And then item number 12, or goal number 12, is remove deck coverage expectations from the zoning code. Sometimes you include coverage of decks. You think that -- and I think that's rather harsh because decks typically do have at least a nail width to let water through and usually it's -- it is somewhat pervious coverage underneath.

So how does the master plan affect the variances? Well, the development is to scale. The massing and the architecture is consistent and compatible with the neighborhood. The existing height condition cannot be seen from the road as shown on photos 1, 2 and 3. It can only be seen from the rear of the house as shown in photo 4.

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There are no neighbors abutting the rear of the house that could view that. And not only at the distance of it, you would not be able to perceptually see because the depth of the lot far exceeds the standard. And, again, the lot area is more than two times greater than the lot area required.

Now, as it comes to the proposed development plan reducing the impervious coverage, we respectfully note that this reduction is a product of a true good faith attempt by the owners and the professionals. I went out there two extra times to try to whittle away at that impervious coverage.

And I can say that reducing the area around the pool where you have access of walking, you don't want to do that. Six feet is a very comfortable number for two people to walk side by side or going opposite each other. Any closer than that, you're going to feel unsafe walking next to that water's edge, especially with kids running and elderly walking there.

So I think the standards of good design have been met with the pool design with the

reduction.

Impervious coverage, there's no question. Pequannock suffers from flooding as do some other communities. The City of Hackensack where I used to work, they had an added problem where they had tidal flooding. And, let me tell you, it's horrific when your streets flood, your homes flood. Counsel represented it is on here. I feel your pain when you get your residents calling.

Part of what you should consider -- and I know we talked about this earlier -- is the state and many communities recognize compact gravel as not totally impervious coverage. And when this approval occurred, they allowed that.

Now, I'm not going to say that there was not pavers put on where that gravel was originally approved because there was.

COMMISSIONER DRIESSE: Have you ever been there?

A. However, at the time when it was originally granted, the impervious coverage definitions were there and New Jersey best management practices do encourage best -- specialized paving and such to help reduce

that. In fact, they got asphalt that allows water to flow right through it.

Now, it has to be maintained here --

MR. MOLICA: Dave. Dave. Dave, can you hear me? Hold on for a second. I want to ask Bridget a question.

Bridget, are you able to appropriately hear everything and transcribe? Because I'm hearing a lot of background noise

MR. GIBBONS: Yeah, there is a lot of noise.

MR. MOLICA: -- on this line that is creating background noise.

THE REPORTER: I believe the Chairman is trying to get back on and there he is and I believe that's what was causing it.

MR. MOLICA: Okay. I'm just concerned about, you know, the transcription of this hearing.
BY MR. MOLICA:

Q. So with that, Dave, please continue.

A. Okay. Every effort has been made to reduce the impervious coverage, to meet the ordinance requirements without compromising good

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planning, good site plan, and public -- or safety for the people visiting the site via their vehicles and especially people with the movements around the pool.

Now, the Board has to look at two standards: The C-1 and the C-2 criteria. The C-1 deal is known as the hard C. And you can -- you can look at it as -- C-1A applies by reason of extraordinary circumstance state of the property. Some of the reason why there's more pervious coverage -- and it is somewhat of a narrow lot in comparison to the lot area. It meets all the standards. And to use the property more completely, you need to -- you needed to extend the driveway further into the property.

Under C-1A or C-1C, by reason of an extraordinary exceptional situation uniquely affecting a specific piece of property, strict application of the regulations into a particular exceptional practical difficulties and undue hardship on the owner. I think significant removal of certain appurtenances or buildings and pavement that have been installed does create some kind of a hardship. Cutting a roof is a hardship.

And so in the application of that,

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the approval of the variances would ultimately bring the compliance of the property to a legal standard approved by the Board eliminating the long history.

Again, the property and lot area is more than two times the requirement. It is, again, a -- looks more like a bowling alley, a wide bowling alley. It allows for the utilization of property.

The property is an appropriate -the proposal is appropriate reduction of
impervious coverage in regards to safety. The
increased height -- the increased height for
both the pool house/garage and the home, that
one little spot, does not impact the visual
character of the neighborhood at all. What
technically is a variance with no substantial
impact --

Q. Dave, let me interject for a second. MR. GIBBONS: Yeah, I -- go ahead. MR. MOLICA: I'm still hearing a lot of --

THE REPORTER: I know. This is the Court Reporter. If it's possible, if everybody can mute themselves while you're not

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talking. If you wanted to say something just quickly, you could just hit your space bar. But it's -- there is getting some feedback. It's picking up.

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And, also, Mr. Troast, maybe if you could come closer to the microphone so your voice can be --

THE WITNESS: I'm very loud. I'm sure my wife is going to comment.

THE REPORTER: That's okay for me.

MR. GIBBONS: Can we also ask people to turn their devices down?

THE REPORTER: Yes, if everyone can be muted. But I think the muting has to come from Linda. She can mute everybody.

MR. MOLICA: Linda, can you please mute all Board members unless they have a question for Mr. Troast? But I have my direct examination and I have been very specific questions that I need to ask.

MR. GIBBONS: Please go ahead. I would like -- I would like the opportunity to ask a couple of questions, Mr. Molica, and so does the Mr. Chairman.

THE WITNESS: Let me get to the C-2

criteria. I think I --BY MR. MOLICA:

Q. Dave, let me just ask you this. Okay?

A. Sure.

Q. We have two height variances, but this is important for everyone to understand. Neither one, neither the height variance that's required for the residents nor the height variance that's required for the accessory structure pool house, are sought or required to be sought pursuant to section 70D of the Land Use Law, is that correct?

A. That's absolutely correct.

Q. And the reason for that is that with regard to the residents, you're not -- and that's the primary structure, the principal structure on the lot -- you're not at 10 percent over the ordinance maximum limitation, which is 35 feet, is that correct?

A. Right. The height would have to be over 3.5 and then you --

Q. And now with -- and this is important for everyone to understand. With regard to an accessory structure, it's because the requirement that height variances be sought pursuant to 70D-6,

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that requirement is not applicable to accessory
 structures on a lot where there is a principal
 structure.

Is that correct, Dave?

- A. That is also correct.
- Q. Okay. So the variance relief with regard to height of the residents and the accessory structure is sought pursuant to section 70C of the Land Use Law, correct?

A. Yes.

Q. Okay. Please -- please explain to the Board and to the public why the relief sought pursuant to that statute is sustainable here and should be granted by the Board.

A. Well, first of all, I went through this, the C-1 criteria, on the hardship.

The second would be looking at the purposes of zoning under the C-2. And I specifically point out Section A, C and I, to encourage municipal action, to guide land use and development based on public health, safety and morals and general welfare.

The testimony presented shows appropriate modifications and improvements to the existing residence to allow for the

intended use of that residence in a -- in a fair manner.

Second is provide light and air and open space. The lot size is more than double the zoning requirement. The requirements, other requirements, are met except for the slight increase in the height and the impervious coverage. And the development, in my opinion, due to the size of the lot, enhances the light, air and open space.

And Section I is to promote a visual environment through creative development design. The architectural plans showed that they are consistent with the -- and complement the surrounding properties in massing and size. You cannot see any of the detriments. I think the visual environment is proved by the home in general. The granting of this variance -- of the variances are supported also by this purpose.

I've gotten through the height, the negative criteria.

There is no impact to the surrounding neighborhood. You cannot see it. You cannot visually look at that and say, boy,

1 that looks too big.

As far as the impervious coverage, the applicant has worked very hard with his professionals to reduce that impervious coverage. It's consistent with on-site best management practices as far as design.

As far as I am aware of, I do not know of any flooding or drainage areas associated with this property. So, therefore, there will be no negative impact or any increase in negative impact; that with the reduction, it will be improved.

The last thing is you have to look at a better plan. The hardship comes into play modifying it to totally conform would definitely cause compromises to the actual use of the property in my opinion.

So, in conclusion, you can either approve it through the hardship or by the soft C or the C-2 with the advancement of the purposes of planning and zoning. And I do believe, and my testimony is, it can be granted without any substantial detriment to the public good and without any substantial harm or impairing of the zone plan or zoning ordinance.

And, Mr. Chairman, that does conclude my direct testimony.

Q. And Dave, again, just for the record, I think Fred mentioned this in his direct testimony, but the roof of the residence, that 2.9-foot increase may be de minimis, maybe not, it requires a variance, but it's only in a specific location, is that correct?

A. It's a very small location. It's kind of the period in a sentence. It's small. It can't be seen from the street and you really wouldn't notice it from the backyard.

Q. Thanks, Dave.

MR. MOLICA: Mr. Chairman, I don't think I have any further direct questions or contemplate any further direct testimony from Mr. Troast, at least at this time.

In fact, you know, I'm responsive to the Board questioning my two witnesses as I think that's going to conclude my direct case at this point. Okay? I don't contemplate the need for the applicant to testify and I don't contemplate a need for the architect to testify in light of the detailed testimony you just heard from what I consider to be more

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qualified experts, specifically a licensed professional civil engineer and land surveyor and also a professional land use planner who, quite frankly, is testifying, you know, in

support of a residential variance application.

And at least in my experience, that doesn't necessarily happen all the time, especially with regard to variances sought pursuant to 70C of the Municipal Land Use Law.

So, again, I think I'm going to rest for now and we'll respond to and address Board questions if necessary.

CHAIRMAN DOLENGO: Thank you, sir.

All right. Mr. Gibbons, I know you wanted to say something before so I'll let you go first. Is that okay?

17 MR. GIBBONS: Yes. Thank you,18 Mr. Chairman.

Mr. Troast, I -- you have discussed the variances, as you said, under C-1A. And I guess, you know, you've talked about them as hardship variances. I know you've also claimed them under C-2, which, you know, makes

I am having trouble following you

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with respect to how the facts indicate that this would be a C-1 -- that this could be a

3 hardship variance because I'm really -- I

mean, are you saying the property owner takes

5 the property as they find it or are we --

6 because the idea of hardship is -- the

7 fact that -- the fact that a property would be

subject to construction that does not comply
with the statute or with the ordinance would

seem to be a self-created hardship rather thanan objective hardship under C-1. But, I mean,

I want to hear what you have to say about that.

THE WITNESS: Well, I -- in normal circumstances I would agree with you, but this is not a normal case.

MR. GIBBONS: Clearly. And, incidentally, I think --

THE WITNESS: And that's why I looked at it and said for this applicant to now have to go back and change a roofline of the principal structure, a roofline of an accessory structure -- he's already ripping out over 1,500 square feet of paved surface. And not only paved surface, but curbing, which

is going to require equipment, backhoes, to

rip it out and it's going to impact a lot of the driveway. To me, that is a hardship. To find that out after purchase, I just --

 MR. MOLICA: Can I ask a question in response to your question? Because I think in your --

MR. GIBBONS: My question or your question?

MR. MOLICA: Well, I just want to ask you the citation. I thought that you said that Dave was talking about variance relief pursuant to Section 70-C(1)(a).

MR. GIBBONS: C(1)(a). He had mentioned --

MR. MOLICA: I think that -- I think the extraordinary circumstance subsection is 70-C(1)(c).

THE WITNESS: C(1)(c).

MR. MOLICA: Is that what you're referring?

MR. GIBBONS: All right.

THE WITNESS: Yeah. Yes, it is, but I also referred to C(1)(a) which has to do

with the shape of the property. And my

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testimony to that is this is a very large lot.

It's so much longer than wide, though it does comply with lot width, that in order to use the property appropriately, you're going to need to extend the impervious coverage and the driveway further back into the lot.

Therefore, to use the property, you're going to go over an impervious coverage. So it goes to the proper utilization of the property. Otherwise, the whole thing would just be -- otherwise, if it were me, I would be seeking a variance for another house because I can't use my back piece.

MR. MOLICA: So as an expert in the field of land use planning, David, it is your testimony the variance relief is sustainable pursuant to Section 70-C(1)(a) and C(1)(c) of the Land Use Law and Section 70-C(2), is that correct?

THE WITNESS: Yes, it is. Now, the Board has the option to find it either -- or C(1). They can either find it in C(1) or C(2). I -- they can -- they can do it either way and approve the application.

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MR. GIBBONS: Okay. I just -- well, all right. Yes.

MS. HARTMANN: Mr. Gibbons, can I just jump in here?

MR. GIBBONS: Go ahead, Jill. I'm sorry.

MS. HARTMANN: No, no. It's okay. I just have some of the history of this site that I think it's necessary and important for the Board to know it. This is not about judgment on the variances that are being requested per se, but we have documentation in the building department that prior to the purchase, or while the Anellos were purchasing the property, that they were made aware of every single problem that was related to this site. So I do not believe that from a planning perspective that this is a hardship per se.

Number two, you cannot subdivide this property because our ordinance, which permits flag lots, requires the flag lot to be twice as large as the zone it's in. So the flag lot would have to be 44,000 square feet and this application only has 46,657 square

Page 60

feet.

I would also say that the house itself was built to utilize as much of the property as possible, but they also could have built a more appropriate house that has a smaller footprint that wouldn't require the coverage. And, yes, you would have a really big backyard.

So while I appreciate the testimony with regards to the C(1) or the C(2), I think those are some of the items or some of the information that you need to have.

I would also tell you that our pool houses in town -- I do not know of one pool house that is a three-car garage and a pool house attached. So this is not just a pool house. This is a garage and a storage area. And the height of 23 feet and now 23.6 feet was granted specifically without a bathroom

So the Board may wish to grant that bathroom, but I've got to tell you, as Mr. Troast would tell you back his way, I have a pool in my backyard, too, and I've got to go inside to go to the bathroom.

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And I understand that people have children, but you have to watch them. And if you take a child into the bathroom in the pool house, the same thing can happen to the children in the pool that could happen if you take them into the house. Because, as we all know, children when they drown or have a problem, they just simply go under. They don't yell, they don't scream. That's what happens.

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So I think that you have to determine as a Board if the criteria has been met and if it makes better planning for this site and for the neighborhood to grant these variances. But I just think you need to have all of the information.

MR. MOLICA: If I may, as the applicant's representative, I'll address some of the comments.

I don't disagree with Ms. Hartmann that variance -- variance relief is important stuff and it's stuff that you shouldn't take light. I think in this instance you're hearing an applicant present testimony that people, at least in my experience in this

particular municipality, don't often do. Okay?

And there are plenty of times that there are large houses with accessory structures that require variances. And I understand and when I introduced the application, I alluded to this. I understand that there are complexities involved here caused by history and things that are essentially, in my opinion, substantively unrelated to the actual New Jersey Municipal Land Use Law and the township ordinances.

I don't know if it's necessarily truly relevant to blame a prior owner and to involve a prior owner or to say that the Anellos knew more than what they know.

We're here tonight to evaluate the relief that is needed to bring the property into conformance and to move on with our lives. And in today's day and age, where tomorrow truly isn't promised, you know, I don't think it's worth rehashing the past. You're hearing expert testimony about the now and what the future could be. And I urge you to move forward here.

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MS, HARTMANN: And I don't necessarily disagree with you, Mr. Molica, but Mr. Troast brought up about all of the things about the existing condition and how -- and so I think history is always important to know how we got to where we are. And I just think that --

MR. MOLICA: Ms. Hartmann --(Indiscernible cross talk; reporter requests one speaker)

MR. MOLICA: I agree.

MS. HARTMANN: I think that, in fact, you know, Mr. Troast has given his opinion and he's, I think, given you some very good information on how to proceed as far as variances are concerned, as the Board may wish to, but I think the history of the property is also important. That's all.

MR. GIBBONS: I just would like --MR. MOLICA: It's important, but in my opinion it's not as important as the expert testimony and the record we've put in.

MR. GIBBONS: I'd like to mention, Tom, I understand the thoroughness involved in proving a variance under two standards. I

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mean, I know when I do applicant's work, I do the same thing you're doing. But I think here we have to be -- we have to be honest with each other.

I mean, perhaps there is some decision or decisions out there that would -that would deem a hardship to be having to correct, in essence, an error. Right this moment I am not familiar with them, but it would seem to me to be the more -- it would seem to me that the more practical approach to this -- and I'm not telling you how to do your job -- is that if this is anything, it's a C(2).

I mean, you know, I'll let you present, obviously --

MR. MOLICA: I'll take that under consideration, Counsel. I mean, I imagine I'll have to make a summation. So if you want me to limit how we're requesting the variance relief to Section 70-C(2), I can certainly do

MR. GIBBONS: I would not -- I would not deign to tell you how to do your job. You've been in this business damn near as long

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as I have. So I'm just saying I really don't see this credibly as a hardship. I mean, --

MR. MOLICA: Well, at least as not as a -- the Section 70-C(1)(c) we're talking about being --

MR. GIBBONS: I --

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MR. MOLICA: The topography or the shape of the lot is different, is it not?

MR. GIBBONS: Well, this is a unique property. We can go through that. But the circumstances, the quote/unquote extraordinary circumstances which may exist, and we've discussed some of them, are not because of the natural character of the property. They are, as I said, it would seem to me, maybe it's a fact question, but it seems to me to be self-created hardship.

And so I don't know that -- not on your client's behalf, but it would seem to me that ascribing a hardship to the need to correct -- to the need to correct an inconsistency or an error seems a little -well, it seems to me to turn the concept on its head.

MR. MOLICA: Well, the counterpoint

I'll make -- and I don't want to belabor this any longer, Counsel, because I don't think it's necessary in light of the fact that you have other statutory standards for which the variance relief can be granted. But I'd like to point out ---

MR. GIBBONS: You've got the --MR. MOLICA: -- that the variances were originally granted in 2005 and that's when the home was built. Okay? 2005 is a long time ago. Okay? I, in doing this in 20 years, and I'm a law partner and co-owner of our law firm, and doing it in court over years, have never seen a case where an applicant comes in, tries to correct preexisting nonconformities, gets denied, goes to Superior Court and a judge says things like rip the roof down or -- I mean, where are we going here? I don't know from an equitable perspective what would truly happen.

MR. GIBBONS: Well, we haven't done that here.

MR. MOLICA: Well, I understand that. I'm just trying to think in my mind about what the objective is.

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MR. GIBBONS: I mean, we're looking at this with the benefit of knowing that those issues happened. We're looking at this with the benefit of, you know, not only the record, but what the law says and, you know, what could happen and what the possibilities are. I think you know what I'm --

MR. MOLICA: I do, Counsel, and --MR. GIBBONS: I think you know what I'm pointing out.

MR. MOLICA: I do respect your opinion and we will -- if we need to re-articulate how we're seeking the variance relief or limit what we've said, it's 70-C(2) and/or Section 70-C(1)(a) as opposed to section 70-C(1)(c), we'll do that.

I think Mr. Troast may have had a response to something I said or you said. Can he chime in here briefly?

19 20 MR. GIBBONS: Sure.

THE WITNESS: Well, it goes back to what you said earlier, Cliff. My responsibility as a professional --

MR. GIBBONS: Yep.

THE WITNESS: -- and yours is to

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present as much credible evidence in your opinion to make it fly.

MR. GIBBONS: That's it. 3 THE WITNESS: Now, do I -- is the

C(1) argument totally bought? That's up to you and the Board to decide. You can counsel your Board and say, look, you know, it's a little shaky here, but C(2), you should be looking at that and has he proven that?

That's okay. I have no problem with you saying that at all as a professional or Jill saying that. I don't. That's the --

MR. GIBBONS: In the interest -right. Well, in the interest of a full record and really looking at this thoroughly, that's why I'm bringing it up here rather than in --

THE WITNESS: You know, I think --(Indiscernible cross talk; reporter

19 requests one speaker)

> MR. GIBBONS: -- rather than in some colloquy with the Board I'm bringing it up with you guys and I'm giving you a chance to jump in and say, hey, Mr. Gibbons, you know, but look at this, look at that.

> > I think we all know -- I think the

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point has been made, but in the interest of transparency, I think it's good that we have discussed it.

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THE WITNESS: And just in closing, I mean, I have never seen anything from this length of known violations. And, let me tell you, I used to manage a city and a town so I know the pressure from the top administrator as to what goes on because it plays all over the place.

I don't want to blame the professionals of the town. It's a hard thing. You've gone through multiple different managers and probably zoning officials. But to say that after 2005 to 2020, to me, I take hardship as a personal thing sometimes. If that was me, I would feel like I had the weight of the world and to rip all that stuff out would be a significant hardship.

That's -- I rest with that.

MR. GIBBONS: Okay.

MR. MOLICA: Again, I have no further questions for Mr. Troast via direct examination. So, again, we're here listening to the Board and its professionals question.

MR. GIBBONS: Mr. Chairman, I have no further questions right now so I would welcome any other questions from the members of the Board or Ms. Hartmann or...

MS. HARTMANN: No.

COMMISSIONER QUIGLEY: Mr. Chairman, can I ask a question?

Ms. Hartmann, can you answer -- can you clarify something for me? And thank you for pointing out what you had said previously about the fact that the Anellos as the current homeowners, there was full disclosure on -and excuse me if it's not the appropriate term -- but any of the violations that were present at the time that they were considering to purchase this house.

Can you clarify for me what -- when that disclosure was made, what options do they have or requirements? At that point that they know there are violations, are they told that they have to be remedied at that point?

MS. HARTMANN: Yes. You would have to speak -- I know this from Mr. Grant, the construction official. I've seen and read the papers with regards to that, but I do know

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that prior to their purchase --

(Indiscernible cross talk; reporter

requests one speaker) MS. HARTMANN: Sure. Prior to -- I believe prior to their purchase, Mr. Grant made them aware that the house was constructed.

7 inconsistent with the approved plans; that 8 there was a small addition that was put on the

9 main -- the principal building that made the 10 height higher. That there were just -- there

were a number of inconsistencies and varied

12 items that were not approved in the 2005

13 amendment.

> I don't have those plans with me -or, I mean, I'm sorry, those reports. But there was something that Mr. Anello -- there's a letter that Mr. Anello signed noting that he was aware that he had to come to the planning -- or the Board of Adjustment to get

variance relief for those issues. COMMISSIONER QUIGLEY: And how long

22 have they been homeowners of that property? 23 MS. HARTMANN: Probably a year and a 24

half maybe. I don't know. You'd have to ask them, but I know it's over a year.

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1 MR. MOLICA: I can respond to Jill's 2 point. First of all, I don't want to get into 3 a he said/she said thing. You know, 4 technically that's what we call hearsay and I 5 that know we're not bound by the formal rules 6 of evidence ---7

MS. HARTMANN: Then we can get Mr. Grant.

MR. MOLICA: Well, I don't think it's necessary, Jill, because we're here now trying to move forward.

MS. HARTMANN: I know. I understand that, but I was asked a question --

MR. GIBBONS: We could call Mr. Grant. We could call Mr. Grant if it's necessary to verify facts. So I --

MS. HARTMANN: I'm just saying that was my --

MR. MOLICA: I don't think it's a fact that's germane to the application at this point. You've heard the --

MR. GIBBONS: Well, that's -- the Board has the discretion to make that decision, Mr. Molica, whether -- as to relevancy and the quantum of evidence to make

Page 74 Page 73 1 their decision. So they would be within 1 circumstances. Is that not accurate? 2 2 MR. GIBBONS: Yes, it is. their -- they would be within their rights to 3 COMMISSIONER QUIGLEY: Am I correct? 3 4 Okay. I just wanted to clarify that. I'm 4 MR. MOLICA: I don't disagree. I'm 5 5 just saying that -- I'm urging the Board to asking for information that I was not privy to 6 6 to allow me to be better informed. So that's prevail upon its sense of wisdom and 7 7 what I was getting at. understand that they don't need to do that 8 MS. HARTMANN: My response here --8 here. You've got a case presented. The 9 9 Anellos have done what they were instructed to my response here is not -- so let me make this 10 10 perfectly clear. My response here is not to And did it take from, you know, 11 put a roadblock to the Anellos to getting 11 12 appropriate variances for their plans or for 12 closing date in 2019 to, you know, 13 what they want to do. I recognize that they 13 August/September of 2020 to do that? Yeah, it 14 have made adjustments to their plans. They 14 did, but they're also doing it in the middle 15 15 of a worldwide pandemic ultimately unlike have not made some of the adjustments that I 16 think may be appropriate, but my response here 16 anything the world has seen in over a hundred 17 is to let the Board know -- you were saying 17 years. 18 So, again, I just don't understand 18 this. I'm hearing this. Your planner is 19 talking about the history of this site. 19 where we're going here. I want to move forward. The Anellos really want to move 20 20 So you need to have the full picture 21 of the history of this site. That is all. 21 forward. You've heard very thorough 22 It's certainly -- like I said, I really don't 22 testimony. 23 COMMISSIONER OUIGLEY: Can I ask a 23 have any skin in this game as far as whether 24 these variances are granted or not. I just 24 question? It's within my purview as a Board 25 member to get clarification of the 25 want to make sure that all of the information Page 76 Page 75 1 and the weight of testimony --1 is presented to the Board and all of the facts 2 MR. GIBBONS: Of course. 2 and all of the opinions based upon the 3 MR. MOLICA: -- into consideration. 3 Municipal Land Use Law requirements and our 4 And what you've just heard from two experts to 4 ordinance, Mr. Molica. That's all. 5 5 MR. MOLICA: Thank you. me outweighs anything. 6 MR. GIBBONS: Well, it's the Board's 6 MR. GIBBONS: And there's no 7 7 discerned decision to weigh and evaluate the question as to the Board's reasonable 8 8 entitlement to that information because the evidence. We both agree on that. 9 COMMISSIONER MELLENO: Jill. Jill, 9 Board is -- it's pretty fundamental. Mr. Molica, you as a municipal attorney, will 10 I have a question. That third floor, does 10 11 that come into this at all? 11 agree that the Board is pretty much entitled 12 MS. HARTMANN: The third floor does 12 to whatever will help it make a reasoned and 13 informed decision. You've done this for many 13 not appear on the --14 COMMISSIONER MELLENO: Because it 14 years. We're not trying to get blood out of a 15 was the third floor created by that bump, 15 stone here. These are things that are 16 correct? 16 reasonable to ask for and reasonable to 17 MS. HARTMANN: We are talking about 17 obtain. 18 the principal structure, correct? 18 MR, MOLICA: I agree, Counsel, and 19 COMMISSIONER MELLENO: Right. 19 I'm by no means objecting. Again, these types of proceedings, I couldn't technically object 20 20 MS. HARTMANN: The residence. That 21 third floor does not appear on the approved 21 22 MR. GIBBONS: I understand. 22 plans that was constructed which is why 23 23 they're here. That was constructed without MR. MOLICA: -- under a rule of 24 24 evidence. Okay? What I'm suggesting is that any approvals and that's why the applicant is 25 here seeking the variance for that additional 25 you always have to take the weight of evidence

	Page 77		Page 78
1	height and that room in the attic.	1	MR. GIBBONS: Right, exactly. Okay.
2	COMMISSIONER MELLENO: Yeah, but	2	I'm just trying, you know
3	that room wasn't included in this variance	3	COMMISSIONER MELLENO: But this room
4	they're asking for, was it? I didn't see	4	is three floors, correct? It's a full room up
5	that.	5	on the third floor.
6	MS. HARTMANN: Well, no, they're not	6	MS. HARTMANN: Well, the applicant
7	asking for the room. They're asking for the	7	
8	height. And I think as a result of that	8	COMMISSIONER MELLENO: I thought
9	Mr. Molica can talk to that, but I do believe	9	that came up in the last hearing.
10	that is incorporated in the height.	10	MS. HARTMANN: The applicant would
11	MR. MOLICA: It is.	11	have to address that. We do have a definition
12	COMMISSIONER MELLENO: That third	12	for height I mean for a story.
13	floor is without a variance?	13	COMMISSIONER MELLENO: Right. And
14	MR. MOLICA: Yes.	14	that came up in the last hearing
15	COMMISSIONER MELLENO: I'm asking	15	MR. MOLICA: So we can address.
16	Jill.	16	MS. HARTMANN: You're going to have
17	MS. HARTMANN: I believe that's what	17	to.
18	they're asking for, yes.	18	MR. MOLICA: We can address that
19	MR. GIBBONS: The third floor is not	19	with testimony from Mr. Troast.
20	subject to a variance? I want to make	20	COMMISSIONER MELLENO: Okay.
21	MR. MOLICA: We're subject to the	21 22	MR. MOLICA: Supplementing what he previously testified to regarding the 37.9
22	height limitation.	23	foot height that we're seeking for the
23	MS. HARTMANN: Well, I do believe our ordinance is two and a half stories and 35	24	entirety of the principal residence.
24 25	feet.	25	BY MR. MOLICA:
23	icci.		DI Mid Hobioti.
	Page 79		Page 80
1	Q. Dave, does your variance testimony alter	1	point is well taken in that I don't believe
2	or change in any regard if it's amended to include	2	that it's the that it's appropriate for the
3	an additional half-story level on the interior of	3	applicant's attorney to try to control the
4	the residence?	4	testimony or limit questions. And that's why
5	A. No, it does not.	5	I brought it up. I mean, that's why I said,
6	Q. So you affirm the prior statements you	6	maybe not as bluntly as I could have, but I
7	made as an expert professional land use planner in	7	simply said that it's the right of the Board
8	support of the height of the principal residence	8	to obtain information as it sees or as it
9	at 37.9 feet and testify as an expert that the	9	feels it needs or sees fit.
10	additional half story should be approved pursuant	10	Yes, Ms. Quigley was certain within
11	to the applicable sections of the Municipal Land	11	her rights to ask the questions as are the
12	Use Law that you cited, is that correct?	12	rest of you. So I would say yes. I mean, I
13	A. Yes.	13	don't want to this is not, you know, sixth grade here. I'm not going to I'm expecting
14	Q. Thank you. COMMISSIONER DRIESSE: Mr. Chairman,	14 15	grade here. 1m not going to 1m expecting Mr. Molica to, you know, restrain himself as
15 16	convinistioner Driesse: Wr. Chairman, can I ask a couple of questions?	16	he should in that situation.
10 17	CHAIRMAN DOLENGO: Absolutely, sir.	17	COMMISSIONER DRIESSE: All right.
18	Go ahead.	18	Thank you. I just wanted to be clear because
19	COMMISSIONER DRIESSE: First of all,	19	that just really annoyed me.
20	Mr. Gibbons, if a Board member is talking to	20	So next question. Mr. Troast, so
21	our professional planner, is there any reason	21	what I'm I mean, my main question and
22	why the applicant's attorney has to jump in	22	I've got a couple of points. So my main
	2	1	
23	and talk? I mean, I find that totally	23	questions about these 14 pages of your report
23 24	and talk? I mean, I find that totally ridiculous.	23	questions about these 14 pages of your report is that somebody can get an approval with a
		!	-

	Page 85	T	Page 86
1	everything after the fact and then you expect	1	in the garage or pool structure. Is it on the
2	other people to approve stuff? I don't know,	2	first floor?
3	I just have a little bit of hard time with	3	MS. HARTMANN: Yes. Yes.
4	that.	4	COMMISSIONER MELLENO: First floor.
5	So, Mr. Chairman, that's all from me	5	Okay. I thought he mentioned upstairs.
6	at the moment.	6	MS. HARTMANN: No, there's a
7	CHAIRMAN DOLENGO: Thank you,	7	mezzanine on the second floor or a second
8	Mr. Driesse. That's well said.	8	floor that's at 8 feet some inches, which is
9	I understand where you're coming	9	supposed to be 6 feet 8 inches. And they have
10	from and I've had this whole feeling from the	10	testified that they are going to put in
11	get-go. We did not create this hardship at	11	whatever needs to be put in to lower the
12	all. But I want to hear from more members of	12	height of the mezzanine to 6 feet 8 inches so
13	the Board.	13	it's not a habitable space.
14	COMMISSIONER MELLENO: I've got a	14	COMMISSIONER MELLENO: Okay. So
15	question or want to say something.	15	that won't be an 8-foot ceiling on that second
16	Mr. Anello was aware that the	16	floor.
17	property did not have a CO on it when he	17	MS. HARTMANN: Right. So that the
18	bought it and he knew he was going to have	18	kitchen and the I'm sorry, the wet bar and
19	to get the CO's himself. So, like you said,	19	the kitchen and bathroom are on the ground
20	it wasn't a hardship because he was aware of	20	floor.
21	it.	21	COMMISSIONER MELLENO: Well, I don't
22	And, you know, creating the third	22	think he heeded a wet bar he said. He just
23	room and floor up there, which, like Jill	23	needed a refrigerator to keep the drinks in.
24	said, is against the town ordinance. The	24	So that you can plug in anywhere. I don't
25	upstairs I'm not sure where the bathroom is	25	know if you need a variance for a
	Page 87		Page 88
1	refrigerator.	۱ ٦	
		1	CHAIRMAN DOLENGO: No, we're I
2	CHAIRMAN DOLENGO: I want to stop	2	opened it solely so the Board members can
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11	Page 89		Page 90
l 1	Board to allow them to have that third floor	1	relief required in connection with the overall
1 2	for the bedroom.	2	height of the residence. Okay?
3	COMMISSIONER HERBERT: Because I	3	CHAIRMAN DOLENGO: Okay.
	thought we were just talking about the height	4	MS, HARTMANN: And to be fair to the
4	of that room rather than the room itself. If	5	applicant, I did not call it out in my report,
5	it was in violation in the beginning, now we	6	the third floor. So, you know, I think it was
6		7	just you know, this has been a very I
7	need to get approval for that room. MS. HARTMANN: Well, whether it's a	8	hate to say complicated because it's really
8	bedroom or a room, it's the third floor. I	9	kind of straightforward, but somewhat
9	•	10	complicated with the history.
10	mean, a little bump-out was put in so they could create another room.	11	So I think that they've just amended
11	COMMISSIONER HERBERT: Yeah. Yeah.	12	their variance so that they're seeking that
12		13	•
13	MS. HARTMANN: And not the Anellos.	14	room.
14	The previous owner. COMMISSIONER HERBERT: Understood.	15	MR. MOLICA: Thank you, Ms. Hartmann. And for the record, too, the
15		16	form of notice does include in paragraph
16	Yeah.	17	numerated paragraph 4 reference to any
17	CHAIRMAN DOLENGO: That wasn't	18	additional variance relief that's required.
18	brought up in testimony until now. I don't	19	CHAIRMAN DOLENGO: That's stated.
19	like that.	20	Okay. Thank you.
20	MR. MOLICA: Well, if I may,	21	COMMISSIONER HART: I have a couple
21	Mr. Chairman. CHAIRMAN DOLENGO: Go ahead.	22	questions, Mr. Chairman.
22		23	CHAIRMAN DOLENGO: Go ahead,
23	MR. MOLICA: Mr. Troast testified	24	Mr, Hart.
24	that if we need the extra half story, then	25	COMMISSIONER HART: What is at
25	we're seeking that as part of the variance	23	COMMINISSIONER HART. What is at
***************************************	Page 91		Page 92
1	one of the in-person meetings, I think when we	1	MR. MEOLA: I believe they did, but
2	first heard from the Anellos, we asked what	2	I'm not sure. I would think it should be on
3	the ceiling height of that third floor was and	3	the architectural plans.
4	it was unclear: 7, 7 and 1/2 feet.	4	COMMISSIONER HART: Okay.
5	Do we know at this point what the	1	
	DO WOLLING WAR WILL POWER WILLIAM	5	MR. MOLICA: The township
6	actual ceiling height is?	5 6	MR. MOLICA: The township construction code?
6 7			
	actual ceiling height is?	6	construction code?
7	actual ceiling height is? MR. MOLICA: I can respond to that	6 7	construction code? COMMISSIONER HART: Yes.
7 8	actual ceiling height is? MR. MOLICA: I can respond to that in testimony from Mr. Meola.	6 7 8	construction code? COMMISSIONER HART: Yes. MR. MOLICA: Well, we can confirm
7 8 9	actual ceiling height is? MR. MOLICA: I can respond to that in testimony from Mr. Meola. Fred, can you I believe you	6 7 8 9	construction code? COMMISSIONER HART: Yes. MR. MOLICA: Well, we can confirm that and obviously any approval would be
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7 8 9 10 11	actual ceiling height is? MR. MOLICA: I can respond to that in testimony from Mr. Meola. Fred, can you I believe you confirmed this measurement. Unmute too, Fred. Remember to unmute when you speak. Okay?	6 7 8 9 10 11	construction code? COMMISSIONER HART: Yes. MR. MOLICA: Well, we can confirm that and obviously any approval would be subject to complying with other regulations such as the construction code.
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	Page 93		Page 94
1	have it with me.	1	MR. MEOLA: There's ductwork. Yeah,
2	I did find the measurement. We	2	there's ductwork up in that area. And it's a
3	measured 7 foot 8 inches for the heighth of	3	spray foam installation, the whole area up
4	the bedroom on the third floor, which is only	4	around that room.
5	a portion of the third floor area just so you	5	COMMISSIONER HART: Okay. My
6	know. It's not that it's not that whole	6	questions are done.
7	roof area. It's only in one section near the	7	CHAIRMAN DOLENGO: Thank you,
8	rear that the bedroom is.	8	Mr. Hart.
9	COMMISSIONER HART: So the highest	9	Does Mr. Aikey have anything to
10	point in the room is 7 foot 8 inches?	10	say?
11	MR. MEOLA: Yes.	11	COMMISSIONER AIKEY: Question for
12	COMMISSIONER HART: Okay.	12	Fred.
13	COMMISSIONER MELLENO: Is that right	13	You talked about reducing the height
14	under the cap, that room?	14	of the collar ties. Is that in that room
15	MR. MEOLA: I'm sorry, what was	15	where you're talking about?
16	that?	16	MR. MEOLA: No, the collar ties,
17	COMMISSIONER MELLENO: The cap, the	17	we're talking about the storage area that was
18	part that's above the required height.	18	part of the approval in the garage/pool area.
19	MR. MEOLA: Yes, it's under the cap.	19	What the regulation the ordinance said, or
20	It's if you looked at the pictures that the	20	the approval said, was that that area was
21	planner had, you see that little bump-out.	21	supposed to be no more than 6 foot 8 inches
22	That's where the room is.	22	high. When we measured the collar ties that
23	COMMISSIONER MELLENO: Did we ever	23	are in, they're at 8 foot 1 inches. So
24	find out if there's mechanicals in that cap or	24	they're going to have to be lowered down to 6
25	what's in there?	25	foot 8 inches to comply with the approval.
23	what's in there:	23	toot a nones to compty with the approval.
	Page 95		Page 96
1	COMMISSIONER AIKEY: And	1	vote on this because this is a hardship on
2	MR, MEOLA: It's an easy	2	you, but it's not a hardship on the Board.
3	COMMISSIONER AIKEY: What would be	3	You bought into this volcano, so to speak.
4	the purpose of lowering the collar ties?	4	I'm not sure if I want to stop the
5	MR. MEOLA: Because then it wouldn't	5	meeting here and open it to the open it to the
6	be classified as habitable space. Seven foot	6	public yet. And I don't know if we should
7	is the cutoff for habitable space.	7	deliberate amongst ourselves. We normally do.
8	COMMISSIONER AIKEY: Okay.	8	MR. GIBBONS: Mr. Chairman.
9	CHAIRMAN DOLENGO: Mr. Aikey, are	9	CHAIRMAN DOLENGO: Go ahead.
9	•	1	
_	you finished with Mr. Meola? I guess so.	10	MR. GIBBONS: Mr. Chairman, if I
10 11	you finished with Mr. Meola? I guess so. Mr. Aikey? Mr. Aikey?	10	MR. GIBBONS: Mr. Chairman, if I may. I think you I think the applicant
10 11	Mr. Aikey? Mr. Aikey?	1	
10 11 12	Mr. Aikey? Mr. Aikey? COMMISSIONER AIKEY: I already asked	11	may. I think you I think the applicant
10 11 12 13	Mr. Aikey? Mr. Aikey? COMMISSIONER AIKEY: I already asked my question.	11 12	may. I think you I think the applicant would be entitled to a summation
10 11 12 13 14	Mr. Aikey? Mr. Aikey? COMMISSIONER AIKEY: I already asked my question. CHAIRMAN DOLENGO: Okay.	11 12 13	may. I think you I think the applicant would be entitled to a summation CHAIRMAN DOLENGO: Yes, I understand
10 11 12 13 14 15	Mr. Aikey? Mr. Aikey? COMMISSIONER AIKEY: I already asked my question. CHAIRMAN DOLENGO: Okay. Ms. Quigley did and let's see. Okay.	11 12 13 14	may. I think you I think the applicant would be entitled to a summation CHAIRMAN DOLENGO: Yes, I understand that.
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Page 98 Page 97 1 into this hearing. So we would like the MR. MOLICA: Counsel, if I may, this 1 2 2 is Tom Molica on behalf of the applicant. ability to review whether it's necessary for 3 the Anellos to offer factual testimony about 3 MR. GIBBONS: Do you have any other 4 witnesses, Tom? 4 the relief that they're seeking and about 5 their history at the property. Okay? And I 5 MR. MOLICA: No, and that's what I 6 6 think that that may be a prudent way to was going to explain to you. I don't have any 7 7 witnesses for tonight. Okay? I think it proceed at this juncture. 8 CHAIRMAN DOLENGO: I have no 8 might benefit the record, it may benefit the 9 Anellos, the applicant's professionals, and it 9 objection to that. That's --10 COMMISSIONER MELLENO: Could we --10 may benefit the Board and its professionals if 11 11 we adjourned here and carried this meeting to could we let the public have any questions 12 while they're here or not? 12 an October date. Okay? 13 13 CHAIRMAN DOLENGO: No, I think we There were two questions asked that 14 I think are important that Fred can't answer 14 should wait. 15 MR. MEOLA: If I can just clarify 15 tonight. Okay? You don't have the benefit of 16 one item. I know we're not in a flood zone. 16 a complete record. Those relating to window 17 17 installations in the primary residence and I did check that. The flood zone is down on 18 the next street behind us, which would be to 18 also questions about floodplain as opposed to floodway or stormwater management issues which 19 19 the -- across the street from us and then 20 20 behind those lots. I can't remember -- the I think Fred should be able to respond to. 21 name of the street is alluding me right now. 21 And I'd like to suggest to the Board 22 22 MR. MOLICA: All right. I that I'm going to think about and meet with 23 23 appreciate that, Fred, but, again, I think the Anellos to see if they can provide 24 testimony, not tonight, but at a future 24 it's best if we take a harder look at it and 25 do it in full detail. Maybe even give you a 25 meeting date. We're already over two hours Page 99 Page 100 1 anything in terms of defaults or anything? 1 letter from Fred with a sign and seal on it. 2 2 Okay? MR. MOLICA: Yes, you do, Counsel, 3 3 CHAIRMAN DOLENGO: Okay. and I give that on behalf of the applicant. 4 4 MR. GIBBONS: Mr. Chairman, with What would be the meeting date? And 5 5 regard to the public input, I think it's our then I want to talk about carrying the notice 6 because this case has already been noticed 6 general procedure, big application or small, 7 7 that we allow an applicant to put in its case twice, but we should also talk about what 8 8 happens if you have a pure in-person meeting. in chief before questions are taken from 9 9 members of the interested public. I mean, I I think we can make an announcement, but maybe 10 think we should stay with that -- I think we 10 we start with confirming the date first. 11 SECRETARY ZACHARENKO: Well, October 11 should stay with that approach. 12 CHAIRMAN DOLENGO: I thoroughly 1st is booked already. That's our -- that's 12 13 500 Route 23 so we couldn't put this 13 agree. Yes. Yes, sir. application on then. Then our next one after 14 14 MR. MOLICA: Yeah. Tom Molica, on 15 15 that is November 5th. behalf of the applicant, is fine with that, 16 16 whatever the Board's practice and preference MR. GIBBONS: We can't be certain it 17 will be an in-person meeting even by November 17 CHAIRMAN DOLENGO: Okay. All right. 18 5th depending on what's been going on. 18 19 MR. MOLICA: If I have to renotice, 19 So any other issues? Any other calendar 20 so be it. It's not an excessive cost and the 20 issues with regard to the --21 21 MR. GIBBONS: Yeah, I don't believe list isn't overly lengthy. 22 The concern with a November meeting 22 there are because everything is still in place 23 23 as opposed to an October meeting -- and, from the governor. So we're not going to --24 again, schedules are schedules. I mean, we 24 you know, we don't -- do we need an extension? 25 Tom, do we need an extension of time for 25 have to accommodate that. But there is a

	Page 101		Page 102
1	condition in the rear yard where a permit was	1	MS. HARTMANN: I'm available.
2	not issued recently for the pool and we have	2	CHAIRMAN DOLENGO: Who said that?
3	to be able to at least allow for securing of	3	MS. HARTMANN: Jill.
4	the pool site as we move forward here.	4	MR. GIBBONS: I could be available.
5	I don't want to be in a position	5	COMMISSIONER MELLENO: I can be
6	where the applicant and property owner tries	6	available.
7	to do that and is told that we have to wait	7	COMMISSIONER QUIGLEY: Can you just
8	until the conclusion of your variance case.	8	repeat that date? My apologies. November?
9	CHAIRMAN DOLENGO: Well	9	MR. MOLICA: I'm sorry, Board member
10	MR. MOLICA: Otherwise, the idea I	10	Quigley. I'm suggesting Thursday, October 8th
11	have is, you know, if I'm faced with	11	or Thursday, October 15th for a special Zoning
12	potentially renoticing the application for	12	Board meeting.
13	November, could we accommodate convening a	13	COMMISSIONER QUIGLEY: I'm
14	special meeting in October for which I would	14	available.
15	renotice for?	15	COMMISSIONER MELLENO: I think 15th
16	CHAIRMAN DOLENGO: Well, we'll have	16	I'm good for.
17	to see who's available. We have to have a	17	COMMISSIONER HART: This is Bill
18	full contingency of Board members here.	18	Hart. I'm not available for the 15th, but I
19	MR. GIBBONS: Correct. You don't	19	am available for the 8th.
20	want a short board.	20	COMMISSIONER MELLENO: All right.
21	MR. MOLICA: If I proffered	21	I'll make the 8th then if it has to be the
22	Thursday, October 8th or Thursday, October	22	8th.
23	15th for a special meeting of the Zoning Board	23	CHAIRMAN DOLENGO: All right.
24	to conclude this application, are Board	24	Mr. Driesse, are you available?
	members and Board professionals available?	25	COMMISSIONER DRIESSE: Probably not.
25	memoers and board professionals available:		CO.M. ADDIO: W. C. Z.
	Page 103		Page 104
1		1	Page 104 people within the 200-foot radius of the
1 2	Page 103 I'm teaching class on Thursday night. I make an exception for one meeting, but if you pick	1 2	-
	I'm teaching class on Thursday night. I make		people within the 200-foot radius of the
2	I'm teaching class on Thursday night. I make an exception for one meeting, but if you pick	2	people within the 200-foot radius of the subject property at 22 Foothills Drives,
2	I'm teaching class on Thursday night. I make an exception for one meeting, but if you pick a night, I'll try.	2 3	people within the 200-foot radius of the subject property at 22 Foothills Drives, Pompton Plains, New Jersey. I will coordinate
2 3 4	I'm teaching class on Thursday night. I make an exception for one meeting, but if you pick a night, I'll try. COMMISSIONER HERBERT: It would be	2 3 4	people within the 200-foot radius of the subject property at 22 Foothills Drives, Pompton Plains, New Jersey. I will coordinate with the Board counsel about whether the
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	Page 105		Page 106
٦		1	feeling we're not alone.
1	Adam regarding in-person meetings. We're not	2	SECRETARY ZACHARENKO: Okay.
2	going to be doing those until the beginning of	3	COMMISSIONER HERBERT: Are we not
3	the year.	4	going to hear from the public tonight?
4	MR. GIBBONS: Very good. All right.	5	MR. GIBBONS: No. No, we'll take
5	SECRETARY ZACHARENKO: So for the	6	testimony from the members of the interested
6	rest of the year we will be doing Zoom. CHAIRMAN DOLENGO: He sounds like	7	public after the application has had a chance
7		8	to complete its case in chief, which is per
8	the governor.	9	our normal procedure. So I presume Mr. Molica
9	MR. MOLICA: So my form of notice	10	will have some things to add or put in at the
10	will be consistent with what I did for this	11	next meeting.
11	meeting.	12	MR. MOLICA: We certainly do. We
12	SECRETARY ZACHARENKO: Correct.	1	
13	MR. MOLICA: And it will be	13	have more direct testimony to offer to the
14	advertising a special meeting of the Zoning	15	Board at this point. I do understand that the meeting is to be open to the public and I
15	Board for Thursday, October 8th, 2020, via	1	ask the Board to remember per the Land Use
16	Zoom with the remote and electronic	16	
17	instructions set forth in the form of notice	17 18	Law Section 6 the definition of interested
18	as to how to log in.	19	party. MR. GIBBONS: The record will also
19	MR. GIBBONS: Correct.	20	reflect the record will also reflect that
20	SECRETARY ZACHARENKO: Correct.	21	we have well, the record will also reflect
21	MR. GIBBONS: Members of the public	22	that we have extended the time for hearing the
22	are hereby advised accordingly.	23	
23	Ms. Zacharenko, what we're doing is	24	application with the consent of the applicant, which eliminates any issues of a default a
24	actually very consistent with what's being	25	•
25	done elsewhere in the state so I have a	25	default approval.
,,,	Page 107		Page 108
1	MR. MOLICA: That consent is given,	1	MR. GIBBONS: Can we get an
2	Counsel, through the meeting date of October	2	electronic copy so we can distribute it?
3	8th, 2020.	3	That's what we did in Summit and Hoboken. So
4	MR. GIBBONS: That's correct.	4	
5	That's correct.	5	MR. MOLICA: Yes.
6	SECRETARY ZACHARENKO: Can I just	6	MR. GIBBONS: Okay. Sounds good.
7	ask one other thing?	7	MR. MOLICA: Thank you very much for
8	CHAIRMAN DOLENGO: Sure.	8	your consideration tonight. I know it's not
9	SECRETARY ZACHARENKO: Tom, can we	9	easy doing these things in general, let alone
10	have a copy of the transcript	10	remotely. I'm sorry if I tripped or upset
11	MR. GIBBONS: Yes.	11	Board members by my tone or manner of being.
12	MR. MOLICA: Certainly.	12	I'm trying to advocate for my clients and
13	SECRETARY ZACHARENKO: so I can	13	we're trying to do the best job we can here to
14	give it to members so they can have it before	14	simply, as I said, move forward in life.
15	the 8th?	15	So I look forward to seeing everyone
16	MR. MOLICA: Absolutely.	16	on October 8th and good night again and thank
17	Bridget, how much time do you need	17	you.
18	do you think?	18	CHAIRMAN DOLENGO: Okay. Counselor.
19	THE REPORTER: The normal delivery	19	Thank you, Mr. Molica. You did a good job for
20	is approximately two weeks.	20	your clients.
21	MR. MOLICA: So we will certainly	21	MR. MOLICA: Thank you,
22	have it filed with you, Linda, within ten days	22	Mr. Chairman.
	from the October 8th special meeting date.	23	MR. GIBBONS: I agree with the
23			-
23 24	SECRETARY ZACHARENKO: Okay. Thank	24	Chairman.
		2 4 2 5	Chairman. MR. MOLICA: Thank you, Board.

			5 110
	Page 109		Page 110
1	CHAIRMAN DOLENGO: Okay. Cliff?	1	CERTIFICATE
2	MR. GIBBONS: I agreed with you,	2	T DD D CDD CO TO CO
3	Mr. Chairman.	3	I, BRIDGET LOMBARDOZZI, Notary Public
4	CHAIRMAN DOLENGO: Okay. So we have	4	and Certified Shorthand Reporter of the State
5	one more client one more witness after	5	of New Jersey, do hereby certify that the
6	this.	6	foregoing is a true and accurate transcript of
7	SECRETARY ZACHARENKO: We have two	7	the testimony as taken stenographically by and
8	more things.	8	before me at the time, place and the date
9	MR. MOLICA: So are the Anello team	9	hereinbefore set forth. I DO FURTHER CERTIFY that I am neither
10	permitted to log off now?	10	
11	CHAIRMAN DOLENGO: Absolutely. Yes,	11	a relative nor employee nor attorney nor
12	please do.	12 13	counsel of any of the parties to this action, and that I am neither a relative nor employee
	=	14	of such attorney or counsel, and that I am not
13	MR. MOLICA: Thank you and good	15	financially interested in the action.
14	night.	16	imancially interested in the action.
15	(Whereupon, the hearing on this	17	
16	application was concluded at 9:22 p.m. to	'	BRIDGET LOMBARDOZZI,
17	Thursday, October 8, 2020, at 7:00 p.m.)	18	Certified Shorthand Reporter
18		~	C.S.R. License No. XI01201
19		19	TIDING BANGANG A (O) A REC AMO A
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	addressed 37:5	101:3	79:11	30:9,9,20 31:1
A		allowed 12:12	applicant 2:5	35:17 45:15
ability 8:20	addressing	1	* *	48:1 80:24
26:18 98:2	14:10 30:16	15:22 21:18	19:21 22:10,12	88:14 89:7
able 10:19 11:5	adjourned 97:11	31:2 45:15	35:24 53:3	
26:3 44:3 46:7	Adjustment 1:2	allowing 32:1	54:22 56:20	92:9 94:18,20
97:20 101:3	71:19	allows 46:1 48:8	61:24 66:15	94:25 106:25
absolute 40:5	adjustments	alluded 62:7	76:24 78:6,10	approvals 38:8
absolutely 22:23	74:14,15	alluding 98:21	90:5 96:11	76:24
24:17 34:16	administrator	alongside 10:23	97:2 99:7,15	approve 53:19
39:6 50:13	69:8	alter 79:1	100:3 101:6	58:25 81:17
79:17 107:16	Adriana 4:16	amended 79:2	106:23	82:10 85:2
109:11	advancement	90:11	applicant's	approved 16:25
abutting 44:1	53:20	amendment	61:18 64:1	22:14 30:14,15
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