

1 CONCORD TOWNSHIP BOARD OF ZONING APPEALS
2 LAKE COUNTY, OHIO
3 PUBLIC HEARINGS

4
5
6 Wednesday, June 9, 2010

7 Concord Town Hall
8 7229 Ravenna Road
9 Concord, Ohio 44077

 7:00 p.m.

10
11 **TRANSCRIPT OF PROCEEDINGS**

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14
15 Concord Township Board of Zoning Appeals members present:

16 James Rowe, Chairman;
17 Gordon Hanford;
18 Richard Smith;
 Kathy Miller;
 Blair Hamilton;

19 Also Present:

20 Kathy Mitchell, Zoning Inspector;
21 Michael Lucas, Esq., Legal Counsel.

22
23
24
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26
27
28 Melton Reporting
29 11668 Girdled Road
30 Concord, Ohio 44077

1 CHAIRMAN ROWE: Good evening. I'd like to call to
2 order the Wednesday, June 9th meeting of the Board of Zoning
3 Appeals for Concord Township. Start off by introducing the
4 members of the Board. To my far left, Blair Hamilton; to my
5 immediate left, Kathy Miller; to my immediate right, Richard
6 Smith; next to him, Gordon Hanford; at the table over there,
7 our Zoning Inspector, Kathy Mitchell. My name is Jim Rowe and
8 we have five items on the evening agenda, one of which is the
9 minutes of approval of the last meeting.

10 But, anyway, a little housekeeping. The first thing you
11 want to be aware of is on advice of our legal counsel, people
12 who will address the Board this evening must be sworn in. So
13 if you are intending to address the Board on these issues this
14 evening, if you would stand and raise your right hand, we will
15 do the swearing in.

16
17 (Audience members sworn in.)

18
19 CHAIRMAN ROWE: Thank you.

20 Kathy, were the notices regarding these appeals published
21 in a proper time?

22 MS. MITCHELL: Yes, they were.

23 CHAIRMAN ROWE: Thank you.

24 The way the appeals are leveled -- and our legal counsel,
25 Mike Lucas, the late.

26 MR. LUCAS: Fashionably late.

27 CHAIRMAN ROWE: Anyways, the way the meetings are
28 set up, the person seeking the appeal or granting of a
29 variance will come forward and all people addressing the Board
30 will use the microphone, please. When you come up, introduce

1 yourself and your address and also affirm for the audience and
2 everyone that you were sworn in. Once we've heard the
3 appellant and those who may support the granting of an appeal,
4 we will then offer audience time for those who may be opposed
5 to that.

6 It takes three votes to confirm an appeal. Should the
7 appeal be denied, you have the right of going in for further
8 appeal and Kathy Mitchell would be able to help you with those
9 details.

10 The first item on this evening's agenda, Appeal 0410-965,
11 Mrs. Sharon Jones of 10375 Misty Ridge Drive, R-1 District,
12 requests a variance for an above-ground pool and deck which
13 are currently located five feet from the side property line in
14 lieu of the minimum side setback requirement of fifteen feet
15 as set forth in Section 31.02 of the Concord Township Zoning
16 Resolution.

17 So if someone will be speaking on behalf of this, step
18 forward.

19 MR. STRICKLAND: Good evening, Mr. Chairman and the
20 rest of the Board. My name is Joshua Strickland. I'm with
21 the law firm of Dworken & Bernstein. I'm here representing
22 Ms. Sharon Jones, who is also in attendance. First a matter
23 of procedure --

24 CHAIRMAN ROWE: Your address?

25 MR. STRICKLAND: My address, home address?

26 CHAIRMAN ROWE: Wherever is fine.

27 MR. STRICKLAND: They can find me at 60 South Park
28 Place, Painesville, Ohio 44077. That's the law firm's
29 address.

30 CHAIRMAN ROWE: You were sworn in?

1 MR. STRICKLAND: I was sworn in, yes, sir.

2 CHAIRMAN ROWE: Thank you, sir.

3 MR. STRICKLAND: First a matter of procedure, this
4 evening both Ms. Jones and I would like to speak on this
5 matter and I would like to ask if that is okay.

6 CHAIRMAN ROWE: Sure.

7 MR. STRICKLAND: First I would like to speak generally
8 about the procedures -- not the procedures, the validity of
9 obtaining this variance. I think there are a number of issues
10 here that weigh in favor of granting the variance. First, the
11 location of the pool is longstanding. It has been there for
12 over eight years without any complaint until recently. And,
13 actually, the pool was even replaced once by a certified
14 contractor about five years ago who allegedly pulled all
15 permits required. Mrs. Jones had no knowledge of the
16 restriction when she bought the home.

17 I think this variance is not substantial in any way. It
18 will not effect or change the character of what is currently
19 going on in the neighborhood. All it does is maintain the
20 status quo.

21 Furthermore, I don't believe that allowing this pool to
22 stay where it is interferes with the quiet enjoyment of anyone
23 in the neighborhood. I don't know if any of you have been out
24 to see the home, but there is a rather large grove of trees
25 that separate the two pieces of property at issue here, which
26 act as both a visual barrier and a sound barrier.

27 Additionally, there is no other location at Mrs. Jones'
28 home to place this pool. There are three separate items that
29 are in the back and side yards of her property. There is an
30 outbuilding shed, there is a rather large swing-set and then

1 there is this pool and deck. To move the pool into an area
2 which would comply with the zoning setback would require
3 either complete removal or substantial cost to disassemble and
4 reassemble any one of these items.

5 And that brings me to the next issue. Taking any action
6 to remedy this issue would be an immense hardship on
7 Mrs. Jones and her family. Moving the pool would be
8 expensive. There is no doubt about it. Furthermore, it's
9 unlikely to move it without destroying it. These above-ground
10 pools are frequently build to be put up and not taken apart.

11 Additionally, to move it anywhere else in her yard, as I
12 mentioned before, would mean removing one of the other things
13 in the yard and probably having to do significant tree
14 removal.

15 More importantly, Mrs. Jones has multiple sclerosis. She
16 will speak more about that, but I believe she has already
17 submitted to the Board a letter from her doctor indicating the
18 value that this pool has in her therapy or her condition.

19 CHAIRMAN ROWE: Yes.

20 MR. STRICKLAND: Additionally, and while it's not a
21 unique situation, economics, their economic situation is not
22 fantastic. He's been out of work for quite sometime.
23 Furthermore, granting the variance is just, in my opinion, the
24 right thing to do. Her need is -- of the pool is greater than
25 any harm it could possibly inflict. And really, as far as I
26 understand it, and she'll speak more to this, the issue seems
27 to only exist now because of some falling out that the
28 neighbors have had. I believe she has also submitted a
29 petition from twenty other neighbors living on nearby streets
30 or her street in support of allowing the variance to go

1 forward.

2 And, lastly, I think there is ways to structure the
3 variance so that this doesn't create any sort of issue of
4 precedent to the Board. Mrs. Jones would be more than willing
5 to allow the variance to run with her as opposed to running
6 with the land. She is more than willing to remove the pool if
7 she ever leaves the property, sells it to someone else or in
8 the event of her death.

9 I would like to reserve some time at the end in case I
10 need to say something in rebuttal, if that's possible.

11 CHAIRMAN ROWE: Certainly.

12 MR. STRICKLAND: And I would like to have Mrs. Jones
13 speak now. Thank you for your time.

14 MS. JONES: Hello, my name is Sharon Jones. My
15 address is 10375 Misty Ridge Drive and I have been sworn in.

16 CHAIRMAN ROWE: Thank you.

17 MS. JONES: I am here regarding an appeal that I
18 filed requesting a variance for our swimming pool and attached
19 deck. I was unaware that our pool and deck did not meet
20 zoning or requirements until our neighbor, Judy Kessler,
21 complained about our pool. It had surprised me because in the
22 eight years there has been a pool in that current location,
23 she neither complained to me or my husband. I was naive to
24 think that when hiring a professional, experienced pool
25 company, that they would have informed me that a zoning or a
26 building permit was required, which had I known that, I would
27 have known of the violation and then the situation that has
28 been very hurtful and stressful for me and my family could
29 have been avoided.

30 I now realize it was my responsibility to be aware of

1 Concord zoning and building requirements and I sincerely
2 apologize for my lack of knowledge and experience with respect
3 to Concord zoning and building requirements. When we moved
4 into our home fourteen years ago, the back half of our
5 property had many locust trees that were infested with
6 carpenter ants. Because of that we had to have the trees
7 removed and at that time we had the property rototilled and
8 leveled.

9 As I mentioned in my appeal letter, I chose the location
10 for our pool for four reasons, safety for our son who was five
11 years old at the time, and the pool was next to a swing-set,
12 and he could be supervised when he went back and forth between
13 the two. I felt the location was less of a distracting view
14 to our neighbors. It was the only level area in our yard.
15 And three years prior to our current pool we had an
16 eighteen-foot easy set pool in the same location. Three years
17 ago I had designed the plans for the attached deck. I went to
18 Home Depot with my designs. They provided me with information
19 requiring all of the hardware and materials and I had --
20 because of my lack of knowledge in building permits, I had a
21 friend build the deck.

22 My husband has been unemployed since September of 2008.
23 I realize that a financial hardship is not the only issue that
24 the Zoning Board considers, but for us the cost involved with
25 tearing down and possibly rebuilding the pool and deck would
26 exceed several months of mortgage payments and property tax
27 payments.

28 As I mentioned in my appeal, a few of the alterations
29 that would be required is to tear down and rebuild using new
30 materials and labor costs for the deck, tear apart and

1 reassemble the pool which would require a new liner, find a
2 builder for my son's swing-set because it's the only level
3 area in our yard or pay the cost to have it torn down and
4 stored, haul away the gravel used at the base of the swing-set
5 and remove the wood supports which are cemented into the
6 ground, relevel all the entire backyard to prevent water
7 settling at the base of the pool and to prevent drainage to
8 the property to the west of our property, cut down numerous
9 large trees and retrench and move the water and gas lines.

10 I'm sure you know the cost involved with these
11 alterations would be astronomical. Add to that the fact my
12 husband has not been working since September 2008 and the
13 costs become personally prohibitive.

14 Our pool is much more than just recreation for us, it is
15 essential for my health. The following information that I
16 have to provide is very difficult for me. It is something
17 that I have chosen to keep private for a very long time.
18 Having to tell complete strangers is something I never thought
19 I would have to do. I decided to provide the information to
20 the Zoning Board so you could fully understand the tremendous
21 benefit that our pool is to my health. I was diagnosed with
22 multiple sclerosis twelve-and-a-half years ago. I made the
23 decision to keep it private based on what my dad told me. My
24 dad had MS and he said I would lose friends and people would
25 treat me differently. He was right. The first person that I
26 told was my best friend and maid of honor at our wedding and
27 she started talking down to me. I have also lost two friends
28 I guess because I wasn't as good as them anymore.

29 MS effects the central nervous system, including the
30 brain, spinal cord and optic nerves. The body's immune system

1 attacks the myelin, the protective coating around the nerve
2 fibers. When the myelin is damaged, it alters the way nerve
3 impulses travel. As the disease progresses, the body's
4 repeated attacks on the central nervous system increase the
5 chance of permanent disability. There is no known cure for
6 MS.

7 My disease is progressing, which causes me severe pain on
8 my spine and limited or sometimes no use of my legs.
9 Yesterday I was in excruciating pain and had taken my
10 strongest pain medicine. When the medicine didn't help, I
11 decided to get into the pool. Within ten minutes the pain was
12 gone. I stayed in the pool for over an hour because I was
13 afraid to get out for fear the pain would come back.

14 Heat adversely effects people with MS. I have always
15 enjoyed being outdoors while gardening and doing yard work.
16 These activities are soothing and relaxing to me and bring me
17 great joy and therapy. However, during the summer when doing
18 these activities, the heat impacts my MS causing my symptoms
19 to flare-up. I can go into the pool to relieve my pain, but
20 also to soothe my body and then I am able to continue doing
21 what brings me great joy.

22 To reference a letter from my doctor at the Mellen Center
23 for MS at the Cleveland Clinic, our pool is beneficial to my
24 physical and emotional well-being. I would just briefly like
25 to read information the doctor provided from the National MS
26 Society.

27 Buoyancy, the feeling of being lighter in water provides
28 support for weak limbs. Movement takes less effort.

29 Viscosity, the sensation that there is resistance to your
30 movements. The resistance of water can be used to improve

1 muscle strength.

2 Hydrostatic pressure, the sensation of compression while
3 the body is in water. Compression can provide support for
4 standing activities, such as walking with less effort than on
5 land.

6 Temperature control, cool water can help maintain lower
7 core body temperature even during vigorous activity. This is
8 essentially helpful for people with heat sensitive issues.

9 Okay.

10 CHAIRMAN ROWE: Mrs. Jones, we have the information.
11 I know myself personally, I've been pretty involved with
12 people with MS. I think that, you know, the issue of your
13 ailment is well known widespread. I mean, I would like, you
14 know, to kind of relieve you of being very uncomfortable and
15 so forth. I think, you know, your submittals to the Board
16 have been reviewed and read and I would offer you at least,
17 you know, maybe MS is unfortunately well known and its
18 horrendous attack on people and, you know, I think we can go
19 with that, if it would be all right with you.

20 MS. JONES: Absolutely. That would be absolutely
21 fine with me.

22 The emotional benefits of our pool are beyond words for
23 me. All I can say is that when -- excuse me, but when my legs
24 aren't working or I'm in extreme pain, when I'm in the pool, I
25 can end my pain and feel like a normal person. Without our
26 pool, I would not be able to receive the excellent physical
27 and emotional therapy that I desperately need.

28 Our pool also holds, okay, on a lighter note, a special
29 place in our hearts. Our son was baptised in that pool. When
30 I was informed that our neighbors would be notified about my

1 appeal for a variance, I obtained signatures of twenty --
2 twenty signatures from residents that did not have an issue
3 with the location of our pool. I would sincerely and greatly
4 appreciate from the bottom of my heart that the Zoning Board
5 would provide its authorization for a variance so our pool can
6 remain in its current location.

7 Thank you very much.

8 CHAIRMAN ROWE: Thank you.

9 Is there anyone else in attendance at the meeting wishing
10 to speak in support of granting the variance?

11 Hearing no further people to witness or support, is there
12 anyone in the audience wishing to speak in opposition to the
13 granting of the variance? Sir?

14 MR. TALIKKA: If it please the panel, I was sworn
15 in with the entire panel. My name is Leo, middle initial is
16 J., Talikka, T-A-L-I-K-K-A. My office address is 10 West Erie
17 Street here in Painesville. I represent the neighbor, Judy
18 Kessler, seated in the back and I've been asked to speak on
19 her behalf.

20 First of all, my client takes strong exception to the
21 fact that this is an eight year. The pool was put in
22 approximately three years ago. There are reasons for zoning
23 regulations and in this particular case the Joneses should
24 comply with those and remove the pool and put it where it
25 belongs. It's unfortunate that Mrs. Jones claims to be ill
26 and I'm sure she is ill somewhat, but -- and she indicates
27 that there is a hardship because of her husband's
28 unemployment. And I suggest to the panel, Board here perhaps
29 some of the reasons for the unemployment and some of the -- I
30 have circled it and give you the case numbers in Cuyahoga

1 County. It's coming up for hearing, I believe, on June 18th
2 of this year -- of this month. Also, that may be the reason
3 for some of the tension, that may be the reason why there may
4 be financial hardship for removal of this particular pool.

5 But what is disturbing to me, and it is very disturbing
6 to my client, is the fact that she appears here walking with a
7 cane and needs her husband's support. My client has taken
8 some pictures of Mrs. Jones in the last two weeks. She is
9 mowing the lawn, carrying items in the backyard by herself,
10 unassisted without a cane and without any walker whatsoever.

11 To suggest here now that she is unable to do any of these
12 things without the use of a cane or assistance, the pool would
13 only be there for assistance in the summertime, not in the
14 wintertime and they put it in there without a building permit
15 and it should be moved.

16 By the way, this is the second pool that was put in there
17 without a building permit. It's not the first time, but it's
18 the second time. And it's too bad, but we ask the panel not
19 to give a variance in this particular case and have them take
20 the pool down and move it.

21 Thank you very much.

22 CHAIRMAN ROWE: Is there anyone else in attendance
23 that wishes to address the Board in opposition of granting the
24 variance?

25 Hearing no further opposition, we will close the --

26 MS. MITCHELL: Can she rebuttal?

27 MS. JONES: To comment on the issues that were
28 just mentioned, years of the pool being constructed, I have
29 the receipts, it was five years. Three years prior to that
30 pool it was an eighteen-foot easy set pool that was put up in

1 the summer and taken down.

2 Incomprehensible to me the comment, "claims to be ill."
3 Trust me, I would not wish this disease on anybody.

4 As far as my husband's legal issues, this is a zoning
5 board. His legal issues do not -- for me are involved in my
6 request for an appeal.

7 And I thank the Lord every day when I have a good day and
8 I can mow the grass and I can do the yard work I love. I
9 thank the Lord. I prayed all day today that I could stand
10 here and not have to be in a walker and that's all I have.

11 Thank you very much for your consideration.

12 MS. DORSEY: Could I say something?

13 CHAIRMAN ROWE: Pardon?

14 MS. DORSEY: Could I say something?

15 CHAIRMAN ROWE: Sure. Were you sworn in?

16 MS. DORSEY: I was not.

17 CHAIRMAN ROWE: Raise your right hand, please.

18

19 (Shirley Dorsey was sworn in.)

20

21 CHAIRMAN ROWE: Thank you.

22 MS. DORSEY: My name is Shirley Dorsey. I live at
23 135 Nantucket Circle in Painesville. I'm her mother.

24 As she said before, her father had MS too for many years,
25 more than fifteen years before he passed away and I've been
26 there and I know how it can affect a person. One day you can
27 feel pretty normal, the next day he couldn't get out of bed.
28 I'm going to tell you I called EMS to come and pick him up off
29 the floor because he couldn't get up and I couldn't get him
30 up.

1 The one thing I want to emphasize, he had good days too
2 and he had days he couldn't get out of bed. That's all I
3 wanted to say.

4 CHAIRMAN ROWE: Thank you, ma'am.

5 At this point on Appeal 0410-965 I am closing the public
6 portion of the appeal for discussion amongst the Board
7 members.

8 Anybody want to kick it off? Discussion first.

9 MR. SMITH: Mr. Chairman, it's unfortunate we have
10 several cases on our agenda about the very same subject of
11 installations being performed without permits, several. It's
12 unfortunate that people don't realize they need to, as a
13 homeowner, if they're building things themselves, be
14 responsible and call whether or not building permits or zoning
15 certificates are required.

16 And a couple of the other items that are on tonight's
17 agenda are structures that have been constructed without
18 permits and now they come before us saying, "I didn't know."
19 In this particular instance we had a contractor who certainly
20 should have known better, Jack's Pools, they always call to
21 get permits. Townships are no different.

22 But having said that, this has been there eight years and
23 all of a sudden it's come to light that it is an illegal
24 installation, which I have a little bit of difficulty with
25 myself.

26 MS. MILLER: You have difficulty with the fact
27 it's just coming to light now?

28 MR. SMITH: That's an illegal installation and,
29 yes, secondly, it's just come to light now.

30 CHAIRMAN ROWE: Well, I know personally, as

1 Mrs. Jones' mother spoke, MS is quite often good days and bad
2 days. The photos, first off, I'm not -- they are not dated,
3 so --

4 MR. HANFORD: I agree with Richard, Jim, in that
5 someone made the mistake of putting that up. The point is
6 it's been there or a pool has been there almost eight years
7 and now all of a sudden it becomes an issue. I visited the
8 property. You can't see the pool easily and I just -- I
9 wonder about the timing here. Same neighbor, same people.

10 MR. HAMILTON: Mr. Chairman, personal situations
11 aside, the pool has been there for eight years, but the pool
12 has also been replaced, replaced without a permit and also a
13 deck been built also without a permit, so we have repeated
14 violations in this case.

15 CHAIRMAN ROWE: Mrs. Jones, could I -- refresh me,
16 the original pool which went back eight years, that was like
17 you put it up, you took it down, put it up and took it down?

18 MS. JONES: Correct.

19 CHAIRMAN ROWE: And then three years ago?

20 MS. JONES: Five years ago.

21 CHAIRMAN ROWE: Oh, five years, I'm sorry, five
22 years.

23 MS. JONES: Five years we installed our current
24 pool.

25 CHAIRMAN ROWE: Okay. And the current pool is the
26 one put in by, I guess, a contractor --

27 MS. JONES: Yes.

28 CHAIRMAN ROWE: -- versus the other was --

29 MS. JONES: Right, was put up and taken down by
30 us.

1 CHAIRMAN ROWE: Okay. Thank you.

2 MR. HANFORD: Just one more comment was I think
3 they mentioned that should they leave or sell their property,
4 that they -- the location of pool won't go with the sale, it
5 will be taken down; is that true?

6 MS. JONES: Yes.

7 CHAIRMAN ROWE: They expressed that could be a
8 codicil or an attachment. I'm sure if the appeal could be
9 granted, that could be noted. As I say, the --

10 MR. TALIKKA: Mr. Chairman, if I might, the way
11 this came about, last year she attempted to -- my client
12 attempted to put up a fence.

13 CHAIRMAN ROWE: This will be kind of one quick one,
14 because the public hearing is closed.

15 MR. TALIKKA: Okay. Okay. She attempted to --
16 well, she was was permitted to answer questions. She
17 attempted to put up a fence and she was told by this Board or
18 somebody by the Township, "You can't put up the fence because
19 there is a pool too close to your property." That's how this
20 whole thing came about and not because of any ill will. She
21 was advised by this Township that her pool -- the pool was too
22 close. That's how she learned about the pool here.

23 Thank you.

24 CHAIRMAN ROWE: Kathy?

25 MS. MITCHELL: I received a phone call in the fall
26 inquiring about the possibility of putting up a fence from a
27 neighbor and in inquiring about that, she indicated that she
28 felt the pool next door was in violation and asked our
29 department to come out and take a look at it. That was what
30 brought it to our attention.

1 CHAIRMAN ROWE: Okay.

2 MS. MITCHELL: So we went out and took a look at it,
3 talked about putting up a fence and acknowledged based on the
4 site plans we had, the pool was too close to the line. But
5 the statement was made at the time of the phone call that she
6 suspected the pool was in violation.

7 MR. SMITH: But was she told that she couldn't
8 put a fence up because the pool was too close to the property
9 line?

10 MS. MITCHELL: Not at all.

11 MS. KESSLER: May I address this? I'm the only one
12 involved with my property and their property and I was sworn
13 in? You know, she read you a report that you have which was
14 neither here nor there. You had the report. I wanted to put
15 up a fence. Bruce came out and walked it.

16 MR. SMITH: I think you still can; am I right,
17 Kathy?

18 MR. MITCHELL: Yes.

19 MS. KESSLER: I can put up a fence, but in the
20 meantime when he came out, he took, I don't know what that
21 gadget is, and he zapped it over, "You can put the fence up,
22 but they're way too close." I'm going to have to sell my
23 house. I cannot go to the bank with a variance on my house.
24 I mean, so there is a lot of elements. I wish -- you know,
25 it's all been character assassination against me. All I want
26 to do is put up a fence so I didn't have to hear or see them.

27 MR. SMITH: Which you can still do, by the way.

28 MS. KESSLER: What?

29 CHAIRMAN ROWE: Which you can still do. You were not
30 denied to put your fence up.

1 MS. KESSLER: I realize that. But when I found --
2 CHAIRMAN ROWE: We got that impression.
3 MS. KESSLER: -- out their pool was too close, I
4 can't even sell my land so something's got to be settled here.
5 CHAIRMAN ROWE: I will now entertain a motion from
6 the Board granting this appeal.
7 MR. SMITH: I move for Appeal No. 0410-965 for
8 approval.
9 MR. HAMILTON: Second.
10 MR. HANFORD: With a codicil that --
11 CHAIRMAN ROWE: That would be my next question.
12 Would we --
13 MR. SMITH: I don't wish to make a codicil in my
14 motion.
15 CHAIRMAN ROWE: The motion for --
16 MR. SMITH: If someone wants to amend it.
17 CHAIRMAN ROWE: Anyone to amend and second to add
18 that if the appeal were granted, it would remain only as long
19 as the property is in the ownership of the Jones family?
20 MR. HANFORD: I move as mentioned.
21 MS. MILLER: Second.
22 CHAIRMAN ROWE: Any further discussion from the
23 Board?
24 MR. HAMILTON: I would like to make, Mr. Chairman,
25 one more point.
26 CHAIRMAN ROWE: Yes.
27 MR. HAMILTON: This first came to light back in
28 mid-November and more than once the applicant had to be
29 contacted about their violation and chose to, apparently from
30 the notes, ignore those contacts and it wasn't until a letter

1 was personally delivered that any action was taken. So I
2 don't see that that's exactly acting in good faith.

3 Thank you.

4 CHAIRMAN ROWE: Thank you.

5 Any further commentary?

6 MS. MITCHELL: Can you -- I'm sorry, Mr. Chairman,
7 can you clarify, is the vote based on as is or with the
8 amendment?

9 CHAIRMAN ROWE: The vote will be based on the
10 variance.

11 MR. LUCAS: Why don't you vote on the amendment
12 to that motion first.

13 CHAIRMAN ROWE: Okay.

14 MR. LUCAS: You already have a pending motion. I
15 don't want to become hypertechnical in terms of Roberts Rules
16 of Order which seemingly are jetison now, but you have a
17 motion and a second in the affirmative to grant the requested
18 variance and then a motion was made and seconded to amend that
19 motion to have the codicil, as you phrased it, to include a
20 provision that upon the termination of ownership by the Jones
21 family of this parcel that the variance be terminated.

22 CHAIRMAN ROWE: Okay.

23 MR. LUCAS: So why don't you make -- excuse me,
24 why don't you vote on the amendment and if it passes, then the
25 pending motion will have that amendment engrafted on it then.

26 MR. SMITH: Mr. Chairman, question on the
27 codicil. How is that enforced? I mean, how do we know when
28 that home goes up for sale and the pool has to be removed?
29 That becomes an enforcement issue.

30 CHAIRMAN ROWE: That's true. That's quite true.

1 MR. SMITH: Just a comment.

2 CHAIRMAN ROWE: It's a good one. I mean, that's a
3 good one.

4 MS. MILLER: The vote will then be on the
5 amendment?

6 CHAIRMAN ROWE: No. We are back to move and seconded
7 for the granting of the Appeal 965 and we'll call for the
8 vote.

9 MR. LUCAS: Wait a minute. Wait a minute. Vote
10 on the amendment first.

11 CHAIRMAN ROWE: I'm sorry, I misunderstood. I'm
12 sorry.

13 MR. LUCAS: Vote on the amendment first, whether
14 it becomes part of the overall motion.

15 MR. SMITH: Then if it passes, it becomes part of
16 the next vote for the appeal.

17 CHAIRMAN ROWE: Gotcha. We are voting on the
18 amendment.

19 MS. MITCHELL: Mr. Hamilton?

20 MR. HAMILTON: No.

21 MS. MITCHELL: Mr. Smith?

22 MR. SMITH: No.

23 MS. MITCHELL: Mr. Hanford?

24 MR. HANFORD: Yes.

25 MS. MITCHELL: Ms. Miller?

26 MS. MILLER: Yes.

27 MS. MITCHELL: Mr. Rowe?

28 CHAIRMAN ROWE: No.

29 MR. LUCAS: All right. Just so the record is
30 clear, the amendment has failed. Now we are going to vote on

1 the original motion and second to grant the variance requested
2 by the applicant.

3 CHAIRMAN ROWE: Right. Okay. The next vote will be
4 strictly on granting of the variance written in the agenda.
5 Kathy.

6 MS. MITCHELL: Mr. Smith?

7 MR. SMITH: Yes.

8 MS. MITCHELL: Mr. Hanford?

9 MR. HANFORD: Yes.

10 MS. MITCHELL: Ms. Miller?

11 MS. MILLER: No.

12 MS. MITCHELL: Mr. Hamilton?

13 MS. MILLER: No.

14 MS. MITCHELL: Mr. Rowe?

15 CHAIRMAN ROWE: No.

16 Okay. The next item on this evening's agenda, Appeal No.
17 0510-966, Mr. David Murino of 6359 Rio Vista Drive,
18 R-1 District, requests a variance for an accessory building
19 addition of 108 square feet located 11 feet from the side
20 property line at its narrowest point in lieu of a 15-foot
21 minimum side yard clearance required as set forth in Section
22 15.07 B of the Concord Township Zoning Resolution.

23 MR. MURINO: I've taken the oath. I'm David
24 Murino. I live at 6359 Rio Vista Road. I've been there for
25 approximately five years. I've been a resident of Lake County
26 for better than forty years. In 2007 I erected a shed,
27 applied for and was granted a zoning permit for the shed and
28 shortly after that I realized the area of the shed was not
29 quite large enough, okay, and the process that I have, I'm
30 asking you folks to consider at least is my application for a

1 variance for the east wall or east wing of the shed. You have
2 my file there and --

3 CHAIRMAN ROWE: Yes, sir.

4 MR. MURINO: -- what I would like to do perhaps is
5 walk you folks through some of the annexes. First of all, the
6 first example is Annex A, if you will. Okay. This is the
7 original view of the -- overview, at least, of the property
8 after the shed was built; okay?

9 CHAIRMAN ROWE: Okay.

10 MR. MURINO: And you can see from the lay of the
11 land, at least, that I'm kind of limited in space because of
12 the elevations and so forth. The shed again is located within
13 the confines of the law and so forth and complies with the
14 rules and so forth.

15 In 2009, because of the limited space I was faced with, I
16 just went ahead and built a north wing or north -- north wall
17 along the rear of the shed, okay, and that's shown on Exhibit
18 -- on Exhibit B, if you will, folks, and I went ahead and
19 didn't really think it was that important of a thing, but I'm
20 -- I failed to realize that it is and on this example, this is
21 the north wall, which is not encroaching on any property
22 lines; okay? The question that I have here is the east wall
23 is the wall -- or the east wing is the section that encroaches
24 on the property line upfront. It encroaches by four feet and
25 it runs north and diminishes down to zero, if you will. I'm
26 not sure whether that's -- but, at any rate, that's the
27 overview.

28 I have on exhibit, Exhibit B. B1 is a -- is the drawing
29 of the west wing, the east wing and the north wing, the north
30 wall, okay, of the addition. Okay?

1 CHAIRMAN ROWE: Uh-huh.

2 MR. MURINO: Exhibit C shows a picture of how the
3 addition is encroaching on the property line, on the eastern
4 property where I was was negligent and went ahead and just
5 added it without your permission and upfront it encroaches by
6 four feet and it diminishes as you travel to the rear of the
7 shed.

8 CHAIRMAN ROWE: Okay.

9 MR. MURINO: I'm sorry?

10 CHAIRMAN ROWE: Thank you.

11 MR. MURINO: Okay. The area itself is wooded and
12 it's back in an area, I don't believe the neighbors to my left
13 or right or across the street have complained about it, but
14 that's obviously not one of the issues here. I went ahead and
15 did it without your permission, not thinking that -- at any
16 rate. I think Exhibit D, it shows a picture of the east wall
17 and the north wall of the shed. Exhibit D is the north wall,
18 north wing of the shed. Throughout the -- throughout the
19 construction of the north wing and west wing I used the best
20 materials available. I had my grandchildren out there helping
21 me out and it was a project.

22 CHAIRMAN ROWE: It's not a material situation, sir.

23 MR. MURINO: Okay. Mr. Chairman, okay, I
24 apologize, but, at any rate, just to let you folks know, it
25 wasn't just a hammer and nail thing.

26 CHAIRMAN ROWE: Do I understand you correctly --

27 MR. MURINO: I'm sorry, sir?

28 CHAIRMAN ROWE: Did I understand correctly that the
29 original -- when you originally built the building, it was
30 done with a permit?

1 MR. MURINO: Yes, sir, the shed itself.

2 CHAIRMAN ROWE: All right. Thank you.

3 MR. MURINO: Yes. Okay. And I have a little
4 discussion here stating my reasons why I didn't build the shed
5 at another location on the lot and basically it addresses the
6 difference in elevation from the northwest corner of the lot
7 to where I actually built the shed, because of the elevation
8 and that sort of thing, and the restriction, the restrictive
9 area, I thought, in my opinion, which kind of limited the area
10 available to build a shed. I didn't want to build anything
11 huge. At any rate, and for me, it would have been difficult
12 for me to travel -- some difficulty to lift garden tools and
13 so forth from the northwest corner of my lot to the area next
14 to my home to move garden equipment and so forth.

15 But, again, I was negligent, I went ahead and just not
16 thinking and that's pretty much my case. Whatever you folks
17 decide, I'm willing, obviously, to cooperate, do whatever you
18 wish I do and will comply. That's pretty much my case, folks,
19 if you like any questions.

20 CHAIRMAN ROWE: Any questions while Mr. Murino is at
21 the plaform?

22 MR. HAMILTON: Just one question. Really it's just
23 the corner of the building that is encroaching?

24 MR. MURINO: I'm sorry, sir?

25 MR. HAMILTON: The corner of the building is
26 encroaching, not the entire side?

27 MR. MURINO: No, sir. This is -- the building,
28 the shed itself was built in compliance. I added an east
29 wing, if you will, and that east wing or east section of the
30 building up front is the area that encroaches by four feet.

1 MR. HAMILTON: Right. Right. My question was have
2 you considered a building permit modification to your building
3 to bring it into compliance?

4 MR. MURINO: I'm sorry, I can't hear, sir.

5 MR. HAMILTON: To modify the building as it is now,
6 modify it so that it is not encroaching?

7 MR. MURINO: Can I do that? It would be costly,
8 sir, costly in my estimation. I won't say costly, but let me
9 -- it would really be a burden at least for me on not
10 necessarily financially, just to lift it up and move it. Four
11 feet, I can probably as an extreme measure just saw it off. I
12 mean, there again -- ma'am, I'm sorry?

13 MS. MILLER: What about extending it further out
14 the back? I'm just wondering, is that a consideration?

15 MR. MURINO: No. Because of the lay of the land
16 and repose of the bank, it just drops off there. I have
17 probably six feet that's available before I fall in, before
18 the land itself falls into the gully.

19 MR. HANFORD: Look on the sheet, it exceeds a
20 wedge.

21 MR. HAMILTON: So this amount of variance represents
22 about 26 percent of what should be.

23 MR. SMITH: Just a portion of the structure.

24 MR. HANFORD: Just a portion of the structure,
25 correct.

26 MR. SMITH: Have you spoken to your neighbors?

27 MR. MURINO: Yes, I've spoken to the neighbor to
28 the east. They have registered no complaint and I really
29 haven't talked to the folks across the street; okay? And the
30 gentleman to my left or to the west of my property line, I

1 have a problem, but that's another problem that I have to
2 solve, a personal problem. He hasn't complained to me, and
3 when he does, it's not about the shed, it's about a few other
4 things.

5 MR. SMITH: Mr. Murino?

6 MR. MURINO: Yes, sir.

7 MR. SMITH: When was this addition performed?
8 When did you do the work?

9 MR. SMITH: I did it over a period of, I think,
10 probably two months in August and September of 2009.

11 MR. SMITH: Last year?

12 MR. MURINO: Yes.

13 MR. SMITH: Kathy, how did this come to our
14 attention, the Township's attention?

15 MS. MITCHELL: We received a phone call.

16 MR. MURINO: I stand corrected. Okay.

17 CHAIRMAN ROWE: Thank you, sir.

18 MR. MURINO: Again, thank you for your time and
19 hopefully your consideration.

20 MR. SMITH: I'd like to compliment you on your
21 presentation, Mr. Murino. It's rare that we get such a
22 thorough presentation.

23 MR. MURINO: Thank the US Army for that.

24 MR. SMITH: Not that I'll vote for it, but it's a
25 good presentation.

26 CHAIRMAN ROWE: Anyone else in attendance in the
27 audience wishing to speak in favor of granting the appeal?

28 CHAIRMAN ROWE: Hearing no further in favor to speak,
29 are there anyone in the audience in opposition to granting of
30 this appeal and wish to address the Board?

1 Hearing no one wishing to voice opposition, I will now
2 close the public portion of this appeal and open up for
3 discussion from the members of the Board or calling for a
4 vote.

5 MR. SMITH: Mr. Chairman, correct, the
6 encroachment to make it compliant would require disassembly of
7 that east side or at least cut it back and then reconstruct
8 it? Obviously Mr. Murino has materials because that's what's
9 there. He could reconstruct it, but on a practical difficulty
10 side of it, I understand the lay of the land and although it
11 could have been on the opposite side of the building to make
12 it compliant.

13 MS. MILLER: It's not that far out of the plans.

14 MR. SMITH: That's true.

15 MS. MILLER: Which I have less of a problem with.

16 MR. HANFORD: It's not a total rectangle, it's a
17 wedge. It's unfortunate that, this is as was mentioned at the
18 first of the meeting, all of these are things that we wouldn't
19 be hearing them if people followed the rules and regulations,
20 including contractors.

21 CHAIRMAN ROWE: At least inquire.

22 MR. HANFORD: Yes, at least inquire.

23 CHAIRMAN ROWE: Okay. I'll entertain a motion
24 granting of the Appeal 966.

25 MR. SMITH: Mr. Chairman, I move for approval of
26 Appeal No. 0510-966.

27 MR. HANFORD: Second.

28 CHAIRMAN ROWE: Moved and seconded. Last call for
29 any additional discussion. Kathy, call for vote.

30 MS. MITCHELL: Mr. Hanford?

1 MR. HANFORD: Yes.

2 MS. MITCHELL: Ms. Miller?

3 MS. MILLER: Yes.

4 MS. MITCHELL: Mr. Hamilton?

5 MR. HAMILTON: Yes.

6 MS. MITCHELL: Mr. Smith?

7 MR. SMITH: Yes.

8 MS. MITCHELL: Mr. Rowe?

9 CHAIRMAN ROWE: No.

10 CHAIRMAN ROWE: Appeal is granted. Check with Kathy

11 MS. MITCHELL: It's approved.

12 CHAIRMAN ROWE: You're approved.

13 MR. MURINO: Thank you, gentlemen. Thank you.

14 CHAIRMAN ROWE: The third item on our agenda for this

15 evening, Appeal 0510-967, Paul Kupfer of 7650 Kellogg Road.

16 R-1 District, requests a variance for a 384-foot accessory

17 building that is located 8.45 feet from the side property line

18 in lieu of the 15-foot minimum side yard clearance required as

19 set forth in Section 15.07 B of the Concord Township Zoning

20 Resolution.

21 Is Mr. Kupfer or a representative here?

22 MR. KUPFER: Yes.

23 MR. HANFORD: Did you say 384 square feet when you

24 read that off?

25 CHAIRMAN ROWE: Yes.

26 MR. HANFORD: I didn't hear that. Sorry.

27 MR. KUPFER: Hello. Good evening. My name is

28 Paul Kupfer. I have been sworn in and I live at 7650 Kellogg

29 Road. I'm here to request a variance for the setback at

30 southwest corner of my property for a storage building that I

1 built in November of 2009. I fully acknowledge that I should
2 have obtained the permit for this building prior to its
3 construction. I apologize for not doing so. That being said,
4 the barn is both an aesthetic and functional improvement to the
5 property and is not infringing on any neighbors' site lines or
6 commonly used areas.

7 I received verbal acknowledgements from three of the
8 surrounding five neighbors, including one of the owners of the
9 directly affected property to the southern side that the
10 barn's placement is acceptable to them.

11 As I stated in my letter to the Board, there are severe
12 financial and functional issues with moving the barn or
13 tearing it down. I have brought an estimate from a local
14 construction company indicating a charge of approximately
15 \$3,000 to move the barn. This estimate does not consider the
16 additional hardship of moving the barn five feet north onto
17 the existing septic drainage tile, which as my drawing shows
18 in the packet, it is within that feet to -- that would be the
19 north side. This could result in extra thousands of dollars
20 of repairs and possible rerouting of the drains if I put it on
21 top of that drain tile.

22 There is also a concern of the structural stability of
23 moving a pole barn and converting it to a foundational barn
24 where you put it on a slab or cement blocks.

25 The only other alternative is to destroy the barn. There
26 is significant cost to the property functionally. Of course,
27 there is no other outside storage for deck furniture, lawn
28 equipment, et cetera. The other storage building was removed.
29 This cost would be evident in the overall value of the
30 property and would eventually need to be addressed, i.e: a new

1 storage building put up at some point.

2 Obviously the current situation, having to appeal for a
3 variance, is not ideal, but given the circumstances, I
4 respectfully request that the Board grant the variance for the
5 property.

6 MR. SMITH: Mr. Kupfer, is this a pole barn; in
7 other words, the poles are in the ground and that's what
8 support them?

9 MR. KUPFER: Correct.

10 MR. SMITH: They are underground?

11 MR. KUPFER: Correct.

12 MR. SMITH: Mr. Kupfer, is the roof structure,
13 are they trusses or stick built?

14 MR. KUPFER: Stick built.

15 MR. SMITH: Who built the barn?

16 MR. KUPFER: My brother-in-law and I. Well, and
17 some friends.

18 MR. SMITH: So not a contractor?

19 MR. KUPFER: No.

20 MR. HAMILTON: Mr. Kupfer, your leach bed extends
21 how far to the west on your property line --

22 MR. KUPFER: I'm bad with directions, but west is
23 towards the back?

24 MR. HAMILTON: -- approximately?

25 Towards the back, yeah.

26 MR. KUPFER: I'm not sure. We have not had the
27 leach bed staked.

28 MR. HAMILTON: It appears as though you have quite a
29 bit of property behind your home.

30 MR. KUPFER: Correct. We have an acre and a half.

1 MR. SMITH: It does appear the existing, just on
2 the topography, the little topography sheet we got, that the
3 existing side yard setback is anywhere from nine feet to
4 eight-and-a-half feet, it looks like, so if you slid it over
5 the additional six or seven feet, if, in fact, this document
6 is correct, the leach field would be back.

7 MR. HANFORD: I walked the property this afternoon,
8 I think the leach bed is closer than that because there is a
9 muddy area well into the corner and over to the side. So it
10 would be the west and south side of the building. It was
11 pretty soft and actually eroded that area in this corner here,
12 if everyone can see that.

13 MR. KUPFER: I was told by the gentleman who did
14 the survey, I'm sorry, I forget his name, he said most septic
15 leach beds have a certain drain tile that's anywhere from five
16 feet to eight feet or something like that and we have two
17 septic leach beds.

18 CHAIRMAN ROWE: One is presently functioning?

19 MR. KUPFER: Yeah, it's overflow or whatever it
20 is. I'm not an expert.

21 CHAIRMAN ROWE: Any questions? Mr. Hanford?

22 MR. SMITH: Yes, Mr. Chairman, one more question.

23 CHAIRMAN ROWE: Sure.

24 MR. SMITH: Mr. Kupfer, how far from the house is
25 the shed and leach bed from the back of the house?

26 MR. KUPFER: The front of the shed, how far is it
27 from the house?

28 MR. SMITH: Yes.

29 MR. KUPFER: Several hundred feet.

30 MR. SMITH: Noting on the aerial survey, this is

1 your -- this is the house structure here?

2 MR. KUPFER: Correct.

3 MR. SMITH: Would the shed be all the way in the
4 back in the clearing?

5 MR. KUPFER: Correct. It's just in front of that
6 woods area.

7 MR. SMITH: So to push it back further would
8 require taking down a lot of trees?

9 MR. KUPFER: They are not trees, like brush,
10 swamp.

11 CHAIRMAN ROWE: All righty. Thank you.

12 MR. KUPFER: Thank you.

13 CHAIRMAN ROWE: Is there anyone else in attendance
14 that wishes to speak in favor of granting of this Appeal
15 0967-0510?

16 Hearing no one speaking also in support of the granting
17 of the appeal, is there anyone in the audience that would
18 speak in opposition to the granting of this?

19 MS. CORRIGAN: Hi. I am Christina Corrigan and I
20 reside at 7660 Kellogg Road in Concord Township, 44077. I am
21 the neighbor that is directly -- yes, I was sworn in.

22 CHAIRMAN ROWE: Okay. Thank you.

23 MS. CORRIGAN: And I am the neighbor that is
24 directly affected. I am the neighbor to the south and it is
25 encroaching on my property line.

26 First of all, the structure was built by a professional
27 contractor who happens to be Mr. Kupfer's brother-in-law. He
28 owns a professional construction company called CBC
29 Construction and that is who it was built by. So they, of
30 course, since they are in business know that there are zoning

1 and building permits required. In addition to building it
2 without a zoning permit, he also built it without a building
3 permit. In Concord Township structures 200 -- accessory
4 buildings 200 feet and over must have a building permit to be
5 built. So he built it without either of those.

6 Next, that part of our yard is very wet anyway as is his
7 part of the yard, because directly behind it is a marsh, so it
8 isn't on a structurally sound piece of property. The land was
9 not leveled prior to building it and it isn't finished, it
10 doesn't have gutters, they don't have a lock on the door.
11 Every time and because of the way that it's built, every time
12 the wind blows, it goes underneath it and pops the doors open.
13 So right now it currently has a two-by-four that was cut
14 holding the doors closed.

15 When he referenced having the permission of one of the
16 neighbor to the south, I'm assuming he's talking about my
17 husband. They came over and asked my husband if we would sign
18 a paper saying we did not have a problem with it and he told
19 my husband that it was ten feet from the property line and on
20 the paper it said it was nine-and-a-half feet and it turns out
21 in some parts it's less. My husband never gave his
22 permission. He did say we would look the paper over and that
23 was the extent of it.

24 The other problem I have is that we have five children
25 and we moved to Concord Township because we have two acres.
26 We basically have an acre in the back and an acre in the front
27 and our children play back there. And having it that close to
28 the property line, you know, they hit the balls, kick the
29 balls in that direction, so I have a concern that it will hit
30 it and also maybe do some damage. And it's asthetically

1 displeasing to myself, my husband and our five children.

2 That is our oldest, who will be sixteen next month and we
3 have them each down to nine months old. So -- and the only
4 reason this has come to light is because Mr. Kupfer now wants
5 to sell his property. I don't believe it ever would have come
6 to light had he not wanted to sell it and had to disclose it
7 to a buyer, that it does not meet the zoning requirements and
8 that it didn't have a building permit as well.

9 CHAIRMAN ROWE: Thank you very much.

10 MR. SMITH: I'm sorry. Mrs. Corrigan, you
11 mentioned that the brother of Mr. Kupfer --

12 MS. CORRIGAN: Brother-in-law, his wife's brother.

13 MR. SMITH: Brother-in-law?

14 MS. CORRIGAN: Yes.

15 MR. SMITH: Owns CBC Construction?

16 MS. CORRIGAN: Yes.

17 MR. SMITH: How did you come to know that
18 knowledge?

19 MS. CORRIGAN: His wife told my husband that her
20 brother, who owned a construction company, is the one that
21 built it and at that point I was able to look up her brother's
22 name and find out the name of the construction company.

23 MR. SMITH: And what's her brother's name?

24 MS. CORRIGAN: Jason Stuyvesant. I'm not sure how
25 to pronounce the name, but he owns it with two other people.

26 One other thing as far as the septic system, I can tell
27 you our houses were kind of built the same as far as septic.
28 There are two septic tanks, one served as an overflow. That
29 doesn't have anything to do with the leach beds. The leach
30 beds, there are eight of them and he has eight control boxes

1 that will go out because the house was built in '77, ours was
2 built in '78 and that's how those are set up.

3 CHAIRMAN ROWE: Thank you.

4 Is there anyone else in the audience wishing to speak in
5 opposition to the granting of Appeal 0510-960?

6 Hearing none, I will now close the public portion.

7 MR. SMITH: Before closing, can we call
8 Mr. Kupfer back up, please?

9 CHAIRMAN ROWE: Absolutely you can.

10 MR. SMITH: Mr. Kupfer, can you explain the
11 relationship of your brother-in-law to CBC Construction?

12 MR. KUPFER: Sure. He is a contractor in
13 Ashtabula. He does not do any work in Lake County and I did
14 not pay him any fee for, you know, any of the labor.

15 MR. SMITH: That's fine, but he is a contractor?

16 MR. KUPFER: Correct.

17 MR. SMITH: And so CBC Construction is the
18 company that provided this \$2900 cost to relocate it?

19 MR. KUPFER: Yes.

20 MR. SMITH: Thank you, Mr. Chairman.

21 CHAIRMAN ROWE: You're welcome.

22 Thank you, sir.

23 Now we will close the --

24 MR. KUPFER: Am I able to rebuttal against the
25 plethora of things?

26 CHAIRMAN ROWE: Sure.

27 MR. KUPFER: First of all, again, I'm not a septic
28 expert, but the eight control boxes that are there, I don't
29 have a label -- I do have them labeled, but they are not to
30 scale on the drawing. There is one within, I don't know the

1 exact amount, but it's eight to ten feet of the drain which is
2 where all that septic leach is. I didn't have a pen to write
3 down all the items. Could you repeat any of your --

4 MR. HANFORD: Your selling your house was one item.

5 MR. KUPFER: Yeah, there was a comment that I want
6 to sell my house. I am listing my house right now and it's
7 not a desire to move, I was relocated, but that is how it came
8 to light and my neighbor did call and had somebody come out.

9 Additionally, the conversation with her husband was my
10 wife and I spoke with him down in the backyard and there was a
11 mention to sign a letter. He said, "Oh, sure, bring it by."
12 I didn't have the letter then. I didn't do anything like
13 that, but when I did bring it by, I handed it to the neighbor
14 and she said nothing about the claim at that moment. So it's
15 unfortunate.

16 Anything else?

17 CHAIRMAN ROWE: No.

18 Now I'm closing the public portion.

19 Discussion, gentlemen and lady?

20 MR. HAMILTON: I'll start, I guess. Lack of permit
21 again aside, this variance is a significant amount to the
22 required setback and given the circumstances of how the
23 building got there, I guess I don't have a whole lot of
24 sympathy for the amount of the variance that this indeed
25 creates for the owner. Forty-three percent of what the
26 requirement is is quite a bit.

27 CHAIRMAN ROWE: I don't have much comment, I guess.

28 Anybody else?

29 MS. MILLER: I would just like to say that
30 eventually these things do come to light, sale of the property

1 is a consideration that you contend with in getting a variance
2 and that's a concern of mine, because this goes further on
3 down the line once the property is sold. It stands, so I'm
4 for things being right in the first place.

5 MR. HANFORD: I'm just wondering, looking at the
6 backyard, the barn could have been put on the other side and
7 why that was chosen. It just came to me. I was thinking
8 about that.

9 CHAIRMAN ROWE: Mr. Murino could have put his
10 building on the other side.

11 MR. HANFORD: Tell me about it, yes.

12 CHAIRMAN ROWE: Well, I would entertain a motion for
13 granting of this appeal.

14 MR. SMITH: Mr. Chairman, I move for approval of
15 Appeal 0510-967.

16 MR. HAMILTON: Second.

17 CHAIRMAN ROWE: Moved and seconded. Any further last
18 shot at commentary? Call for vote.

19 MS. MITCHELL: Ms. Miller?

20 MS. MILLER: No.

21 MS. MITCHELL: Mr. Hamilton?

22 MR. HAMILTON: No.

23 MS. MITCHELL: Mr. Hanford?

24 MR. HANFORD: No.

25 MS. MITCHELL: Mr. Smith?

26 MR. SMITH: No.

27 MS. MITCHELL: Mr. Rowe?

28 CHAIRMAN ROWE: No.

29 Application is denied, five votes to zero.

30 Next item on the agenda, Appeal 0510-968, Mr. Zephyr

1 Eadon, 10860 Tanglewood Trail, R-1 District, proposes to
2 construct a garage addition and patio wall to be located nine
3 feet from the side property line in lieu of the fifteen foot
4 minimum side yard clearance required, as set forth in Section
5 15.07 B of the Concord Township Zoning Resolution.

6 MR. EADON: Hello. My name is Zephyr Eadon. I
7 was sworn in.

8 CHAIRMAN ROWE: Thank you.

9 MR. EADON: I live at 10860 Tanglewood Trail,
10 44077.

11 I guess I would -- you guys all have the letter. I just
12 was proposing to build a one-car garage in addition to my
13 one-and-a-half car garage to gain two indoor parking spots and
14 that would bring the side yard down to nine feet.

15 MR. SMITH: Mr. Eadon, the existing garage is a
16 one-car garage?

17 MR. EADON: It's a one-and-a-half car. It's a
18 14-foot door. You can't get two cars in it.

19 MR. SMITH: So you need another garage to park
20 another car?

21 MR. EADON: And the way the house is situated, I
22 couldn't see another option as to where to put it.

23 MR. SMITH: Looking at the topography, I was
24 going to suggest, would there be any way to bring the driveway
25 around to the back of the house and construct an attached
26 garage at the back?

27 MR. EADON: About thirty feet past the back of
28 the house the whole bottom just drops.

29 MR. SMITH: Yes. Okay. Thank you.

30 MR. HAMILTON: Mr. Eadon, had you considered

1 enlarging the current garage to a two-car garage?
2 MR. EADON: To a two-car garage?
3 MR. HAMILTON: Two-car garage and complying with the
4 setback requirement?
5 MR. EADON: Well, it would pretty much ruin the
6 existing garage door that isn't that old, so, you know, with
7 the variance I would gain even more space.
8 MR. HAMILTON: Right.
9 MR. HANFORD: Do you have a shed somewhere on the
10 property?
11 MR. EADON: Yes.
12 MR. EADON: I didn't have a chance to look at the
13 property. There it is. Thank you.
14 MR. SMITH: Actually, Mr. Hamilton's comment or
15 just a comment to verify his comment, I guess, the existing
16 house setback from the side property line is twenty feet?
17 MR. EADON: Yes.
18 MR. SMITH: So if we stayed with the fifteen-foot
19 setback for this and you did reconstruct the garage to make it
20 a two-car garage, it would be a five-foot extension, which
21 would allow for two cars. So it is possible. It could be
22 done.
23 MR. EADON: To expand it five feet, the cost
24 would be -- I don't know, cost to gain five feet?
25 MR. SMITH: Cost to gain five feet, though, would
26 be less than the cost to put this up.
27 MR. EADON: Yeah, but I gain twice as much if I
28 did the proposed for probably a little more.
29 MR. SMITH: Well, we do see a way you can comply,
30 though.

1 MR. EADON: I did get letters from both neighbors
2 saying, you know, they had no problem, no issue. I did not
3 get -- I didn't ask the neighbor across the street.

4 CHAIRMAN ROWE: Any other questions? Any other
5 questions for the gentlemen?

6 MR. SMITH: Yes, Mr. Chairman.

7 On your sketch plan that you had here, also the back of
8 this prosposed garage is a patio area?

9 MR. EADON: Yes.

10 MR. SMITH: So, in fact, as our suggestion was
11 just to expand the garage by five feet, the patio area would
12 still be constructed, though?

13 MR. EADON: Probably not. I mean, to build a
14 five foot patio --

15 MR. SMITH: No, I'm saying, if you wanted to
16 build a patio the same size, is there a setback on a patio,
17 Kathy?

18 MS. MITCHELL: No, there is not a setback on a
19 patio, but since the wall was part of the foundation, that's
20 why it was considered part of the request.

21 MR. SMITH: Oh, okay. Thank you.

22 MR. EADON: The patio was more of like -- what I
23 was thinking was it would have a roof over the patio with like
24 on the side, it would have a privacy wall, so it wouldn't just
25 be like a poured concrete slab patio or something like that.

26 CHAIRMAN ROWE: Okay. Thank you, sir.

27 MR. EADON: Thank you.

28 MS. MILLER: I just have one question. Tom Kerig
29 is the neighbor here?

30 MR. EADON: Yes.

1 CHAIRMAN ROWE: Okay. Anyone in the audience wishing
2 to speak in support of Mr. Eadon's application for appeal?

3 Hearing no further comment on the support, is there
4 anyone in the audience wishing to oppose this particular
5 Appeal #0510-968?

6 At this time we will now close the public portion of the
7 hearing of this appeal and entertain any further discussion
8 from the Board members.

9 MR. SMITH: I would like to comment that here we
10 have a homeowner who did the thing right, came before us
11 first, rather than after the fact. Thank you for that.

12 Having said that, I agree with Mr. Hamilton that there is
13 a way to comply with the setbacks, albeit it wouldn't have the
14 total square footage, but he would gain the extra car in the
15 garage space and he does have, at least according to the site
16 plan, an accessory structure shed in the rear yard area. I
17 believe that still exists?

18 MR. EADON: Yes.

19 MR. SMITH: So he could expand the shed.

20 CHAIRMAN ROWE: Okay. I will entertain a motion for
21 the granting of the Appeal 968.

22 MR. HAMILTON: I make a motion for granting Appeal
23 0510-968.

24 MS. MILLER: I'll second that.

25 CHAIRMAN ROWE: Moved and seconded. Last call for
26 discussion. Kathy.

27 MS. MITCHELL: Mr. Hamilton?

28 MR. HAMILTON: No.

29 MS. MITCHELL: Mr. Smith?

30 MR. SMITH: No.

1 MS. MITCHELL: Ms. Miller?
2 MS. MILLER: Yes.
3 MS. MITCHELL: Mr. Hanford?
4 MR. HANFORD: Yes.
5 MS. MITCHELL: Mr. Rowe?
6 CHAIRMAN ROWE: No.
7 Appeal for variance is denied three votes to two.
8 And the last item before everyone goes through the door
9 would be approval of the minutes of the May 12, 2010 meeting
10 as submitted to the Board members.
11 MR. SMITH: Everything seemed to be in order when
12 I read it.
13 CHAIRMAN ROWE: Agreed. Approve those by vote?
14 (Five "Aye" votes, no "Nay" votes.)
15 CHAIRMAN ROWE: With that we close the meeting.
16 MS. MILLER: May I say one thing before you close?
17 CHAIRMAN ROWE: No. Yes.
18 MS. MILLER: Since we've had so many appeals for
19 variances tonight on structures that are already existing, is
20 there a way to remind the community somehow through the
21 website, and I'm sure we talked about doing that before, but
22 is there any way to say, "Check before you build," because so
23 many people do claim to not realize that even though it's
24 their, you know, responsibility as a homeowner to do so --
25 CHAIRMAN ROWE: Well, we are doing it right now for
26 the three people in the TV audience, but it's difficult. But
27 in all candor, these types of requirements are not unusual
28 when you are in a township, a city and such. I mean, we can't
29 urge enough that, you know, you have something going through
30 your mind in way of construction or whatever, call Kathy or

1 Bruce Bullard in the office. They would be happy to give you
2 direction or keep you out of the problem. But as far as maybe
3 the next time the little paper comes out, you can snag a
4 little space in there.

5 MS. MITCHELL: We do rotate our announcements in the
6 newsletter as we do on the website and at the Trustee meetings
7 we make announcements, so the information is out there.

8 CHAIRMAN ROWE: Sure. Great.

9 MR. SMITH: I don't think the Township has the
10 ability or in the case of a contractor doing work without
11 permits to do anything about it, because they don't require
12 registration, can't register them, so, you know, it's
13 unfortunate that homeowners will hire a contractor in the
14 instances where we've had contractors performing the work
15 without the zoning permits or building permits, for that
16 matter, and we can't do anything about it. Unfortunately it's
17 caveat emptor for the homeowner, because, quite frankly, it's
18 the homeowner's property and they're responsible for their own
19 property. Once again, I think that homeowner should come back
20 on the contractor themselves civilly.

21 CHAIRMAN ROWE: Okay. And having said that, the
22 meeting is closed.

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24 (Meeting Adjourned at 8:25 P.M.)

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CERTIFICATE

I, Susan Goodell, hereby certify that the foregoing pages constitute a true and complete transcript of the testimony requested to be transcribed from my Stenograph notes, taken at the time and place designated herein.

WITNESS MY SIGNATURE THIS 29th day of June,
A.D. 2010.

SUSAN GOODELL