The Chairman called the meeting to order and stated it was being held in compliance with the “Open Public Meeting Act” and had been duly noticed and published as required by law.

ROLL CALL

Present: Mr. Brocco, Mr. Cohen, Mr. Cupersmith, Mr. Daddario, Mr. Weil, Mr. Willard, Mr. Senges

Absent: Mr. Leoncio

Also, present, Mrs. CherylLynn Walters, Board Solicitor, Corrine Tarcelli, Zoning Board Secretary

**APPROVAL OF MINUTES**

Mr. Weil motioned to approve the minutes from December 14; seconded by Mr. Willard Abstained: Mr. Cohen, Mr. Cupersmith

Mr. Weil motioned to approve the minutes from January 25, 2018; seconded by Mr. Willard

Abstained: Mr. Cohen, Mr. Cupersmith

**NEW BUSINESS**

**Todd Simon**

21 Brookwood Avenue

Block 230.22, Lot 12

Case #ZC2017-024

Seeking Bulk Variance relief from Section 150.13(6) and 152.015(D)(3) of the ULDO to permit the construction of an in-ground swimming pool and concrete decking with a rear-yard setback of 10 feet and side-yard setback of 7 feet where 15 feet is required. Also seeking relief from Section 150.14(B)(2)(f) of the ULDO to permit the six-foot high fence to remain with a reverse-front setback to Victor Blvd. of 0 feet where 10 feet is required. Seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals.

 Todd Simon, the Applicant and Mr. Charles Miller, the Applicant’s pool contractor were sworn in to testify under oath.

 The following documents were entered as Exhibits: Zoning Board of Adjustment Application filed December 12, 2017, Voorhees Zoning Permit Denial prepared by the Voorhees Zoning Administrative Officer, dated December 10, 2017, a survey of the property prepared by Leon Land Surveying, LLC dated September 19, 2013, a plan entitled, “16’ x 36’ Kidney, Number 1636 Kid,” prepared by Cardinal Systems, Inc. dated February 20, 2013, a pool grading plan dated November 30, 2017, a wall detail prepared by Roundbird Pools and Spas, colorized photographs of the property, the Board Engineer’s review letter, prepared by Bennett a Matlack, PE, CME, CFM, dated February 1, 2018.

Mr. Simon testified that he is the owner of the property located at 21 Brookwood Drive which is situated in the MDR Zone. The property currently contains a two-story dwelling with a rear yard patio and a recreational play structure in the rear yard, as well as perimeter fencing. Mr. Simon stated there is a significant drop off in the current grading/elevation of his backyard which required the proposed pool to be located towards the southwestern corner of the Subject Property instead of in a more centered location within the rear yard area. He indicated that the location of the existing patio also prohibited the pool from being shifted towards the center of the backyard. Mr. Simon further indicated that the proposed location of the pool was preferable because it would

enable use of more of the backyard area by his family for other recreational activities, including the existing playset.

In response to questions from the Board, Mr. Simon acknowledged that he had already removed some trees in anticipation of the pool’s construction. He agreed, as a condition of approval, to remove the older shadowbox fence and further agreed, as a condition of approval, that the new shadowbox fence would be relocated and/or installed entirely on the property and not within any portion of the Victor Boulevard right-of-way. With regards to additional lighting, Mr. Simon indicated that the only lighting associated with the proposed site improvements would be located within the pool and would face only his residence. He stated the construction equipment would be brought through the Victor Boulevard frontage and that no trees needed to be removed to facilitate that access, but he also agreed that any damaged areas would be restored to their prior condition. The Board Solicitor advised Mr. Simon that he would require permission from the Township to access his backyard through the Victor Boulevard right-of-way.

Charles Miller, the applicant’s pool contractor, indicated he and the applicant had investigated other possible locations for the pool, but were unable to relocate the pool to the center of the rear yard area because of the significant elevation change and/or drop in grading from the middle of the rear yard towards the southeast side property line. He indicated the applicant could not adequately maintain the rear yard grading of the backyard if he was required to shift the pool location towards the middle of the rear yard. In response to questions from the Board Engineer, Mr. Miller indicated that any dirt that is not used for backfill after the pool was installed would be properly disposed of offsite. He further indicated that even if the backfill were utilized onsite, the applicant still would be presented with a significant grade change, which would only be made more noticeable if the pool were installed in the center of the rear yard. He further indicated the proposed location of the pool would provide the least impact to the neighbors to the southeast on adjoining Lot 11. With regard to the pool’s dimensions, Mr. Miller indicated that the pool would be 16 feet x 36 feet, with a 3 foot wide concrete decking surround the pool. Mr. Miller noted that the pool size was the smallest a pool was permitted to be and still have a diving board. He confirmed the setback dimensions were measured from the edge of the pool decking as required by the Township Code.

In response to questions from the Board, the Board’s Engineer stated that relocating the pool towards the middle of the rear yard would require a larger retaining wall located on both sides of the pool in order to retain soil and appropriately redirect the flow of groundwater away from the adjoining lot. He also agreed the neighbors would be more significantly impacted if the pool location was rotated towards the center of the backyard due to the grading being much lower on the southeastern side of the rear yard.

 The meeting was opened to the public. Seeing no one, the public portion was closed.

Mr. Weil made a motion to approve relief from Section 150.13(6) and 152.015(D)(3) of the ULDO to permit the construction of an in-ground swimming pool and concrete decking with a rear-yard setback of 10 feet and side-yard setback of 7 feet where 15 feet is required. Also seeking relief from Section 150.14(B)(2)(f) of the ULDO to permit the six-foot high fence to remain with a reverse-front setback to Victor Blvd. of 0 feet where 10 feet is required. Seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals; seconded by Mr. Willard.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Brocco and Mr. Cupersmith

Nays: None

**Alex Dergalis**

22 Promenade Place

Block 213.08, Lot 63

Case #ZC2018-002

Seeking Bulk Variance relief from Section 152.015(D)(2)(b) of the ULDO to permit an existing deck to remain with a rear-yard setback of 13.7 feet where 25 feet is required; relief from Section 150.13(A)(6) to permit an existing gazebo/spa to remain with a rear-yard setback of 6.3 feet where 15 feet is required; relief from Section 150.13(A)(6) to permit an existing paver wall to remain with a rear-yard setback of 0 feet where 15 feet is required; relief from Section 152.015(D)(3) to permit an existing paver patio to remain with a side-yard setback of 11 feet where 15 feet is required; and relief from Section 150.12(B)(1) to permit grading, construction and/or alteration 0 feet from the rear and/or side property lines where no grading, construction or alteration is permitted within 5 feet of a property line.  Applicant also is seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals.

 Mr. Alex Dergalis, the Applicant, Mr. Stephen Cosaboon, PE, the Applicant’s Engineer, were sworn in to testify. Also present was Mr. Jordan Goldberg, Esquire, Applicant’s legal representation.

 The following documents were entered as Exhibits: Zoning Board of Adjustment Application filed August 17, 2017, Voorhees Zoning Permit Application Denial, prepared by the Voorhees Zoning Administrative Officer, dated December 4, 2017, survey of the subject property, colorized photographs of the property, Zoning Plan entitled “22 Promenade Place” prepared by Stephen A. Cosaboon dated October 24, 2017, the board Engineer’s review letter prepared by Bennett A. Matlack, PE, CME, CFM, dated January 26, 2018, last revised January 30, 2018.

Stephen Cosaboon, PE, the applicant’s engineer was qualified as an expert in the field of engineering and testified under oath. He indicated the existing dwelling is located in the center of the property. He stated the requested variances related to the improvements located in the rear yard of the property. Mr. Cosaboon further stated the wooden gazebo is currently located 6.3 feet from the rear property line and that it serves to provide shade for the hot tub located underneath. He stated the existing paver patio and associated paver wall are setback zero feet from the rear property line. The existing deck is within the 25 feet due to the fact that the rear edge of the deck has a bump-out feature. As such, most of the deck was well within the setback requirement, with only the bump-out feature extending into the setback area. Mr. Cosaboon stated that Mr. Dergalis sought relief from a side yard setback requirement to permit an 8 foot setback for the existing paver walkway along the easterly side of the Subject Property and an 11 foot setback for the existing paver patio on the westerly side of the Subject Property where 15 feet is required on both sides. With regard to the rear yard paver wall located on the border of a neighboring residential lot, Mr. Cosaboon indicated that it served purely as a decorative function and did not act as a retaining wall.

Mr. Cosaboon stated the property was an appropriate candidate for a hardship bulk variance due to its exceptional physical attributes, including the fact that the lot is heavily wooded where most of the other lots in the neighborhood are fully cleared. He stated the unique physical feature prevents adequate sunlight from reaching the ground and prevents traditional grass from growing. He stated the absence of the landscaping/paving installed by Mr. Dergalis, the rear yard would consist of only dirt in the dry seasons and mud in the wet seasons. Mr. Cosaboon further stated the bulk variance relief sought by Mr. Dergalis could be granted without any detriment to the neighborhood because these features have existed for an entire decade without complaints from the neighboring property owners. Furthermore, he stated the zoning plan calls for the creation of a useable yard and the property’s rear yard cannot be utilized without the existing pavers.

With regards to water drainage, Mr. Cosaboon indicated he inspected the property on the morning of the hearing and did not detect the presence of noticeable runoff to neighboring lots which led him to conclude the pavers were not negatively impacting the neighbors. With regards to the current location of the hot tub, Mr. Cosaboon stated the hot tub cannot be shifted without the need for additional variances. He also indicated the hot tub is currently shielded by a tree line and is not viewable by the neighbors, but if it were moved away from the current location it would be more visible to neighbors. He also indicated the location of the dwellings on the neighboring lots also weigh in favor of allowing the hot tub to remain in its current location. Mr. Cosaboon initially indicated that Mr. Dergalis would need a variance from the zoning regulation which states that accessory buildings and uses may not occupy more than 25% of the rear yard area, because the current accessories occupy approximately 26.1% of the rear yard area. However, as a condition of approval, he indicated the applicant agreed to remove the patio wall and all pavers within five feet of the rear property line thereby eliminating the need for that variance.

In response to questions from the Board’s Engineer as to lighting associated with the gazebo, Mr. Cosaboon indicated that there is no existing lighting on or around the gazebo. He further testified the removal of the patio wall would not create any drainage problems offsite because water has never pooled between the applicant’s property and the adjoining neighbor to the rear. Mr. Cosaboon again indicated that that neighbor have never complained about the improvements and none of them have contacted the applicant in response to receiving notice of the application.

 Alex Dergalis testified the hot tub is currently not in use, that it is not traditionally used every season, and that the heavily wooded rear yard blossoms in the spring and summer to provide privacy for the hot tub. In response to questions from the Board as to why he failed to obtain permits for the rear yard improvements, Mr. Dergalis indicated the deck was there when he purchased the home. He also indicated the remainder of the improvements were installed approximately ten (10) years prior and at that time he did not know he needed permits to install pavers and a gazebo. He also indicated the pavers were necessary because grass did not grow in the rear yard due to a lack of sun exposure in the heavily wooded areas. He indicated the yard would turn into mud during the snowy and rainy seasons, with the pavers providing a solution to avoid same. Mr. Dergalis indicated the gazebo is free standing in the sense that it is not anchored to the ground. He also noted the gazebo is only used to provide shade over the hot tub. With regards to the paver wall located on the rear property line, Mr. Dergalis similarly indicated that it was not a retaining wall and that it was made of two (2) rows of EP Henry blocks for decoration only. He stated the wall only extended only half-way across the rear property line, with the remainder of the property line being bordered by another neighbor’s fence.

In response to questions from the Board, Mr. Dergalis indicated he first realized the need to request bulk variance relief when he required an inspection of the property one and half to two years ago. He stated he attempted to apply for the necessary relief on his own but withdrew his application to retain the assistance of an attorney. He stated the person who rents the property now wishes to purchase the property.

The meeting was opened to the public. Seeing no one, the public portion was closed.

Mr. Weil made a motion to approve relief from Section 152.015(D)(2)(b) of the ULDO to permit an existing deck to remain with a rear-yard setback of 13.7 feet where 25 feet is required; relief from Section 150.13(A)(6) to permit an existing gazebo/spa to remain with a rear-yard setback of 6.3 feet where 15 feet is required; relief from Section 152.015(D)(3) to permit an existing paver patio to remain with a side-yard setback of 11 feet where 15 feet is required; and a side-yard setback for accessory structures of 8 feet to the paver walkway along the easterly side of the property where a minimum of 15 feet is required. Seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals; seconded by Mr. Willard.

Ayes: Mr. Cupersmith, Mr. Weil, Mr. Cohen, Mr. Daddario, Mr. Willard and Mr. Brocco

Nays: None

Seeing no further business Mr. Weil makes a motion to adjourn, seconded by Mr. Senges.

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 Corrine Tarcelli

 Zoning Board Secretary