

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. Cohen, Mr. Weil, Mr. Willard, Mr. Cupersmith, Mr. Senges, Mr. Pannu, Ms. Tulman

Absent: Mr. Daddario, Mr. Leoncio

Also, present: Chris Norman, Board Solicitor; Ben Matlack, Board Engineer CME; Chris Dochney, CME, Stella Sytnik, Board Secretary

### RESOLUTIONS FOR APPROVAL

Mr. Cupersmith motioned to approve the following **RESOLUTION NO. 21-18** with regard to Application ZC2020-028; WA Outdoor Advertising LLC 351 Route 73, Block 222, Lot 27; seconded by Mr. Willard; none (0) against:

Ayes: Mr. Cohen, Mr. Willard, Mr. Weil, Mr. Cupersmith, Mr. Senges, Mr. Pannu, Ms. Tulman

Abstentions: Mr. Weil, Mr. Pannu

Nays: None

Mr. Cupersmith motioned to approve the following **RESOLUTION NO. 21-19** with regard to Application ZC2020-022; 10 Hardwicke Drive, Block 199.02, Lot 3 seconded by Mr. Willard; none (0) against:

Ayes: Mr. Cohen, Mr. Willard, Mr. Weil, Mr. Cupersmith, Mr. Senges, Mr. Pannu, Ms. Tulman

Abstentions: Mr. Weil, Mr. Pannu

Nays: None

### MINUTES FOR APPROVAL

Mr. Cohen motioned to approve the Minutes from the March 25<sup>th</sup> meeting; seconded by Mr. Cupersmith; no abstentions; none (0) against.

Ayes: Mr. Cohen, Mr. Willard, Mr. Daddario, Mr. Cupersmith, Ms. Tulman, Mr. Senges,

Abstentions: Mr. Weil, Mr. Pannu

Nays: None

### NEW BUSINESS

#### **Stacy & Amir Vana**

203 Kresson Gibbsboro Road

Block 218.42, Lot 1.01

Action Date: 6/3/21

Mr. Norman summarized the application stating the Applicant is seeking relief from numerous sections of the ordinance to permit an existing retaining wall, pool equipment, and a tree house to remain as built.

The retaining wall requires relief from:

- §150.12(B)(1) to permit a retaining wall to remain along the eastern property line (common property line with lot 1.02) where grading, construction or alterations within 5-feet of a property line are prohibited.

The pool equipment requires relief from:

- §150.12(B)(1) to permit pool equipment to remain at 1.81' from a side property line where grading, construction or alterations within 5-feet of a property line are prohibited.

The existing tree house requires relief from:

§150.12(A) to permit the tree house to remain where such structures are not expressly permitted,

§150.13(A)(2) to permit the tree house to remain at a height exceeding 15' where accessory structures are prohibited from exceeding 15'.

§150.13(A)(7)(e) to permit the tree house to remain at 365 S.F. in total area where sheds are prohibited from exceeding 200 S.F. in total area between all sheds on a given property.

Note: This Section only applies if the tree house is deemed to be a "shed." If it is deemed a shed, it will effectively prohibit the property owner from installing any other shed on the property since sheds shall not exceed 200 S.F. in total area. (Note: A second shed is shown to be proposed on the submitted plan.)

§154.016(D) to permit the tree house to remain within the outer "Zone Two" of the Stream Buffer Conservation Zone where any use not authorized within §154.016(C) is prohibited. (Tree houses are not authorized in §154.016(C).)

In addition to the above, variances and/or design waivers would also appear necessary for the following:

The proposed fencing requires relief from:

§150.14(B)(1)(a)2 permits fencing of 4' in height or less to be installed within a side yard, however, the plan indicates that 6' high fencing is proposed in a side yard.

§150.14(B)(3)(f)1 requires that evergreens of a minimum height of 3' at planting be planted in front of all fences 5' and higher which parallel a front property line, however, no such plantings have been indicated on the submitted plan.

The proposed ground-level shed requires relief from:

- §150.13(A)(7)(e) to permit sheds on a property to exceed 200 S.F. in area.

Note: This variance is only necessary if the existing tree house is permitted to remain on-site and has been deemed to be a shed.

Any other variances or waivers may be required.

Mr. Noman swore in Ms. Stacy Vana, the Applicant, Mr. Mark Stofman, the Applicant's attorney, and Mr. Joseph Mancini, the Applicant's engineer.

Mr. Stofman presented his credentials and noted his Applicant already had several variances in place and some more are being proposed. Mr. Stofman introduced Mr. Mancini to the Board and asked him to present his qualifications.

Mr. Senges accepted Mr. Mancini's qualifications.

Mr. Stofman based his presentation on items highlighted in Mr. Matlack's letter, including all existing and future issues.

Mr. Mancini gave a brief overview of the property at subject. It is approximately 22 square feet and located in MDR zone. It is on the easterly side of Kresson Road, it is a two (2) story residence. The house is set 95 feet from the back, 85 feet from the front. There is a small stream. The Applicant is asking for relief for several existing features.

Mr. Mancini provided a summary of the variances for the retaining wall within five (5) feet of the property line, the tree house, and a proposed shed. With regards to the fence size, a portion was already approved but a portion where it is 6 feet is prohibited by the Ordinance. He noted he does not believe they need a variance for the landscaping, since the portion of the fence parallel to the front road is only 5 feet high.

Mr. Senges asked to clarify as the front fencing is not allowed.

Mr. Mancini explained the portion he is referencing is in the middle of the house, perpendicular to side lines.

Mr. Senges asked Ms. Vana to confirm the fence location. He noted they need to know the exact location.

Ms. Vana confirmed she agreed with Mr. Mancini.

Mr. Mancini shared his screen pointing to the fence location. He reiterated the parallel portion of the fence is only 4 feet high, so he does not believe they need a variance. He noted the CME letter is accurate.

Mr. Senges deferred to the Board Engineer to confirm they do need a variance for the fence, but they do not believe they need variance for landscaping.

Mr. Matlack commented he agrees the variance is required and that the testimony shows the variance for landscaping would not be required since it is 5 foot portion of the fence. It was not on the submitted plan, but the testimony proves it.

Ms. Stacy noted that portion of the fence is only 4 feet high.

Mr. Mancini proceeded with his presentation stating benefits of the proposed structures will outweigh detriments. With regards to the retaining wall, Mr. Mancini pointed out it is going along the front edge of the property. It was installed to replace the existing wall to address the elevation from the neighboring property which is 3-4 feet higher.

Mr. Senges asked about the purpose of the retaining wall as he could not see it on the survey.

Mr. Mancini pointed to the photos where the retaining wall and elevations could be seen.

Mr. Matlack confirmed the elevations. He noted he agrees with the purple line on the shared screen.

Mr. Mancini advised it is previous condition, but it was not installed in this current location. He does not know or have the previous location as it was before they did the survey. The retaining wall was necessary because the adjacent property is higher in elevation. The Kresson Road is higher than the front of the property.

Mr. Senges asked if Mr. Mancini was sure about it.

Mr. Mancini responded he was certain.

Ms. Tulman asked about the purple line on the exhibit. She commented that once it is pushed back, there is substantial amount of ground. It is a hump, or a berm that sits between the house and front property line.

Mr. Cohen asked if the Board is reviewing just the portion of the retaining wall where utilities are, behind the boxes and not the wall that runs along the front of the property.

Mr. Senges noted that they are discussing both.

Mr. Cohen pointed out it seems slightly higher; the wall does seem to end at one point and not run to the front of the home. He requested Ms. Vana's confirmation.

Ms. Vana confirmed the wall stops short twenty feet along Kresson Road. Pictures were presented to show exact location of the retaining wall and that it is fully covered by the landscaping.

Mr. Senges noted that Kresson is not substantially higher.

Mr. Mancini pointed out the driveway substantially deeps down toward the house.

Mr. Senges commented the real issue is one cannot realize the elevation.

Mr. Matlack shared his screen with a google earth image (marked at Exhibit A 1, dated October 2019) showing the wall along the side of the property line, taking turn and they are diving off along the frontage. Mr. Matlack explained it is installed to protect utilities box in the right-of-way. He can clearly see the driveway of neighbors is higher than this elevation, and that is why prior wall was installed at that location. The wall was already there before the Applicant purchased the property.

Mr. Senges requested a topo survey and asked Mr. Mancini to explain elevation points.

Mr. Mancini advised area adjacent to wall is about 108-109 points, and on lower side of the wall it is approximately 106-107 points.

Mr. Senges noted he sees different readings of elevations. Has asked about the height of the wall.

Mr. Mancini stated the wall is less than three (3) feet. Mr. Mancini moved on to the tree house. He stated with a conservative approach and treating it as a structure, such as shed, it is higher than 15 feet. It is located within a stream buffer, 390 ft from Kresson Road and 40 feet to the closest property line. They do not believe it has any impact on environment as the lot is not DEP regulated.

Mr. Norman advised the Board that typically towns do not have zoning board jurisdiction over tree house requirements, but when it looks like a shed, it gets reviewed as a shed.

Mr. Senges asked if the Board has legal rights to a stream buffer. He noted in the past they were told if it is a buffer, they do not have any jurisdiction.

Mr. Norman deferred to Mr. Matlack as he believes there is no threat.

Mr. Matlack agreed with Mr. Norman the tree house is not disturbing wetlands or a stream, he does not have an issue with it. It will be up to DEP. He does not believe DEP will have an issue with it either.

Mr. Senges confirmed if they had a legal right and Mr. Norman confirmed there is some discretion to that.

Mr. Mancini proceeded to the last structures on the variances list, the pool equipment. The pool is behind the house, the equipment is 1.8 feet where 5 feet is required. Because of the location and the elevation from the neighboring house and significant depth of the property, it mitigates the noise and drainage issues for the neighbor property.

Mr. Senges asked what is on the neighbor property.

Mr. Mancini responded it is their backyard and it is 20 feet away. He believes the improvements will promote more efficient land use. He does not see any detriment. He feels the improvements should remain. Negative criteria such as size of the property serve to diminish any potential detriment. The Applicant has mitigated any drainage issues by installing French drain system. It is consistent with the residential character of the neighborhood. Impervious coverage is well below of what is required.

Mr. Senges inquired about the shed.

Mr. Stofman advised there is a new shed fully compliant with the Ordinance but if one counts in the tree house as shown on the grading plan, the total square footage is over 200 square feet, that is why they need a variance.

Mr. Senges asked the Board for any comments or questions.

Mr. Weil stated he is impressed with the tree house, it looks beautiful, but they need to protect the township. If they approve the tree house in DEP regulated stream buffer, they need to insert some sort of language into the motion. They don't really have a jurisdiction and if they found out later the township ratified the resolution to build a tree house in the stream buffer zone, this will create an issue.

Mr. Norman suggested to request a letter from DEP.

Mr. Senges whole heartedly agreed with Mr. Weil in that they need a DEP letter that it is acceptable to the township.

Mr. Cohen stated he has similar interest and beyond, in that what happens if an injury occurs. The board will be liable.

Mr. Senges asked whether there is plumbing in the tree house.

Ms. Vana stated no, it is just for children to play.

Mr. Pannu inquired if all those permits should have been approved in the past.

Mr. Senges explained unfortunately it is a common occurrence. People apply for what they intend to do and for variances but also for what has been done against the Ordinance to grant the permission to leave the structures as is. In this case unfortunately the only new thing on the application is shed. Everything else has been done without permission. Mr. Senges noted the biggest issue he has is that the testimony does not match the numbers on the plan. It is not a clear presentation and numbers on elevations. He added the proposed shed is far away from anything so that should be fine. He added he does not think the Board has to give a cart blanche to the tree house as this will put township at risk. There is a lot of challenges with this application.

Mr. Stofman stated they will comply with whatever Board deems appropriate.

Mr. Norman advised the Board they all have personal immunity.

Mr. Senges confirmed they definitely want DEP approval.

Mr. Norman advised they could include it as a condition of approval and once they get the letter, everything will be fine, if they do not get it, the tree house has to come down.

Mr. Cohen commented if they allow it to be higher than 15 feet, but the kid falls out, what exposure will they have as a Board.

Mr. Norman stated it is on DEP, he is not that concerned about it. They could hold the town harmless.

Mr. Willard stated the house looks great, but it needs to go through review.

Mr. Stofman noted just the top of it exceeds 15 feet, not the entire structure.

Ms. Stacy confirmed it is around 8 feet high from the ground. There are stairs, staircase with railing. They have detailed information and will submit it when necessary. The builder who did the house did it with all the bracketing and reinforcements, for safety of her children.

Mr. Weil stated it is a really nice tree house.

Mr. Norman asked if the Applicant would be willing to accept the township release approval in that the township is not responsible for any incidents.

Mr. Stofman replied positive, it is not an issue.

Mr. Senges asked to verify the height of the retaining wall to the street.

Ms. Vana stated it is about 4-5 feet. To get from her driveway she has to hurdle the wall. There is a big difference between her and their property.

Mr. Senges asked if it was possible that their neighbors on the other side of the wall planted the evergreens.

Ms. Vana stated they planted trees for them to make it look nice.

Mr. Senges noted that if they had not put the berm, the roots would die. If they you came to us for permission, they most likely won't get it.

Mr. Matlack inquired about maximum height of the wall which appears to be 2.5 feet on the plan.

Mr. Senges stated it looks like 8ft x8 ft on the pictures. However, it is a moot point.

Mr. Senges opened the floor to the public.

Mr. and Mrs. Deborah and Keith Raveling at 35 Brookstone Drive were sworn in by Mr. Norman.

Mr. Raveling stated they live two (2) lots away adjacent to the subject property. He commented they oppose any type of relief for the tree "fort". He stated he has heard the board mention need of being consistent with residential character. It is large structure in the air, no zoning approval, no engineer, no inspections. For some it looks beautiful, for some it is ugly. If the Board allows it, then other neighbors from the other side can do anything they want, anyone in Voorhees can do the same.

Mr. Norman advised the legal answer is that each property is unique and different but if it is a similar type of property, the decision will have some relevance.

Mr. Raveling further stated the Vanas were notified they had no zoning approvals back on March 25<sup>th</sup>. He complained about it and yet, they continued with construction.

Mr. Senges commented he thought he heard the engineer said it was so far from any homes it did not affect the character of the neighborhood.

Mr. Raveling stated he can see it clearly from his property.

Mr. Senges asked if the Township issued any violations.

Mr. Raveling stated he knows on July30th, 2019 denial was issued for the tree house. It is in the Township records and readily available. They spoke with the Zoning Officer, Jacklyn.

Mr. Raveling further confirmed that the violation was issued in 2019 and they continued to build. They built the entire house without Certificate of Occupancy. He even wrote to the mayor, they have a pool and they took off the fence. How can they not care about neighbor's grandchildren who can jump over and drown? He did not get much of an answer. His question is if someone wants to build 360 sf ft, don't they at least have to ask the Board. And anyway, why would anybody needs such a big tree house.

Ms. Tulman commented the structures is basically a small house.

Mr. Norman commented it is just semantics.

Mr. Senges asked if the witness had any other objections.

Mr. Raveling stated no, just about this tree fort.

Mr. Weil asked to clarify where Mr. Raveling's home was. Lot next to it, long and narrow, from his backyard he look across two sets of neighbors and still can see the tree house.

Mr. Senges and Mr. Matlack exchanged their opinions of the size of the structure.

Mr. Stofman pointed out 365 square feet is the total with proposed shed. The new shed is proposed at 200 sq feet, the access is 100 sf feet with the tree house.

Mr. Raveling disagreed stating it is big, very big.

Mr. Senges noted regardless Mr. Raveling's point was well taken. Let's all agree, it is large and tall.

Ms. Tulman asked for the Applicant to respond why they kept going without permits.

Ms. Vana explained they applied for Zoning Permit at the time they engaged the professional. It was interrupted by Covid.

Ms. Senges pointed out but once the ZP was denied, did they continue to complete the projects.

Ms. Vana explained it was completed when the application was filed. At no point during the construction of the tree house she was aware of the denial. She doesn't recall the dates. She has gotten many letters but she knows for certain she was not told to stop.

Mr. Senges added this was just semantics, did she not understand that by having the denial she should stop construction.

Ms. Vana stated she was not aware it was an issue.

Mr. Cupersmith asked for dates clarification.

Ms. Vana stated the denial was issued on July 30, 2019, by then the construction was completed. She was out of the country, when she got back, the house was finished.

Mr. Raveling added he had applied through OPRA, he's got all the documentation. They started building it he went to the township, in March 2019. The denial letter is dated July 30<sup>th</sup>, 2019. It was completed by that point.

Mr. Stofman stated the denial letter said it was already built. He noted the township did not issue any notices until July 30<sup>th</sup>. She did not stop she was not aware because the Township did not notify her at that time. Mr. Raveling just verified that.

Mr. Senges extended apologies that the Township did not act more expediently. The homeowner was doing something she should not have been doing.

Mrs. Raveling added her husband owns Capital American Investment Co who owns construction company. Permits should not be foreign to them.

Mr. Senges thanked Mr. Raveling for coming forward and stated he appreciates the input.

Mr. Senges addressed the board for further discussion.

Mr. Cupersmith asked to clarify what are they trying to approve.

Mr. Senges suggested to bifurcate the Application.

Mr. Stofman stated their preference is to get it all done. They put it all variances together because on their own they could not get any approvals, each time they came to the township, they were denied. A number of denial letters was the indication that all of the issues needed to be addressed at the same time. That is why they put it all together. The effort was to address all of their issues and have the entire application before the Board in its totality. They felt this is what the board was asking for. However, they will comply with any board's decision.

Mr. Senges noted it seems that Zoning Department refused and did not want to deal with in in pieces.

Mr. Stofman confirmed the Applicant was told to bring it all together.

Mr. Norman advised the board they may have mixed feelings, it is within their power to decide they want to bifurcate the application and vote on certain variance you feel confident and then on others.

Mr. Senges suggested to vote on the Application in separate groups. He added the main area of objection seems to be a tree house. If they vote in lump sum, everything gets denied or nothing. He believes bifurcating it would be the most prudent approach.

Mr. Norman confirmed the Board has authority to bifurcate it. They can grant partial relief; they do not need Applicant's permission.

Mr. Cohen asked if they could take a vote whether they choose to bifurcate.

Ms. Tulman stated she would like to visit the house to see the tree house.

Mr. Senges advised it is always an option to visit the property.

The Board consulted with the attorney whether they will need to re-apply if they bifurcate the Application and separate the tree house.

Mr. Norman stated no, the motion would be to approve the variances for everything but the tree house.

Mr. Senges asked the Board if they want to continue the hearing or make a vote tonight? To evaluate the tree house, one has to be able to see it with leaves and without trees, from neighbors' perspective and from property owner's perspective.

Mr. Willard suggested perhaps for the Applicant to negotiate with neighbors to plant the trees to remedy the situation.

Mr. Senges agreed and stated this would be possible.

Mr. Willard noted bifurcation give the Board a chance to vote on it later.

Mr. Cohen asked if the neighbor took any pictures from his backyard.

Mr. Norman stated it is a problem that people sometimes do not know how to present evidence.

Mr. Stofman stated the Applicant would be more than happy to bifurcate the Application. They hope the other variances can be voted on today. They will reach out to the neighbor.

Ms. Tulman asked if they could we also obtain DEP letter.

Mr. Stofman noted it would take long time to get it but yes it will be condition of the approval.

Mr. Cupersmith asked about time limit.

Mr. Stofman agreed to the time limit.

Mr. Senges added he will need more detail on the sideline plans.

Mr. Cohen motioned to bifurcate the Application to June 24<sup>th</sup>, seconded by Mr. Cupersmith.

Ayes: Mr. Cohen, Mr. Willard, Mr. Weil, Mr. Cupersmith, Mr. Senges, Mr. Pannu,  
Ms. Tulman

Abstentions: None

Nays: None

The Board members proceeded to review other variances.

Mr. Cupersmith motioned to grant all bulk variances except as related to the tree house, seconded by Ms. Tulman.

Ayes: Mr. Cohen, Mr. Willard, Mr. Weil, Mr. Cupersmith, Mr. Senges, Mr. Pannu,  
Ms. Tulman

Abstentions: Mr. Senges

Nays: None

Mr. Senges stated the information was lacking in terms of accuracy from professionals, not well-presented exhibits, details, drawings. He does not feel comfortable when a builder is involved as a homeowner, he is most certainly aware of zoning and building permits. However, the Applicants take care of their property.

Mr. Norman explained the distinction between abstention and recusal. The abstention will not prevent the Chairman from voting on the application when they come back to vote on the tree house.

Board members agreed the site visit will be arranged.

Mr. Ben Matlack will look into DEP letter requirements.

**Patidar Brothers, LLC (Dunkin Donuts)**

101 Route 73

Block 247, Lot 14

Action Date: 4/5/21

The Applicant is seeking approval for a preliminary and final site plan for an 1,844 square foot Dunkin restaurant with drive-thru and accessory uses, such as parking, with variances from:

- a. Section 150.102(A) - Fast Food Restaurants are not permitted principal uses in the MB zone. A d-1 variance is required.
- a. Section 150.14(C)(2) - Within any non-residential zoning district, no fence may be erected, altered or reconstructed forward of any building in the front yard; a 4-foot vinyl fence is proposed along the westerly property line within the front yard area along Lake Villa Drive.

Section 150.15E(6) - Functional/directional signs shall not exceed 3 S.F. in area per sign and shall not include company logos or other advertising information; a "DD" logo sign is proposed on the height restriction bar at the drive-thru lane, said sign would also provide a 3.1 S.F. sign area.

Section 150.15H(2)(a) - Within an MB Zone, each commercial establishment may have one (1) sign on or attached to the facade of the establishment on each public street frontage provided the sign shall not project or extend more than 2 feet beyond the building line and shall not exceed 15% of the facade area facing the street or 150 S.F., whichever is smaller, whereby two (2) wall signs would be permitted; four (4) facade signs are proposed, one (1) along Route 73, two (2) along Lake Villa Drive and one (1) along the northern building facade.

152.102(A)(Schedule) - The minimum required rear yard setback is 100 feet; 55.98 feet is indicated as proposed to the westerly property line. It should be noted that the property is a corner lot which contains two front yards, one side yard, and one rear yard. The rear yard shall always be opposite the front entrance to the primary structure.

Section 152.102(8)(2) - The maximum permitted total impervious coverage with sewer service is 60%; approximately 72.9% is proposed.

Section 152.102(E) - The parking setback for all uses shall be 50 feet from Route 73, 50 feet from a residential zone or use and 20 feet when the parking setback is not from Route 73, a residential zone or use or to a side lot line; 10.2 feet is proposed to parking from the Route 73 right-of-way line and 11.9 feet is proposed to the loading zone from the westerly property line which is an MOR zone boundary. We also note that the parking setback is 15 feet where proposed parking facilities are contiguous to existing parking facilities which serve non-residential uses. The parking setback on the northerly property line which abuts the auto salvage yard is 10 feet.

Section 152.006(A)(4) - The Applicant indicates a 25-foot-wide buffer required to a residential use/zone along the westerly property line whereby a typical 25-foot-wide buffer shall be comprised of three (3) rows of trees/shrubs as specified planted 5 feet on center; an approximate 12-foot-wide buffer is provided with one (1) row of trees at 6 feet-10 feet on center and a 4 foot and 6-foot vinyl fence along the westerly property line. We note that per Ordinance Section 152.102(A) that the entire rear yard area within an MB Zone shall consist of a landscape buffer, whereby 100 feet would be required.

Section 154.006(F)(3)(b) - The number of street trees along Route 73 shall average one (1) for every 35 linear feet of property frontage, whereby the Applicant indicates five (5) street trees and three (3) evergreen trees required along Route 73; four (4) street trees and zero evergreens are proposed.

Section 154.015(A)(4)(c) - Parking may not encompass more than 50% of the lot frontage within 170 feet of the Route 73 right-of-way; the parking area along Route 73 encompasses more than 50% of the Route 73 lot frontage.

The Applicant also indicates that the following existing condition nonconformity would remain pertinent to the property:

Section 152.102(A)(Schedule) - The minimum required lot area is 2 acres; 0.7 acres (30,571 S.F.) is provided.

In addition to the above, variances and/or design waivers would also appear necessary for the following:

Section 154.007(B)(3)(b) - The maximum mounting height of exterior lighting for a building with a height of up to 24 feet is 14 feet; 16 foot and 20-foot light fixture mounting heights are noted as proposed.

Section 154.015(A)(B)(b) - A 0.9 footcandle maximum is allowed in parking areas and walkways for non-residential uses; lighting levels greater than 0.9 footcandle are proposed within the parking areas and walkways.

Section 152.102(C)(2) - The minimum required previous area with sewer service is 40%; approximately 27% is proposed.

Section 154.015(A)(1)(d) - No more than two-thirds of the building shall be at the same setback line and the offset shall be at least equal to 10% of the average depth of the building; no building offset appears proposed along the north, south and east facades of the building.

Section 154.015(A)(5)(b) - Refuse areas shall meet the setback requirements for parking lots and structures (50 feet from residential use/zone), no chain link doors are permitted, all wall screening shall be 8 feet in height and landscaping shall be utilized; an approximate 13-foot setback is proposed to the westerly property line adjoining a residential zone, chain link gating is proposed with 6-foot walls and no landscape plantings are proposed surrounding the enclosure.

Section 154.015(A)(6)(c) - Ten percent of the area within a parking area shall be landscaped with evergreen and deciduous trees; no interior parking area landscaping is proposed.

Section 154.015(A)(6)(d) - For every 10 parking spaces, 1.5 trees with a minimum caliper of 3 inches shall be required; two (2) trees appear proposed along the parking areas.

Section 154.015(A)(7)(h) - Textured pedestrian crosswalks shall be provided from parking areas to all buildings; no crosswalks are provided from the northerly and easterly parking areas.

Section 154.015(A)(9)(b) - Special architectural features such as clock/bell towers, cupolas and ornamental portions of parapet walls may exceed the height limit by up to 10 feet but shall not encompass more than

10% of the building facade wall and signage shall not be included within the additional height; the parapet tower along the east facade of the building encompasses 11.4% of the facade area and the parapet tower on the east and south facades contain proposed signage.

Section 154.015(A)(10)(a) - Windows, doors, display windows or arcades shall make up at least 50% of building walls that face streets; less than 50% of such elements are proposed along the southern building facade facing Lake Villa Drive.

Any other variances or waivers as may be required.

Mr. Mintz summarized the Application stating the Applicant was there that evening with respect to a preliminary and final site plan. They request use variance for a fast food with drive through restaurant prohibited in major business zone. The numerous bulk variances recited by Mr. Norman are too heavy because it is pre-existing location and somewhat unique in size. A few of the variances have been abrogated, for instance, they started with 27 parking spots but reduced them to 20. That is reflected in a number of trees that would normally be requested in the parking field. The challenge is that it is currently Auto Repair shop. It is located on the corner of Route 73 and Lake Villa Drive, Block 247, Lot 14. It is a relatively small structure, total of 1844 sq feet building. It is undersized because it is preexisting lot. It would be difficult for any permitted use to develop with required setbacks without having impact on residences considering Route 73 requirements.

Mr. Mintz added an important, in his opinion, detail. The Board heard another Application at this site for freestanding billboard sign. He is pleased to say that it been withdrawn, and the letter was mailed to the board secretary indicating that the only proposal for this sign is Dunkin Donuts building and to replace demolished existing auto shop with a new structure.

Mr. Mintz introduced professionals.

Mr. Norman swore in five (5) individuals representing the Applicant, Mr. Robert Mintz, Attorney, Joe Mancini, Engineer, Tiffany Morrissey, Planning, David Keefrider, Architect, Nathan Mosley, Traffic Engineer.

Mr. Senges accepted their credentials as they had previously testified in front of this Board.

Mr. Keefrider is the only one who did not appear before the Board and will be sharing his credentials when presenting his testimony.

Mr. Mintz cross examined Mr. Mancini, the Engineer asking him if he supervised and prepared the plans for this project.

Mr. Mancini confirmed that he did.

Using a visual, an aerial marked as Exhibit A2 Mr. Mancini described the zone and areas around the property. It is located opposite the Auto Lenders car dealer. It is adjacent to MB Zone to the west, residential property in MDR Zone. The property behind is owned by a member of the Micciche family. They are the owners of the Dunkin Donuts.

Mr. Malini's is the land use is permitted for restaurants except drive-through restaurants.

Mr. Senges asked to clarify the reason for the first variance that says fast food are not permitted.

Mr. Mintz explained that the language of the ordinance speaks of restaurants, it does not prohibit fast food, it excludes fast food. Since they will have tables, it would be appropriate to call it fast food.

Mr. Senges – so to be clear, this particular restaurant is a fast food restaurant, that is why they are there.

Mr. Mintz confirmed, yes, that is why they applied for the variance.

Pointing to the Exhibit A2, Mr. Mancini described the property to the north, owned by the entity of the landlord. It would be fair to say if they complied with all setbacks, it would negate the ability to construct any substantial structure. That is why they are asking for variances. Existing building will be demolished, it is 1400 sq feet.

Mr. Senges asked to compare this Dunkin Donuts to a typical Dunkin Donuts restaurant.

Mr. Norman advised he has heard plenty of Dunkin Donuts applications, a typical Dunkin Donuts is 1844 sq feet. This is a prototype.

Mr. Mintz added this is much smaller structure than any of the other potentially proposed businesses in this area.

Mr. Mancini commented on lot size and dimensions sizes. MB zone requires 50 ft front and side 50 and rear 100 which will make it difficult to comply. Mr. Mancini pointed to a color rendered version sheet 3, exhibit A1. In recognition of the fact there is residence behind and to mitigate that, he proposed buffer while reviewing exhibit A1. In an effort to provide necessary parking, they are not able to meet mini buffer requirements. They propose evergreen trees, they will supplement with 4 and 6 ft fence, they understand variances and will try to comply. He further described rear set back. Corner lot like this is considered by

Ordinance a two front yards lot. They propose 55.98 feet setback to rear of the building on the west where 100 feet is required.

Mr. Mintz noted it would be applicable for any other development.

Mr. Senges pointed out they did not talk about landscape along Route 73.

Mr. Mancini confirmed it was necessary to seek variances. He described the effort to come as close to compliance as possible. They eliminated seven (7) parking spaces to accommodate frontage. They addressed the spirit of Route 73 by providing landscaping as shown with trees and shrubs, as long as walkway. They understand Dunkin Donuts requires visibility. They want to be sensitive to that and not to obscure the view of the building.

Mr. Senges asked how their proposal varies from what is required and width of the buffer.

Mr. Mancini noted they are reducing number of plantings with the buffer, will irrigate this landscaping area. The width is approximately 15 feet, the smallest point is at the Lake Villa Drive where 30 feet is required. Planting varies as in the number, they are consistent, though, with types and variations of plants.

Mr. Senges asked to clarify how many required, the height against their proposal.

Mr. Mancini state they are proposing additional ornamental trees, it will be a solid buffer.

Mr. Mintz asked to state what is on the property at this time.

Mr. Mancini stated there is nothing there now.

Mr. Senges pointed out it was irrelevant. They, as a Board, are charged with responsibility to strictly adhere to Rt 73 landscaping plan within reason. The purpose is to beautify Rt 73 corridor as new developments occur or when old developments are being replaced.

Mr. Mancini advised they meet or exceed the requirements of number of shrubs per linear foot, only 3 evergreen trees required, they provide 9-10 feet landscape buffer is there too. Mulch is deep 3 inches, they comply with that as well. The plantings should meet requirements of minimum 24-30 inches in height. They comply with ornamental trees 5-6 feet in height. They don't propose evergreens. They will plant flower pockets and perennials; they meet the requirements to provide minimum sq footage. They are not using wildflowers, they use planted flowers, but they are open to any modifications. They will provide sidewalk, and driveway crossing. There is a ramp where cross walk is. At the recommendation of the board engineer, they will provide painted cross walk and a handicapped ramp.

Mr. Senges clarified they vary in terms of the depth of the landscape, buffer and size of the lot. They differ where street trees, zero evergreens are proposed. Is the reason visibility?

Mr. Mancini confirmed it.

Mr. Senges asked if those plantings be placed somewhere else.

Mr. Mancini stated he believes they had done some substantial planting behind other buffers.

Mr. Matlack stated he had evaluated Route 73 landscape buffer and he thinks the Applicants revised their plans, they did make some concessions, they proposed 10-12 feet buffer, now they propose 15-20 feet buffer. Evergreens are not proposed but several evergreens are placed around the remainder of the site. He asked for a reason for 3 parallel parking spaces and if they could be eliminated.

Mr. Mancini stated Dunkin Corporate is always maximizing parking, but he won't object to eliminating those 3 parallel spaces in an attempt to increase that buffer, if that pleases the board. That would increase the buffer to 23 feet.

Mr. Matlack confirmed landscaping buffer should be 50 feet.

Mr. Mintz they will plan that proportionately in consistence with the ordinance. They are asking for relief because they are trying to maintain visibility of the site.

Mr. Senges asked about the sign since traffic comes from north.

Mr. Mancini noted Ms. Morrisey and Mr. Keefrider will speak on that later. He thinks though if they place evergreens further on the south, they will have much less impact on the north. Mr. Senges asked to find the way to get some evergreens in there. He stated they have been very diligent as a Board regarding Route 73

buffer. Some applicants unfortunately decided not to proceed because of how strict they are. So they have to be fair and consistent with all applicants.

Mr. Mintz assured they will work with Mr. Matlack.

Mr. Mancini proceeded to describe the drainage system. Currently no drainage, mostly impervious, they propose reduction 3% impervious cover, they are improving drainage by providing drainage consistent with current draining pattern and cleaning it up. With regards to lighting, height and intensity are not supposed to exceed 0.9, they are asking to increase 16 feet requirements around the interior of the site; all lighting will be directed downwards to minimize any glare. They do not believe there is any detriment to public. Pole location in respect to residential is directed toward the back of the building so no impact. Trash enclosure is 13 feet to the west property line. They recognize it is adjacent to residential property, but it is where they can screen it from view from road and residents. This way garbage trucks can pick up the dumpster and leave from the same entrance.

Mr. Senges asked Mr. Matlack to weigh in on lighting. Is what they are proposing better.

Mr. Matlack asked for the reason of increased height of the pole.

Mr. Mancini explained the rationale behind it, instead of 14 feet they go 18 feet, so they need less light.

Mr. Matlack stated he does not have major issue; it is a standard light fixture light. Is that typical of Dunkin Donuts?

Mr. Mancini replied no but 16 feet fixture is similar or lower to comparable commercial restaurants. However, if the Board is concerned, they would go back to 14 feet pole. Their logic is that they need more fixtures if we make them lower. They feel fewer fixtures mitigate some glare. He thinks 2 feet deviation is not unreasonable.

Mr. Senges asked if they could make them all 16 feet.

Mr. Matlack agreed it would definitely be fair.

Mr. Mancini stated they are ok with that and will not install any poles higher than 16 feet.

Mr. Senges inquired about the trash and chain link fence around it.

Mr. Matlack confirmed no chain link doors are permitted.

Mr. Senges asked if they could do vinyl fence as he is trying to eliminate as many variances as possible.

Mr. Mancini agreed to a vinyl fence.

Mr. Senges asked when this plan was developed was it developed as a standard to Dunkin Donuts as opposed to an attempt to comply with the ordinance. Seems that some variances are so easy to eliminate.

Mr. Mancini stated they are trying to balance corporate and client's wishes.

Mr. Senges asked if they typically represent Dunkin Donuts. They built one in Gibbsboro. And Gibbsboro is not flexible. Voorhees Ordinances may not be that strict. If there is a real legitimate justification, it may be because of a number of lots or visibility, those would be good solid reasons, those are reasonable variance requests. He is just trying to eliminate those who can be easily eliminated, too much of it is not appropriate.

Mr. Mintz assured they will work through each of it.

Mr. Mancini described loading area. It is on the back of the property, there will be tractor trailer delivery once a week, it is adjacent to the proposed fence (6 feet) and evergreen landscaping. In the front they reduced it to 4 feet. The site has public water and sewer with adequate capacity so there will be no new water and sewer services.

Mr. Mancini commented on the trees on the parking lot. They do not have islands within the parking area but in the parking base they provided shade trees, two (2) shade trees along northern boundary.

Mr. Senges asked Mr. Matlack to weigh in on that.

Mr. Matlack agreed there is no space for interior landscaping,

Mr. Senges asked if they could use more ornamental trees.

Mr. Matlack confirmed holly trees will provide buffer to the adjacent lot.

Mr. Mancini pointed out the existing fence separates Dunkin Donuts lot from Micciche Auto Shop which actually encroaches on their lot.

Mr. Mintz pointed out they are not replacing the fence, they will impose on the landlord to use the fence that is consistent with the township requirements, it will be vinyl.

Mr. Senges added even if they have to contribute to additional cost.

Mr. Mintz assured they will work with the landlord.

Mr. Mancini reconfirmed they are providing more impervious space by eliminating 3 more parking spaces. He described the seating, they propose 28 seats, that includes 4 outdoor tables, and 12 indoor tables. With regards to parking, it is sufficient, meets the ordinance. There will be 6 employees. It is primarily drive through business with 2 shifts.

Mr. Mancini described size and location of the frees standing sign. It is 36 sq feet on the south, it is obscure by landscaping. 10 feet from the property line. height is 15 feet, compliant with sign requirements. He does not believe the county holds any jurisdiction, so they did not apply to the county. Drainage is being installed as well. It is 7 day per week operation, 5AM-10pm every day, 6 employees at morning shift, 3 employees from noon until 10PM. This will create 8-10 new jobs in the area.

Mr. Senges asked if there will be witnesses.

Mr. Mancini replied not at this time, but there are 3 witnesses in the public.

Mr. Senges thanked Mr. Mancini for a great job on this application and for his candidness.

Mr. Senges opened the floor to the public.

Seeing no one in the public wishing to speak on behalf of the Application, Mr. Senges brought it back to the Board. Brought back to the witnesses.

Mr. Nathan Mosley, Traffic Engineer shared his credentials, he covered plenty of Dunkin Donuts facilities.

Mr. Senges asked before they proceed, are there any concerns about traffic.

Mr. Matlack asked traffic engineer to speak about drive through, and how eliminating 3 parking lots affects the drive through and particularly Lake Villa drive entrance. He understands they are proposing an island on Lake Villa drive.

Mr. Senges asked Mr. Mosley to skim over everything else and address this particular issue.

Mr. Mosley agreed, and stated site circulation is always a key. This side has stacking ability to stack seven (7) vehicles. They could stack additional 8<sup>th</sup> vehicle.

Mr. Senges expressed his concern about the safety impact.

Mr. Mosley stated he has done studies at other Dunkin Donut sites, in Medford, it was before Covid. Majority of traffic will be in am, 4-5 vehicles every 3 minutes through pick hour, no more than 6 vehicles 80% of the time. even when they went over, they would clear out quickly. Dunkin Donuts processed cars very quickly. If they eliminate 3 parking spaces, he does not think there is a need for those parking spaces. They did studies, they are used by employees not customers so no issue removing those lots. With regards to access to Lake Villa – this project started during Covid they did not do traffic study at that time as the traffic was severely diminished. So, they utilized historical data. There was no data available for Route 73 or Lake Villa portion. However, he lives there and drives daily, Lake Villa has 7 residential homes, no other use other than residents, not as much cut through traffic, he believes it can operate safely. There will be no conflicting movements, therefore the site will operate safely and efficiently.

Ms. Tulman asked if this is a new cut through.

Mr. Mosley confirmed this open area is proposed to open it up to allow left in and out.

Ms. Tulman commented, during rush hour, there 3-5PM there is a lot of traffic there. People are cutting through. She has a concern.

Mr. Mosley stated Route 73 is very directional, with Dunkin Donuts majority of their traffic is in the morning. There will be significantly less traffic in pm. The other thing Lake Villa is almost 20 feet curb to

curb from Cooper to 73, there is still enough room to go around Lake Villa, plenty of space for maneuvering.

Mr. Senges in support to Ms. Tulman's point asked if it was possible to create an arrow pointing to turn into Dunkin Donuts only.

Mr. Mosley expressed concerns about introducing permitted striping, may be a sign will do but delineating the lane might be problematic. It is better to have the open car way.

Mr. Senges asked if there is some sort of the entrance sign or a driveway to warn about left turn. He asked Ms. Tulman to clarify her concern. She stated people could make U turn, she feels there is a lot of traffic on Villa Drive, traffic on Cooper gets worse daily.

Mr. Senges noted without a cut through, people would make U turn and it would be even more dangerous. Mr. Mosley stated the fact that this store will be very directional, this draws from traffic, people pull in on their way to other things. If they see exit sign, they go back out of the parking lot. Lake Villa trips will be minimal.

Mr. Senges deferred to Mr. Matlack if it would be appropriate to make right only sign.

Mr. Matlack stated he does not think it is necessary in this situation. Typically, you do that when you do not want to conflict with traffic on Rt 73. They do not have the data for that.

Mr. Senges stated they did not do data because of Covid. If people are coming out of Dunkin Donuts and trying to turn left by trying to go through the cut through and other people coming from other side and trying to make a left, it could be very dangerous.

Mr. Matlack suggested to request the new traffic report. They cannot restrict to one turn only; they will require much more traffic modification.

Mr. Senges asked if they could make it an honor system with a sign.

Mr. Cohen stated in light of what has been happening on Cooper Road, the data you had was pre Covid, there are severe traffic issues on Rt 73. He provided analogy with a similar traffic pattern with an ice cream store in the vicinity.

Mr. Mosley stated he understands Mr. Cohen's concerns. But Dunkin Donuts operate much more efficient, they do have the ability, they train employees, they will direct cars, they have employees who will bring out the order, they have the ability to direct someone to a parking lot; they will operate efficiently you will not see any issues. Dunkin Donuts has been doing massive drive business before Covid started.

Mr. Senges stated the right turn only exit for Lake Villa drive is appropriate. He asked to make adjustments and work with board engineer. That triangle has to be altered to make that work safely.

Mr. Matlack asked if they could install sidewalk along Vila drive thru.

Mr. Mosley absolutely agreed.

Mr. Senges noted the answer is yes, there is plenty of space to provide sidewalk, but it's a sidewalk to nowhere.

Mr. Mintz asked if the architect could present his testimony at that time.

Mr. Senges pointed out it is 10:45 PM, board members are exhausted. It would be prudent, and they will have much cleaner conclusion if they reschedule, so the Applicant will have to present new drawings, the Board will see adjustments, board engineer will have opportunity to review changes, some conditions will be eliminated. We have backlog of applications, we reserved certain date for certain applications, so the first available date is August 12th. They will extend the timeline to that date.

Mr. Norman stated he had nothing further.

Mr. Cupersmith motioned to continue this Application on August 12, with a Public Notice, the Applicant will not need to re-notice; seconded by Mr. Pannu.

Ayes: Mr. Cohen, Mr. Willard, Mr. Weil, Mr. Cupersmith, Mr. Senges, Mr. Pannu,  
Ms. Tulman

Abstentions: None

Nays: None

With no further business to discuss, Mr. Willard motioned to adjourn the meeting seconded by Mr. Cohen.

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Stella R. Sytnik  
Zoning Board Secretary

