

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. Pannu, Ms. Tulman and Mr. Cupersmith  
**Absent:** Mr. Leoncio  
**Also, present:** Stuart Platt, Board Solicitor; Ben Matlack, Board Engineer, CME; and Jennifer Gaffney, Board Secretary

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#### MINUTES FOR APPROVAL

Mr. Weil motioned to approve the Minutes from the September 9, 2021, meeting; seconded Mr. Pannu; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

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#### RESOLUTIONS

ZC2020-023 Santinderpal Singh, 208 Somerdale Road, Block 94, Lot 28  
 Residential bulk variance relief for non-conforming driveway, paver patio and shed.

Mr. Pannu motioned to memorialize **Resolution 21-40** for ZC2020-023; seconded Mr. Willard; none (0) against.

**Ayes:** Mr. Cohen, Mr. Willard, Mr. Pannu, and Mr. Cupersmith  
**Abstentions:** Ms. Tulman, Mr. Weil  
**Nays:** None

ZC2021-010 S&J Kresson Gibbsboro LLC, Block 206.16, Lot 38  
 Use variance approval and waiver of site plan review to convert an office space into 2 residential units.

Mr. Willard motioned to memorialize **Resolution 21-41** for ZC2021-010; seconded Mr. Pannu; none (0) against.

**Ayes:** Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** Mr. Cohen, Mr. Weil  
**Nays:** None

ZC2021-016 Vibhor Verma & Manasvi Singh, 1 Carlton Lane, Block 213.01, Lot 1  
 Residential bulk variance relief to install inground pool.

Mr. Willard motioned to memorialize **Resolution 21-42** for ZC2021-016; seconded Mr. Pannu; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, and Mr. Cupersmith  
**Abstentions:** Ms. Tulman  
**Nays:** None

ZC2021-019 Brad Blumberg & Jennifer Sabol, 9 Signal Hill Drive, Block 229.13, Lot 64  
 Residential bulk variance relief for non-conforming addition and deck on side and rear of home.

Mr. Willard motioned to memorialize **Resolution 21-43** for ZC2021-019; seconded Mr. Cohen, none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, and Mr. Cupersmith  
**Abstentions:** Ms. Tulman  
**Nays:** None

ZC2021-021 Emily Morgan, 4 Penn Road, Block 264, Lot 3

Residential bulk variance relief for front addition 45' from property line, where 50' is required and to permit detached garage peak roof height at 23' and 10" where 15' is required.

Mr. Willard motioned to memorialize **Resolution 21-44** for ZC2021-023; seconded Mr. Cohen; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

ZC2021-022 Richard Dougherty, 405 E. Evesham Road, Block 109, Lot 4

Residential bulk variance relief permitting installation of patio within secondary front yard.

Mr. Cohen motioned to memorialize **Resolution 21-45** for ZC2021-022; seconded Mr. Willard; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

ZC2021-023 Christine Swift, 1127 Kirkwood-Gibbsboro Road, Block 181, Lot 3

Residential bulk variance relief permitting non-conforming existing porch addition to remain as built.

Mr. Willard motioned to memorialize **Resolution 21-46** for ZC2021-023; seconded Mr. Cohen; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

## OLD BUSINESS

### Voorhees Rt 73 Development Group LLC (Wawa)

O1/RR Zone

Case #ZC2020-002

Route 73 & Kresson Road CR 671  
 Block 220, Lot 9 & 16

The applicant has requested a postponement of continuation to December 16, 2021.

Mr. Cupersmith asked Mr. Platt if the applicant would need to notice again.

Mr. Platt stated that this postponement would extend the action date to January 31, 2022, and that the applicant should send notice of the postponement.

Mr. Weil motioned to approve the request for continuance; seconded Mr. Willard; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

### Aducat Outdoor, LLC

MB Zone

Case #ZC2020-015

127 Route 73  
 Block 228, Lot 2.02

Wesley Aducat, applicant and Daniel Markind, attorney for the applicant were admitted as panelists to the meeting.

Mr. Platt indicated that the applicant is requesting a one-year extension of previously granted variance approval as stated in Resolution 20-17 and asked it to be stated for the record the reason for the request.

Mr. Markind requested clarification on whether or not the extension is needed. The code states the approval for the variance is applicable for a year unless a building permit is obtained, or they make significant progress. Mr. Markind stated that a building permit has been obtained.

Mr. Platt asked if the applicant is withdrawing the application. Mr. Markind stated that the application is not being withdrawn and that the information was being stated for the record that a building permit has been issued and progress is being made.

Mr. Platt swore in Mr. Aducat for testimony. Mr. Aducat stated he is the applicant; he lives at 298 Kresson Road and is the manager for Aducat Outdoor.

Mr. Markind asked for Mr. Aducat to explain why he is requesting the extension. Mr. Aducat indicated that they were issued the initial approval from the DOT for the conversion. The DOT has a time limit on that approval. Mr. Aducat believes that they are within that time frame, the DOT does not. They are currently waiting to hear back from final administrative approval. Out of abundance of caution, Mr. Aducat wants to be sure that nothing expires prior to completion.

Mr. Platt asked for Mr. Aducat to confirm that he is waiting for approval from the outside agency, DOT.

Mr. Aducat confirmed.

Mr. Platt asked if there were any other outside agencies are pending approval.

Mr. Aducat stated that the only approvals required are the local, and DOT. County approval is not necessary for this application.

Mr. Platt summarized once more that this is a one-year extension of previously granted variance approval as stated in Resolution 20-17 due to pending outside agency approval. Request is within good cause.

Mr. Cupersmith opened it up to the public for question or comments, with no public comment that portion was closed and brought back to the Board.

Mr. Platt confirmed that any motion would include any conditions of the previous approval.

Mr. Cohen motioned to approve the one-year extension request; seconded Mr. Pannu; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

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## NEW BUSINESS

**Justin Pelletier**  
 222 Burlington Avenue  
 Block 133, lot 6

**MDR(R100)**

**Case #ZC2021-024**

Action date: 12/4/2021

Mr. Platt summarized that the applicant is seeking bulk (c) variance(s) related to existing unpermitted non-conforming shed, swimming pool, and pool deck in the rear yard, with variances from:

Related to rear yard occupancy:

- a. From Section 150.13(A)(1) to permit existing accessory structures and uses to occupy more than 25% of the rear yard area.

Related to existing above-ground pool:

- a. From Section 150.12(B)(1) to permit an existing above-ground pool to remain at 3.8' from the rear property line and 3.8' from a side property line, where a minimum of 5' is required.
- b. From Section 150.13(A)(6) to permit the existing pool to remain at 3.8' from the rear property line, where a minimum of 15' is required.
- c. From Section 150.13(A)(6) to permit the existing pool deck to remain at 6' from the rear property lines, where a minimum of 15' is required.

- d. From Section 152.015(D)(3) to permit the existing pool to remain at 3.8' from a side property line, where a minimum of 15' is required in the MDR (R100) zone, and

Related to existing shed:

- a. From Section 150.12(B)(1) to permit an existing shed to remain at 1.4' from the rear property line, where a minimum of 5' is required.
- b. From Section 150.13(A)(7)(b) to permit the existing 42 square foot shed to remain at 1.4' from the rear property line, where sheds not exceeding 100 square feet in area are required to be at least 5' from rear property lines.
- c. From Section 150.13(A)(7)(e) to permit two existing sheds totaling 242 square feet in area to remain on-site, where the square footage of all sheds shall not exceed 200 square feet.

Seeking any and all other variances, waivers and/or other relief as may be deemed necessary by the board and/or its professionals.

Mr. Justin Pelletier & Mrs. Betsy Pelletier were admitted as panelists to the meeting. Mr. Platt swore the applicants in. Both stated their names and that they live at 222 Burlington Avenue.

Mr. Cupersmith asked for the applicants to state their case to the members of the Board.

Mr. Pelletier stated that they installed an above-ground pool with vinyl sides and a small Rubbermaid shed in the back yard. He stated that it did not cross his mind that he needed to apply for a permit prior to installing.

Mrs. Pelletier stated that it was an "easy up" pool, so they didn't realize it would require a permit.

Mr. Cupersmith asked who installed the pool and the applicants stated that they installed it themselves, however had a contractor do the electrical.

Mr. Cupersmith asked if they were aware that variances would be needed if the pool was installed on certain parts of the property.

Mrs. Pelletier stated that since it was not a permanent structure, she did not believe that any permits would be needed.

Mr. Cupersmith asked if it could be moved since it is an easy up and down, so that there is a minimal of at least 5 feet in certain areas.

Mrs. Pelletier stated that while it's called an "easy up" it is very big and that it would need to be emptied. The applicant stated that they do not empty it in the winter, they cover it.

Mr. Cupersmith asked if the shed could be moved.

Mrs. Pelletier asked where it should be moved to.

Mr. Cupersmith asked for them to move it forward.

Mrs. Pelletier stated that 5 feet from the fence would put it in the middle of their yard. She stated that they do not have a very big yard and that they have 3 children that they would like to have as much room to play as possible.

Mr. Cupersmith stated that there is a lot between 1.4 and 5 feet and would hope that there would be some willingness to cooperate with the laws.

Mrs. Pelletier stated that if they moved the pool, it would obstruct their walkway from the side of the house to the back yard.

Mr. Platt stated that everyone on the Board has been volunteering for this Board for a long time, each member lives in Voorhees, including himself. The obligation and burden of proof is on the applicant to show that they are entitled to a variance and not on the Board to come up with a compromise to allow the applicant to have it. Ignorance of the law is not an excuse for these cases.

Mr. Platt suggested that their oversight has brought them to request 8 variances and that it would be in the best interest for them to cooperate with the Board with a compromise as being suggested by the Chairman. The request has to be shown that there is a need for the variances.

Mrs. Pelletier indicated that the pool cannot be moved because there is a deck on it and if they moved the pool, they would not be able to walk through their yard.

Mr. Platt stated that it is a self-created hardship, however it's up to the Board to determine if variances should be granted.

Mr. Cupersmith stated that there is cause for concern that the pool is so close to the fence, should the pool have an issue, that's a substantial amount of water that could go into a neighboring property. Additionally, there are 2 sheds in the backyard which are over in square footage, Mr. Cupersmith asked what was in the sheds.

Mrs. Pelletier stated that they have no garage and 3 children. There is a lawnmower, kid's bikes, etc. located in the sheds. The big shed contains the kid's bikes and pool equipment, and in the small shed is the lawn equipment, power washer, and anything that smells. She indicated that the first shed has a variance from when they first bought it.

Mr. Cupersmith opened up to the other Board members for questioning.

Mr. Cohen asked if the deck that is attached to the pool require concrete footings and if they were inspected when they were installed, was the electrical inspected when it was installed.

Mrs. Pelletier stated that the electric was already existing from the shed. The pump needed to be plugged in to that existing electric.

Mr. Platt indicated that if the Board grants any approval, the applicant will be responsible for any permits and inspections that are required. Mrs. Pelletier stated they understood.

Mr. Cohen asked if the footings are concrete as they appear to be stakes in the ground. Mr. Pelletier stated that they were concrete.

Mr. Cupersmith asked if the Board Engineer, Mr. Matlack had any comments about the pool's location.

Mr. Matlack stated that the Zoning Officer indicated that a variance is required for the rear yard coverage. It is currently at 25.6% coverage. The water surface of the pool does not count as impervious coverage. Mr. Matlack stated they were not concerned about stormwater drainage.

Mr. Cupersmith stated that there is concern if there was a major storm that filled the pool up with water for the overflow.

Mr. Matlack stated that wherever the pool is located, if it bursts the neighboring houses are far away from the pool.

Mr. Matlack asked if the pool was moved away from the property line would it restrict access to the yard. The applicants confirmed that it would.

Mr. Matlack asked if the small shed could be moved 5 feet from the property line.

Mrs. Pelletier stated that the fence is not on the property line, when they installed it, they made sure that it was forward a bit. It can be moved forward.

Mr. Matlack asked if it could be moved at least 3.5 feet forward.

Mrs. Pelletier stated her concern is that she doesn't love that her kids would be able to go in between the shed and the fence. She doesn't like it, but she would.

Mr. Cupersmith stated that it would show some cooperation on their part that they are willing to work with the Board.

Mrs. Tulman asked how big the pool is. Mrs. Pelletier stated that it is 15 x 30.

Mrs. Tulman asked why they would not have chosen a smaller pool if their yard is small so that it would fit in the yard.

Mrs. Pelletier stated that they chose the size because their daughter swims and it was a pool that she could do laps. Being overweight, swimming is her preferred method of exercise. With COVID, exercise has been minimal at best.

Mrs. Tulman stated in order to maximize the yard space they could have opted for a smaller pool and added walking for exercise. Mrs. Pelletier stated that her daughter is a swimmer.

Mrs. Tulman stated that the size of the pool is extreme for the yard and while the neighbor may not use the back of the property, it does not mean that they can put their stuff right up to the edge of the property line.

The applicants stated they understood.

Mr. Cupersmith asked if the applicants had anything additional to add. Mrs. Pelletier stated that they are “good townspeople” and “rule followers” that try to keep the property neat and orderly.

Mr. Platt asked if the applicant is amending the application with regards to either of the sheds.

Mr. Cupersmith stated he was going to open it to the public to see if there are any complaints. With that the testimony portion was closed and opened to the public for questioning. With no public comments or questions, the public portion was closed.

Mr. Cupersmith asked if there would be some way that the applicant could compromise with the Board in some way.

Mrs. Pelletier asked if he was referring to the pool or the shed. Mr. Cupersmith confirmed the shed.

Mr. Matlack stated that on the survey it looks like there is a bump out that is next to the shed and asked if the shed could be moved there.

Mrs. Pelletier stated that if they moved it, there would still be a bump out but then a huge space behind the shed. The bump out is only a foot and the reason that it is there is because there was a tree there. Mrs. Pelletier stated that they could actually move the bump out back so that the fence is straight as the tree is not there anymore.

Mr. Cupersmith stated that he would like to suggest that both sheds be moved 3.5 feet.

Mrs. Pelletier stated that the larger shed was approved with a variance about 12 years ago. Mr. Cupersmith stated that he was not sure how that was approved as it is not in compliance.

Mr. Weil asked if the deck is a foot and a half from the property line or the pool. Mr. Pelletier stated that it is the pool.

Photos were displayed for the Board members to review. Mr. Cupersmith asked about the previous Zoning Permit that was approved. Ms. Gaffney found the application and supplemental documentation and indicated that she would send it to the Board for review.

Mr. Platt stated that the Board can take judicial notice that the larger shed has already received a variance and the issue is with the smaller shed that creates 3 variances. Mr. Platt stated that while it's up to the applicant, the rear shed could be moved out another 3.5 feet. The notion that a passageway could be unsafe, is not a notion that the Board can accept. If they move it forward, they can remove 2 of the variances.

Mrs. Pelletier said that if that is what it takes to keep the pool, that is what they are willing to do.

Mrs. Tulman asked if there was any possibility that an adjustment can be made to the pool.

Mrs. Pelletier stated that the way that it is shaped they cannot move it, it would be in the center of the yard and there would be no place for the kids to play.

Mr. Pannu motioned to approve the variance request based on leaving the pool and moving the shed forward to the 5-foot setback; seconded Mr. Willard; one (1) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, and Mr. Cupersmith  
**Abstentions:** Ms. Tulman  
**Nays:** None

Mr. Cohen indicated to the applicants that there are electrical lights that plug in that are around the fence. With the pool being only 1.5 feet away from those lights, that's a hazard and they need to be removed.

The applicant agreed to remove the lights.

**Sheila McFarland**  
5 Irongate Drive  
Block 218.02, Lot 1

**RR**

**Case #ZC2021-025**

Action Date: 12/2/2021

Mr. Platt summarized that the applicant is seeking bulk (c) variance(s) related to the proposed installation of 6' high vinyl fencing in the secondary front and rear yards, with variances from:

- a. From Section 150.14(B)(1)(b)(2) to permit 6' high fencing in a secondary front yard, where 6' high fencing is only permitted in rear yards.
- b. From Section 150.14(B)(2)(a) to permit fencing in a secondary front yard, where no fence shall be erected, altered or reconstructed forward of any building(s) in a front yard or within the required front yard setback applicable to such property, whichever is greater; and
- c. From Section 150.14(B)(2)(f) to permit fencing to be installed at 6' from rear property line, where reverse frontage lots are required to install fencing at a rear setback of 10'; and

Seeking any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mrs. McFarland was admitted to the meeting as a panelist and confirmed her address as 5 Irongate Drive. Mrs. McFarland was sworn in by Mr. Platt.

Mr. Cupersmith asked for Mrs. McFarland to present her case.

Mrs. McFarland indicated that she would like to put a fence up in her yard and that the way that her property is set up, the bulk of the property is in the side yard. For better use of the yard, the fence would need to be brought out to the side.

Mrs. McFarland is requesting it be at the 6-foot height for privacy and to ensure that her dog would not jump over the fence. She indicated that the fence would be 25-30 feet from the corner of the property, so there would be no sight impediment to those driving by.

Mr. Cupersmith asked what type of fence will be installed. Mrs. McFarland indicated it would be vinyl.

Mr. Platt asked if it would be a closed vinyl fence or open. Mrs. McFarland indicated that she would like for it to be closed, but she hasn't decided as she was waiting for the approval from the Board.

Mr. Weil asked what type of dog the applicant has. Mrs. McFarland stated that it was a mutt that is adopted from AWA and was told it was a border collie mix, but she weighs about 50lbs.

Mr. Cohen asked if there was any information provided that shows the site triangle that would indicate that there were no limited views. Mr. Platt indicated that he did not have a survey.

The survey was displayed for the Board to review. Mr. Matlack stated that there is no concern for visibility of the intersection.

Mr. Cupersmith opened the meeting up to the public for questions and comments. With no public comments or questions, the public portion was closed and then opened up to the Board once more.

Mr. Pannu motioned to approve the variance request; seconded Mr. Willard; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

Mr. Platt informed the applicant of the 45 days right to appeal from publication of notice of decision and that the applicant will need to apply for the necessary permits.

**Bart & Patti Shipon**

7 Pembroke Drive  
Block 304.08, Lot 5

**MDR (100A)****Case #ZC2021-028**

Action Date: 12/28/2021

Mr. Platt summarized that the applicant is seeking bulk (c) variance(s) related to a proposed generator installation in the front yard, with variances from:

- a. From Section 150.13(A)(9)(b)1.B where ground-mounted generators may not be located in the front or side yard and may only be placed in the rear yard, and the generator is proposed in the front yard; and

Seeking any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Ms. Tulman recused herself from hearing the next application, she received notice of the hearing as she lives within 200 feet of the property. Mr. Platt indicated that it is a mandatory recusal and that she will be moved in the meeting as a member of the public, should she wish to speak as a resident she will have the opportunity to do so.

Mr. Bart Shipon, Mrs. Patti Shipon, applicants and Mr. Jeffrey Brennan, attorney for the applicants were admitted to the meeting as panelists.

Mr. Jeffrey Brennan, Esq. gave his credentials and summarized the application as Mr. Platt had previously. Mr. Brennan indicated that the applicants received a zoning permit approximately a year prior to install an emergency generator in the rear yard. The applicants believed that the side yard is far superior since it is further set back from the shared property boundary.

Mrs. Patti Shipon was sworn in by Mr. Platt. Mr. Bart Shipon was sworn in by Mr. Platt.

Mr. Platt asked for Mrs. Shipon & Mr. Shipon to state their first and last name, as well as address. Mrs. Shipon stated that her name is Patti Shipon and resides at 7 Pembroke Drive. Mr. Shipon stated that his name is Bart Shipon and also resides at 7 Pembroke Drive.

Mr. Platt turned the meeting over to Mr. Brennan to question his clients.

Mr. Brennan asked who the owner of the property is and how long they have owned the property. Mrs. Shipon stated that she and her husband both own the property and they have owned it for approximately 27 years.

Mr. Brennan asked for Mrs. Shipon to describe the property as it exists today.

Mrs. Shipon stated that it is a two-story residential single-family dwelling in Sturbridge Estates. The property has improvements that have been made in the backyard such as a pool and a shed.

Mr. Brennan shared his screen to show an aerial photo, marked as exhibit A1. Mr. Platt asked the date of the aerial photo. Mr. Brennan stated that it was taken from Google Earth and was supplied to him by his clients dated 7/22/2021.

Mr. Brennan asked Mrs. Shipon to describe the neighboring properties. Mrs. Shipon stated that they are similar in size and shape as theirs.

Mr. Brennan asked if the black line on the photograph indicative of the boundary lines of their property. Mrs. Shipon confirmed.

Mr. Brennan asked for Mrs. Shipon to explain what they are proposing to do with the generator.

Mrs. Shipon stated that they are proposing to put the generator in the side nook behind the air conditioning condenser on the side of the house. That location is further away from the adjacent neighboring yard. The proposed location would be across from his garage, whereas the previously approved location would be located near their pool and closer to the neighbor's property.

For the Board's reference, Mr. Brennan had Mrs. Shipon confirm both the proposed location and the previously approved location by pointing his cursor to both on the photo on the screen.

Mr. Brennan loaded photos to the shared screen indicating they should be entered in as exhibit A2 stating they were photos that were taken in September 2021.

Mr. Brennan asked for Mrs. Shipon to confirm the location on the property for each of the photos. Mrs. Shipon stated locations and descriptions for each of the photos that were submitted with the application.

Mr. Platt asked if the generator was placed in the location that was previously approved.

Mr. Brennan stated that the generator has not been placed in any location yet, as the preferred location is that of which the variances are requested.

Mr. Platt asked if the generator was an above ground or below ground generator. Mr. Brennan confirmed that it was above ground and indicated that it was the same size as the condenser that is shown in the photo.

Mr. Brennan asked why the applicant would like to install a generator. Mrs. Shipon indicated that they had experienced several power outages in the past several years, about half a dozen in the course of any given year depending on the severity of the winters.

Mr. Brennan entered zoning permit approval for the generator in the backyard as the next exhibit, A3. He also indicated that it is dated September 23, 2020.

Mr. Brennan entered the survey submitted with the previous zoning permit application as the next exhibit, A4. Mrs. Shipon confirmed that was the approved location that was also shown in the photos to be near the pool.

Mr. Brennan asked Mrs. Shipon to explain why that location is not an ideal location for the generator. Mrs. Shipon explained that it is located almost on the rear of the house and that they would have to put concrete down. She also indicated that there is gas and electric meters located right at the nook of the proposed location which would make it more ideal to hook into. Should it be in the previously approved location, the gas and electric would have to run along the side of the house, under the fence, under the concrete and to the approved location in the back yard.

Mr. Platt asked the applicant to confirm that the request is that the concrete pad be no closer than 40 feet from the side property line. Mr. Brennan confirmed that the request to be correct.

Mr. Brennan brought up the next exhibit, A5, which was the survey that was submitted with the application to the Board for the variances. Mr. Brennan asked for Mrs. Shipon to confirm, she did.

Mr. Brennan asked if Mrs. Shipon would be willing to install any landscaping which may be required by the Board to help with creating any sound barriers or buffers should they be requested. Mrs. Shipon confirmed that they are willing to agree to that. Mrs. Shipon stated that they previously installed a tree line in front of the fence which may be beneficial as a sound buffer.

Mrs. Shipon indicated that they had a spec sheet given to them from Generac, which Mr. Brennan entered as a new exhibit A6. The spec sheet states that at 23 feet under normal operations of a power outage it would operate at 67 decibels. Mrs. Shipon stated that while that is at 23 feet, they are looking to place it more than double that distance. At test mode, which is every other week for 5 minutes the sound registers at 57 decibels, at 23 feet.

Referring back to exhibit A1, Mr. Brennan asked Mrs. Shipon to confirm that it is approximately 90-110 feet from the placement of the generator to the next structure. Mrs. Shipon confirmed that to be correct and that structure is a garage.

Mr. Platt stated for the Board that while it states to be 67 decibels at 23 feet, that doesn't mean that it is half that in 40. There is no expert testimony regarding the acoustics. The presumption taken from the location proposed to the house is not accurate. It needs to be from the property line, as if it is not, it's excluding that owner's right to enjoy the exterior of their property.

Mr. Brennan asked if Mrs. Shipon was aware of there being any other generators in the neighborhood. Mrs. Shipon confirmed there were, and they were located on the side of the house.

Mr. Platt stated that if unless Mr. Brennan can establish, they were granted variances, the fact that they might be illegal cannot be used as evidence in this case.

Mr. Cupersmith asked if Mr. Matlack had any questions for the applicant. Mr. Matlack stated that they addressed everything in his review letter.

Mr. Weil asked the applicant if they have received approvals from Sturbridge. Mrs. Shipon stated that they were waiting on approval from the township prior to going to the Association.

Mr. Cupersmith opened the application to the public for questions and comments.

First resident with their hand raised was Alina Tulman, residing at 13 Stockton Drive. Mr. Platt swore Ms. Tulman.

Ms. Tulman stated that she was noticed on the hearing and that she is speaking as a resident and not a Board member. She indicated that the HOA is not aware of the application. In the past, Ms. Tulman was told by the township that residents needed to obtain the HOA approval prior to getting approval from the township.

Ms. Tulman stated that a couple of the HOA Board members that she knows asked for her to speak on their behalf as they are at Eastern High School Back to School Night.

Ms. Tulman stated that the previously approved location of the generator was in the backyard behind a fence, the proposed location is in front of the fence. While she does not have any sound concerns, but it would be seen.

Mr. Brennan stated that the applicant is willing to do any landscaping that is deemed necessary by the Board and its engineer. He indicated that would also allow for a buffer visually. Mr. Brennan stated they understand that it is also up to any other outside approvals, specifically the HOA.

Mr. Platt stated that there is always an issue with HOA approval and what it means to the application. The HOA may have more serious regulations. The Zoning Board can very well grant approval, however it's subject to property restrictions of the HOA. Mr. Platt stated that as Mrs. Tulman indicated, typically residents will go to the HOA for approval as a preliminary step before coming to the Board and spending unnecessary funds. While the applicant has done the reverse, at the end of the day they cannot do anything unless it complies with their bylaws.

Mr. Phillip Kaeferle was admitted, asked to unmute, and start video. Mr. Kaeferle indicated that he is an attorney that represents Bob & Dolores Almond at 3 Pembroke. Mr. Platt asked Mr. Kaeferle to state his credentials and address. Mr. Kaeferle indicated that he is licensed and practicing in NJ and his address is 591 Mantua Blvd, Suite 101, Sewell, NJ 08080.

Mr. Platt stated that Mr. Kaeferle is not being sworn in, he is bringing concerns of neighbors and that the Board may give those concerns whatever weight they believe to be appropriate.

Mr. Kaeferle stated that the proposed location of the generator is close to Mr. and Mrs. Almond's bedroom.

Mr. Brennan brought the aerial map on the screen to show that location. He indicated that there is no fence that blocks the noise with the new location, there is pine trees however there is no fence which is a cause for concern.

Mr. Brennan asked if Mr. Kaeferle could clarify a few things such as confirm that his clients are residents of Florida. Mr. Kaeferle confirmed. Mr. Brennan asked Mr. Kaeferle to confirm that his clients are rarely at their property. Mr. Kaeferle indicated that statement to be false, his clients spend a few months a year at the property throughout the year, including holidays. Their time in NJ is intermittent.

Mr. Platt explained to the Board that the information provided about when the neighbors are in Florida is irrelevant to the application. Those individuals can decide to live in their home all year round, they could sell the house tomorrow. This application needs to be viewed only from a land use perspective.

Mr. Platt urged the Board to view the request being for an emergency generator, it's exercised for a few minutes every couple of weeks, and they only operate when there is a power outage.

Seeing no further comment from the public, the public portion of the meeting was closed.

Mr. Cohen asked how old the air conditioning condensers that are located where the proposed generator would be installed. Mr. Shipon indicated that they are less than 2 years old.

Mr. Cohen asked Mr. Kaeferle if there have been any complaints from his clients with regards to the sound coming from the condensers. Mr. Kaeferle indicated that there are no complaints.

Mr. Platt summarized that a favorable motion would be one with conditions of having the generator no closer than 40 feet from the side property line, the applicant would be required to add landscaping around the concrete pad for a visual and sound buffer that would be subject to CME's approval, as well as being subject to HOA approval.

Mr. Weil motioned to approve the variance request; seconded Mr. Cohen; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

Mr. Platt informed the applicant of the 45 days right to appeal from publication of notice of decision and that the applicant will need to apply for the necessary permits.

Mrs. Tulman was brought back to the meeting as a panelist.

Mrs. Gaffney stated that there was an oversight on her part and that there was an additional application that was to be heard during this evening's meeting for 113 Moonlight Terrace. The applicant did notice for the hearing.

Mr. Platt stated that the Board did have the option to postpone to the next meeting and that the applicant did not have to notice again. Mr. Platt asked Mrs. Gaffney to confirm the action date on the application. Mrs. Gaffney confirmed that date to be 1/1/2022.

The Board agreed collectively to carry the application to the next meeting on Thursday, October 21<sup>st</sup>.

The applicant, Mr. Darren Nguyen was admitted to the meeting as a panelist. Mr. Platt asked the applicant if he had any objection to being heard at the next meeting. Mr. Nguyen stated he had no objection.

Mr. Weil motioned to postpone the hearing to the next meeting on Thursday, October 21<sup>st</sup>; seconded Mr. Willard; none (0) against.

**Ayes:** Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Pannu, Ms. Tulman, and Mr. Cupersmith  
**Abstentions:** None  
**Nays:** None

Mr. Cupersmith opened the meeting to the public for any further comment, with no members of the public remaining the public portion was immediately closed.

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

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Jennifer L. Gaffney, Zoning Board Secretary

Voorhees Township

*Minutes prepared by Jennifer Gaffney. The minutes are intended to reflect the basic comments and action.*

*Verbatim transcripts of all electronic recordings can be available upon proper request and payment.*