

1 VILLAGE OF HEWLETT BAY PARK

2
3 Village Hall
4 30 Piermont Avenue
Hewlett, New York 11557

5 April 18, 2024
6 7:00 P.M.

7 PRESENT:

8
9 LEONARD SCHIFFMAN CHAIRMAN
10 MICHAEL SCHAMROTH MEMBER
11 LEE SCHLUSSEL MEMBER
12 JOSHUA BLISKO MEMBER
13 CRAIG LEVITZ MEMBER
14 DANA GARRAPUTA SECRETARY

15
16 Also present via ZOOM

17 BRIAN STOLAR VILLAGE ATTORNEY
18 DENNIS FROMIGIA BUILDING INSP.

19
20
21
22
23
24
25

1 (Whereupon, the following takes
2 place at Village Hall, 30 Piermont
3 Avenue, Hewlett, NY on April 18,
4 2024 at 7 P.M.)

5 CHAIRMAN SCHIFFMAN: It is
6 7:02. We will start the meeting.

7 There is one item on the agenda
8 today and it is 137 Piermont Avenue,
9 Hewlett Bay Park, Section 42, Block
10 111, Lot 2. And the denials --
11 there are two issues, one is the
12 proposed pool enclosure. Fencing
13 will be located partially in the
14 front yard where the entire fence
15 shall be located behind the rear
16 line of the principle building. And
17 the second is the proposed fencing,
18 part of the retaining wall will be
19 eight feet in height where four feet
20 is the maximum height. Landscaping
21 is not shown along the entire
22 fencing. So the pool doesn't have
23 to be landscaped, but the fence
24 would.

25 So let's start at the beginning.

1 The proposed fencing will be located
2 partially in the front yard with the
3 entire fence shall be behind the
4 building line.

5 Well, tell me about how the
6 fence got here. This is the part of
7 the fence, everybody has this. So
8 it is the fence here that parallels
9 the front of the building. We're
10 calling the front of the building
11 Veeder. The side yards are
12 Piermont, and the neighbor and the
13 rear yard, for our purposes today
14 because the front door is here
15 becomes the area that abuts on the
16 Austin property next door.

17 So tell us a little about this
18 fence.

19 MS. LOWE: I have a write-up.
20 Can I read the write-up?

21 CHAIRMAN SCHIFFMAN: Yes, as
22 long as you have submitted it.

23 MS. GARRAPUTA: Just state your
24 name for the record.

25 MS. LOWE: My name is Ashley

1 Lowe from ASB Engineering. Our
2 office is located at 1924 Bellmore
3 Avenue in Bellmore, New York.

4 CHAIRMAN SCHIFFMAN: And
5 Ashley, you promise to tell the
6 truth?

7 MS. LOWE: I do.

8 CHAIRMAN SCHIFFMAN: Continue.

9 MS. LOWE: Here is a copy for
10 you, and then I have exhibits A, B
11 and C for each one of you, that way
12 you could follow along. Here is one
13 for you. And then additionally I
14 have letters of support, as well.

15 CHAIRMAN SCHIFFMAN:
16 Individually, unless from the same
17 person. Proceed.

18 MS. LOWE: Good evening,
19 Members of the Board, I'm here on
20 behalf of Mr. Stuart and Sally
21 Braunstein, who are owners and
22 occupants of the subject property
23 located at 137 Piermont Avenue. Mr.
24 Braunstein is here with us tonight.
25 As you could see and Mrs. Braunstein

1 is on Zoom.

2 This property is located in
3 Residential District "A" and we're
4 here tonight as result for an
5 application to construct a proposed
6 35 foot by 15-foot inground pool
7 with gas heater, fence, patio and
8 dry well. The subject property has
9 had no prior variances.

10 The first variance point says
11 that the pool enclosure fencing will
12 be located partially in the front
13 yard where the entire fence is
14 supposed to be behind the rear line
15 of the principle dwelling. However,
16 I would like to show the Board the
17 diagram, Exhibit A and B, which
18 shows there is a relatively small
19 corner of the fence that is
20 considered to be in the front yard.

21 So, if you look at the green
22 line, you could see it runs across
23 the original line, which is the
24 fence.

25 CHAIRMAN SCHIFFMAN: How far is

1 that corner off the street?

2 MEMBER BLISKO: Off the street?

3 CHAIRMAN SCHIFFMAN: Off the
4 street.

5 MS. LOWE: It appears to be
6 42.8.

7 CHAIRMAN SCHIFFMAN: The corner
8 is 42.

9 MR. BRAUNSTEIN: 42.8.

10 CHAIRMAN SCHIFFMAN: That's the
11 house.

12 MS. LOWE: It is in line with
13 the house, if you look.

14 CHAIRMAN SCHIFFMAN: Almost,
15 but there is no marker on that.
16 42.is marked on the arrow but this
17 shows 75 feet to the edge of the
18 fence or the edge of the pool.

19 MS. LOWE: It is probably a
20 little less than 42.8 feet.

21 CHAIRMAN SCHIFFMAN: I'm just
22 curious, how did you get the fence
23 in that area at that location, as
24 opposed to two feet back, let's say?

25 MR. BRAUNSTEIN: Can I answer?

1 CHAIRMAN SCHIFFMAN: Yes.

2 MR. BRAUNSTEIN: I just believe
3 that is the way--

4 CHAIRMAN SCHIFFMAN: Just
5 identify yourself first.

6 MR. BRAUNSTEIN: Stuart
7 Braunstein, owner of 137 Piermont.

8 I believe that is just what the
9 landscape architect drew and that is
10 really-- I don't know that when he
11 drew it, he realized that it will be
12 encroaching, maybe by a foot or two
13 and this is how we got to that
14 place.

15 CHAIRMAN SCHIFFMAN: Okay.

16 MS. LOWE: It is just that
17 small corner which we can angle to
18 avoid the fence being in the front
19 yard, so that shouldn't be an issue.

20 As you could see the greens line
21 shows the front and side yard
22 setback and orange line represents
23 the fence. So you could see there
24 is that very small corner of
25 overlap. This is based off the

1 colored survey, which I have
2 provided to you, which marks out the
3 front yard and side yard and rear
4 yard, as this is a corner property.

5 Additionally, the next variance
6 point, the proposed fencing part of
7 the retaining wall will be eight
8 feet in height.

9 CHAIRMAN SCHIFFMAN: Explain
10 that to us. I don't have a good
11 image of how you ended up, it is not
12 an eight-foot fence, it's a
13 four-foot fence on top of a
14 four-foot retaining wall.

15 MS. LOWE: Yes.

16 CHAIRMAN SCHIFFMAN: Tell us a
17 little about that. You don't have
18 any projected images of what that
19 would look like?

20 MR. BRAUM: Andrew Braum, I'm
21 the engineer, not the landscape
22 architect that Stuart was speaking
23 about. On the drawings, I believe
24 on 8Q3 of our drawings that shows a
25 side view of the four foot retaining

1 wall with a four foot fence on top
2 it.

3 MS. LOWE: I gave the enlarged
4 view so you should all have one.

5 CHAIRMAN SCHIFFMAN: That's the
6 same one.

7 MS. LOWE: Yes.

8 MR. BRAUM: As the gentlemen
9 was saying, it is not an eight-foot
10 fence, it is a four-foot retaining
11 wall with a four-foot fence on top
12 of it, making it, from the adjacent
13 grade, appearing to be eight feet.
14 Also, the Board should know it is
15 not on the property line, it is set
16 back in. So, it is not like we're
17 putting an eight foot fence up
18 against the neighbor's property, it
19 is up well, well within the property
20 of the--

21 CHAIRMAN SCHIFFMAN: This image
22 here, if you could see it, does that
23 represent the rear part of the pool?

24 MR. BRAUM: Yes, the that's
25 that facing the dry wells.

1 CHAIRMAN SCHIFFMAN: The four
2 dry wells.

3 MR. BRAUM: Yeah.

4 CHAIRMAN SCHIFFMAN: And how
5 about the part that faces the
6 street?

7 MR. BRAUM: So, it will start
8 tapering down. That retaining wall
9 is a four-foot height and it goes
10 down to zero, so it won't have the
11 effect of being eight feet in its
12 entirety.

13 CHAIRMAN SCHIFFMAN: So the
14 part nearer the residence will not
15 be as high as you go out into the
16 yard, as you go west?

17 MR. BRAUM: Right.

18 MR. BRAUNSTEIN: Will be zero.
19 It goes like this and it will go
20 out. The hill is like this, so here
21 is the residence, it will basically
22 be zero and then here's the
23 four-foot wall going out like that.

24 CHAIRMAN SCHIFFMAN: And it
25 goes on top of that?

1 MR. BRAUNSTEIN: On top of the
2 back part.

3 CHAIRMAN SCHIFFMAN: It's a
4 retaining wall. Will the land
5 continue to be up at that height or
6 will it slope down once you leave
7 the retaining wall it is going to
8 come straight down?

9 MR. BRAUNSTEIN: Not straight
10 down.

11 CHAIRMAN SCHIFFMAN: But it will
12 come down? It will come down?

13 MR. BRAUNSTEIN: Yes.

14 CHAIRMAN SCHIFFMAN: Four feet.
15 To where the rest of the back yard
16 is, the side yard in this case.

17 MS. LOWE: Elevation of ten.

18 CHAIRMAN SCHIFFMAN: As far as
19 drainage on this, I see that the
20 back part, the part that faces the
21 neighbor and the side yard, you got
22 four dry wells there, I assume were
23 they eight by four?

24 MR. BRAUM: They're bigger than
25 that, they're eight by five by 2.8,

1 so it is four large dry wells and we
2 also created a new grading and
3 drainage plan, and that was
4 submitted to the Building
5 Department. Dennis and I reviewed
6 it today and that will meet and
7 exceed all of the Village
8 requirements for drainage.

9 CHAIRMAN SCHIFFMAN: So that
10 will protect the Austin neighbor in
11 the rear yard?

12 MR. BRAUM: Yes; we have yard
13 drains there.

14 CHAIRMAN SCHIFFMAN: So there
15 will be quite a slope going down.
16 Will that be a sudden drop also or
17 be gradual, the part that faces
18 Austin, the part to the north?

19 MR. BRAUM: Is that the part
20 toward the dry wells?

21 CHAIRMAN SCHIFFMAN: No, not
22 the front and not the dry wells, the
23 other aspect.

24 MR. BRAUM: Everywhere on both
25 sides I worked very hard with Dennis

1 to show these yard drains and pitch
2 towards them, so that there will be
3 no negative effect to any neighbor
4 based on the grading and drainage
5 plan that we have.

6 CHAIRMAN SCHIFFMAN: And those
7 lawn drains will drain toward the
8 dry wells?

9 MR. BRAUM: Yes, with a
10 separate set of piping, yes.

11 I don't know how big is the
12 screen, can you see; if I put a
13 drawing up on my screen can you see
14 it?

15 CHAIRMAN SCHIFFMAN: The screen
16 is big, you could try.

17 MR. BRAUNSTEIN: I want you to
18 note there are already existing dry
19 wells on the property.

20 CHAIRMAN SCHIFFMAN: They're
21 adequate for what is there now, but
22 now everything changes. We have a
23 big problem with the Village with
24 water; it has gotten so much worse
25 in the last year, especially, in the

1 last six months. We're
2 waiting for the photo.

3 MR. BRAUM: I'm trying.

4 MR. BRAUNSTEIN: I could tell
5 you, the way the property is laid
6 out between us and the Austins,
7 there's really no issue, no issue
8 for the Austins at all because they
9 are a lot higher than we are, so
10 really there is no chance of us
11 impacting the Austins because
12 they're a couple of feet above us.

13 CHAIRMAN SCHIFFMAN: They have
14 a basement. The houses that don't
15 have basements, we have to worry
16 about it.

17 MR. BRAUM: Can you see my
18 screen?

19 CHAIRMAN SCHIFFMAN: I see it,
20 yes.

21 MR. BRAUM: We have a drain
22 here, here, here, here with
23 connecting piping into the dry well
24 system, same here, same here, and we
25 also have all these drains on top

1 that are all draining into the dry
2 well. And then we have the pitch of
3 the property to keep all of the
4 water on site.

5 CHAIRMAN SCHIFFMAN: Hopefully,
6 yes.

7 MR. BRAUM: These are open here
8 with grids that are going to allow
9 all the water to follow its natural
10 slope down, and realize we're only
11 changing about this much of the
12 property's grade, we're not--

13 CHAIRMAN SCHIFFMAN: Not the
14 area in the front and not the area
15 behind it. And that is the 30-foot
16 length of the pool plus the size of
17 the deck, actually not so much
18 because the front part I see is
19 going to slope.

20 Tell me about the grading and
21 what type of drainage you are
22 putting behind the pool, between the
23 pool and the Austins where you have
24 the lawn drains.

25 MR. BRAUNSTEIN: The Austins

1 are on the left.

2 CHAIRMAN SCHIFFMAN: They're
3 behind, your only neighbor on that
4 side.

5 MR. BRAUNSTEIN: Yes.

6 MR. BRAUM: We have, there is
7 this drain and this drain here.

8 CHAIRMAN SCHIFFMAN: Yeah.

9 MR. BRAUM: And I believe this
10 property is already higher than it
11 is here.

12 MR. BRAUNSTEIN: Much higher
13 than --

14 CHAIRMAN SCHIFFMAN: I
15 understand that tell. Me about the
16 drainage and the material. I know
17 there is going to be a lawn drain
18 which is going to go down into what?

19 MR. BRAUM: It is like a
20 receiver that gets set into a little
21 bit of concrete to hold it in place
22 and then the grass and everything
23 gets put right around it.

24 CHAIRMAN SCHIFFMAN: Is it a
25 conduit? Is it a pipe? Is it

1 gravel?

2 MR. BRAUM: Yes, this is a pipe
3 here and a pipe here.

4 CHAIRMAN SCHIFFMAN: Right.

5 MR. BRAUM: That is going to
6 connect to--

7 CHAIRMAN SCHIFFMAN: To the dry
8 wells.

9 MR. BRAUM: Connected to this
10 drainage pipe that's going into the
11 dry well system right there.

12 CHAIRMAN SCHIFFMAN: And are
13 they sloped?

14 MR. BRAUM: They're definitely
15 sloped. I'm afraid to move my
16 screen around, but it is a four-inch
17 pipe that is pitched the minimum of
18 1/8 inch per foot toward the dry
19 well.

20 CHAIRMAN SCHIFFMAN: And you
21 have the ability to clean them out?

22 MR. BRAUM: Yeah, those can be
23 cleaned out from here and here and
24 here, yes.

25 CHAIRMAN SCHIFFMAN: Okay. And

1 on your analysis, how much rain are
2 you accommodating, how much inches?

3 MR. BRAUM: I think it is three
4 inches of rainfall.

5 CHAIRMAN SCHIFFMAN: That is
6 not enough. Three inches is not
7 enough.

8 MS. GARRAPUTA: He's got five
9 on here.

10 MR. BRAUNSTEIN: It is five on
11 there.

12 CHAIRMAN SCHIFFMAN: Five is
13 enough.

14 MS. GARRAPUTA: You have five.

15 MR. BRAUM: We have five.

16 MS. GARRAPUTA: Yeah, based on
17 five inch.

18 MR. BRAUM: Five inch right
19 there. The calculation is based on
20 five inches of rainfall.

21 CHAIRMAN SCHIFFMAN: Do you
22 have correspondence from the
23 neighbors?

24 MS. GARRAPUTA: These.

25 (Handing)

1 MR. BRAUNSTEIN: Laurie came on
2 to our property and we pointed
3 everything out to Laurie also.

4 MEMBER SCHAMROTH: You don't
5 have any water problems since
6 they're higher draining onto you?

7 MR. BRAUNSTEIN: We get a
8 little bit of water down on the
9 bottom.

10 CHAIRMAN SCHIFFMAN: You are
11 one block from the water.

12 MR. BRAUNSTEIN: Yes, it is a
13 high water table, that is the
14 situation, yeah.

15 CHAIRMAN SCHIFFMAN: So this is
16 Laurie Austin and Michael Wise.
17 Questions?

18 MEMBER BLISKO: The setback you
19 have around the pool is eight feet,
20 is there bushes around there?

21 MR. BRAUNSTEIN: We-- well, it
22 is like Andrew said, this isn't the
23 center of our property, so it is not
24 where any of the neighbors are going
25 to see this fence because there is

1 screening on all sides on the
2 perimeters of the property, so that
3 is how the fence will be screened.
4 That is just showing you bushes on
5 Veeder, that is how it is screened
6 currently.

7 CHAIRMAN SCHIFFMAN: This time
8 of year it is not great for you for
9 privacy for your pool, so that is
10 something--

11 Do have you a fence? The fence
12 around your pool, there is nothing
13 else about it. It is not an issue.

14 MR. BRAUNSTEIN: Correct.

15 CHAIRMAN SCHIFFMAN: And the
16 drainage he's explaining, if it is
17 for five inches of rain and has
18 these protections of lawn drains for
19 Austin, it should be able and you
20 have to be able to clean them.

21 Do you have clean-outs along
22 this? Are there going to be areas
23 where somebody could get into it?
24 It is a decent run, and these things
25 tend to get blocked up pretty

1 quickly. What is the diameter of
2 that pipe?

3 MR. BRAUM: It's a four inch
4 pipe, which is more than sufficient,
5 and if the Board is so inclined to
6 approve this, once it goes to the
7 Building Department for final
8 approval, I'll work also with Dennis
9 and show a couple of clean-outs
10 there.

11 CHAIRMAN SCHIFFMAN: I think
12 that would be indicated. We don't
13 want those to back up.

14 Michael. This is the street.
15 This is on Veeder looking north
16 towards where the back yard is and
17 it is the beginning, this was
18 taken--

19 MR. BRAUNSTEIN: Taken Sunday.

20 CHAIRMAN SCHIFFMAN: Put a date
21 on this because the date is
22 important. This is going to have
23 more lush foliage and more screening
24 once they get bigger leaves, so it
25 is not likely, the pool itself, if

1 the Austins are aware of this, it is
2 -- the pool is certainly within the
3 limits.

4 The distance from the Austin
5 side of the pool edge to the
6 property line is how much? You have
7 so many measures here.

8 MR. BRAUNSTEIN: Thirty feet,
9 roughly.

10 CHAIRMAN SCHIFFMAN: Not the
11 fence, to the pool.

12 MR. BRAUNSTEIN: From the
13 Austin property line to the pool?
14 So from the Austin property line to
15 the retaining wall, which will be on
16 the outside of the pool.

17 CHAIRMAN SCHIFFMAN: Not to the
18 retaining wall, to the pool itself.

19 MR. BRAUM: About 48 feet. You
20 got 40 to the wall and eight foot of
21 deck, so at the water's edge is
22 about 48 feet.

23 CHAIRMAN SCHIFFMAN: You
24 labeled it a rear yard. The rear
25 yard setback is 35 feet, the side

1 yard is 30. So that is why I was
2 asking you how far it is if you need
3 the 35 zone setback there is no
4 zoning issue, it is a rear yard, it
5 is labeled rear yard. Michael, you
6 have any questions about this?

7 MEMBER SCHAMROTH: No.

8 CHAIRMAN SCHIFFMAN: Okay, last
9 question. The issue of raising the
10 grade is not a Zoning Board of
11 Appeals, issue it is a Trustees
12 issue. We have no control over it.
13 It is very hard, without knowing
14 whether they're granting you that to
15 grant you a variance. When are they
16 meeting?

17 MS. GARRAPUTA: Either May 1 or
18 May 3rd, they just have to set a
19 date.

20 CHAIRMAN SCHIFFMAN: So
21 technically, Brian, correct me if
22 I'm wrong, are you there?

23 MR. STOLAR: Yes.

24 CHAIRMAN SCHIFFMAN: Until we
25 know about the grade being the grade

1 change and it is a rather
2 substantial grade, it's going from
3 10 to 14 feet. Unless we know that
4 they're granting them that, do we
5 have to hold this in abeyance
6 pending them granting the grade
7 change?

8 MR. STOLAR: Generally it
9 is opposite, you guys go first and
10 then the Board of Trustees goes
11 next.

12 CHAIRMAN SCHIFFMAN: Okay. All
13 right, any discussion from Members
14 of the Board, Michael?

15 MEMBER SCHAMROTH: No.

16 MEMBER BLISKO: No.

17 MEMBER SCHAMROTH: Quite
18 satisfied.

19 CHAIRMAN SCHIFFMAN: We need
20 somebody to make a motion to--

21 My only question is this corner
22 of the fence. You are right, it is
23 a small area, but this fence, unlike
24 the pool, which is all your
25 business, this fence is facing the

1 public street.

2 MR. BRAUNSTEIN: Can I take a
3 look at what you are saying? Can I
4 approach? Thanks.

5 CHAIRMAN SCHIFFMAN: What was
6 the purpose of this fence?

7 MR. BRAUNSTEIN: The purpose of
8 the fence is so we have -- well,
9 obviously, to protect people from
10 entering into the front.

11 CHAIRMAN SCHIFFMAN: But they
12 can come in here.

13 MR. BRAUNSTEIN: They can't
14 because there is a fence here.
15 There is a fence that's going to go
16 from here from here and continue up
17 and around the wall. If they come
18 here they have to climb a three to
19 five foot wall and scale a fence.

20 MS. LOWE: That is all a fence.

21 CHAIRMAN SCHIFFMAN: Fences
22 don't keep people out.

23 The only question I have, it is
24 not just this, this is a fence and a
25 front yard and this entire length of

1 it is how much?

2 MS. LOWE: 32 feet.

3 CHAIRMAN SCHIFFMAN: So 32 feet
4 of fence in a front yard facing
5 here. Is it possible to drop that
6 fence back a bit? Is it going to do
7 any harm if it is just for
8 protection, I thought there was some
9 other reason.

10 MR. BRAUNSTEIN: We wanted to
11 have some more space for kids to
12 play and that kind of thing, you
13 know, room to move around; I guess
14 that's why the fence was drawn in
15 this fashion.

16 CHAIRMAN SCHIFFMAN: I like the
17 fact it is parallel to the front
18 because aesthetically, I like it to
19 go back a foot or two here, which
20 would take this corner back and make
21 it less visible from people from the
22 street. You are going to landscape
23 it, regardless. This fence has to
24 be landscaped, it is not shown on
25 here and you are going to have to

1 submit plans showing landscaping on
2 the fence.

3 MS. LOWE: Okay. I had
4 mentioned earlier when I was reading
5 my narrative, is there any way we
6 could angle this portion of the
7 fence?

8 CHAIRMAN SCHIFFMAN: This
9 fence, you don't have to do very
10 much of anything with it. This is
11 your property, your business, not
12 our zoning. This faces the street,
13 we're not supposed to have fences in
14 the front yard. This is clearly
15 labeled front yard, even though you
16 have this screen here, we'd like to
17 have landscaping around this aspect.

18 The side that faces here is not
19 really an issue. Could you just
20 show plans showing landscaping here,
21 to landscape the fence so it
22 wouldn't be visible from the street,
23 so nobody will say why did you--

24 MR. BRAUNSTEIN: I have a
25 question.

1 CHAIRMAN SCHIFFMAN: That's what
2 we're here for.

3 MR. BRAUNSTEIN: If there is
4 landscaping here and there is
5 already landscaping in here, why--

6 CHAIRMAN SCHIFFMAN: Because
7 this is not like arborvitae. Even
8 when this is fully done, I walked by
9 this 80,000 times; there is still
10 going to be spaces where that fence
11 is going to be seen. What you do on
12 your property here is nobody's
13 business, but once it faces a front
14 street, it change things.

15 MR. BRAUNSTEIN: Instead of
16 moving the fence can we put in
17 arborvitaes here?

18 CHAIRMAN SCHIFFMAN: If you
19 made it dense enough.

20 MR. BRAUNSTEIN: I prefer to do
21 that, if that is okay with the
22 Board.

23 CHAIRMAN SCHIFFMAN: If you
24 are going to have a four foot fence,
25 who wants to look at a fence?

1 MS. LOWE: It seems awkward to
2 have trees there.

3 CHAIRMAN SCHIFFMAN: Bushes,
4 they only have to grow four feet.
5 You don't need to spend the money on
6 arborvitae, why waste money on that?
7 Put four-foot bushes.

8 MR. BRAUNSTEIN: We can do
9 that.

10 MEMBER SCHAMROTH: It keeps
11 everybody for the next time--

12 MR. BRAUNSTEIN: Understood, it
13 is precedent.

14 CHAIRMAN SCHIFFMAN: That is
15 what kills us.

16 MR. BRAUNSTEIN: Understood.

17 CHAIRMAN SCHIFFMAN: Even if
18 you kept it here, if you put bushes,
19 four foot bushes are not going to
20 cost you a lot, two feet the first
21 years and by the third year nobody
22 will see the fence, that is it, it
23 faces the street.

24 MR. BRAUNSTEIN: We can do
25 that.

1 CHAIRMAN SCHIFFMAN: That would
2 be my stipulation really on that.
3 Other than that I think-- so we have
4 two variances to vote on.

5 MS. GARRAPUTA: Hold on a
6 second.

7 CHAIRMAN SCHIFFMAN: Yes.

8 MS. GARRAPUTA: The computer
9 froze. I'm going to try to bring it
10 up on my phone.

11 CHAIRMAN SCHIFFMAN: Who is
12 this?

13 MS. GARRAPUTA: Everybody
14 froze. I'm going to try to do it
15 from my phone.

16 Can you recap what you are
17 talking about for everybody?

18 CHAIRMAN SCHIFFMAN: So we're
19 going to add a stipulation to this
20 that the plans will be adjusted to
21 show bushes, landscaping the portion
22 of the, 40 foot portion of the fence
23 that faces Veeder and only that
24 portion, not putting any
25 stipulations on the rest, and if

1 that's the case, the fence wouldn't
2 have to be moved, okay? That is
3 one. So that's the stipulation on
4 that.

5 What you're telling me about
6 grading, I know that is the way it
7 goes, it makes no sense to me, but I
8 will go along if that is what the
9 code says.

10 As to the retaining wall being
11 eight feet in height where four feet
12 is required. The fence itself is
13 four feet, the retaining wall is the
14 rest of it, and the retaining wall
15 is necessary because the property is
16 not level and it is being raised, so
17 I really don't see this as an eight
18 foot fence. The stipulation here
19 will be that there is not really an
20 eight foot fence; that this is a
21 retaining wall topped by a
22 conforming safety pool fence of four
23 feet.

24 MEMBER SCHAMROTH: I would like
25 to see something like that written,

1 so it doesn't seem--

2 CHAIRMAN SCHIFFMAN: So, I
3 think you want to make the motion on
4 the first item.

5 The pool fencing will be located
6 partially in the front yard.
7 Actually, I think we're going to say
8 that just a corner of the pool
9 fencing, and that portion, the
10 40-foot portion of the fence facing
11 Veeder will be landscaped on the
12 outside, on the outside to decrease
13 visibility. You good with that?

14 MEMBER BLISKO: Yes.

15 MR. STOLAR: The motion is with
16 respect to the variances subject to
17 conditions 1, 2 and how many others
18 you have.

19 CHAIRMAN SCHIFFMAN: As to
20 variance 1, the variance will be
21 granted subject to the following
22 exclusion: And because only a small
23 portion of the fence is involved,
24 that the 40 foot portion of the
25 fence that faces Veeder will be

1 landscaped to the height of the
2 fence many.

3 That's the first motion, we have
4 to vote on that. So all in favor.

5 MR. STOLAR: That's the first
6 condition.

7 CHAIRMAN SCHIFFMAN: And the
8 motion that has to be approved, that
9 the proposed pool enclosure located
10 partially in the front yard for the
11 entire fence shall be in the rear
12 yard is approved with the condition
13 that the fence be, the 40 foot
14 length of the fence facing Veeder be
15 landscaped.

16 MR. STOLAR: You are breaking up
17 the variances into two.

18 CHAIRMAN SCHIFFMAN: I'm
19 breaking it up. That is A; that's
20 the first one.

21 MR. STOLAR: Okay.

22 CHAIRMAN SCHIFFMAN: We voted
23 on that, Brian.

24 MR. STOLAR: You need a formal
25 motion.

1 CHAIRMAN SCHIFFMAN: Josh made
2 the motion for that. You are going
3 to second it?

4 MEMBER SCHAMROTH: I definitely
5 second it.

6 CHAIRMAN SCHIFFMAN: All in
7 favor of granting the motion with
8 the stipulations? Everyone.

9 So the motion with stipulations
10 is unanimously approved.

11 Item 2. The proposed fence and
12 part of the retaining wall will be
13 eight feet in height where four feet
14 is the maximum height. Landscaping
15 is not shown across the entirety of
16 the fencing.

17 So this fencing is on their
18 property and it doesn't violate or
19 require anything from us; it meets
20 the rear yard and side yard
21 setbacks. The fence itself is only
22 four feet. This is a safety fence
23 and the retaining wall is necessary
24 for engineering purposes. So what
25 we're granting is a four foot

1 retaining wall topped by, mandated
2 four foot safety fence, correct,
3 Brian?

4 MR. STOLAR: So you are
5 granting an eight foot fence?

6 CHAIRMAN SCHIFFMAN: No, we're
7 granting a four foot retaining wall
8 topped by a mandated four foot pool
9 safety fence.

10 MR. STOLAR: That's understood,
11 but that is considered a fence under
12 code.

13 CHAIRMAN SCHIFFMAN: Where is
14 that considered a fence? Where is
15 the retaining wall considered a
16 fence?

17 MR. STOLAR: The code, that is
18 the definition in the code. I have
19 to look at that.

20 CHAIRMAN SCHIFFMAN: I would
21 like you to look at it.

22 MR. BRAUNSTEIN: I have a
23 question. How could the retaining
24 wall being considered a fence? It's
25 on top of retaining wall, I'm not --

1 CHAIRMAN SCHIFFMAN: Again,
2 that's the lawyer and that is his
3 job is to tell us when we have to
4 step back.

5 MR. BRAUNSTEIN: Yes.

6 CHAIRMAN SCHIFFMAN: We can't
7 give you a two foot fence because
8 the pool requires a four foot fence,
9 so that is not up for grabs. The
10 retaining wall is necessary to build
11 the pool. You can't do it without
12 it, you will be too shallow. So,
13 I'm just waiting for Brian to do the
14 research and let's see.

15 MR. STOLAR: So the definition
16 of fence in the code is a structure
17 erected around or by the side of any
18 open space to prevent passages in
19 and out.

20 MR. BRAUNSTEIN: It is not an
21 open space, you can't pass through.

22 MS. GARRAPUTA: 146-9(C)(6)(b),
23 that is what we denied them on.

24 See if there is anything extra
25 in there. The fence would be eight

1 feet from the adjoining grade in
2 height. If you stand on this side
3 of the retaining wall, the backside,
4 it is eight feet in height.

5 MEMBER BLISKO: That is sloping
6 back.

7 MS. GARRAPUTA: They didn't
8 show it on the plan.

9 MR. BRAUNSTEIN: You are right,
10 if we are standing right on the back
11 of the retaining wall facing the
12 pool.

13 CHAIRMAN SCHIFFMAN: Is this
14 going to be-- if you are not going
15 to make it sloped for drainage
16 purposes and other things.

17 MR. BRAUNSTEIN: I prefer to
18 bury half the wall so it is only a
19 six-foot height from the grade. I
20 would like to do it.

21 CHAIRMAN SCHIFFMAN: I think
22 safety-wise.

23 MR. BRAUNSTEIN: I prefer to do
24 that and then it becomes a six-foot
25 fence. We prefer to bury part of

1 the wall so we don't see.

2 CHAIRMAN SCHIFFMAN: I don't
3 know if it would look awkward.
4 Brian, is that where we're at?

5 MR. STOLAR: I'm looking at that
6 part right now.

7 CHAIRMAN SCHIFFMAN: That
8 instead of being an 8-foot, 4 feet
9 of barrier and then 4 feet of fence,
10 could you slope from the top of that
11 retaining wall backwards? Is there
12 any reason you can't do that?

13 MR. BRAUNSTEIN: We can.

14 MS. LOWE: I don't believe, I'm
15 not an architect, I'm an expediter,
16 I want to go on the record stating
17 that. But with that being said, I
18 don't see any reason why you
19 wouldn't be able to do that.

20 Just so I'm clear, are we
21 discussing all of the retaining wall
22 or--

23 CHAIRMAN SCHIFFMAN: Only the
24 part facing west.

25 MR. BRAUNSTEIN: The part

1 facing Wise.

2 MR. STOLAR: Dana, what part of
3 that section are you referring to
4 because I don't know what you are
5 referencing.

6 MS. GARRAPUTA: The denial
7 letter, that section that we
8 referenced.

9 MR. STOLAR: Six feet, right?

10 MS. GARRAPUTA: Yeah. Is there
11 anything in there because that is
12 all fencing stuff right there,
13 anything else that you see that
14 would state it? I don't have the
15 book in front of me.

16 MR. STOLAR: B says the fence
17 along any other property boundary or
18 within five feet of the property
19 boundary; is that the case here?

20 CHAIRMAN SCHIFFMAN: No, it is
21 not.

22 MR. BRAUNSTEIN: It is not, it
23 is the center of the property.

24 MRS. BRAUNSTEIN: Not even
25 close.

1 MS. GARRAPUTA: About 32 feet
2 from the--

3 MR. STOLAR: B is not
4 applicable.

5 MEMBER SCHAMROTH: Correct.

6 CHAIRMAN SCHIFFMAN: I don't
7 think it is, but I do think, I think
8 there might be-- I don't know about
9 a drainage issue. I think if you
10 could slope that, instead of having
11 it look like a very harsh four foot
12 barrier and a four foot fence, I
13 think it would look awkward; it
14 would probably create more drainage
15 problems coming from the height
16 straight down rather than that being
17 a nice slope, that slopes toward the
18 dry well, that would probably help
19 drainage.

20 MR. BRAUNSTEIN: We would
21 actually prefer to do it that way.

22 MEMBER SCHAMROTH: I would
23 think so.

24 MR. BRAUNSTEIN: Yes.

25 CHAIRMAN SCHIFFMAN: Brian,

1 anything else?

2 MR. STOLAR: I don't see,
3 looking at it quickly.

4 CHAIRMAN SCHIFFMAN: Four feet
5 of fence, it is going to look like a
6 handball court.

7 MR. BRAUNSTEIN: From the back
8 it will, I'm in agreement.

9 CHAIRMAN SCHIFFMAN: If
10 anybody ever climbed over that
11 fence, which little kids can do once
12 they can climb.

13 So perhaps what we do here--

14 One more thing, Brian. It says
15 landscaping is not shown around the
16 entirety of the fencing. Does this
17 pool require landscaping around its
18 fence? It is within their property,
19 it's not asking for a variance.

20 MR. STOLAR: That is the point,
21 the fencing is supposed to be inside
22 the property line.

23 CHAIRMAN SCHIFFMAN: Right. So
24 if it is inside, why does it say
25 landscaping is not shown?

1 MR. STOLAR: I'm saying the
2 fencing is supposed to be inside the
3 property line to allow for
4 landscaping on the interior.

5 CHAIRMAN SCHIFFMAN: Is it
6 required to have landscaping on the
7 outside of a fence within the
8 property, within the variance line?
9 They don't need a variance for this.
10 If they don't want to put
11 landscaping around their fence,
12 isn't that their business?

13 MS. GARRAPUTA: You have to
14 within the code.

15 CHAIRMAN SCHIFFMAN: Even
16 within the property?

17 MRS. BRAUNSTEIN: This is Mrs.
18 Braunstein, hi, everybody. Where in
19 the code does it state that?

20 MR. FROMIGIA: Let me start
21 speaking here. In 146-9(C)(8)(c),
22 which is one of the variances that
23 you are asking for really then
24 should have been asked for twice
25 here, and then it states each

1 swimming pool fence shall be
2 properly screened with evergreen,
3 shrubs and plants. And also I just
4 want to point out on this plan,
5 although he did not show the
6 plantings going all around, it is
7 duly noted right in it that required
8 screening along exterior side of all
9 fencing.

10 MEMBER BLISKO: Would it be--.

11 CHAIRMAN SCHIFFMAN: That will
12 be the outside. That is the 40 foot
13 fence that faces the street, but
14 that is not on the pool.

15 MR. BRAUNSTEIN: When you say
16 screening--

17 MR. FROMIGIA: Andrew had
18 been proposing planting going around
19 the whole outside of this. If you
20 look at the note, right at the
21 center to the right side of the
22 pool.

23 CHAIRMAN SCHIFFMAN: This is
24 something that you're saying that
25 even if a pool is within, outside of

1 a request for a variance, within the
2 accepted property Line, 35 feet off
3 the rear and 30 off the site, that
4 that pool fence still has to be
5 landscaped to four feet to cover the
6 fence?

7 MR. BRAUNSTEIN: It says the
8 code says it has to have screening
9 around the outside of the fence,
10 doesn't say how far it could be from
11 the fence; doesn't state that.

12 MR. BRAUM: The property is
13 well screened.

14 MRS. BRAUNSTEIN: May I speak
15 again it is Mrs. Braunstein.

16 CHAIRMAN SCHIFFMAN: Yes.

17 MRS. BRAUNSTEIN: If I were to
18 put evergreens all around the pool,
19 I will sit on my deck and not see
20 half of my property. I will not see
21 all my property beyond my pool.

22 MR. BRAUNSTEIN: Correct.

23 MRS. BRAUNSTEIN: It will be
24 out of my view and I would like to
25 have that in my view.

1 CHAIRMAN SCHIFFMAN: Evergreens
2 are very expensive. I would put in
3 shrubs and bushes that grow to four
4 feet and they're 1/10 the cost.
5 These arborvitae die. You could
6 drive around the neighborhood, you
7 could, you would be doing it year
8 after year.

9 I think it is going to have to
10 show, based on what the attorney is
11 saying, we're going to have four
12 foot bushes around this. Putting a
13 four foot bush on the part that
14 faces west is useless because you
15 have an eight foot wall, you have to
16 grow monster trees. So let me see a
17 way where we could manage this.

18 This fence we took care of. All
19 right, so we need a stipulation for
20 this. So the code requires this
21 around pools; not my choice, not
22 necessarily how I would have written
23 it. I think what we're going to
24 have to make a recommendation here
25 that you slope the western part with

1 the four foot wall is so it slopes
2 down gradually, you can decide on
3 the angle, without blocking the
4 entrance to the dry wells. That is
5 one.

6 Secondly, the code wants -- I
7 can't see that anybody is going to
8 make you put bushes between this
9 pool and your house, so if that is
10 something that is required, I would
11 easily grant a variance for that
12 facing the house.

13 MEMBER BLISKO: Yes.

14 CHAIRMAN SCHIFFMAN: That's
15 nobody's business.

16 MR. BRAUNSTEIN: There is no
17 fence facing the house.

18 CHAIRMAN SCHIFFMAN: So the
19 pool has to be completely
20 surrounded, so how are we going to
21 protect the rest of the--

22 MR. BRAUNSTEIN: It is
23 surrounded in the front.

24 CHAIRMAN SCHIFFMAN: I see the
25 front and I see the back. You have

1 three sides, I have a fence here, a
2 fence here, a fence here.

3 MR. BRAUNSTEIN: Yes.

4 CHAIRMAN SCHIFFMAN: How about
5 this? It is not on here at all.
6 You see the yellow line?

7 MS. GARRAPUTA: That is the
8 re-- that's the part that is getting
9 a variance. The rest of the fencing
10 goes across here where there is a
11 gate and up and back to the house.

12 CHAIRMAN SCHIFFMAN: So you are
13 aware that, this I know from my
14 property, the part that faces
15 Austin, you can't put the fence on
16 the property line. Has to be in,
17 yes. There is nothing specifically
18 written, but we want at least two
19 feet, so you have room for bushes,
20 if you want to irrigate that.

21 That fence, you're going to
22 have to show this on the drawing
23 that fence is pulled back two feet
24 or so from the property line here.
25 You can't have a fence on the line.

1 You have to landscape it to your
2 neighbor. So you have to pull that
3 back, you landscape the outside.
4 That is mandatory in every house
5 here.

6 From what the lawyer is telling
7 me here, this part of the fence that
8 faces these people, bushes, don't
9 waste money on arborvitae; put in
10 four foot bushes, that will screen
11 this part.

12 This part here you got the wall,
13 and here you face the front. Well,
14 I'm curious to hear what you have to
15 say, I'm doing a lot of talking.

16 MR. BRAUNSTEIN: I have a
17 question. On the side of the
18 Austin, that area is already densely
19 screened.

20 CHAIRMAN SCHIFFMAN: If your
21 neighbor has a pool fence, you still
22 need another pool fence.

23 MR. BRAUNSTEIN: I understand
24 but does the fence have to be
25 brought in two feet.

1 CHAIRMAN SCHIFFMAN: You can't
2 put a fence on a property line, you
3 have to give it two feet.

4 MR. BRAUNSTEIN: Agreed.

5 CHAIRMAN SCHIFFMAN: So give it
6 the two feet. We're going to tell
7 you that -- it is silly, somebody
8 has a great hurricane fence, because
9 they have a pool, and somebody moves
10 in here, you can't use the same
11 fence.

12 MR. BRAUNSTEIN: Understood.

13 CHAIRMAN SCHIFFMAN: I don't
14 know why, but that is the rule.

15 So you pull the fence back.
16 Show on the revised plans that that
17 fence is being pulled back. Show
18 the landscaping for the 40 feet that
19 faces here. I think you should be
20 able to look at your own property
21 and I would do the variance on the
22 back wall where you are going to put
23 that slope and show the slope before
24 you get to the May 1st meeting with
25 the trustees, that that is sloped.

1 Those walls look awful and I
2 think designer review hasn't allowed
3 them. This is not going to get to
4 them so you don't have to worry
5 about that.

6 We're going to ask you to
7 landscape the part of the pool
8 facing Austin. The other part looks
9 at your property, you could do what
10 you want there. The part of the
11 pool that faces Veeder, probably
12 should get landscaping and get the
13 variance on the landscaping for the
14 back. That would be my proposal.
15 You guys?

16 MEMBER SCHAMROTH: I think it
17 is a good one.

18 CHAIRMAN SCHIFFMAN: I think
19 so.

20 MEMBER BLISKO: I agree.

21 MS. LOWE: Can I ask one quick
22 question?

23 CHAIRMAN SCHIFFMAN: Yeah.

24 MS. LOWE: When would -- so
25 you said before May 1st meeting.

1 CHAIRMAN SCHIFFMAN: Well, you
2 are going to have a sloping grade
3 rather than an eight foot area?

4 MS. LOWE: Yes.

5 CHAIRMAN SCHIFFMAN: But that
6 is the west wall that faces Wise.

7 MS. LOWE: Okay, I just want
8 to make sure.

9 CHAIRMAN SCHIFFMAN: So we
10 took care of the first part. We
11 need the second part of the variance
12 with stipulations. I would propose
13 it like this:

14 What Dennis complaint was the
15 proposed fencing part of the
16 retaining wall will be eight feet in
17 height where four feet is the
18 maximum height. Landscaping is not
19 shown along the entirety of the
20 fencing.

21 Our response to that is the
22 variance and relief from this will
23 be given, subject to the following
24 stipulations:

25 The property fence on the north

1 side facing the Austin residence
2 will be pulled back two feet from
3 the property line during its
4 entirety and landscaped to the
5 height of the fence.

6 Similarly, the portion of the
7 pool fence facing the Austin
8 residence will be landscaped with
9 shrubs and the variance will be
10 approved to not landscape the
11 portion of the pool fence facing
12 west to the Wise property.

13 And the other part of this is
14 the western part of the retaining
15 wall will be graded to a slope and a
16 four foot fence will be placed on
17 top of that. That variance will be
18 approved.

19 And put a stipulation that in
20 this case -- how many feet is that
21 retaining wall from the Wise
22 property?

23 MR. BRAUNSTEIN: Approximately
24 75.

25 CHAIRMAN SCHIFFMAN: The

1 variance was granted in this case as
2 there is 70 feet.

3 MR. FROMIGIA: Mr. Chairman,
4 may I say something?

5 CHAIRMAN SCHIFFMAN: Go ahead.

6 MR. FROMIGIA: If you take a
7 look back at the survey there you
8 you are going to see on that western
9 portion of the pool, it was kind of
10 in a pit area. In my review of the
11 drainage there, I'm relying upon
12 anything that doesn't make it to the
13 two lawn drains over there will flow
14 down into that lower level there.
15 If you level it off, then it takes
16 away what is created there naturally
17 already for a drain for the water
18 to--

19 CHAIRMAN SCHIFFMAN: What if
20 you pushed those two dry walls back
21 six feet? The four dry wells, as a
22 group. What if you pushed them back
23 forward Wise west?

24 MR. FROMIGIA: Again, you know,
25 what makes it is that it creates a

1 concaveness for the water to flow to
2 and by levelling it off it is taking
3 that concaveness away and you could
4 have water flow going fast.

5 CHAIRMAN SCHIFFMAN: Isn't the
6 concaveness a problem in itself?

7 MR. FROMIGIA: No, it is where
8 water would collect at the lowest
9 point to flow to the dry well, that
10 is why I asked Mr. Breakdown to
11 change two of the tops there to put
12 an open gate grade so the water
13 flows down into that little valley
14 there and will go right down into
15 those dry wells.

16 CHAIRMAN SCHIFFMAN: So, the
17 fact that you interpreted the code
18 as being violated by four foot of
19 retaining wall and four foot of
20 fence, I'm trying to make this less
21 of a retaining wall so nobody else
22 does this.

23 MR. FROMIGIA: I understand,
24 I want to make you aware.

25 CHAIRMAN SCHIFFMAN: But if we

1 pushed the dry wells-- I see how the
2 grade would get into the first set
3 of dry wells. So what if you took
4 those first sets of dry wells and
5 put them behind the other dry wells,
6 put them more west, leave the two
7 westerly once where they are and
8 move the other two more west behind
9 them, the same distance and you will
10 accomplish the same thing, but we
11 won't have an eight foot retaining
12 wall to worry about.

13 MR. BRAUM: We can do that.

14 CHAIRMAN SCHIFFMAN: Also give
15 you a place for your kids to sled.

16 MR. BRAUNSTEIN: There's
17 already enough places for them to
18 sled.

19 CHAIRMAN SCHIFFMAN: Could you
20 read that back to me?

21 (Whereupon, the reporter read
22 back the requested testimony.)

23 CHAIRMAN SCHIFFMAN: So
24 basically you have the pool. The
25 pool ends here. This is the

1 retaining wall and the fence is on
 2 top. This a very steep grade. You
 3 have four dry wells, 1, 2, 3, 4. If
 4 he takes the two that are at the
 5 bottom of the slope and moves them
 6 further west, there still be four
 7 dry wells, not going to cost
 8 anymore, pipes will run a few more
 9 feet, but I think that gives you
 10 that general slope, which should be
 11 aesthetic, I think it will help with
 12 not providing an area for water to
 13 accumulate and it meets the code and
 14 we can grant you the variance on
 15 that.

16 MR. BRAUNSTEIN: We're fine
 17 with that.

18 MRS. BRAUNSTEIN: Can I say
 19 something?

20 CHAIRMAN SCHIFFMAN: Yes ma'am.

21 MRS. BRAUNSTEIN: Okay, thank
 22 you so much. So the retaining wall
 23 is not above the pool area, you just
 24 described when you held up the legal
 25 pad, the retaining wall is below,

1 not above.

2 CHAIRMAN SCHIFFMAN: The fence
3 is on top of that.

4 MRS. BRAUNSTEIN: Correct, I
5 just wanted to point that out.

6 CHAIRMAN SCHIFFMAN: You won't
7 thank me for this when see what it's
8 like to own a pool.

9 So we need a motion, I will make
10 it to make things easier so we could
11 get home and eat. The motion you
12 have it, we're not changing it.

13 We need to have, somebody has to
14 move to have a vote.

15 MEMBER BLISKI: I move to have
16 a vote.

17 CHAIRMAN SCHIFFMAN: And let's
18 vote on what we said in there, it
19 affects the big fence being pulled
20 back two feet, landscaping the
21 northern side of shrubs, no
22 landscaping, they're getting a
23 variance for that part, so she could
24 look at her property; landscaping
25 the part that faces the street and

landscaping the 40 foot piece of the
fence with shrubs, not requesting
arborvitaes. And all in favor of
that motion?

(Whereupon, all members voted
aye to approve.)

CHAIRMAN SCHIFFMAN: All
voted in favor.

MR. BRAUNSTEIN: Thank you.

MRS. BRAUNSTEIN: Thank you.

CHAIRMAN SCHIFFMAN: Motion
to adjourn? Granted. It is 7:58
P.M.)

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transcript of the original stenographic
record.

Lorraine Marinazzo, Court Reporter