

-----X

VILLAGE OF HASTINGS-ON-HUDSON
ZONING BOARD OF APPEALS MEETING
SEVEN MAPLE AVENUE
HASTINGS-ON-HUDSON, NEW YORK 10706

-----X

Held January 22, 2009 at 8:00 P.M.

PRESENT:

Brian Murphy, Chairman

Stanley Pycior, Deputy Chairman

Marc Leaf

David Forbes-Watkins

Deven Sharma, Building Inspector

Matthew Collins (Alternate)

Marianne Stecich, Counsel

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: Good evening
3 everyone. We are here, it is
4 January 22nd, 2009, the meeting of
5 the Zoning Board of Appeals.

6 Before I ask the cases I do
7 want to thank Deputy Chairman
8 Pycior for stepping in for me last
9 month. Thank you for doing that,
10 I appreciate it.

11 DEPUTY CHAIRMAN PYCIOR: You
12 are quite welcome.

13 CHAIRMAN MURPHY: We have just
14 two cases on the agenda tonight.
15 The first case is the application
16 of Judy Hetzel, 10 Hollywood
17 Drive, for the construction of a
18 pool, fence, and pergola, and our
19 second case is the application of
20 Cesare and Sandra de Novellis, 21
21 Forest Avenue for the enlargement
22 of the second story on their home.

23 Are the mailings in order,
24 Mr. Sharma?

25 MR. SHARMA: Both of these are

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 deferred from previous months, and
3 yes, the mailings are in order.

4 CHAIRMAN MURPHY: Yes, and in
5 reading last month's proceedings
6 on the application of de Novellis,
7 I understood that some mailings
8 needed to be corrected; were they
9 corrected?

10 MR. SHARMA: Ten additional
11 mailings have been done, and they
12 were done, and we have proof,
13 satisfactory proof.

14 CHAIRMAN MURPHY: Okay.

15 MR. WATKINS: Mr. Chairman, if
16 that's the case I believe we
17 approved their application subject
18 to the mailings --

19 CHAIRMAN MURPHY: Yes, yes, I
20 was going to suggest that we take
21 the second case first because it
22 was subsequently heard at the last
23 meeting, and this won't take long.

24 Is anyone here in opposition
25 to the de Novellis application?

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 Hearing nothing, at our last
3 meeting the board voted to approve
4 the application subject to whether
5 there was any opposition at
6 tonight's meeting. I hear no
7 opposition.

8 I was not here at the last
9 meeting so I just ask the board to
10 formally ratify the decision at
11 this point.

12 MS. STECICH: No, I thought
13 that we passed it subject to --

14 CHAIRMAN MURPHY: I think it
15 was passed subject to --

16 MS. STECICH: Then it is fine.
17 Then it was passed, assuming there
18 is no objection.

19 CHAIRMAN MURPHY: So I will
20 just refer to the vote at the
21 prior meeting in December
22 approving the de Novellis
23 application for 21 Forest Avenue.

24 All right. We are here to
25 take up the application of

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 Ms. Hetzel for 10 Hollywood Drive.

3 This application was originally
4 heard in the October meeting.

5 One of our board members has
6 to recuse himself, so Mr. Collins
7 is stepping in for Mr. Dovell.

8 So we heard extensive
9 discussion in the October meeting.
10 Ms. Hetzel was going to confer
11 with her architect, and then
12 present some additional
13 information. The board has read
14 and received the information.

15 So, Ms. Hetzel, if you would
16 like to just update us and tell us
17 what changes or additions you have
18 made since the last discussion.

19 MS. HETZEL: My name is Judy
20 Hetzel, and I live at 10 Hollywood
21 Drive, Hastings-on-Hudson.

22 Thank you for your time
23 tonight. First of all, I dropped
24 the fence. They popped out part
25 of the -- I just dropped that.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 So, with regards to the pool, I
3 have given it a lot of thought,
4 your suggestions, and walked the
5 property, took some photographs,
6 re-thought, you know, the whole
7 situation, and in a total attempt
8 to comply with your request, and
9 if it can be moved I think it
10 exacerbates the setbacks to go
11 toward the -- let me set this up,
12 because this will help.

13 So it seemed to me from
14 reading and re-reading the minutes
15 and so forth, that the major
16 objections or concerns were the
17 visibility of it, and the main
18 suggestion that you all seemed to
19 have was trying to move the pool
20 toward the house, and so, in
21 trying to do that I, you know,
22 have gone over this a lot.

23 There is another elevation
24 grade that happens right in here.
25 So, if the pool is moved toward

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 the house you are hitting -- there

3 is just a slope here that is not

4 here. This is the most level part

5 of the property, and if you go

6 this way you run into this

7 additional grade problem, and

8 there is a lot of rock in there,

9 and you cannot -- and in addition

10 to that, it's, you know, always

11 hard to visualise it, but this is

12 the way you access the property.

13 You come out of the house, there

14 is a family room, dining room

15 here, and this is the kitchen. So

16 you are coming off this porch,

17 then you go down six or seven

18 steps to like a flat space from

19 which you can walk up the side of

20 the house and walk up to the

21 front. So this is the way you

22 access the property, and because

23 you have to come -- this is all

24 stone and the porch is all -- it's

25 all part of the house. It cannot

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 be -- you can't change that, and
3 so you come down to this low spot,
4 and if you move the pool over, you
5 would then have to climb back up
6 to the pool. So you would have a
7 wall, a more significant retaining
8 wall, that would be down in this
9 area, and you would end up with a
10 troth between the house and the
11 wall. I mean, it just -- it just
12 doesn't work, and this is the most
13 level part and it unfortunately
14 just seems like this doesn't work.

15 So I am back to square one,
16 but the concern of yours about the
17 visibility of it, I just don't
18 think there is any problem at all
19 with screening it. I am prepared
20 to spend, you know, a ton of money
21 to do whatever is necessary to
22 screen it from all three sides.

23 So this part of the -- this
24 part is the town, as we discussed
25 before, and it's totally treed,

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 and right now there is some
3 significant evergreen plantings
4 along here that are a very good
5 basis for starting the screening
6 from Hollywood, and from Ferndale,
7 the whole street section can be
8 heavily screened. We can use tall
9 white pines and I am planning to
10 plant mature trees, not, you know,
11 three-foot sapling kinds of things
12 but tall, huge trees, and then
13 another row can be planted behind
14 the stone wall that would be in
15 there, and I -- and then filling
16 any gaps that are here between
17 what is already there, I just
18 don't think you could see it.

19 Again, I do not want to do it
20 if it can be seen. I wouldn't
21 even be doing that if I thought
22 that it were going to be visible
23 because that is not what I would
24 want to do, and, yes, I hope you
25 will just really consider the

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 fairness of it. I have a little
3 granddaughter, and I would love
4 it. We have talked a lot about
5 this when I moved here. That was
6 really one of the things that I
7 wanted to do, and there is plenty
8 of property and it is a small
9 pool, and I think the landscaping
10 and the environment around it
11 would be extraordinarily
12 beautiful. I want to create a
13 really, really, really pretty
14 garden, and I think it would be
15 something that the whole
16 neighborhood would enjoy, and I
17 have had tremendous support and
18 comments from the people who are
19 over here, the people who are in
20 this house, the people who are
21 next to him, going up this hill,
22 the woman who lives here, the
23 person who lives next to me on
24 this side, they are just hoping
25 with all their heart that this

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 goes through, and another person
3 to -- towards the other road, also
4 is very supportive of this.

5 So, the immediate neighbors,
6 aside from the one whose house --
7 the woman who is here tonight, her
8 house is not here, her house is --
9 this is my house and her house is
10 across from here, and, in fact, is
11 on a lower plane, and there is a
12 house in here and in here, but
13 they are really not close, and
14 they are down below the street.
15 They just -- I just don't think
16 it's going to be an issue. It's
17 not going to be noisy. It's
18 just -- I really cannot see that
19 part of the opposition as being --
20 as being a problem because I just,
21 I don't think it will be.

22 I also took -- I took these
23 photographs about the 1st of
24 November, after the last meeting
25 that we had, and the leaves had

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 significantly fallen off the trees
3 and this is the view coming off of
4 Hollywood at one point, which is
5 the high street, looking down
6 through these trees here, looking
7 down this way. This is the edge
8 of these arborvitae that have been
9 planted. They are twelve feet
10 tall. This is this set of trees.
11 This is looking down there, and
12 that's what you see. So, I mean,
13 you -- it's -- I think it hasn't
14 even -- you know, I planted this
15 but the whole property hasn't even
16 been landscaped but I don't want
17 to do it until this is -- and this
18 view is standing in the pool,
19 quote, where you would be standing
20 in the pool, looking at the house,
21 which is over here, which -- of
22 which they are objecting, the
23 house where they are objecting,
24 and again, the trees are half off,
25 the leaves are half off the trees,

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 and that's what you see from the
3 house, and it hasn't been
4 landscaped.

5 So I just don't -- I don't
6 know how far it is, 175 feet or
7 something. It's not -- this is
8 not like it's on top of someone.
9 It's, you know, it's significantly
10 far away, and I also want to point
11 out that I don't think, you know,
12 there is another addition to this,
13 there is at least ten feet between
14 the property line and the street
15 on both sides. So that the --
16 it's an additional ten feet on
17 either side that you don't pick
18 up -- as far as the setback is
19 concerned, and in the distance
20 from the road and the distance
21 from the other properties.

22 So, I am hoping that you will
23 see the fairness in this and see
24 my willingness to try to make it,
25 you know, an asset. I think it's

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 an asset for property values, and
3 the whole neighborhood. I really
4 don't want to do it unless it's
5 really beautiful. So, I am hoping
6 that you will --

7 CHAIRMAN MURPHY: Just a few
8 questions for clarification.

9 MS. HETZEL: Absolutely.

10 CHAIRMAN MURPHY: On the
11 application, you had an
12 application for two requests; are
13 you withdrawing the application
14 for the fence?

15 MS. HETZEL: Yes, yes.

16 CHAIRMAN MURPHY: Correct?
17 Yes?

18 MS. HETZEL: Yes.

19 CHAIRMAN MURPHY: So we are
20 just dealing with setbacks for the
21 pool and the issue with the pool?

22 MS. HETZEL: That's right.

23 CHAIRMAN MURPHY: On the
24 photographs, just so I understand,
25 the photograph on the right side

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 of the board that you are showing
3 us tonight, is that looking, I
4 guess, south across Ferndale
5 towards the neighbors?

6 MS. HETZEL: Yes. It would be
7 standing in the middle of the pool
8 looking towards this house which
9 is right -- which is like here,
10 because it's not -- there is
11 property between the road and
12 their house. They also have a
13 fence along here on the road, and
14 there is a fence, their house is
15 here, and then they have like a
16 basketball court in this area.

17 CHAIRMAN MURPHY: We are
18 familiar with the neighborhood. I
19 think most of us have been there,
20 if not all of us.

21 MS. HETZEL: Okay.

22 CHAIRMAN MURPHY: Just so I
23 understand, since our last
24 meeting, essentially you are going
25 back over the property, and your

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 judgement is you really can't move
3 the pool.

4 MS. HETZEL: Right.

5 CHAIRMAN MURPHY: Which is
6 certainly one of the major
7 suggestions made by the board at
8 the last meeting that --

9 MS. HETZEL: Believe me, I am
10 willing -- I have no objection to
11 trying something else. I am not,
12 you know, I would just like to do
13 this. I am a designer, and I know
14 that there are a lot of ways to do
15 something, a lot of approaches to
16 make something terrific, and the
17 challenge of doing that I think is
18 exciting.

19 So I don't have any personal
20 problem about moving it over. It
21 just -- it just doesn't work.

22 CHAIRMAN MURPHY: So if I
23 understand correctly then, the
24 main, really the main adjustment
25 which you have made is to propose,

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 which you are characterizing as
3 pretty heavily landscaped
4 screen --

5 MS. HETZEL: Significant.

6 CHAIRMAN MURPHY: -- both on
7 the north side and the south side?

8 MS. HETZEL: Yes.

9 CHAIRMAN MURPHY: We have all
10 gotten a copy of the code and
11 sketch that you have done, laying
12 out some of the proposed
13 landscape.

14 Have you had a chance to show
15 it to any of your neighbors or
16 discuss it with them, to get their
17 view of that?

18 MS. HETZEL: Only -- not this
19 drawing but that would be
20 landscaped, and that it really
21 would be screened.

22 CHAIRMAN MURPHY: I notice in
23 the drawing that you provided us
24 there is a fair amount of detail
25 on at least what I understand you

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 are proposing to do in terms of
3 types of plants, et cetera. It
4 seems to me that it would be
5 important for everyone to
6 understand exactly what you are
7 proposing because the setback
8 issue is a significant one.

9 MS. HETZEL: Right.

10 CHAIRMAN MURPHY: And without
11 moving the pool, the problem
12 remains, I guess --

13 MS. HETZEL: Right.

14 CHAIRMAN MURPHY: -- in my
15 view. If you are relying on what
16 you are proposing, the screening
17 and planting, to try to satisfy or
18 at least reduce the impact, visual
19 impact, I think it's important
20 that you explain that in as much
21 detail to us as you can.

22 MS. HETZEL: Okay. Well, I
23 also made this sketch. This again
24 is from Ferndale, looking up, and
25 this, and also, you know, this

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 would be with first year planting.
3 I am suggesting that when the
4 plants are planted that it would
5 be screened. I am not suggesting
6 that in five years it would be
7 screened because I would be
8 planting mature trees and then
9 would be high enough that they
10 would block it.

11 So I think a row of trees
12 right along the street, just to
13 make a barrier. It's good to do
14 things in layers so that you have
15 the suggestion of things being set
16 back, that you develop more depth,
17 and the corner on here could be
18 completely filled with large white
19 pines. We could put white pines
20 in this corner also, but it is
21 already -- there is landscaping
22 already there, that we could even
23 add to that, or even take them out
24 and redo it, and then there is a
25 stone wall, runs along the south

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 side. We will call it the south
3 side of the property, and that
4 could be completely planted, the
5 entire edge of 40 feet or whatever
6 it is, with arborvitae, which
7 could be eight to ten-foot
8 arborvitae that would -- you would
9 never -- you couldn't even see the
10 wall. You wouldn't be able to see
11 the pergola. You wouldn't see any
12 of it. It would really be
13 covered, and then in between the
14 plantings that would be behind the
15 fence, you could fill in the
16 property which is probably
17 about -- I don't know twenty feet
18 or something like that, 25 feet.
19 It could be filled in with cherry
20 trees that would have height
21 immediately, and early blooming
22 kinds of things, and there has
23 also been, already been a magnolia
24 planted here that is going to be
25 significantly -- it's already, you

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 know, a big tree, a tall tree, and
3 this, you know, this whole back
4 edge, and then across on the other
5 side, going down Hollywood, there
6 is already a huge holly tree
7 that's evergreen, and also a
8 spruce, and there are several
9 dogwoods, and some viburnum, and
10 these twelve-foot arborvitae that
11 I put in, and whatever holes that
12 are open, you know, in the
13 springtime that will all be done.

14 I haven't done any planting
15 because I didn't want to do it
16 until this was, you know, settled,
17 so that I know what to do. So I
18 don't think you would see
19 anything, anything at all. I
20 just -- I don't think you could
21 see -- the pool would be down
22 behind everything, and I don't
23 think you could see anybody
24 walking along there.

25 Like I say, I don't want to do

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 this, and think I'm looking at
3 everybody or people are looking
4 in. So, it would be completely
5 covered.

6 CHAIRMAN MURPHY: Okay. Any
7 further questions from the board
8 members?

9 MR. WATKINS: First of all, I
10 would like to clarify what the
11 elevations are?

12 From Ferndale, how far up do
13 you go before you propose to build
14 a retaining wall, which I believe
15 is supposed to be four feet in
16 height?

17 MS. HETZEL: Right, that's
18 what we proposed. That would be
19 on the inside of it. Do you have
20 this drawing?

21 MR. WATKINS: I have the whole
22 plan.

23 MS. HETZEL: Yes, that
24 would --

25 MR. WATKINS: Which page are

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 you referring to?

3 MS. HETZEL: Let me see if
4 this is numbered. Well, I think
5 it's one, SY1, on the right
6 corner.

7 MR. WATKINS: So we are
8 talking about going from the
9 street level elevations of what,
10 106?

11 MS. HETZEL: Yes, to 112.

12 MR. WATKINS: So you are going
13 up six feet, then you are going to
14 put a four foot wall on top of
15 that?

16 MS. HETZEL: Right.

17 MR. WATKINS: You are roughly
18 ten feet up from the street, which
19 is a pretty imposing barrier
20 without the very heavy
21 landscaping.

22 Now my question is this; we,
23 as a Board of Zoning Appeals, if
24 we approve your request, are not
25 making an approval for you, we are

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 making an approval for the house
3 that is in perpetuity, or
4 essentially in perpetuity. I
5 don't expect that you will be the
6 owner in perpetuity, very few
7 people get that opportunity.

8 What if the person who owns
9 the house after you doesn't like
10 lots and lots of trees and bushes?
11 What have we then left the
12 neighborhood with? A ten-foot or
13 so high wall that we are looking
14 at from Ferndale?

15 MS. HETZEL: Well, first of
16 all, the wall would be --

17 MR. WATKINS: By the time you
18 get to the wall it's ten feet
19 above --

20 MS. HETZEL: Right, but first
21 of all, on that, it really would
22 only -- you would only see, like,
23 a four-foot wall. You wouldn't be
24 looking at a ten-foot wall, and
25 it's -- and it's going to be made

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 out of stone so it will be
3 extremely, you know, beautiful.
4 There is stone all over the
5 neighborhood. So it would be made
6 out of similar stone. So, it's,
7 you know --

8 MR. WATKINS: I am just
9 wondering what the neighbors
10 fifteen years from now, if
11 somebody doesn't have the good
12 taste to keep the greenery in good
13 shape, what they are going to be
14 seeing across Ferndale?

15 MS. HETZEL: Well, so I think
16 part of the answer is, a good
17 looking stone wall which fits in
18 very well with the surroundings,
19 and I think you also have to
20 assume that anybody with a pool is
21 going to want some kind of
22 screening. They may not be a
23 gardener, as I am, but they would
24 want, you know, they would want
25 some kind of screening, and so I

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 think they would be grateful for
3 something to be along there.

4 MR. WATKINS: I don't think we
5 have that assurance. We could
6 very well have people who are
7 show-offs and showy?

8 MS. HETZEL: Well, you still
9 wouldn't be able to see the pool.
10 You would not see the pool at all.

11 MR. WATKINS: I just have to
12 raise that in my thought process.

13 MS. HETZEL: A good point.

14 MR. LEAF: I have a question.
15 Ms. Hetzel, you referred to
16 numerous of your neighbors who
17 support your proposal, but do you
18 have any letters in support of
19 what you propose?

20 MS. HETZEL: You know, I don't
21 because I am new at this. I
22 haven't done this process before.
23 If I realized, I should have done
24 that, but I knew and have heard of
25 no objection at all except from

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 the one party last, your last
3 meeting, and so, and I sent out 32
4 letters, I believe. I believe the
5 list was 32. So, you know, when
6 one person basically shows up
7 against the pool, I figured that
8 was the objection there, so --

9 MR. LEAF: Thank you.

10 CHAIRMAN MURPHY: Ms. Hetzel,
11 the landscaping plan that you have
12 drawn and submitted to this
13 meeting --

14 MS. HETZEL: Yes.

15 CHAIRMAN MURPHY: -- you have
16 got a fair amount of detail on
17 there and identified individual
18 plants, I guess that are existing
19 or that you plan to plant.

20 MS. HETZEL: Right.

21 CHAIRMAN MURPHY: Are you
22 basically committed to sticking to
23 this plan, in order to gain
24 approval for this plan?

25 MS. HETZEL: As a general --

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: No, not as a
3 general. Are you planning to
4 stick to this plan that you
5 submitted?

6 MS. HETZEL: Well, I am, but I
7 would also be open, you know, if
8 you wanted to add something, I
9 would be open to that. You know,
10 I think this is a very good, you
11 know, I don't know what word I
12 would say, but I think it's a very
13 good plan because I think the
14 choice of things which I spent a
15 lot of time on, accomplish what we
16 are trying to accomplish.

17 So I think it works. I think
18 the size of the things, the future
19 size of, you know, the potential
20 size of the plantings, and so
21 forth, the appreciation per
22 seasons, as much as, you know, the
23 one row of evergreen, and so, you
24 know, I think it's a good plan.

25 CHAIRMAN MURPHY: Just for

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 example, because I'm certainly no
3 botanist, and not much of a
4 gardener, but you got a row of
5 hornbeams proposed along the
6 roadside on Ferndale, for example.

7 MS. HETZEL: Right.

8 CHAIRMAN MURPHY: So are those
9 evergreens, hornbeams?

10 MS. HETZEL: They are not.
11 They are very dense, and they are
12 easy to -- to prune, to keep them
13 orderly, and in good shape. They
14 have the potential of being 30
15 feet high. So they are, you know,
16 it's a -- I think it's a good
17 size. They are not going to be a
18 hundred feet high. They have a
19 rich green foliage.

20 So I think it's a good, you
21 know, dense hedging there. They
22 are often used for this kind of
23 purpose.

24 CHAIRMAN MURPHY: You have
25 also listed, for example, a maple

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 tree, that I think is a large,
3 existing tree?

4 MS. HETZEL: Existing tree,
5 yes.

6 CHAIRMAN MURPHY: To the right
7 of that there are like a series
8 of --

9 MS. HETZEL: Berry bushes?

10 CHAIRMAN MURPHY: Along the
11 walk up from Ferndale that are
12 just lettered E.

13 MS. HETZEL: They are
14 existing. They are berry bushes.
15 They are quite large. I would say
16 they are ten feet, probably
17 something like that, or higher,
18 and they are full in the
19 summertime, and they are covered
20 with berries. I think they have a
21 very beautiful line to them. I
22 would like to leave them. I just
23 think they work nicely going up
24 the walk. That again, that could
25 be changed. I don't have any

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 problem with that.

3 CHAIRMAN MURPHY: On the
4 other, the north side, on the
5 Hollywood Drive side, are most of
6 those already existing or is there
7 any new plantings that you are
8 proposing in this drawing?

9 MS. HETZEL: I have already
10 planted this row of arborvitae
11 which are dense and already
12 twelve feet high that are in that
13 photograph that I showed you.
14 This is an existing holly, which
15 is huge, and is evergreen. There
16 is an existing spruce that I think
17 is at least twenty feet high,
18 which is existing, and there
19 are -- there is a dogwood here,
20 and I moved a dogwood back in
21 there. I planted spyridia along
22 this wall, and then there are some
23 small plantings here, some of
24 which were there when I came, and
25 a few that I have added, but I

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 would completely fill it in. So
3 whatever holes there are, I would
4 want to be filled in, and use
5 evergreens where they can be, you
6 know, along this side. Figure out
7 what you can do with light, and
8 water, and animals, but whatever I
9 can manage to find. Spruce seems
10 to be the best solution for
11 evergreen.

12 CHAIRMAN MURPHY: Okay.
13 Anything else you want to add in
14 terms of the details of what you
15 are proposing to do with the
16 plantings?

17 MS. HETZEL: Well, I don't
18 know. Again, I think a huge clump
19 of white pine down in this corner,
20 coming off here gives you a lot of
21 coverage. It's evergreen, they
22 grow fast. I, you know, that
23 would just completely block that
24 whole thing in. I think the
25 cherry trees and, you know, the

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 flowering cherry trees, would
3 really be beautiful in between
4 this, coming up between these
5 hedges, and then giving again
6 additional height coverage, and
7 then beautiful spring foliage.
8 There is a Franklin tree here
9 which is a very -- quite rare,
10 actually, there aren't very many
11 of them in the United States, and
12 it has like a camellia blossom on
13 them. They are fragrant, just a
14 fabulous tree. They have
15 beautiful and gold, orange leaves
16 in the fall. They get to be about
17 30 feet high. I have put one of
18 those in here. I would like to do
19 maybe a couple more in this area,
20 and there is a row of yew that I
21 planted along this back. I think
22 there are five of them, and those
23 are about six feet tall, and they
24 are in -- and this would just be
25 filled in with rhododendrons,

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 viburnums, spruce, anything that
3 we can -- hollies.

4 MR. COLLINS: Ms. Hetzel, I am
5 also no botanist but I am curious
6 if you have any pictures of some
7 of these trees that you are
8 suggesting that we plant? I have
9 seen that you got a pencil, which
10 seems like a pencil sketch in the
11 second page of new materials, but
12 do you have a photograph of these
13 trees? Are there any trees or
14 bushes like this in the
15 neighborhood?

16 MS. HETZEL: Oh, they are all
17 over. You know, you have to plant
18 what grows, you know.
19 Unfortunately, you cannot dream of
20 things you want to have and plant,
21 you know. So, you know, there is
22 spruce and yew, and pines, and --

23 MR. COLLINS: Hornbeams?

24 MS. HETZEL: You know, I don't
25 know specifically about that, but

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 that's -- the hornbeam, I chose
3 that because it's good for this
4 application, and it's nicely grown
5 in this area. It's widely used.
6 It's a very commonly used tree for
7 this purpose.

8 MR. COLLINS: Is there
9 peaceful co-existence among these
10 species? Are the light
11 conditions -- I know you are on
12 very hilly terrain, the light is
13 right --

14 MS. HETZEL: Absolutely.

15 MR. COLLINS: -- the steep
16 slope is not going to be an issue
17 for root space, et cetera?

18 MS. HETZEL: No, I think it
19 can handle it. It would all be,
20 you know, well composted, and I
21 have a watering system so that it
22 is, you know, watered, and is
23 maintained and thrives.

24 Those considerations were all
25 taken.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 MR. COLLINS: Is there a plan
3 B that you would have should one
4 of these trees not take. The
5 arborvitae I know from experience,
6 if you don't water them a lot,
7 especially when they are freshly
8 planted, they are fragile in their
9 early days or weeks.

10 MS. HETZEL: Right.

11 MR. COLLINS: What is the plan
12 B should a tree not take?

13 MS. HETZEL: Well, you know,
14 it could be that -- it's just that
15 tree, it could be, like you say,
16 some kind of water problem or
17 something. There is always
18 another, you know, group of plants
19 if something doesn't survive. I
20 mean, I also -- when a nursery
21 comes in and does this, I would
22 have these large trees, I would
23 have the nursery plant them, and
24 they are all guaranteed in that
25 case by the nursery, and if the

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 nursery believes that something is
3 subject to not doing well, under
4 conditions under which it is to be
5 grown, they won't even -- they
6 won't plant it. They won't sell
7 it to you because they don't want
8 to guarantee it and lose it.

9 So, you know, I mean, there is
10 always a chance of plant failure
11 in any kind of circumstance but if
12 that were the case it would be
13 replaced with either, you know,
14 the same thing if that were not
15 the problem, or find something
16 that would be more suitable.

17 MR. COLLINS: Thank you.

18 CHAIRMAN MURPHY: On your
19 proposed plan, where you have the
20 four-foot stone retaining wall
21 that has been proposed which is
22 forty feet long, approximately,
23 and Mr. Watkins was asking you
24 about --

25 MS. HETZEL: Right.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: Am I reading
3 your plan correctly that you are
4 willing to put, is it ten-foot
5 arborvitae along that?

6 MS. HETZEL: Yes, I think
7 eight to ten foot arborvitae along
8 the wall would be so high that you
9 couldn't, you know, you couldn't
10 see if somebody is walking on the
11 other side of the four-foot wall.
12 That's on planting. That's not in
13 two years, even with one year's
14 growth, you wouldn't be able to
15 see anybody.

16 CHAIRMAN MURPHY: Okay.

17 MS. STECICH: I just want to
18 ask one question. Having suffered
19 the decimation of my acre of
20 greenery by deer, are these plants
21 you are proposing, and I know you
22 also had in your last proposal,
23 deer fencing, which I know you
24 have taken out, have you made some
25 efforts to find things that are

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 deer proof, highly deer resistant?
3 MS. HETZEL: Well, I do -- I
4 do have a deer fence. I wanted an
5 eight-foot fence originally and
6 that didn't fly, but I do -- I
7 have put up, you know, a
8 regulation deer fence, and it
9 seems to be working.
10 MS. STECICH: Around all of
11 the --
12 MS. HETZEL: Inside the
13 property line.
14 MS. STECICH: Okay.
15 CHAIRMAN MURPHY: Mark,
16 anything else?
17 MR. LEAF: Not right now.
18 CHAIRMAN MURPHY: Thank you,
19 Ms. Hetzel.
20 I notice we have some members
21 of the audience. Please just
22 introduce yourself, and give us
23 your address.
24 MS. HENDRICKS: Hi, I am Ellen
25 Hendricks, and I live at 136

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 Circle Drive, and I came here not
3 having seen the plans, and I
4 certainly don't object to Ms.
5 Hetzel having a pool. My biggest
6 concern though is that I drive
7 down Ferndale practically every
8 day. I drive down there every
9 day, and unfortunately drivers
10 coming down Hollywood don't
11 necessarily stop at the stop sign
12 before making the right on
13 Ferndale, and on several occasions
14 I have had close calls where
15 people have not looked to their
16 left, and pulled out into the
17 street, and I have had to hit my
18 brakes.

19 So I have learned to slow
20 down, not that one goes very fast
21 there any way, but I have learned
22 to slow down in anticipation, and
23 my concern is the visibility,
24 without, you know, you need a
25 little bit of distance to

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 anticipate. When I see a car I
3 know immediately to hit my brakes.
4 If I don't see a car then I cannot
5 worry about it going my grand
6 twenty miles an hour, but
7 nonetheless, if it's unaccepted
8 that someone is not going to stop
9 at the stop sign, it can -- it's a
10 potential crash.

11 So my concern is visibility,
12 and I didn't know where the
13 potential signs was going to be,
14 and so, you know, I am a little
15 bit assured that it is back from
16 the road but the plantings could
17 create screening so I would just
18 like some sensitivity to that
19 issue.

20 MS. HETZEL: Looking at the
21 plan, where are you talking about?
22 This corner?

23 MS. HENDRICKS: Coming down
24 here, there is a stop sign.

25 MS. HETZEL: This is Scenic.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 MS. HENDRICKS: Yes, but as I
3 am driving down Ferndale there is
4 a stop sign right here. People
5 often just go right through and
6 make the right, and if I'm not
7 alert that they are -- expecting
8 that they are going to honor the
9 stop sign, okay.

10 MS. HETZEL: What my feeling
11 is that this doesn't have anything
12 to do with that because this is
13 over here, and this is over here.

14 MS. HENDRICKS: Yes, but I
15 have to anticipate from back here
16 that -- because you -- there is
17 some visibility, so I have to
18 anticipate from back here to give
19 us time, I do not want to stop
20 short here. It's not -- so that's
21 my concern. I am not throwing up
22 roadblocks.

23 MS. HETZEL: I understand,
24 but, again, I don't think that
25 there -- I don't think that this

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 would do that because, and I drive
3 this, you know, my garage is
4 there, so I drive that way all the
5 time, but this is -- I cannot do
6 anything with this.

7 MS. HENDRICKS: I know that.

8 MS. HETZEL: This is public
9 land.

10 MS. HENDRICKS: Right.

11 MS. HETZEL: And it's hilly,
12 it goes up, as you know, and you
13 cannot -- so I cannot -- that
14 isn't part of this.

15 MS. HENDRICKS: I know, but
16 one anticipates that -- even
17 though you have some visibility
18 here, one has to anticipate a
19 little bit ahead of time. So if
20 you had fencing or plantings here
21 that would block that visibility,
22 I'm just asking that you be
23 sensitive to that.

24 MS. HETZEL: Right.

25 MS. HENDRICKS: I understand

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 you want your privacy, and I
3 understand you wanting a pool,
4 more power to you, but just be
5 concerned about that in terms of
6 your plantings, balance the
7 privacy with accessibility,
8 visibility, to be specific.

9 MS. HETZEL: Okay. Again, I
10 appreciate your thoughts, but I
11 don't think that you can see the
12 other street from that corner. If
13 you were there, I don't think you
14 could see -- I think it's too
15 early to anticipate that.

16 MS. HENDRICKS: Well, I do
17 drive it and there is some
18 visibility through that because,
19 you know, there is -- one has to
20 anticipate ahead of time.

21 So if there is something
22 blocking it, I'm not really having
23 studied the plans, if you are
24 coming closer to the street line,
25 and you have plantings, it does

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 obscure more what one can
3 anticipate. You know, I'm not
4 positive. As I said, I'm not --

5 MS. HETZEL: No, no, I would
6 be, you know, thoughtful of your
7 point.

8 MS. HENDRICKS: Thank you.

9 MS. HETZEL: It doesn't seem
10 to me like it would block it.
11 It's on the other side.

12 MS. HENDRICKS: Okay, you will
13 look at that?

14 MS. HETZEL: Yes.

15 CHAIRMAN MURPHY: Ms.
16 Hendricks, thank you. Please.
17 Next witness.

18 MR. MITCHEL: Edward Mitchel
19 from Nobile, Magarian & DiSalvo,
20 Bronxville, New York, here on
21 behalf of David Birmingham and
22 Caroline Somers, owners of 63
23 Ferndale.

24 CHAIRMAN MURPHY: Yes, Mr.
25 Mitchel, you were with us last

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 time, right?

3 MR. MITCHEL: Yes.

4 CHAIRMAN MURPHY: Tell us
5 again where your clients live with
6 respect to the proposed --

7 MR. MITCHEL: On Ferndale,
8 pretty much directly across from
9 the house and where the pool is
10 going to be. Essentially, if they
11 are looking out their living room
12 window they are going to be
13 looking right at the pool
14 location.

15 Our position is that adding
16 shrubs and trees does not affect
17 the inherent problem with this
18 application. That the plans still
19 calls for putting the pool in a
20 side yard in an elongated,
21 irregularly shaped, sloped yard
22 which is right across the street
23 from my client's front yard.

24 Again, we are not dealing with
25 my client's backyard or side yard,

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 this is their front yard, and the
3 front yard of their next door
4 neighbor, as well.

5 CHAIRMAN MURPHY: Ms. Hetzel,
6 please.

7 MS. HETZEL: Okay.

8 MR. MITCHEL: The main issue
9 here still remains the very
10 substantial deviation from the
11 setback required by the one
12 hundred feet, and surrounding the
13 pool area doesn't change that.
14 It's still a substantial
15 deviation.

16 The architect who was here
17 last time stated that the
18 measurement from the pool is
19 actually made from the inside edge
20 of the pool to the property line,
21 That measurement in this case, as
22 proposed, is 36 and a half feet
23 versus hundred foot, as required,
24 and even then that doesn't take
25 into consideration the patio

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 surrounding the pool, the
3 retaining wall, the required
4 fence, the utility box on the
5 outside of the fence. All those
6 things are much closer to the
7 property line, very much closer.

8 So, as far as we are concerned
9 the location of the pool isn't
10 going to really help this
11 application either. The lot
12 simply can't accommodate this kind
13 of in ground pool directly across
14 from my client's front yard. If
15 it was a side yard or a backyard,
16 obviously, it would be a different
17 story. The code even contemplates
18 a much smaller setback for
19 backyard pools.

20 In the papers that I submitted
21 last time we also mentioned other
22 issues. In addition to these
23 visual problems, there is going to
24 be obvious noise that results from
25 having a pool. Also, a pool, when

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 you measure the height of the
3 retaining wall, you have to
4 envision a four foot high
5 retaining wall, I have to envision
6 that it is going to be very much
7 higher than that because you have
8 to look at the height on the high
9 side of the property. Pools have
10 to be flat. So my clients are on
11 the low side. Ferndale is on the
12 low side. So to build up that
13 side to equal the high side, you
14 are going to have to add a lot of
15 fill and the retaining wall is
16 probably going to be very much
17 higher than four feet. I am not
18 sure of the measurement. I
19 haven't seen the topographical map
20 recently but I believe it's going
21 to be at least ten feet.

22 CHAIRMAN MURPHY: I do not
23 understand that. The plans
24 propose a four-foot stone
25 retaining wall, whatever they need

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 to do to put the foundation in and
3 support that structure in
4 accordance with the building code
5 would have to be done, but that
6 doesn't make the wall higher
7 necessarily.

8 MR. MITCHEL: Well, if you
9 look at the elevation on the high
10 side of the pool, the high side of
11 the patio, it's much higher than
12 four feet from the base.

13 CHAIRMAN MURPHY: Yes, I
14 agree. In other words, it's a
15 sloped property.

16 MR. MITCHEL: Right. So if
17 you are on the Hollywood Drive
18 side of the pool you will be
19 higher up but -- if you take that,
20 if you go straight across, you are
21 dealing with a retaining wall and
22 a fence on top of that, that's
23 going to block the view from
24 Ferndale. Especially considering
25 that houses on the opposite side

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 of Ferndale are lower than street
3 level. So they are looking up to
4 begin with. This is going to be a
5 fairly imposing object.

6 CHAIRMAN MURPHY: Have there
7 been any discussions with your
8 clients and Ms. Hetzel over the
9 proposed amendments to the plans
10 since the last time in terms of
11 this proposed planting, and that
12 whole thing?

13 MR. MITCHEL: No, there have
14 been no discussion. The other
15 point, one of the other points
16 that we raised in our opposition
17 was the addition of impervious
18 surfaces, and where is all that
19 water going to go from the patio
20 and the other structures.

21 The architect mentioned that
22 they were going to put in dry
23 wells. Driving by the property,
24 again, I see there is rock
25 outcroppings on the lot, and on

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 the town's, the village's lot next
3 to it.

4 Clearly, you can't go more
5 than a couple of feet here without
6 hitting ledge. I don't know what,
7 if any, testings were done before
8 he suggested putting in dry wells.
9 I don't see how you are going to
10 be able to put in that kind of
11 drainage system without blasting.
12 That adds a whole other element to
13 this application.

14 CHAIRMAN MURPHY: Well, nobody
15 knows. I hear you but nobody
16 knows really the answer to that
17 particular question. Okay. Now I
18 take your point.

19 Next witness. Please state
20 your name for us.

21 MS. SOMERS: Carolyn Somers.
22 The applicant never came across
23 the street to talk to us about
24 this which is why I don't really
25 know what she is doing, but we

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 would rather not be in a situation
3 where the applicant is in the
4 middle of building this pool, and
5 it turns out to be unbuildable
6 because of the ledge. I don't
7 know if she has done any borings,
8 I don't know if she knows what the
9 depth to that rock is for her, for
10 that little bit of flat area that
11 she has but it's thought that it
12 is more than a couple of feet. We
13 don't understand how she is going
14 to get the depth that she needs
15 for a pool. That's one of our
16 considerations. We don't want to
17 have a ledge chipped away or
18 blasted away, and we are concerned
19 because we currently have water
20 coming across the street from that
21 property. There is an actual pipe
22 that comes across the road, and I
23 have designed our property to
24 accept a certain amount of water
25 but during very bad storms because

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 one property slopes into another,
3 slopes into another, one of my
4 neighbors has on occasion to
5 complain that we are giving her
6 too much water. So I don't really
7 want to be in a situation where I
8 am fighting with my other neighbor
9 because we have water coming
10 across the street.

11 So that is something that I
12 can look forward to if that sort
13 of water issue is not taken into
14 account. Thank you.

15 CHAIRMAN MURPHY: Thank you.
16 Anyone else?

17 MR. BIRMINGHAM: Hi, I am
18 David Birmingham. My wife,
19 Carolyn, just spoke. I will be
20 brief because I think Mr. Mitchel
21 and my wife have already expressed
22 our concerns.

23 I just wanted to mention that
24 we actually received a letter from
25 one of our neighbors, unsolicited,

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 who lives up on Hollywood,
3 expressing her appreciation for us
4 representing some of the views of
5 our neighbors in coming before you
6 on this application.

7 I didn't seek permission to
8 file that with the record. I can
9 do that if the board felt that was
10 important, but I want to reiterate
11 to you the concerns that have
12 already been expressed to you.
13 Thank you.

14 CHAIRMAN MURPHY: Thank you.
15 Anyone else in the audience?

16 Ms. Hetzel, just to pick up on
17 one of the comments; have any kind
18 of deep tests been done in the
19 soil to determine whether it's
20 actually feasible to get approval
21 in the area that you are
22 proposing?

23 MS. HETZEL: We had done some
24 preliminary digging, and again,
25 this position on the property is

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 relatively flat, unlike the rest
3 of the properties, that position
4 is flat. So just as far as that
5 wall goes, that part of the
6 property is quite level. I don't
7 think there is more than, maybe a
8 foot and a half or something
9 different between one side and the
10 other. So it's not -- that's not
11 significant.

12 As far as the rock goes, if I
13 had to blast, I won't do it
14 because I am not interested in
15 doing that. I don't think that is
16 good for anyone. So I am not
17 interested in doing that, and I
18 consulted with a boring company,
19 and if I can get a variance to do
20 this, then before I do anything I
21 will have them come in, and they
22 can do it just with hand
23 equipment, and I would have that
24 done before I do, again, any work.

25 So, you know, I am not

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 interested in trying to do
3 something and not being able to do
4 it, so --

5 CHAIRMAN MURPHY: Okay.

6 MS. HETZEL: I don't know if
7 this is worth pointing out but
8 this view from the pool towards
9 the house that we are talking
10 about, this is the side of the
11 house, and the front of their
12 house is over facing this -- this,
13 again, is the pool, and this is my
14 house, and their house is actually
15 pretty much across from my house,
16 down here, and the front is --
17 faces this direction, if I'm not
18 mistaken, and this is their side
19 yard, and this is sort of the back
20 of the house over there, but you
21 go into the house over here.

22 So, it's -- their turn, their
23 entrance is over here, somewhere
24 in this corner. Okay, anyway --

25 MR. BIRMINGHAM: Excuse me,

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 could I respond to that?

3 CHAIRMAN MURPHY: It's really
4 not necessary, unless you feel
5 compelled to do it.

6 How about the board?

7 MR. PYCIOR: I think the
8 question is where the filtration
9 system and the pump are to be
10 placed; has that been determined?

11 MS. HETZEL: Well, it was
12 suggested, and it is shown on this
13 plan, which is right here behind
14 the wall, and it would be
15 enclosed, and it would also be
16 surrounded with arborvitae.

17 CHAIRMAN MURPHY: Any
18 discussion, views of the board at
19 this point?

20 MR. LEAF: I think we have to
21 take the application as we get it,
22 and I don't know that it is, that
23 it's dispositive that these
24 plantings that are proposed,
25 because as David Watkins pointed

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 out, the plantings may not be
3 there forever but the waiver, the
4 variance requested, is.

5 I also think that we have to
6 focus on the very substantial
7 nature of the variance. This is a
8 side yard. It faces two streets.
9 It's very clear that the setback
10 for the side yard should be a
11 hundred feet, and they are
12 requesting, the applicant is
13 requesting not just a minor
14 reduction of that setback but a
15 loss of over two-thirds of the
16 setback, to 31 feet on one street
17 side, and 36.5 feet on the other.

18 I think that's exacerbated by
19 the fact that it's on a slope. So
20 that the house on Hollywood,
21 directly across from where the
22 pool is, which itself is a very --
23 high up on a hill. I believe that
24 anyone in that house would be
25 looking directly down into the

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 pool.

3 I understand that the
4 applicant has spoken to other
5 neighbors, and that a few of the
6 other neighbors have been
7 supportive but I don't see
8 anything in the record to indicate
9 their support. Certainly the only
10 views of a neighbor that we have
11 seen are those of the neighbors
12 who appeared before us objecting.

13 The law says that in making
14 our determination upon application
15 for an area variance the Board of
16 Appeals must balance the benefit
17 anticipated by the applicant
18 against the potential detriment,
19 to the health, safety and general
20 welfare of the neighborhood or the
21 community considering five
22 factors.

23 One, whether an undesirable
24 change will be produced in the
25 character of the neighborhood or

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 detriment to nearby property would
3 be created by granting a variance.

4 I believe that it's possible
5 to conclude that having such a
6 short setback to a pool could be
7 perceived as a negative change to
8 the neighbors.

9 Whether the benefit sought by
10 the applicant can be achieved by
11 other means.

12 Well, I think it's clear that
13 the benefit that you seek cannot
14 be achieved by other means but I'm
15 not sure that the benefit you seek
16 rises to the same level as living
17 space adjustments. The use of a
18 pool is entirely an elective use
19 of property.

20 That gets to the third point
21 for all parties to consider, which
22 is whether the requested area
23 variance is substantial. As we
24 have discussed, it's a very
25 substantial.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 The fourth area that the law
3 requires us to consider is whether
4 the proposed variance will have an
5 adverse effect or impact on the
6 physical or environmental
7 conditions of the neighborhood or
8 the district, and we have heard
9 evidence and some concern about
10 drainage, and some concern about
11 visibility, and safety, and then,
12 five, whether the alleged
13 difficulty was self-created.

14 I think here, the elective
15 nature of the pool, this is an
16 entirely self-created difficulty.
17 The absence of -- no one needs a
18 pool, or a pool is not a
19 requirement for living in the
20 house. So the desire to put in a
21 pool is just personally elective.

22 For those reasons, I am
23 concerned about the variance, and
24 I think that we should discuss it
25 very seriously, the request.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: Thank you.
3 David or Stanley, do you want to
4 add anything?

5 MR. WATKINS: I want to add
6 one thing. I think Mark did a
7 very fine job of analysing the
8 situation. I want to quote one
9 line from the attorney's list, one
10 sentence. Neighbors are entitled
11 to expect a certain degree of
12 formality in the nexus between
13 their frontage and the frontage of
14 other houses on their street. The
15 same expectation does not exist
16 for a home owners rear yard.

17 I think that is a very
18 important point. This is a
19 proposal that brings a rear yard
20 function or a rear yard activity
21 basically to the front yard, as
22 far as neighbors are concerned,
23 and I think under those
24 circumstances the need for greater
25 setbacks is all the more apparent.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: Yes, I tend
3 to agree. Ms. Hetzel, the problem
4 here is, the reason the code is
5 written this way is because pools
6 are supposed to be in the
7 backyard. It's a very strong
8 judgement of the community that
9 pools shouldn't be anywhere except
10 in the backyard, and the
11 difficulty with your particular
12 property, as beautiful as it is,
13 and I do appreciate the efforts
14 you have made to try to ameliorate
15 the condition of proposal but the
16 problem is, it's almost impossible
17 to comply with this portion of the
18 code, and the reason that there
19 are one hundred foot setbacks is
20 because no one wants a pool unless
21 it's in the backyard, and I am
22 also concerned about the nature of
23 any precedent that the board would
24 set for other applications because
25 we have rejected other

1 ZONING BOARD MEETING OF JANUARY 22, 2009
2 applications, specifically for
3 pools, which were not nearly as
4 substantial or requesting this
5 type of substantial variance, even
6 though they were in the backyard,
7 they weren't in the side yard or
8 front yard, what have you, and
9 that's really the fundamental
10 problem.

11 It's hard to get over legally,
12 it's hard to get over with other
13 conditions, to try to limit the
14 impact.

15 As Mr. Leaf said, I mean, a
16 two-thirds encroachment on the
17 required variance is really big.
18 It's not a preexisting, non
19 conformity that we could work
20 with, and so, I, too, am not in
21 favor of approving the variance.

22 MR. PYCIOR: If I may, I, too
23 consider the variance, too
24 substantial, or two-thirds of the
25 required setbacks. I think it's a

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 beautiful job of attempting to
3 screen it but if I can borrow a
4 line from the recent presidential
5 election, you can put lipstick on
6 a pig but it's still a pig, and so
7 this pool on this property is
8 too -- simply doesn't fit the side
9 yard setbacks.

10 CHAIRMAN MURPHY: All right.

11 So we need a motion for 10
12 Hollywood Drive, the applicant's
13 request for variance, area
14 variance, or setback for their
15 pool located on the side yard.

16 Can I have a motion to approve
17 the variance? There being no
18 motion, can I have a motion to
19 reject the variance?

20 MR. WATKINS: I will move that
21 the Zoning Board of Appeals reject
22 the application for variance for a
23 setback for the pool located on
24 other than the front yard for Case
25 number 21A-08, 10 Hollywood Drive.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: Do I have a
3 second for that motion?

4 MR. LEAF: Second.

5 CHAIRMAN MURPHY: All in
6 favor?

7 THE BOARD: Aye.

8 CHAIRMAN MURPHY: Ms. Hetzel,
9 I am sorry we couldn't approve
10 your variance. Thank you.

11 I did not participate in the
12 last month minutes but if we just
13 need either a correction to last
14 month's minutes or a motion to
15 approve?

16 MR. LEAF: I have a couple of
17 small corrections. On page seven,
18 line five, it says log, L-O-G, it
19 should be law, L-A-W, and on page
20 25, line 24, the word property
21 should be problem. Thank you.

22 CHAIRMAN MURPHY: Okay. Any
23 other emendations to last month's
24 minutes?

25 Hearing none, can I have a

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 motion to approve the minutes from

3 the board's December 11, 2008

4 board meeting?

5 MR. WATKINS: So moved.

6 CHAIRMAN MURPHY: Can I have a

7 second?

8 MR. LEAF: Second.

9 CHAIRMAN MURPHY: All in

10 favor?

11 THE BOARD: Aye.

12 CHAIRMAN MURPHY: No further

13 business, our meeting is

14 adjourned. I'm sorry,

15 February 27th.

16 MS. STECICH: Hold on. The

17 26th or the 27th? No, hold on,

18 February 26th.

19 CHAIRMAN MURPHY: So our next

20 meeting will be Thursday, February

21 26th, and that's it. Do I have a

22 motion to adjourn this meeting?

23 MR. WATKINS: So moved.

24 CHAIRMAN MURPHY: Second?

25 THE WITNESS: Second.

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 CHAIRMAN MURPHY: All in

3 favor?

4 THE BOARD: Aye.

5 CHAIRMAN MURPHY: Thank you.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ZONING BOARD MEETING OF JANUARY 22, 2009

2 C E R T I F I C A T I O N

3

4 STATE OF NEW YORK)
5) SS.
6 COUNTY OF ROCKLAND)

7

8

9 I, PATRICIA TORIAN, a Registered Professional
10 Reporter and Notary Public within and for the State of
11 New York, do hereby certify:

12 That this is a true and accurate record of
13 the proceedings held on this 22nd day of January, 2009.

14 I further certify that I am not related to
15 any of the parties to this action by blood or marriage
16 and I am in no way interested in the outcome of this
17 matter.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this 28th day of January, 2009.

20

21 _____
PATRICIA TORIAN

22

23

24

25

