In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

ROLL CALL:
Members Present: Henry Fastert, Dan Nelsen, Nelson Russell, Brian Schaechter, Kim Mott, Sandra Stotler, Howie Weiss

Members Excused: Joe Fleischner, David Koptyra, John Mania, Frank Wilpert, Jr.

Professionals Attending: Tiena Cofoni, Esq., Catherine Natafalusy, Planning Administrator/Secretary

Professionals Excused: Chuck McGroarty, Planning Consultant, Eugene Buczynski, Township Engineer, Edward Buzak, Esq.

APPROVAL OF MINUTES

January 8, 2015 Reorganization Meeting

Motion: Brian Schaechter
Second: Henry Fastert

Roll Call:

Henry Fastert	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Brian Schaechter	- yes
Kim Mott	- yes
Sandra Stotler	- yes
Howie Weiss	- yes

January 8, 2015 – Public Meeting

Motion: Brian Schaechter
Second: Dan Nelsen

Roll Call:

Dan Nelsen	- yes
Nelson Russell	- yes
Brian Schaechter	- yes
Kim Mott	- yes
Sandra Stotler	- yes
Howie Weiss	- yes

COMMITTEE REPORTS

MR. WEISS: Okay committee reports there's no . . .

MR. FASTERT: Nothing from the Mayor or Council.

MR. WEISS: Thank you nothing from the Council. Nelson anything from the environmental commission?

MR. RUSSELL: No we reported last week.

MR. WEISS: Thank you very much. Joe is not here for ordinance committee, I have nothing from street naming committee and Joe is not here for open space.

DISCUSSION MATTER

APPLICATION #PB 14-12 – MICHAEL & COLLEEN SZAREK – (Block 7702, Lot 42)

MR. WEISS: So let's move right into our first discussion matter. We have a discussion, a brief discussion regarding Planning Board 14-12 Colleen & Michael Szarek. Request for an extension of time to relocate a shed at 4 Fairfield Way Block 7702, Lot 42. You can please come to the table what we'll do is the attorney will swear you in and we'll just go over your request.

(COLLEEN & MICHAEL SZAREK SWORN IN FOR THE RECORD)

MS. COFONI: If you could just state your full name, and you can take turns, spelling your last name and giving your address please.

MS. SZAREK: Colleen Szarek (S-Z-A-R-E-K) 4 Fairfield Way, Budd Lake.

MR. SZAREK: Michael Szarek same address (S-Z-A-R-E-K).

MS. COFONI: Thank you.

MR. WEISS: Okay now Mr. & Mrs. Szarek you were in front of us recently I do recall. We have a copy of your request for the extension. Just would you remind the Planning Board what was the situation with moving of the shed, that was part of your application that was one of your conditions?

MR. SZAREK: And tearing a smaller one down.

MR. WEISS: And we had asked you to move it correct?

MR. SZAREK: Right.

MS. SZAREK: Right.

MR. WEISS: Okay so I don't know how many people on the Planning Board were here it wasn't that long ago.

MS. SZAREK: It was in October.

MR. WEISS: Yeah it was fairly recent. So the fact that you've addressed it quickly is very much appreciated. Why don't you explain to the Planning Board, I mean have a copy of the letter right in front of me, explain to the Planning Board what the situation is.

MR. SZAREK: Why we need the extension?

MR. WEISS: Yes.

MR. SZAREK: I was planning on moving it, taking the stuff out of the smaller one putting it in our cellar and demolishing it and getting the other one moved. Thanksgiving morning I was putting a sock on and I bulged a disk, this is the third disk in my back that is bulged. I was out for seven weeks not being able to do anything. Then we got all of this snow, we got the cellar cleaned out but we haven't got a chance to move all of the stuff in, tear it down and get the other one moved. Nobody is going to move it in this kind of weather, they're not going to move it until the ground is thawed and dried out.

MR. WEISS: I think if I took a brief straw poll from the Planning Board to those who have had that type of pain in their back I think we have a lot of compassion for what you're going through.

MR. FASTERT: A lot of sympathy. And you know it's always doing something like putting your sock on.

MR. SZAREK: On Thanksgiving no less.

MR. WEISS: And so that's certainly understandable and obviously you made a note in your letter that the cold weather is not helping and it makes total sense. So originally we had asked you for 90 days you came to us within that term. I'm going to just turn to you Michael and tell me what kind of time frame do you think you need?

MR. SZAREK: At least until the end of summer, I'm just giving you a ballpark. I'm definitely planning on as soon as it thaws and getting everything moved (inaudible) but again I can't give you a set date because I'd have to first get the guy to actually put it there, the other company. If you seen where it is it's such an (inaudible) as it is and they're not going to move it because they don't want to set it on a soft ground. So I don't want to sit here and say . . .

MR. WEISS: So let me ask you if I was to say can you get it done by August 31st?

MR. SZAREK: Yes.

MR. WEISS: Is that fair enough? I don't know if this was anything that was more time sensitive than that, Tiena I don't know if you recall. Catherine do you recall anything?

MS. NATAFALUSY: I just know the neighbor is concerned.

MR. SZAREK: Don.

MS. NATAFALUSY: I don't know if he spoke to him.

MR. SZAREK: I haven't spoke to him but I will.

MS. NATAFALUSY: Okay, all right because he wants to put a fence up.

MR. SZAREK: Again they're not going to come out and do it until everything is thawed but I will speak to him.

MS. NATAFALUSY: Right I just for the record I know he came in he was concerned.

MR. SZAREK: He should have come over to me.

MS. NATAFALUSY: Yeah I told him.

MR. WEISS: So I think it's fair enough to grant you the August 31 but obviously when you're healthy when you think it's the right time.

MR. SZAREK: As soon as it thaws it will be done, it will be it will be.

MR. WEISS: Because obviously if there's not we'll hear from them.

MR. SZAREK: You won't hear from us again.

MR. WEISS: I'm sure not but we'll certainly create a very nice record. I certainly hope your back feels better it's a terrible pain.

MR. SZAREK: Thank you. Brian?

MR. SCHAECHTER: Catherine when does the building permit expire on the fence?

MS. NATAFALUSY: He hasn't obtained a building permit yet the neighbor.

MR. SCHAECHTER: Okay . . .

MS. NATAFALUSY: He was just telling me he thought he was going to put a fence up in April but that the shed has to be removed before he can fence in his property.

MR. SZAREK: Like I said I'll speak to him.

MR. WEISS: And it might just be done by April anyway.

MR. SZAREK: Right.

MR. WEISS: Okay you'll work that out. I think for the record we'll give you an extension or at least I'll make a request of the Planning Board that we extend the removal of the shed until August 31, 2015.

MR. RUSSELL: So moved.

MR. NELSEN: Second.

MR. WEISS: Anybody else have any conversations? Before I take the vote does anybody in the public have any questions or concerns for the Szarek's? Roll call please.

MS. NATAFALUSY: Henry Fastert - yes
Dan Nelsen - yes
Nelson Russell - yes
Brian Shaechter - yes
Kim Mott - yes
Sandra Stotler - yes
Howie Weiss - yes

MR. WEISS: Good luck.

MR. SZAREK: Thank you very much.

MS. SZAREK: Thank you.

APPLICATION #PB 14-20 – EDWARD NEWHAUSER – (Block 4100, Lot 94)

MR. WEISS: Let's go to our developmental matters, the first one this evening is PB 14-20 Edward Newhauser N.J.S. 40:55D-68 coming in for a certification of a preexisting nonconforming use at 8 Lucas Lane which is Block 4100, Lot 94. Mr. Newhauser if you would sir you'll come up and the attorney will swear you in.

(EDWARD NEWHAUSER SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your address for the record please.

MR. NEWHAUSER: Edward Newhauser (N-E-W-H-A-U-S-E-R).

MS. COFONI: Thank you.

MR. WEISS: Okay so Mr. Newhauser we have some documents in front of us and ultimately the purpose of this hearing is for you to explain to the Planning Board why you feel that the two dwelling qualify for a preexisting nonconforming use.

MR. NEWHAUSER: As much as I know about this, this got started because I was selling the houses and FHA asked about if the place burned down would you be allowed to rebuild it? That's what started this whole thing and I mean they've been there since 1942, the houses, so I mean the town let me put an addition on the second house in the back in 1974 or 1975 I forget when it was and you know they put sewers in and everything else there so I mean that's all I'm asking for if it's allowed to be able to be rebuilt. You know what I mean?

MR. WEISS: I don't know if that's an easy question for . . .

MR. NEWHAUSER: I don't either, I mean I'm just like going by what they asked for and that's how I got involved with this.

MR. WEISS: Okay so why don't you just for the purpose of creating a record why don't you explain to the Planning Board a little bit about your property. I personally am looking at a copy of your survey but why don't you just explain to the Planning Board about your property a little bit.

MR. NEWHAUSER: It's two houses on one property it's like an "L" shaped piece of property and I mean there's nothing behind the second house. Actually the town owns down from it they bought all of that property up. It's just two dwellings on one lot one was my grandmother's house and one was my father's house and he died and I got them, and you know my son lived there for a while but now I kind of like rent them out because I have to pay the taxes and stuff. That's what it boils down to. And now I want to sell them and they're asking me can it be rebuilt you know I guess they won't give a mortgage unless I can say they can be rebuilt, I don't know and I don't know how it works this is new to me.

MR. WEISS: Just one more question about the existing situation, there is two homes there's you said shared septic system?

MR. NEWHAUSER: No they're two separate sewer lines.

MR. WEISS: And access the back home . . .

MR. NEWHAUSER: Goes through the front there's no access to the back house. So I couldn't even subdivide it if you know if you could but the town owns the . . . years ago there used to be a fire lane there and we used to use the fire lane. But then that done away with I don't know how many years ago, the road is still there but the town bought that piece of property because the guy never took care of the fire lane or whatever and they wind up buying the property.

MR. WEISS: Tell me a little bit, I'm looking at the survey your home has an asphalt driveway.

MR. NEWHAUSER: Yes.

MR. WEISS: On that side of the land tell me what is there is there a home on that side of your house?

MR.NEWHAUSER: There's homes on either side.

MR. WEISS: There is homes on both sides okay. So it's kind of landlocked, what about in the back you said that's the . . .

MR. NEWHAUSER: Well that's the one we're talking about the back house is kind of the one that's landlocked. Not the front one it's the back one.

MR. WEISS: Well the back home is certainly in the rear of the first home and the property I'm just trying to get a bigger picture, to the right which is the asphalt side there's a home and that's a developed piece of property.

MR. NEWHAUSER: Right.

MR. WEISS: And the other side of your home, and the only reason I'm saying it that way is because I don't see block and lot numbers but to the side of your home away from the asphalt that's another home.

MR. NEWHAUSER: That's my niece's.

MR. WEISS: Okay that still is another developed piece of property.

MR. NEWHAUSER: Yeah.

MR. WEISS: And to the back I think you just said that's township owned property?

MR. NEWHAUSER: The township does own behind it now yes.

MR. WEISS: Okay. Tiena?

MS. COFONI: I think we need to make an important distinction here, and I didn't catch that I'm glad Catherine did, you said that your being asked whether or not if it burns down you can rebuild. A certificate from this Board saying that your two structures on one lot is a valid preexisting nonconforming use which if they were built in 1942 essentially they were, assuming that they were compliant with whatever requirements were in 1942 which there were likely none. It doesn't mean that if it's burned down that you could rebuild it there, it means that you can continue the use as it exists. And I'll tell you what the statute says, it says and any such structure may be restored or repaired in the event of partial destruction thereof. But if they were completely burned down you would not be able to do that. In order to be able to do that you'd have to come for a variance.

MR. NEWHAUSER: I'm confused at what they want. See I know that the mortgage company is asking this question they said I need to get the certificates. So whatever the certificate we're talking about that's what they're asking for. I have no idea.

MS. COFONI: Okay so if they said a certificate of a nonconforming use.

MR. WEISS: I think that we have to be clear and I'm glad you explained that because I think it's very clear to this Board that your home, your property is a preexisting nonconforming use.

Obviously that means that it was in existence before the current zoning, it's a preexisting and it's nonconforming it doesn't conform to today's use, today's standards but you're not penalized for that.

MR. NEWHAUSER: Right.

MR. WEISS: So you can continue living there as you are and like our attorney says if it was a total loss you just wouldn't automatically come back you would have to apply for a variance.

MR. NEWHAUSER: Yeah and that's . . .

MR. WEISS: So it sounds like it's more than the insurance company or whoever is asking for.

MR. NEWHAUSER: I mean not the insurance the mortgage company that these people are buying or whatever and it kind of doesn't make sense to me but what do I know.

MS. COFONI: If they asked you specifically for a certificate of prior nonconforming use . . .

MR. NEWHAUSER: That's what I think they want.

MS. COFONI: That's what you're here for.

MR. NEWHAUSER: That's pretty much what I want.

MS. COFONI: Then that may be all they need. I just want to make sure you understood that it meant . . .

MR. NEWHAUSER: No I do and I think if I you know like right now, if it burned down right now and it burned to the foundation I wouldn't even be able to put it back up.

MS. COFONI: Correct.

MR. NEWHAUSER: Am I right or wrong?

MS. COFONI: Correct.

MR. NEWHAUSER: So I mean that's what doesn't make sense to me.

MR. SCHAECHTER: Not until you go ask for a variance.

MR. NEWHAUSER: Until you go for a variance right correct.

MS. COFONI: You know the mortgage company may want it to show that it can continue, it's legally able to continue to be used as it is now going forward.

MR. NEWHAUSER: Right, correct.

MS. COFONI: Which this certificate will tell them.

MR. NEWHAUSER: Correct I think that's what they want right.

MR. FASTERT: The sale of the property and two homes you're looking to sell that to a single individual?

MR. NEWHAUSER: Yes.

MR. FASTERT: So you're not asking to you know turn these into two separate lots.

MR. NEWHAUSER: No you can't anyway.

MR. FASTERT: Okay.

MR. NEWHAUSER: You couldn't, if there was access to the back . . .

MR. FASTERT: People ask this all the time, the things you can't do so . . .

MR. NEWHAUSER: No if there was an access to the back road I could probably subdivide the property I guess. But there is no access.

MR. FASTERT: So the two homes would go . . .

MR. NEWHAUSER: Would go together that's what's happening right now. And this certificate they're asking for is . . .

MR. NELSEN: Is there rent being collected on the second home?

MR. NEWHAUSER: Yeah.

MR. NELSEN: Okay there is so that's probably what the mortgage company . . .

MR. NEWHAUSER: Right and I think they want to be able to like she said to be able to continue on with what it is. And then if it did burn down the people that bought it would have to go for the variance.

MR. WEISS: I think we can keep the request very simple. Your asking for us to certify that you have a preexisting nonconforming use and I think based on the age I don't hear any resistance from our attorney I think that is a very simple request that the Planning Board can issue.

MR. NEWHAUSER: I think that's what it is.

MR. WEISS: This is kind of out of the ordinary for us so I would imagine we draw up a resolution next month we can have it or . . .

MS. COFONI: Have we done this prior Catherine?

MS. NATAFALUSY: Well the Zoning Board, when we were the Zoning Board we did certifications, this Planning Board or Land Use Board whatever you want to call us now has not done one of these in quite a few years.

MS. COFONI: And did they, did they do a resolution?

MS. NATAFALUSY: Yes Michael Carroll used to do a resolution.

MS. COFONI: Okay all right so we'll do that.

MR. WEISS: Okay so that's how we'll do that. I don't know if there's a time or the essence but normally what we'll do is we'll take a vote, I'll ask for a motion in a minute after that if the Planning Board approves it in about 30 days there will be a resolution memorializing what's happened you can take it at that point and present it to your mortgage company.

MR. SCHAECHTER: Do you need it sooner than that for the mortgage company?

MR. NEWHAUSER: Probably the sooner the better I would think. Because you know what happened was it was me I goofed things up in the last couple months I didn't get everything in line to come here. And that's probably why it's been a few months anyway.

MS. COFONI: Well if the Board approves it tonight the action is actually taken tonight so you can tell your mortgage company that the action has been taken it's just the physical document.

MR. NEWHAUSER: Well I'll just have to wait for whenever you send me the thing or whatever.

MS. NATAFALUSY: Right. This application . . . .

MR. WEISS: Do you think we can have that on March 12 instead of the 19th?

MS. COFONI: Yes.

MS. NATAFALUSY: This application was filed in October and there was issues with notice and other things so . . .

MR. NEWHAUSER: Right some of it was my fault because I didn't know what I was doing.

MR. WEISS: Okay we'll have it on March 12th if it's approved.

MR. NEWHAUSER: Okay.

MR. WEISS: If anybody else on the Planning Board has any questions I'll open it to the public, if anybody from the public has a question sir you can certainly come there just state your name and address and certainly ask anything you'd like or make a comment.

MR. POZAR: My name is Frank Pozar (P-O-Z-A-R) I'm the owner and my wife Lelia Pozar we own the property at 10 Lucas adjacent to 8 Lucas. We have a couple of questions regarding the property. Do you want to start with that or do you want me to talk about it?

MS. COFONI: I'm sorry I didn't catch your last name.

MR. POZAR: Pozar (P-O-Z-A-R).

MS. COFONI: Thank you.

MS. POZAR: Could I show you our survey and show you how his house sits next to our lot?

MS. COFONI: Sure.

MR. WEISS: Yeah well you can . . . . We're going to mark it.

MS. NATAFALUSY: That's her survey but I don't have a copy.

MS. POZAR: You don't have a copy of mine?

MS. COFONI: No she doesn't.

MS. POZAR: This is mine and we're right next door. This is Mr. Newhauser's properties that are almost on our line.

MR. WEISS: Let me ask you a question, is this an only copy? Do you have other copies?

MS. POZAR: I have other copies.

MR. WEISS: Can we keep this copy?

MS. POZAR: Yes you may

MR. WEISS: I'm going to mark this . . .

MS. COFONI: O-1 or P-1.

MR. WEISS: We'll mark it P-1 with today's date which is 2/19/15 and on what you've just given me I'm just creating a record is . . .

MS. POZAR: Yeah I'm trying to . . so that it will be a little clearer.

MR. WEISS: That's fine. What I'll do is I'll pass it to the Planning Board and what was handed to me is a copy of a survey that Ms. Pozar handed me of her property which is . . .

MS. POZAR: 10 Lucas.

MR. WEISS: 10 Lucas I'm looking for lot and block. I think for the purpose of introducing it its number 10 Lucas which is the home adjacent to the applicant, to the side of the home that the asphalt driveway that I was alluding to.

MS. NATAFALUSY: For the record it's Block 4100, Lot 95.

MR. WEISS: 4100, Lot 95, it might not be important I was just introducing the document. Okay and as the Planning Board goes on we'll take a look. Go ahead Ms. Pozar.

MS. POZAR: Okay so you can see where Mr. Newhauser's garage from his house and his second house are within some parts a foot or so from our line.

MR. WEISS: Yes.

MS. POZAR: But what happened when we bought 10 Lucas Lane, and I have my contract here, I thought we had 100 foot frontage and it shows it right on my contract in Schedule A from the previous survey there being 100 foot of frontage there. I didn't know that 5 foot was given to these people until we decided that we wanted to put a fence up and we went over there and there was all kind of problems as to where the line was. So we found out as it says on that survey, I'll show you the other one I'm so darn nervous.

MR. POZAR: Okay I'll do it. Anyway what happened was . . .

MS. COFONI: Can I just ask you a couple of questions (inaudible). When did you buy your house, what year?

MR. POZAR: Around 2000.

MS. POZAR: Here is the contract of sale it was 2001.

MS. COFONI: 2001?

MS. POZAR: Yeah and on the back of my on my contract to purchase this here is the old survey of the property and it says 100 feet by whatever. So we think all along we're getting 100 foot of frontage you know instead of 95. Actually we pay taxes for a long time on that 100 foot frontage. See they've taken it off, see the survey here you see how they've taken a 5 foot exception off of the side? Because his house was over on our line, you see here?

MR. WEISS: Just a quick question too.

MR. NELSEN: Who took that?

MS. POZAR: We don't know.

MR. WEISS: Mr. Newhauser has never . . . you've never done any action to take or move any lot line.

MS. POZAR: There's a deed with reference there and I never (inaudible). So this is the survey we had to get because those people owned the house for so many years.

MR. WEISS: Okay so you know what I want to do, I don't want to get caught up . . . I'm not going to take this this is (inaudible).

MS. POZAR: Oh I just want to explain so we just want to know where we stand if all of this is passed because we're so darned close too so if I want to sell what's going to happen?

MR. WEISS: Okay so let me explain the process because there's no action by the Planning Board. We're not granting any waiver . . . .

MS. POZAR: I thought you were doing something.

MR. WEISS: I'm going to tell you what we're doing, all we're doing is we're basically saying officially that this is a situation that doesn't conform to today's standards.

MS. POZAR: Right.

MR. WEISS: And you're kind of supporting it by telling us that his home is right next to your property. Mr. Newhauser isn't looking to build anything he's not looking to change anything he's just asking us to make an official record for him to present to his mortgage company that the situation

doesn't conform to today's standards but it's preexisting. And that he can continue to live there the way he is now. So we're not giving him approval to do anything. Mr. Pozar?

MR. POZAR: We do have a question regarding that.

MR. WEISS: Sure.

MR. POZAR: I understand where you're coming from but on that house I believe it has two entrances to it, one entrance is a foot and a half from our property. So conceivably if you're going to use that door to exit that home you have to use our property.

MR. WEISS: Not allowed to use our property for any type of use.

MR. POZAR: Right so what we're requesting is if the house becomes conformable to today's whatever the standards are, if it's allowed and he gets his acceptable variance, I'm okay with that. I don't have a problem with that issue but I would want the guarantee that that property of ours would be protected. Such as either removing the door totally or putting up a fence and a quality like a cyclone fence or something to inhibit anybody from wandering into our property from exiting that home as well as from the garage. The garage also has a door facing our property. See our concern is if we decide to sell are we going to have a problem. So we want the reassurance that if this is granted that we have our protection as well.

MR. WEISS: So let me just give you . . . Land Use is really complicated and sometimes it's confusing. There's no granting, there's no way . . . we're not giving Mr. Newhauser anything. There's nothing that's going to change, so the day you bought your home is exactly what's going on. So his home was very close to your property then and it's going to remain very close to your property. If there's a use, and I'm going to make it up, and certainly you're not saying it is and so I don't accuse you of anything, but if he's using his property that's encroaching on your property he's not allowed. There's enforcement in the township to prevent Mr. Newhauser from using your property for any means that you're not accepting. So we're not granting Mr. Newhauser any special . . . we're not giving him relief, we're not granting, we're doing absolutely nothing except we're memorializing the fact that his home is a preexisting nonconforming use. So it will have no change, tomorrow morning you'll wake up there will be nothing coming, he cannot subdivide, what he can't do now he can't do tomorrow. The day will come, let's say Mr. Newhauser wants to come in and put an addition, he wants to do anything he will have to apply for a variance, you will be noticed of such and you will have every right to say by granting such a variance it's going to impact the quality of my life and you'll make any kind of presentation you like. And the Planning Board would take that into account before we ever granted Mr. Newhauser approval to do anything.

MS. POZAR: So in our certified letter it did say that that's what he was going for tonight.

MR. WEISS: Again it goes back to what I said Land Use is sometimes very complicated which is why I sit next to my lovely attorney because she keeps me in line.

MS. POZAR: Yes that's why we're here because we thought that was . . .

MR. WEISS: Okay well it's always good anytime . . .

MR. POZAR: That's what we thought we were coming here for.

MR. WEISS: What happens is anytime anybody appears in front of the Planning Board the neighbors of 200 feet near the property line need to be notified that there's a discussion, there's a hearing that will affect a piece of land that's 200 feet next to yours. You were notified that Mr. Newhauser is here tonight but understanding that his request has got nothing to do with the development, no plan, no request. And the Planning Board will take no action to either favor him or go against him this evening. And I think that's a fairly good explanation?

MS. COFONI: All it does is it's a legal document that shows what already exists and what already exists is that the houses were built prior to any zoning laws were implemented and therefore legally according to statute they're able to continue to be that way. And that's all this certificate is going to say.

MR. POZAR: But is there a verification to that such as a deed that shows when those houses were built? Or was there a permit granted?

MS. COFONI: The tax records show them from 1942.

MR. POZAR: It does?

MS. NATAFALUSY: I got a tax record from the tax department that said it was built, year built 1942. Normally in a situation like this he you know somebody would come in and say I was there when, I lived there, you know when we had applications before the Zoning Board years ago you know people would come in and say well I rented the place and I lived there and I know it existed prior to.

MS. COFONI: Well and you said your father lived there correct?

MR. NEWHAUSER: Well see what happened was this is how, you're talking about laws and stuff like that, my nieces house which is next door on this side was my grandfather's house. Their house was his sister's house and then my father bought the house in the center back in 1942 and there was like an all of family thing. This is how everything gets confused you know with property lines and this and that. But when the other people owned the house that I think he bought it from . . .

MS. COFONI: When was the second house on your lot built?

MR. NEWHAUSER: 1942.

MS. COFONI: So both of them were built . . . and so your father built two?

MR. NEWHAUSER: Yeah. One was my grandmother's my mother's mother.

MS. COFONI: So did you ever live there?

MR. NEWHAUSER: When I was younger yeah.

MS. COFONI: Okay and what's the earliest date you think you've lived there?

MR. NEWHAUSER: Well I was back in there in the early 1970's, late 1960's.

MS. COFONI: Late 1960's?

MR. NEWHAUSER: Yes but I mean that was (inaudible) my grandmother lived there until she died and that was maybe 1964 or I don't know exactly.

MR. WEISS: So Mr. & Mrs. Pozar as much as you're concerned I can only sit here and assure you that we're taking no action this is a fairly simple and routine request from Mr. Newhauser.

MS. POZAR: So we didn't really have to be here tonight.

MR. FASTERT: It's always better to come if you have a question.

MS. POZAR: But now you know in the future if (inaudible).

MS. COFONI: Just for the record we need to complete the record, the zoning laws went into effect in 1975 so even if we weren't sure . . .

MS. NATAFALUSY: The first zoning ordinance was 1950.

MS. COFONI: 1950?

MS. NATAFALUSY: The first zoning ordinance was 1950.

MS. COFONI: In Mount Olive?

MS. NATAFALUSY: In Mount Olive.

MR. WEISS: Regardless we have enough evidence to help Mr. Newhauser simply confirm what he's asking that there will be no action . . .

MS. POZAR: And if the variance goes through I don't have any problems selling my house.

MR. WEISS: There is no variance.

MS. POZAR: I mean if in fact one does I won't have any problem?

MR. WEISS: Well I just want to let you know that if he ever asks for one . . .

MS. POZAR: I'll be back here.

MR. WEISS: You'll be notified and I can assure you that the Planning Board will be a little bit tougher on Mr. Newhauser to prove why he wants to do what he's doing. But in this case he's simply asking the Planning Board . . .

MS. POZAR: Yeah listen I don't want any problem with my neighbors believe me.

MR. NEWHAUSER: I'm not doing anything I'm bailing out of here, that's all I want to do. I want to go where it's warm. As much as I hate to it's just costly I've got another house I live in Liberty Township so it's got all the taxes on everything so it's enough for me.

MR. WEISS: All right let's hold up a second. Dan?

MR. NELSEN: Question for Tiena.

MS. COFONI: Yes.

MR. NELSEN: If there was a property line dispute what would be there venue for relief of that?

MS. COFONI: That's a private dispute that would be between them and whoever they want to . . title company, their own lawyers I mean the town doesn't get involved in private property disputes.

MR. NELSEN: Okay so if you've gotten a survey from your title company when you first bought the property and there's a 5 foot discrepancy there you may take issue with the title company.

MS. COFONI: We want to be careful not to be careful not to give them any advice.

MR. NELSEN: No I'm just saying how they would pursue it if they needed to.

MR. WEISS: Not an issue for this evening.

MS. POZAR: All right in other words we can go home now?

MR. WEISS: Okay is there anybody else from the public that has any questions for Mr. Newhauser? Seeing none let me close it to the public and Mr. Newhauser do you have any other information you want to give to the Planning Board?

MR. NEWHAUSER: All that I gave you that was it.

MR. WEISS: Good that's fine I think your request was very simple your proof was very obvious. Brian?

MR. SCHAECHTER: I will move to make the motion to accept PB 14-20.

MS. NATAFALUSY: Certification of a preexisting nonconforming?

MR. SCHAECHTER: That would be the one.

MR. NELSEN: Second.

MR. WEISS: Any conversation or questions? Seeing none Catherine roll call.

MS. NATAFALUSY: Henry Fastert - yes
Dan Nelsen - yes
Nelson Russell - yes
Brian Schaechter - yes
Kim Mott - yes
Sandra Stotler - yes
Howie Weiss - yes

MR. WEISS: Good luck.

MR. NEWHAUSER: Thank you.

APPLICATION #PB 15-03 – MICHELE HOWARTH – (Block 8103, Lot 65)

MR. WEISS: Okay we have one final developmental matter and I think that we're waiting for Michele Howarth. It is PB 15-03 Michele Howarth requesting a variance for side yard setback amongst others I think at 6 Nordic Lane Block 8103, Lot 65. Michele good evening.

MS. HOWARTH: Hello.

MR. WEISS: The attorney will swear you in and . . .

(MICHELE HOWARTH SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your address for the record please.

MS. HOWARTH: Michele Howarth (H-O-W-A-R-T-H) and I live at 6 Nordic Lane, Hackettstown it's in Vasa Park, Budd Lake.

MR. WEISS: Okay so like what we do with all the other applications Ms. Howarth is although we have all of the reports in front of us and I'm here I'm looking at your tax map, why don't you explain to the Planning Board why you're here tonight besides the fact that you like to listen to some of these conversations. Explain to the Planning Board why you're here, what you're looking for, what your problems are and we'll continue to help you create a record.

MS. HOWARTH: Well I have a very small house and I have four or five different roofs on it I can pass these pictures.

MR. WEISS: Now have these been previously submitted?

MS. NATAFALUSY: No.

MR. WEISS: Okay here's what we'll do you will start over here with Catherine just for the record you're giving us a series of six pictures maybe?

MS. HOWARTH: Seven.

MR. WEISS: Seven photos we're going to call that A-1 Catherine will mark them.

MS. HOWARTH: (Inaudible).

MS. COFONI: And did you take those pictures yourself?

MS. HOWARTH: Yes.

MS. COFONI: And when did you take them?

MS. HOWARTH: November.

MS. COFONI: November okay.

MR. WEISS: And so we're going to keep them is that okay?

MS. HOWARTH: Sure.

MS. COFONI: November 2014?

MS. HOWARTH: Yes.

MS. COFONI: Okay.

MR. WEISS: Okay so A-1 is seven photos and we'll pass them down to the Planning Board to take a look at them. Okay so you're in the process of telling us a small home which we're looking at.

MS. HOWARTH: Right I want to put one roof level on there and I want to put an addition on my kitchen. Because I have a (inaudible) and it's closed up and if I open my refrigerator door it hits it.

MR. WEISS: Which there's a photo of that.

MS. HOWARTH: And I had to get a 12 inch ceiling fan because a regular one would hit the cabinets when I open them. And my bathroom I only have a foot to squeeze to the sink and the shower to get to the commode and I'm taking care of a handicap person a double amputee in a wheelchair and there's no way I can bring him there. So the house is just too small.

MR. WEISS: Okay so kind of we're looking at photographs . . . I just thought I saw pictures is the bathroom an extension? Was that an extension on the house?

MS. HOWARTH: No.

MR. WEISS: It looks like there's a vent pipe between two other (inaudible).

MS. HOWARTH: Oh the vent pipe is . . . there was a fireplace in there that I took out and a wood burning stove. That was just the chimney I left there from it.

MR. WEISS: Okay. Tell me about your property Ms. Howarth is it . . . do you have a corner lot?

MS. HOWARTH: I guess I'm the first lot down there on that road. It's on 125 acres it's a big lot and I only rent the property I don't own it.

MR. WEISS: Well let's talk about that because that's kind of the nature of living in Vasa Park. That's not unique to you.

MS. HOWARTH: Right.

MR. WEISS: From what I understand Vasa Park for the record the individuals own their home but lease the land. I don't know if that has any legal basis for us but I do understand that you've already ran this by Vasa Park or your . . .

MS. HOWARTH: Right I have a notarized letter they okayed it.

MR. WEISS: Has that been part of the application?

MS. HOWARTH: You took a photocopy I have the notarized one if you'd like that one.

MR. SCHAECHTER: Is it like a 99 year lease?

MS. HOWARTH: I have a 50 year lease, they changed them.

MR. SCHAECHTER: And you're in what . . .

MS. HOWARTH: I have like 33 years left. But I have another house over there and I still have 60 years.

MR. WEISS: Well I think what we . . . Michele you said you had a copy of that letter right?

MS. HOWARTH: Yes.

MR. WEISS: Maybe we should add that just because you're not the property owner and if the property owner being the lodge has given you approval I guess that helps (inaudible) information.

MR. SCHAECHTER: She's not the land owner (inaudible).

MS. HOWARTH: The lots between there are all like 50 feet so nobody could ever build on them anyway. And behind me it doesn't pass a perc tests.

MS. NATAFALUSY: I do have the letter in the file.

MS. COFONI: Oh okay good.

MR. WEISS: Okay so Michele that's fine we do have it. We do have the letter that states that Vasa Park or is there another name they go by?

MS. HOWARTH: Vasa Home.

MR. WEISS: Vasa Home who is the land owner has given . . .

MS. NATAFALUSY: Yeah it says New Jersey Vasa Home Board of Trustees has approved plans recently submitted in connection with the addition you intend to have performed on the above referenced property. Subject to all approvals required by the township.

MR. WEISS: Okay so then that's where we are in this process.

MS. HOWARTH: Here's the notarized one if you like.

MS. COFONI: Oh no that's fine. When you submitted the plans to Vasa Home did it include the deck as well? The proposed deck or just the addition?

MS. HOWARTH: Yes.

MS. COFONI: It was both?

MS. HOWARTH: Yes.

MS. COFONI: Okay.

MS. HOWARTH: I have my architect here too.

MS. NATAFALUSY: Just for the record she submitted plans originally that were a little larger, the addition was a little larger than what you have before you. There was an issue with the Health Department so she reduced the size of the addition and it's just the kitchen and the deck now right?

MS. HOWARTH: Yes.

MS. NATAFALUSY: I sent the new plans over to the Health Department and I got an email from Robert Stahlhut who said they had no objection to the revised plans.

MR. FASTERT: What was the issue?

MS. NATAFALUSY: It was too close to the septic because the lot is so small she couldn't meet the setback requirements.

MR. WEISS: Okay and according to the report that I show the size of your home is the land is 5,000 square feet. In the R-2 zone it needs a 20,000 square feet which is below what's required but the report also tells me that you as well as the last application have a nonconforming structure. I would imagine by the date of the home it's a preexisting do you know when the home was built?

MS. HOWARTH: 1937.

MR. WEISS: So you too, based on what you just explained to us you have a preexisting nonconforming use which means as you heard before you have every right to continue living there the

way you are, the difference is now you're asking us for a variance to do a couple of things to it. So the process is a little bit more complicated than it was for the prior applicant but certainly not something we haven't heard before.

MS. HOWARTH: I could also rent the lot next to me but they won't make it one big lot so I can't put any of my property onto that one. So my will come about a foot from the edge of my property line.

MR. WEISS: Yeah you don't need to testify to that because that's not going to happen, you don't plan to do that so . . .

MS. NATAFALUSY: And the lots are not shown on the tax map. She had told that to me when she first came in and that lot it shows one large lot surrounding you. So there isn't any area that you can.

MS. COFONI: There isn't a lot.

MS. NATAFALUSY: Right.

MS. HOWARTH: There's just three houses on that road.

MS. NATAFALUSY: Right.

MS. COFONI: And in between each house is part of the big property owned by Vasa Home.

MS. NATAFALUSY: Right.

MS. HOWARTH: Right.

MR. WEISS: Okay so I'm just trying to help develop, help you with . . . I asked you a question earlier about is your home on a corner is it a corner lot?

MS. HOWARTH: Well it would be the first house on that corner yes. It's down about 150 feet.

MR. WEISS: I know Nordic is the road what's the main road?

MS. HOWARTH: When you first drive in its Vasa and then you make a left at the stop sign and it goes into Svea and then you make your first right and it's Nordic.

MR. WEISS: Okay so Svea and Nordic is your house on that corner?

MS. HOWARTH: Yes.

MR. WEISS: Okay so you have a corner piece of property.

MS. HOWARTH: No I don't really.

MS. COFONI: No if you look . . .

MR. WEISS: I'm trying to find it I can't tell.

MS. COFONI: It's hard because all of that property surrounding it is owned by Vasa Home.

MS. HOWARTH: Yes.

MR. WEISS: I understand.

MR. SCHAECHTER: She's the first house on the street but not necessarily the corner.

MS. NATAFALUSY: She's that first lot there right.

MR. WEISS: Okay so there's no house there which is not important, understood. Although you're the first house you're not the first piece of property (inaudible).

MR. FASTERT: So you know these lots don't show n the tax map so there is no record as far as the town is concerned about the boundary.

MS. NATAFALUSY: These lots show on the tax map.

MS. COFONI: They show on the tax map.

MR. FASTERT: I'm sorry I thought you said they did not.

MS. COFONI: No in between her and the other houses on the street she was calling them lots they're not lots it's all part of a major piece of property owned by Vasa Home.

MR. FASTERT: Okay so from the town's point of view are these individual lots or not?

MS. COFONI: Yes.

MS. NATAFALUSY: Yes.

MS. COFONI: And they're individually taxed.

MR. FASTERT: Okay.

MS. HOWARTH: On those pictures my property it ends about I think about a foot or so past that patio, the brick patio but I use another 50 feet, 70 feet. But everybody did it you know they just use it.

MR. WEISS: We've kind of established that we have a preexisting nonconforming use the lot is undersized it's a small home and with this project you're asking us for three different variances. The first one is a side yard setback from the principal structure, are you aware . . . if I'm confusing you just tell me we'll explain it. That's a yes I'm confusing you.

MS. HOWARTH: Not yet.

MR. WEISS: Okay so the first variance is a side yard setback from the principal structure, the second variance is a rear yard setback from the principal structure and the third variance request is for building coverage where maximum building coverage is 15 percent and Ms. Howarth is going to . . . her project will bring her to 18 percent. So a small increase in building lot coverage and just for the record if you haven't noticed in the report the side yard setback the addition will take her 31 feet from the rear line and the setback is in the R-2 zone is 40 feet. So there's a 9 foot variation from that and of course the side yard setback of a principal structure the deck will end up being 1 foot from the northerly property line and the minimum side yard setback is 20 feet. So the deck will end up encroaching 19 feet into the side yard setback. So technically none of this I just said is too over the top I just wanted to make sure that the Planning Board is aware of the three variances that you're requesting.

MS. HOWARTH: I'm not going at all out in the back I'm just going straight across.

MR. WEISS: Correct so it affects the side yards. Henry?

MR. FASTERT: Where you're requesting the side yard setback what's the closest home to that property line?

MS. HOWARTH: Probably 200 feet.

MR. FASTERT: And we have confirmation that Vasa is okay with this.

MS. NATAFALUSY: Yes.

MS. COFONI: Oh this must be the old one then Catherine huh. Because it goes around the back, she's not going around the back anymore.

MS. NATAFALUSY: She's not going around the back.

MS. HOWARTH: Oh I have new ones here.

MS. COFONI: Yeah oh no I just had an old one in my file. I'll write old on it.

MS. HOWARTH: I made the deck smaller and I took off the back.

MS. NATAFALUSY: And just for the record for the building coverage without the addition the property is at 14 percent today so she's kind of right there.

MR. WEISS: It's a small addition it's not an over the top addition. That's a good point.

MS. NATAFALUSY: The addition is 144 square feet, 12 feet by 12 feet and then the deck is 58 square feet so it's not you know . . .

MR. WEISS: So what we're trying to do is . . .

MS. COFONI: I'm sorry how much was the deck?

MS. NATAFALUSY: 58 square feet.

MS. HOWARTH: I think right now the house is 720 square feet.

MS. NATAFALUSY: Yeah I estimated 710.

MS. HOWARTH: Oh 710?

MR. WEISS: What we're trying to do and maybe I'll turn to the Planning Board for assistance, we're trying to help Ms. Howarth develop some positive criteria for the granting of such variance. And perhaps maybe . . . tell me about the topography of your lot is there a steep slope?

MS. HOWARTH: No.

MR. WEISS: Is it slightly steep slope?

MS. HOWARTH: No.

MR. WEISS: Totally flat.

MS. HOWARTH: Well it comes down a road, but my road itself is flat.

MS. COFONI: Well you know I think Howie some of it is it's a home built in 1938.

MR. WEISS: Okay.

MS. COFONI: A home built in 1938 710 square feet a small home that's the reason why you want the addition. She has shown with the pictures that it's affecting the functional use of the house is that correct?

MS. HOWARTH: Yes.

MS. COFONI: So certainly that you know helps justify the addition.

MR. WEISS: One of the things I heard from Ms. Howarth and it's something that I'm aware of is that this kind of is an exceptional situation at Vasa Park where there's never an applicant that comes in front of us that owns their home but only leases the land. And that's kind of an exceptional situation at Vasa Park she doesn't really have an opportunity to buy the land next to her to help her so your kind of in a bad position because even if you were in a position to purchase the next lot you can't. And even if you could you can't merge your two lots so you're kind of trapped. Is that an accurate statement?

MS. HOWARTH: Right.

MR. WEISS: So perhaps that's an exceptional situation that makes the variance request a little bit more tangible here because that certainly shows some positive criteria. And I suppose I can ask the question two ways by putting on this addition do you think it helps the neighborhood? Will there be a benefit overall?

MS. HOWARTH: Well aesthetically it would look better. You know I mean I have a flat roof and then it goes down then I have another roof that comes this way and with all of that ice up there I've got to get up before the ice goes down into that "V".

MR. WEISS: That's very helpful. So your addition will kind of give us . . .

MS. HOWARTH: I want to put one roof on there, one level.

MR. WEISS: Well that's actually very positive. So your addition so that will be under the C-2 qualifier that . . .

MS. HOWARTH: I'm just looking to make the kitchen and the bathroom a little bigger.

MR. WEISS: I don't think there's anybody on the Planning Board that has concern for you that you get this it's needed. It's our job to do it according to the laws that are in front of us and so we're working on it and I think we're coming to a real nice . . . we can really digest this because I think I like what you just told us that your addition will create one more aesthetically pleasing roof line. And that's kind of a nice positive for the neighborhood would you agree?

MS. HOWARTH: Yes.

MR. WEISS: Okay so then I would say to our attorney I would say that the applicant just proved very convincingly that she's met some positive criteria to request a variance. Which would turn you to the negative criteria which I'll go ask the same question, do you think that this addition would have any negative benefit on the neighborhood?

MS. HOWARTH: No.

MR. WEISS: Would there be a detriment to the community?

MS. HOWARTH: No not at all.

MR. WEISS: And your answer to that question was no.

MS. COFONI: And here you know Howie if I may jump in, you know it's really, really a unique situation as far as detriments go because we're going to have a deck that's 1 foot off the property line. However in this particular case if you look at the survey she's surrounded by you know I don't want to say public property because it's not public, but this general open space owned by this Vasa Home. So she doesn't have neighbors next to her that are going to be affected by this.

MR. WEISS: And the record should show that there's nobody here in the audience to object to her and we'll open it to the public in a minute. But I would imagine that if your deck is one foot from the property line affected somebody's quality of life they would come here and speak to us about it. And there's nobody here for that.

MS. HOWARTH: The reason I needed the deck because I'd have to put a ramp to bring the wheelchair up. I can go in the sliding doors.

MR. WEISS: That's actually a very interesting thing I would imagine that that would also fall under the positive criteria because there's a hardship.

MS. HOWARTH: Because I mean that's the only reason I need a deck I don't even have to make it 5 feet as long as it's 3-1/2 feet just enough to turn the wheelchair.

MR. WEISS: Well I think that's certainly its helpful testimony.

MR. RUSSELL: That deck is how far off the ground?

MS. HOWARTH: Well it's only going to be about maybe 2-1/2 feet.

MR. SCHAECHTER: And is your ramp going to stick out from beyond that deck?

MS. HOWARTH: No I have a portable one. I have one of those metal ones that fold up that I take it up and down right now it's buried in snow.

MR. WEISS: Well I think we've exhausted that and I think I'm very satisfied with the testimony that Ms. Howarth gave us. And if nothing else you know something I didn't touch upon at first the fact that she needs this addition to care for a handicap individual and you know what that's also a hardship and something that I think we can be comfortable with. Anybody on the Planning Board have any other questions for Ms. Howarth? At this point let me open it to the public if anybody from the public, and there's nobody here, has any questions for the testimony given? Seeing none we'll close it Ms. Howarth do you have any other testimony you want to share with us?

MS. HOWARTH: No.

MR. WEISS: Anybody else from the Planning Board? Okay so I think we can move forward. I believe that the applicant has proven both the positive and negative criteria which is her obligation to do so and she's done so very satisfactorily. If somebody would like to make to make a motion?

MR. RUSSELL: I'll move that PB 15-03 be approved.

MR. FASTERT: Second.

MR. WEISS: I don't hear any conditions.

MS. COFONI: No there will be some general conditions but nothing . . .

MR. WEISS: No specific conditions.

MS. COFONI: No.

MR. WEISS: And of course if the Planning Board approves this Ms. Howarth it will be the same thing in about a month we'll have the resolution memorialized and then you can take that resolution and start your building process. So hopefully that works within your time frame I would imagine the frozen ground will not be your friend for a little bit but the Planning Board if we approve it in the next couple of seconds will have a document for you in a month. So with that being said Catherine roll call.

MS. NATAFALUSY:

Henry Fastert	- yes
Dan Nelsen	- yes
Nelson Russell	- yes
Brian Schaechter	- yes
Kim Mott	- yes
Sandra Stotler	- yes
Howie Weiss	- yes

MR. WEISS: Michele good luck to you.

MS. HOWARTH: Thank you.

MR. WEISS: Hope it all works out well. We have nothing left on our agenda I just want to remind everyone that our next meeting in March 12 we currently have one application its Roadranger and Roadranger I believe that we're down to one expert testimony which is their planner. I would like to believe that they will end it on the 12th although I'm just giving an opinion. The only reason I bring it up is only because I do hope that everyone on the Planning Board takes some time review your notes it's been a fairly long application there might be some testimony that you want to review because of course at the end of the day you might be asked to vote. And if you do I just want you to make sure that everything you vote upon is based on your notes and recollection of the hearing. I don't really want to have a conversation about it but just remind everyone that it is on the agenda it's the only application on March 12th unless we add something. Catherine you don't think we'll add anything?

MS. NATAFALUSY: No.

MR. FASTERT: Catherine you'll let me know if there's something added?

MS. NATAFALUSY: No I'm not planning to add anything the March 19th will be the next meeting.

MR. FASTERT: Okay.

MS. NATAFALUSY: The only thing we're doing that night Henry is resolutions but . . .

MR. WEISS: You might as well stay home.

MS. NATAFALUSY: Yeah.

MR. FASTERT: I mean I'm five minutes from here so it's not a big deal but I'll leave it up to you Howie.

MR. WEISS: Well I certainly won't bring you out because you'll have to step down the second we get past the (inaudible). So you might as well stay home. Kim the same thing I think at this point . . .

MS. MOTT: Oh not I want to listen.

MR. WEISS: And Sandy I know you're an alternate but you know it depends on the attendance.

MS. NATAFALUSY: I need certification from Sandra and Dan.

MS. STOTLER: So that letter that you sent me I have that signed. I've just got to bring that in?

MS. NATAFALUSY: Yes.

MS. STOTLER: Okay.

MS. NATAFALUSY: And Dan I need certification from you that you read those October 9 meeting the minutes before you can vote.

MR. NELSEN: Right.

MS. STOTLER: It was just for the one meeting.

MR. FASTERT: And Catherine I assume if something changes you'll just let me know.

MR. WEISS: Yeah we'll know before . . . you know take a look at the mailing Catherine sends. Let me make a motion to adjourn.

MR. SCHAECHTER: I'll make a motion to adjourn.

MR. WEISS: Thank you. All in favor?

EVERYONE: Aye.

(MEETING ADJOURNED AT 8:00 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department