

Meeting was opened by **Ron Palmieri**, Chairman.

**Mr. Palmieri** read a statement of compliance with the New Jersey Open Public Meetings Law as follows:

*This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Asbury Park Press and The Coaster.*

**Mr. Palmieri** then led the meeting in a salute to the flag.

### ROLL CALL

Present: Messrs. Palmieri, Slazyk, LaValle, Diamond, Lomangino, Moafi and Battista

Absent: None

Also present: Mr. Hirsch, Board Attorney  
Mr. Staiger, Board Engineer  
Mr. Gleitz, Board Planner  
Mr. Gotfredsen, Board Secretary

**Mr. Palmieri** then read a statement of procedural guidelines.

3230 SHAFTO ROAD ASSOCIATES, LLC	BA 2007 - 07
3230 SHAFTO ROAD	BLOCK 145 LOT 26.01
APPEAL OF ZONING OFFICER'S DECISION/USE VARIANCE & SITE PLAN	
CARRIED FROM AUGUST 2, 2007	
<b>CARRIED TO SEPTEMBER 20, 2007</b>	

JENNIFER LARSEN	BA 2007 - 15
56 CHARLES DRIVE	BLOCK 124.41 LOT 3
BULK VARIANCES FOR POOL	

**Jennifer Larson**, the applicant, came forward.

**Mr. Hirsch** advised he reviewed the affidavit of publication and proof of service and found them to be in order as to form.

A motion to accept service in the Larsen matter was offered by Mr. LaValle and seconded by Mr. Lomangino. A voice vote in favor was unanimous.
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**Ms. Larsen** was sworn in by Mr. Hirsch.

**Ms. Larsen** stated she was before the Board to attempt to get three variances for installing a pool. She advised she was seeking a rearyard setback of one foot more than what's allowed, a sideyard 2 feet more than what's allowed. Also since the pool would protrude into the sideyard, that's another variance since a pool is only allowed in the rearyard.

**Mr. Palmieri**, referring to Ms. Larsen's submitted site plan, asked in looking at your house from Charles Drive, directly to the right side of your property, Lot 2, how close is that house to your common property line.

**Ms. Larsen** replied it is 30 feet, from the fence to their dwelling.

**Mr. Palmieri** said going to the rear of your property, it looks like Lot 11, how far is that dwelling to your rear property line.

**Ms. Larsen** replied that would be the east and that's about 100 feet. There's currently a 6 foot fence.

**Mr. Palmieri** asked with the proposed pool, are you going to have a 6 foot fence around the entire rear of the property.

**Ms. Larsen** replied not the entire rear. My house backs into two. The people on Lot 11 put up the 6 foot so I have a 6 foot section there. The people on Lot 10, they still have a 4 foot picket. We don't want to replace that.

**Mr. Palmieri** said I guess Code requires that it has to be at least 4 feet. Is that it.

**Ms. Larsen** stated they have a pool in their yard too.

**Mr. Palmieri** asked how close is that pool to your common property line. Do you have any idea.

**Ms. Larsen** replied they're about 11 feet from my fence. The water is.

**Mr. Palmieri** said alright going back to your property, where the pool is located. I guess the big question is – the reason for putting the pool in the position that you have it in now as opposed to putting it directly behind the house.

**Ms. Larsen** stated if you put it directly behind...do you see the patio that I have. I don't want to walk out into the pool area. If I put it back over to the side area, you're not going to walk into the pool and have to go around it. I have two boys, ages 10 and 12, and I've got two Labs. But, with the boys, it's a safety concern for me. Now, having the pool over to the right side of the yard also allows me to fence it off...with just one additional fence if I choose to do...but at least to space it off. And also it's over there with the 6 foot height of the fence...because on the right side, the 6 foot fence is also going up...and

the 6 foot is going to go on that side of the front part of the yard as well...which is on the drawing.

**Mr. Palmieri** asked is that fence owned by you.

**Ms. Larsen** replied that fence is mine. It's on the permit to replace after the pool is put in...because I don't want people driving by looking into the pool.

**Mr. Hirsch** said well, the side line on Lot 2 says "existing 4 foot wood picket fence." Alright, so is that being replaced.

**Ms. Larsen** stated yes, because that's my fence.

**Mr. Hirsch** asked alright, so that's going to be a 6 foot you're proposing there.

**Ms. Larsen** replied yes. That's because the neighbors want the 6 foot so we're ...

**Mr. Hirsch** asked is that going to be a board-on-board fence or what kind of 6 foot fence.

**Ms. Larsen** replied you can't see through it looking on. It's got the air between. It's not picket. I don't know what you call that. I should have brought it with me. It would be considered a privacy fence.

**Mr. Hirsch** said alright so that's going to be a 6 foot running in the area shown on the plan, the darkened area.

**Ms. Larsen** replied right.

**Mr. Hirsch** continued and then coming across from the side property line of the house, that's also going to be 6 foot there.

**Ms. Larsen** replied absolutely.

**Mr. Hirsch** stated and then along your rear line, you said on Lot 11 there was an existing fence there that belongs to your neighbor.

**Ms. Larsen** replied that is existing 6 foot. He put it up because he owned that fence when they moved in a few months ago and that is board-on-board. I mean I could extend that one but I don't like that one.

**Mr. Hirsch** asked so you're not going to have a fence on your property along there.

**Ms. Larsen** asked do I need one.

**Mr. Hirsch** stated I think you might. I don't think the Board of Health will count a fence on someone else's property because you can't control that. They may decide to take it down.

**Ms. Larsen** said but then you'd have fence against fence. I haven't never seen that. Mr. Lomangino stated it's a stupid town rule. They just made me do it.

**Mr. Hirsch** said the Board understands your point. It's just a technical question whether you're allowed to count a fence in someone else's property as the fence under the health regulations, the safety regulations, as a fence around your pool. That requirement...I mean this Board has no jurisdiction to do anything about. Do you follow me. So you're going to have to get that answered.

**Ms. Larsen** asked who would I ask that question to...because I know we did ask about the lock.

**Mr. Lomangino** stated let me help you. They just made me do it. The town. What I did, to get away with it, because like you said it looks really stupid when you put two fences right up next to each other...besides the grass that grows literally 6 feet in between that little bit. I put a black plastic chain link fence right up against my neighbor's fence...so you really can't even see it...but the town's going to make you do it when you get further along in this process. The reason that they gave me is if your neighbor moves out or decides to take down his fence, that leaves your pool open with no security. You would think the law would say "if they remove their fence, you might need to put up a fence" but it doesn't. They make you put the fence up. So I put up a cyclone fence. You know the black plastic cyclone fence. I put that up. I just went through it. That's how I know.

**Mr. Hirsch** asked that regulation...John raises the question...that's a Board of Health regulation. Is it not...that you must have at least a 4 foot fence around a pool. It's not in our zoning regulations so it's not something we can grant a variance for. That's my concern. That's why I brought it up. So the applicant doesn't think it's okay...as Charlie just said...she goes to get a permit and then finds out there's another problem.

**Mr. Lomangino** stated Lori...Lori Paone...we just went through it and she said there's nothing she can do about it either.

**Mr. Hirsch** said that's what I thought. I didn't think it's something we have jurisdiction to do something about. I mean we can grant you variances for a fence in the frontyard or the height of the fence but not on a safety regulation around a pool.

**Mr. Gotfredsen** stated she normally refers people to the Building Department with questions about the fence around the pool. She doesn't handle that.

**Mr. Hirsch** said if they'll let you do it, then so be it...but that's who you have to get it straightened out with. That one section we're talking about.

**Mr. Lomangino** stated when they come out to inspect your pool, they'll tell you.

**Mr. Hirsch** said and you hear that one of our Board member had his own experience apparently with that.

**Ms. Larsen** said okay but it's not going to keep me from building the pool.

**Mr. Hirsch** replied no. It's not going to prevent us from going forward with everything else tonight. We're just trying to point that out to you so you know that you might have to deal with it. Alright, so along Lot 10 you have an existing 4 foot fence. Is that correct. To your rear line.

**Ms. Larsen** said I do. It's a 4 foot picket with a gate.

**Mr. Hirsch** asked and then coming down your side line on Lot 4, is that an existing fence.

**Ms. Larsen** replied a 4 foot picket. Yes.

**Mr. Hirsch** said alright and then that comes where...back into your house to fully enclose the backyard.

**Ms. Larsen** replied yes.

**Mr. Palmieri** asked on Lot 2, the adjacent property, where you're looking to put the pool, does your neighbor on Lot 2 have a pool at all.

**Ms. Larsen** replied no. They're waiting to see the process I go through...which is why they want the 6 foot fence.

**Mr. Palmieri** said alright. Going to the other side, which would be Lot 4, which would be if I was facing your house, would be to the left...just for the record, how close is that dwelling, would you think, to your common property line.

**Ms. Larsen** replied 30 feet. They're about the same (as the other side).

**Mr. Palmieri** asked do they happen to have a pool at all.

**Ms. Larsen** replied oh, no. It's an older couple...very, very nice...a 4 foot picket fence between us. They know about the plans.

**Mr. Palmieri** said getting back to the location of the pool...so you're looking to put the pool...let's work on the rear of the lot, the rear setback first. Where 12 feet is required from the water line, you're saying it's going to be 11.

**Ms. Larsen** replied 11 where 12 is required.

**Mr. Hirsch** asked that's to the water, not the walkway.

**Ms. Larsen** replied right.

**Mr. Palmieri** stated and the walkway is going to be 3 feet wide...there's no problem with the walkway, is there.

**Mr. Hirsch** asked doesn't it have to be 9 for the rear.

**Mr. Gleitz** replied this is in the R-3, R-4, it would be 9.

**Mr. Hirsch** said if you're 11, it can't be 3 feet.

**Mr. Palmieri** stated it's 8 feet and 9 feet is required.

**Mr. Hirsch** asked the violation, is it only in the one corner because the lot line goes at an angle.

**Ms. Larsen** replied yes.

**Mr. Palmieri** asked so it's not the whole pool. It's just the one corner of the pool that would be over the regulation.

**Ms. Larsen** replied right. We had to go the shortest distance. We took it as long as we thought we could.

**Mr. Hirsch** said so either the Board considers a variance for the walkway or the walkway would have to be tapered in the area to meet 9 feet. Do you follow me where the lot line angles...in that small area. I don't know what the calculation is but roughly a very small percentage of it would be 8 feet.

**Mr. Palmieri** asked let me ask a technical question. If that wasn't part of the notice, would that be considered falling under the "and any other variance..."

**Mr. Hirsch** replied I think the notice telling the location of the pool, the water and the pool, showing it on the plans...I think that's sufficient.

**Mr. Palmieri** replied okay. Alright. So we got water in the rear property line 1 foot over the requirement...and the walkway being 1 foot...not on the whole rear of the pool, just in the area closest to the south corner of the property. Alright, on the sideyard, the distance to the pool, edge of the water to the property line, is 10 feet where 12 feet would be required. And the same thing with the walkway, I guess. The walkway would be 9 feet required and 7 is being requested. Alright. I'm going to ask if the Board members have any questions.

**Mr. Slazyk** asked with regards to the shed...you have an existing shed, 8 X 10.

**Ms. Larsen** replied oh, no. That's gone.

**Mr. Slazyk** said okay but in here it says "to be removed and re-located."

**Ms. Larsen** stated it was. It's been.

**Mr. Slazyk** asked okay, where is the shed now.

**Ms. Larsen** replied if you go to the opposite side of the property...

**Mr. Palmieri** said I see what it says. John, you see in the south end corner over here...

**Mr. Slazyk** replied I see it. I have another question though. With regards to the shed, did you put the shed in.

**Ms. Larsen** said yeah, we put the shed in.

**Mr. Slazyk** asked did you get a permit for the shed and is the shed considered part of the lot coverage that you already have.

**Ms. Larsen** replied because we torn it apart and put it back together. I think it's more like 6 ½ X 10. We shortened it just so it would fit where we wanted it to fit.

**Mr. Palmieri** said just so we're clear I guess the distance the shed is from the common property line...it says "3 feet." Is that correct.

**Ms. Larsen** stated oh, yes.

**Mr. Palmieri** said that is 3 feet in that area.

**Mr. Slazyk** asked yeah, but does that put that lot coverage over. How does that all fit into this.

**Mr. Palmieri** replied it's been calculated in. Do you have that calculation sheet, John. It's already there.

**Mr. Slazyk** said sorry. Didn't see it. Just wanted to make sure it's there.

**Mr. Palmieri** said and I think the percentage comes up to 39.57 percent where 40 percent is allowed.

**Mr. Slazyk** asked with regards to the rear left hand side of the property...where the shed is now...what is the actual...from your existing concrete patio to the back fence...how many feet is that.

**Ms. Larsen** asked from my concrete to the back fence...straight back. Can I guess.

**Mr. Lomangino** asked Paul, can you measure that for us.

**Mr. Gleitz** answered I don't have a plan.

**Ms. Larsen** supplied Mr. Gleitz with her plan.

**Mr. Gleitz**, after measuring, stated the closest is about 40 feet and its furthest, about 44. Is that what you wanted to know from the concrete pad.

**Mr. Slazyk** replied yeah. Let me ask you...you don't really show the rear door...how you actually leave the back side of your home. Is it only through the existing concrete patio.

**Ms. Larsen** replied yes, facing Lot 4.

**Mr. Slazyk** asked and there's no doors on the other side.

**Ms. Larsen** replied there's no doors. There's a bay window facing the back. There's a double window and then the office has a single window...oh, and the bathroom window.

**Mr. Slazyk** asked so there's no door on the side of the house towards Lot 2.

**Ms. Larsen** replied no. Only towards Lot 4.

**Mr. Slazyk** said let me ask you...I mean, we're trying to fit a lot into this yard. I look at it and I see the pool should be behind the actual house and not kind of tucked into this little corner over here.

**Ms. Larsen** replied but then I lose all my running room. I lose all the space for the boys to walk around. I mean I don't want them to go out the door and have to walk around the pool, especially since we're in New Jersey and we're seasonal...so it would be closed up a good part of the time.

**Mr. Slazyk** said but I mean I look at the back yard...okay...and I look at how long children will be in the back yard after a period of time. It's only going to be for a limited amount of time vs the actual time that that house is going to be there on that property. Now that house is going to be on that property with that pool in that back yard and the bordering properties forever...or for at least as long as that pool's there which is probably going to be a lot longer than the kids will be playing in the back yard. I somewhat have a problem with that. I think that the pool should be more towards the back of the yard instead of stuck in the actual side of the corner of the lot.

**Mr. Palmieri** asked parallel or perpendicular.

**Mr. Slazyk** replied like a pool would normally be going in there. A pool would be going in where the topsoil would be...it would be going left to right being the longways and

then the short way...I think you'd probably cut back on all these variances that you actually have.

**Ms. Larsen** said but then I wouldn't get use of the right side of my yard...and I'd have to take a lot of trees down...which I don't want to do.

**Mr. Hirsch** stated you'd lose a lot of the yard.

**Mr. Palmieri** asked are there any trees existing in the pool area where you want to put it now.

**Ms. Larsen** replied no. Well, there's one big one I'm hoping not to lose but I think they're just going to try to just dig up to it.

**Mr. Hirsch** stated let me clarify something. Paul, you have your scale. From the rear property line is there some point at which the pool surface meets the 12 feet requirement...because of that angled rear line. Is there some point that it actually does hit 12.

**Mr. Gleitz** replied yeah. To the right side, you've got a distance of about 15 feet and as you move in, you hit that 12 foot spot...the water itself...if the drawing's accurate, the water never gets to within 12 feet.

**Mr. Palmieri** said because I'm looking at that thing...what's that 11.86...is that more accurate of what the number exactly is.

**Mr. Lomangino** stated yeah. To the corner, do you see it.

**Mr. Gleitz** said it scales out to be a little over 12.

**Mr. Hirsch** asked what, the water. Based on that, it wouldn't even need a variance.

**Mr. Gleitz** stated but this a hand drawing on a sheet of paper.

**Mr. Hirsch** said I understand. I'm just trying to get a sense so the Board can understand the scope of at least that variance...in other words, but for that angled rear property line, a vast majority of the pool, even with the angle, it reaches 12 feet or better.

**Mr. Gleitz** stated it seems to be about that...about 12 foot. It's not much over. And the patio, if the scale's correct, seems to be 8 feet...8 ½.

**Mr. Hirsch** asked at its closest point.

**Mr. Gleitz** replied yes, at its closest point.

**Mr. Hirsch** said so even most of that would meet the requirement as would the water to the rear.

**Mr. Gleitz** stated as to the 12 foot, it's about halfway through the steps is where you get to 12 feet.

**Mr. Hirsch** said but the sideyard is a straight line, so that whole thing is going to be 2 feet short.

**Mr. Gleitz** stated again, it seems awfully close. The water's edge appears to be about 12 feet, scaled out.

**Mr. Hirsch** said and they're saying 10.

**Mr. Gleitz** stated the patio appears to be about 8 ½ to 9 feet, scaled out.

**Mr. Hirsch** said so again the survey may not be that accurate.

**Mr. Palmieri** asked what's the size of the pool.

**Ms. Larsen** replied 14 X 28.

**Mr. Palmieri** said and then if you add 3 feet on both sides for the apron that goes around...

**Mr. Gleitz** stated you know, the pool scales out to be 13 X 27 ½ on the plan.

**Mr. Hirsch** said so I think we have to go with what the applicant is requesting for relief, but even with that, I think, on the rear property line obviously a majority of the pool probably meets the Ordinance requirement both in the walkway and the water. On the side, of course, it doesn't because there's no relief from the angle of the line. And then the other variance is part of the pool because it comes past the rear of the house there, it's considered the sideyard.

**Mr. Slazyk** asked so what are the variances again.

**Mr. Hirsch** stated part of the pool is in the sideyard, instead of all in the rearyard. The setback to the water on the sideyard is...well, forget how it's scaled...it's proposed at 10 feet instead of the required 12 and the walkway is proposed at 7 feet instead of the required 9. And to the rear, a small portion of the pool water is set back 11 feet instead of the required 12 and a small portion of the walkway is set back 8 feet instead of the required 9. That's the relief being asked for even though it's scaled a little differently.

**Mr. Palmieri** asked so would they even be able to...I'm just trying to think where on the property they could stick this and not run into variance problems. I don't see any configuration you put...even if you, like John said...if you move it to the other side,

you'd have to be at that closest point...at that 40 feet...you're going to have to have it 12 feet in, so you're down to 28 feet and then the pool would be into the patio, if you do it longways.

**Mr. Slazyk** replied I'm not saying longways.

**Mr. Palmieri** said if you do it the other way, I would think the other side of the pool would be right up against the house. And I don't think that's really a huge pool, 14 X 28.

**Mr. Gleitz** stated from the corner of the house it appears to be 33 feet at its closest to the rear lot line. So you have the 32 feet...you'd need to have the 12 foot setback plus 20 foot of pool and patio...so in that depth, you would, and for the width, you should be able to fit that in there.

**Mr. Hirsch** said but you'd be right up by the house.

**Mr. Gleitz** stated but then you'd take up the entire rear yard behind the house.

**Mr. Hirsch** said you have walk around area but not a lot of access area...which I think is the applicant's position...so you have to make that determination.

**Mr. Palmieri** asked if any of the Board members had any additional questions. There were none.

**Mr. Palmieri** opened the floor to the public for questions or comments. Again there were none.

The applicant had nothing further to add.

A motion to close the public portion of the Larsen application was offered by Mr. Diamond and seconded by Mr. Lomangino. A voice vote in favor was unanimous.

A motion to approve the variances in the Larsen matter was offered by Mr. Lomangino and seconded by Mr. Diamond.

**ROLL CALL**

Yes: Messrs. Lomangino, Diamond, Palmieri, Slazyk, LaValle, Moafi, and Battista

No: None

Abstain: None

USE & BULK VARIANCES & SITE PLAN APPROVAL  
CARRIED FROM JULY 19, 2007

**Jennifer S. Krimko**, Esq., came forward on behalf of her client.

**Ms. Krimko** stated at the last meeting the applicant put forth the affirmative testimony with regard to the engineer as well as our professional planner and we went through the letters of your engineer and your professional planner and I believe that there were really two issues that you still wanted us to go over in greater detail. One of which was the safety of the existing ingress and egress at the site. You had wanted us to investigate accidents in that area and the other was just to more thoroughly go through the signs. Since that time we actually have slightly modified the sign and we're actually reducing it in size a little bit and changing the reader board. It's not any longer a typical reader board. It's more of a sign panel and we'll introduce that into evidence and I believe that those are the only two issues that were left open. I see Mr. Lomangino shaking his head. So with that, I would like to recall Mr. Kenderian. He was sworn at the last meeting. He remains under oath. Do we have a board with the new sign on it, Rich.

**Mr. Kenderian** replied yes.

**Ms. Krimko** said okay, why don't we move that into evidence.

**A-13 Proposed sign with graphic reader board**

**Ms. Krimko** stated Rich, if you could take a moment and walk the Board through what we previously proposed and now what we're proposing by way of signage.

**Mr. Kenderian** said we were previously proposing the existing sign with a reader board attached to it. It would be a total of about 60 square feet. We've decided to place a new sign, a smaller prototypical McDonald's sign of 24.3 square feet and a smaller reader board, or panel board, at 16 square feet with a total of 40.3 square feet. So it is just about conforming where 40 square feet is permitted. We are 3/10s of a foot over that. So it's a de minimus amount.

**Ms. Krimko** asked is the location of this sign going to be the same.

**Mr. Kenderian** replied yes.

**Ms. Krimko** said and the reader board, my first question was when I saw it, whoa, that looks like it's a computer...and the answer is no, it's not a computer. It's actually a panel with a manual panel insert that has to be changed manually. Correct.

**Mr. Kenderian** replied yes.

**Mr. Krimko** said okay, so they're prefabricated panels that would just really change the message that go on the sign.

**Mr. Slazyk** asked what are you using the reader board for.

**Mr. Kenderian** said well, we have operational testimony on that. However, it's my understanding it could be used for either specials or announcements.

**Mr. Palmieri** asked is that like a reader board like in a gas station where they can change the letters.

**Ms. Krimko** replied no, actually the panels themselves change. I believe it's broken down into 4 separate panels...so they have to be prefabricated. It's not like you can just go in and change the letters like you have at your library or your firehouse.

**Mr. Slazyk** said but that's the panel. What about the...I think he's asking about the reader board.

**Ms. Krimko** stated no, that is the reader board. We're calling it a reader board. It's not really a reader board.

**Mr. Battista** said they've got a "big mac" deal that month. It's going to be the promotion for it.

**Ms. Krimko** stated as you can see, this breaks down into 4 panels. You actually insert them. It's not letters.

**Mr. Slazyk** said okay. So it's not going to be like a digital reader board.

**Ms. Krimko** stated it's a sign. It's an illuminated sign that we can change the message.

**Mr. Slazyk** said so it's not a reader board.

**Mr. Kenderian** replied no.

**Mr. Lomangino** said so who confused us and called it a reader board.

**Ms. Krimko** stated well, in the original application...

**Mr. Lomangino** said it was a reader board.

**Mr. Slazyk** stated we've eliminated the reader board.

**Ms. Krimko** said yes.

**Mr. Slazyk** stated and we're going with advertising panels.

**Ms. Krimko** said yes.

**Mr. LaValle** stated illuminated signs.

**Mr. Palmieri** said that don't change once you put them up there. They just stay there until somebody gets on a ladder or uses a stick and changes them.

**Ms. Krimko** replied correct.

**Mr. Gleitz** said some of the prior testimony was that it might used to promote local events and those types of things. Is that still part of the proposal.

**Ms. Krimko** stated yes. It certainly could be.

**Mr. Gleitz** asked and how would that be done.

**Ms. Krimko** replied the panels would be prefabricated based on what event was happening and they could be put in the board.

**Mr. Kenderian** said they're simply lexan. It's a lexan panel. If you wanted to put an announcement "Congratulations, Tinton Falls" or something like that. It's a blank translucent, like white or beige, translucent panel...and they would simply put on plastic letters. You write what you want. They cut out the letters. They stick them on and slide the panel up.

**Mr. Lomangino** asked how long does that process take. That's what we're concerned about. What I'm concerned about anyway. That somebody can't in 15 minutes be changing those signs.

**Ms. Krimko** replied no, no, no, no, no. This is something that has to be pre-made.

**Mr. Lomangino** said right. Okay.

**Mr. Palmieri** asked I guess it would probably be changed once a day at the most.

**Ms. Krimko** replied I don't know.

**Mr. Kenderian** replied I don't even think that often.

**Ms. Krimko** said my client has advised, although not sworn in, that it would be changed approximately every 6 weeks for new promotions.

**Mr. Slazyk** stated and the promotions are strictly for McDonald's.

**Ms. Krimko** said for McDonalds or in the event, for example, as he testified at the last meeting, a community blood drive or some other community event, that McDonalds was supporting or using the facility for, he would possibly use it for that.

**Mr. Slazyk** stated thank you.

**Ms. Krimko** asked any more questions about the sign.

**Mr. Gleitz** asked what's the height to the bottom of the panel.

**Mr. Kenderian** replied approximately 7 ½ to 8 feet.

**Mr. Gleitz** stated I think there's a minimum requirement of clearance underneath.

**Mr. Kenderian** said I will say that the clearance on this particular will be greater than what was previously proposed, although I don't know what that was. It was a larger sign obviously.

**Mr. Lomangino** asked how about compared to what's there.

**Mr. Kenderian** replied compared to what's there now...it would be possibly a little bit lower...not much...maybe a foot.

**Mr. Gleitz** asked to the top of the sign.

**Mr. Kenderian** replied to the top of the sign...15 feet.

**Mr. Gleitz** replied it is compliant.

**Mr. Hirsch** asked anything else from Mr. Kenderian. I was opening it up if the Board had any questions with regard to the sign. I'd move on to the ingress and egress drives. Mr. Kenderian...and you know what...I'm going to actually move this into evidence.

A-14 Fax from the Borough of Tinton Falls Police Dept. dated 8/15/07 consisting of 9 sheets re: crash data for area of 588 Shrewsbury Avenue
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**Mr. Palmieri** asked is that just concerning the location around the McDonalds or is that the whole Shrewsbury Avenue.

**Ms. Krimko** asked do you want to testify to it.

**Mr. Kenderian** replied no, I don't want to testify but it is in the vicinity of the McDonalds.

**Ms. Krimko** stated why don't we have Mike Hanna come up. He's the traffic expert.

**Michael Hanna**, Kenderian-Zilinski Associates, Wall, was sworn in by Mr. Hirsch and his credentials as a traffic engineer were accepted as he had previously testified before the Board.

**Ms. Krimko** stated at the behest of the Board, we had you contact the Tinton Falls Police Department to find out whether or not there were multiple or a number of accidents of concern relating to the driveways as they exist today. Is that correct.

**Mr. Hanna** replied that's correct.

**Mr. Krimko** said and you received the fax that I moved into evidence as A-14. What were your findings based on the reports provided to you by the Police Department.

**Mr. Hanna** stated well, the reports provided by Sgt. Scrivanic covered a time period from January 1, 2005, pretty much to the current time period. During that time period there were 8 accidents either at the McDonalds' driveways or at the intersection of Shrewsbury Avenue and Apple Street. Most of those accidents occurred at Shrewsbury and Apple. So he did guess us a little bit more than what we had originally asked for. Two of the accidents that occurred out there were a function of vehicles exiting the McDonalds' driveway making a left to go north on Shrewsbury Avenue. Given at the previous hearing, we had already conceded to prohibiting left turns out of the site. I believe that that is now a corrected thing. We should no longer see anything related to those. The other accident that occurred at the McDonalds' driveway was a left turning vehicle into the site. After reviewing the report, though, I don't necessarily it as an issue related to the position of the driveway or the location of the McDonalds. The accident report clearly states that the driver in this case accepted fault. He clearly stated that he did not pay attention and see the vehicle traveling southbound. So it's really driver error rather than anything related to the site or the location of the McDonalds.

**Mr. Palmieri** asked so the accident occurred from a northbound traveling vehicle making a left into the entrance closer to Apple Street. Is that correct.

**Mr. Hanna** replied that's correct.

**Mr. Palmieri** said because in our last discussion we were talking about people not knowing which left turn people were making as opposed to going into the McDonalds or going into Apple Street...if they were stopping, which driveway...

**Mr. Hanna** stated that's correct but in this case, it was not a function of the vehicle traveling southbound not understanding that the vehicle was making a left turn. This person making the left turn, made the left turn completely in error by not seeing the vehicle coming at him. I don't believe that it's a function of the site in this case.

**Mr. Hirsch** asked he didn't suggest that he was having a big mac attack and not paying attention to where he was going.

**Mr. Krimko** asked in addition to researching the accident and the conclusions that you've come to as a result, we also took a look at the site and you with Mr. Kenderian played with several different variations of re-configuring the site in an effort to eliminate the driveway as was suggested by the Board. Is that correct.

**Mr. Hanna** replied that's correct.

**Ms. Krimko** said and no matter which way you configured it, in your professional opinion, the way it's configured, is this the safest, most efficient way for this site to operate.

**Mr. Hanna** replied yes, it is. It's very difficult to move the driveway in any location within the site frontage and still allow vehicles to make a safe movement into the site, whether they're making left turns or right turns. Moving it any further south and trying to combine it with the exit driveway starts to create a number of problems with vehicles, in a sense, having to pull a complete 180 through the re-circulation lane. Trying to move it at all, even towards the middle of the site, which I believe was suggested at the last meeting and combining the two driveways more or less in the middle of the building, presents a number of other issues with relation to the same type of 180 movement. If someone is traveling south on Shrewsbury and then ultimately going into the drive-thru, it then creates a number of additional conflict points between traffic trying to get into and out of the site which I did not think was beneficial. This does separate the movements of inbound and outbound traffic onto Shrewsbury Avenue, provides the greater separation we can, gives the greatest freedom of movement for the vehicles moving into the site. I know that at one point it had been discussed about removing that driveway altogether on Shrewsbury Avenue. If we only had an entrance on Apple Street, then it would become a very difficult circuitous path for vehicles to get into the drive-thru facility which is a good portion of the site's traffic. They'd wind up almost going around the building once in order to do the movement safely. So this is the best option, we believe, in this case.

**Mr. Palmieri** asked with exiting onto Shrewsbury and heading south, obviously you know you're going to have people trying, even if you configure the driveway so it's only a right hand exit, you know you're going to have people trying to make a left out of there. Would you be so inclined to have the applicant put some kind of directional sign...because I'm thinking about the Dunkin Donuts application where we requested they have a sign saying "To Shrewsbury North". I'm trying to remember the signage they used.

**Ms. Krimko** stated well, there's one in Commerce. The Commerce Bank has one also.

**Mr. Palmieri** said yeah, this direction to Shrewsbury north.

**Ms. Krimko** stated we could certainly do that.

**Mr. Hanna** said yeah, that would be very beneficial to direct them through the re-circulation lane and obviously out to Apple Street.

**Mr. Palmieri** asked were there any other additional questions from the Board members.

**Mr. Battista** asked the only other question I would have is is there a way to make the signage, you know the arrow pointing in, bigger, clearer, or something, to make it more,

before the person is coming up closer, to say "Oh, this is the one." Because I think actually the sign now, and I drove past after this...it's too small...and I think that's why people don't see it and by the time they see it, it's too late. The issue is, I realize by doing that, there's also variance issues there but is there a way to do without making it 7 X 7 with monkeys and lights, to make it something that's viewable and easier to see before you get to that point. I think that would mitigate a lot of the problem.

**Ms. Krimko** said we could certainly do that. And something that Mr. Kenderian suggested is to perhaps use the prototypical sign, to add the arch to the sign to make it more visible.

**Mr. Palmieri** said Jennifer, you were stepping away from the mike as you were talking.

**Ms. Krimko** asked did you get it. I'll repeat it. What we're suggesting is is that for the entrance sign in, the directional sign, in addition to the prototypical arrow, we would add the golden arches to it so it's more recognizable to the motoring public.

**Mr. Hirsch** asked well, are we talking about increasing the square footage of the sign. I'm not quite clear where we're at.

**Ms. Krimko** answered yes. We would actually be increasing the square footage by adding the golden arches on top of what's existing.

**Mr. Hirsch** asked do we have any idea of what size we're going to now propose.

**Mr. Kenderian** replied that's a 3 square foot sign and it is the prototypical sign. What we had proposed is not, to keep it under the requirements of the ordinance but it's a 3 square foot sign.

**Ms. Krimko** asked what do we have proposed now.

**Mr. Kenderian** replied the sign that we're proposing is 3.8 square feet. The one with the prototypical sign would be 6 square feet, which is the same size as the stop sign.

**Ms. Krimko** said so we'd be adding 2.2. square feet to what we had originally proposed.

**Mr. Hirsch** asked and what variances does that create.

**Mr. Gleitz** said I think that it's a directional sign.

**Mr. Hirsch** stated it's a directional sign.

**Mr. Gleitz** replied 2 square feet is the maximum on a directional sign.

**Mr. Hirsch** said so it was already a variance.

**Mr. Gleitz** stated I think they were realizing on the previous approval.

**Mr. Hirsch** said it was pre-existing.

**Mr. Gleitz** replied yes.

**Mr. Lomangino** stated I'd much rather give that variance and be safer.

**Mr. Battista** said I'm not all about big signs but I do think it would be a real big help.

**Mr. Hirsch** stated I understand. You're proposing it as a safety issue offsetting that benefit against the detriment of the sign violation would be what we call a "c-2" variance issue for the Board to consider. That's for the Board to...Paul, do you or Jeff have any comments about that proposal.

**Mr. Gleitz** said I have a question...we're now saying that the exit is now a right turn only.

**Ms. Krimko** replied yes.

**Mr. Gleitz** asked are we going to re-configure that with curbing to...

**Ms. Krimko** replied no.

**Mr. Gleitz** stated so people can make a left out of there if they want.

**Ms. Krimko** said people can make a left out of there even if you re-configure the curbing.

**Mr. Kenderian** stated that's correct.

**Ms. Krimko** said we're going to propose signage and we're going to propose the directional signage to direct them to Apple Street.

**Mr. Gleitz** stated if you had curbing, though, to the right on both sides. I'm thinking about the southbound curb. It sticks out further.

**Mr. Kenderian** said what I would recommend instead of doing that...I would basically stripe it to that angle so you can still get your semi tractor trailer movements out.

**Mr. Gleitz** asked without having some type of curbing out there.

**Mr. Kenderian** replied in my opinion by trying to restrict it...first of all, to allow the trucks to move out of there, it's got to be still fairly wide. A car can still make a left turn if they're determined to do it. It's going to make it even more dangerous than if we just

leave it alone and stripe it and sign it and give the municipality the Title 39 rights to enforce that sign.

**Mr. Gleitz** asked so the truck movements are being hampered if you did that.

**Mr. Kenderian** replied yes, unless you just slightly angle the curb...then again you're still providing ample space for a car to make the left turn. I mean as far as I'm concerned, we can do it. I don't recommend it.

**Mr. Palmieri** asked could there be something done like a raised curb...

**Ms. Krimko** said let's speak practically for a second. Any changes that we make to the ingress and the egress is going to require us to go to the State DOT and open up a can of worms and put us in a 9 to 12 month process over adding in some curbing. The applicant does not intend to and does not want to make any changes to the ingress and egress. We are agreeing to restrict it, to put the signage, to put the striping, if necessary and we're asking the Board to approve it as that we're not proposing to add any curbing along Shrewsbury Avenue. Is it County or State.

**Mr. Kenderian** replied County.

**Ms. Krimko** stated I'm sorry...to the County. It doesn't cut it down a bit – 3 to 6 months.

**Mr. Palmieri** asked the idea behind it was just for the delivery trucks that are coming in...that you need to have that additional wide entrance.

**Ms. Krimko** replied well, it's not just delivery trucks. I mean people frequenting the establishment also are truck drivers...

**Mr. Slazyk** said Hummers.

**Ms. Krimko** continued and they drive their trucks in and they need to get out.

**Mr. Kenderian** said also emergency vehicles.

**Ms. Krimko** stated and I think that Rich makes a good point. If someone wants to make that left turn, they're going to make it whether there's a curb or not.

**Mr. Gleitz** asked that's currently two driving lanes. Is it not. It's shown as a left turn and a right.

**Mr. Kenderian** replied it's 30 feet.

**Mr. Gleitz** said 30 feet. That's a hell of a Hummer for needing more than 30 feet to make the turn out.

**Ms. Krimko** stated or a tractor trailer.

**Mr. Palmieri** said well, I don't know if they get normal tractor trailers besides deliveries. The site is not really set up to handle...you know if you get 5 tractor trailers pulling in that parking lot, you're done. So I'm assuming most tractor trailers...they understand it that "yeah, I'd like to go to that McDonalds so I'm going to pull down Apple Street or something and walk back" as opposed to getting themselves boxed in a parking lot that's not big enough to handle it.

**Mr. Kenderian** stated we're talking about delivery vehicles.

**Mr. Palmieri** said yeah, I understand there's delivery and my thought process was about...you're saying going in front of the County to get the driveway changed...and we're talking just doing striping. If there's a possibility of just putting a sign that's a movable sign in that spot to hinder somebody going saying "go to Apple"...I don't know if the applicant can testify saying they get deliveries at certain hours at night or day...that they can move the sign if they need to...to get their truck in...to hamper the customers from making that left hand turn.

**Mr. Staiger** stated the applicant already agreed that they would restrict the movements out of that driveway and not have any left turns. Signage will help to deter people from making the left hand turn. You're still going to get people who go out there to attempt to make a left hand turn even though there's signage. Curbing or striping would help reinforce that, make it more difficult for that person to make a left turn out of there. You may still get some individuals to try and make that left turn even if you do put the curbing there...but the curbing would, I would think, deter and reinforce most people to make the right turn heading southbound on Shrewsbury Avenue.

**Mr. Palmieri** said because they say they need that large of a driveway to make deliveries and I know they've got the other driveway that's already 30 feet wide...so I don't understand the delivery process that they needed to have to come in from the most southerly driveway...

**Mr. Staiger** stated on the northerly part of that driveway...the driveway curves to the north along Shrewsbury. That would be to assist vehicles #1 – either making a right turn in or making a left turn out. That's why you have the curb curved in that direction. If you were to reverse the curve of the curb, so it's curving towards the southerly direction going with the flow of traffic that you're trying to direct, I fail to see how that's going to hamper the vehicles making the right turn out on Shrewsbury Avenue.

**Mr. Gleitz** said they're already making some turning movements to get into the loading zone. They have curbing on either side of the loading zone.

**Mr. Staiger** stated and based on the scale, the driveway width is 25 feet. Your typical travel lanes about 12 feet wide.

**Mr. Palmieri** said I guess the other question is going to be with the new circulation pattern, with the ability of anything comes in there to circulate all around the building, I'm still trying to figure up the need to why we have to keep the driveway that wide and just have striping as opposed to...

**Ms. Krimko** said what we can propose to do is if this Board is inclined to vote favorably on the application, have a condition of approval be that we submit a revised plan showing the curbing to restrict the right turn lane, leaving it wide enough to accommodate school busses that come to the site and any delivery trucks and then if the County...it really is in the County's jurisdiction...so if the County says yes, then we will do it. If the County says "no, we don't like the idea," then we can't do it...but as a condition of approval, we will provide the plans subject to the review of your Board Engineer and your Board Planner to show the curbing restricting the left turn.

**Mr. Palmieri** asked and you're saying reducing it to a point where a vehicle still can make a turn...

**Ms. Krimko** replied no, no, no, not a left turn...to make sure that a bus or a delivery truck can make the right turn safely.

**Mr. Palmieri** said okay, alright. I follow you. Any other Board members.

**Mr. Hirsch** asked anything else, Ms. Krimko.

**Ms. Krimko** answered nothing else, Mr. Hirsch. No other witnesses.

**Mr. Palmieri** said we've been through all the professionals' letters and I guess we've addressed most of the issues that they needed the waivers for.

**Mr. Hirsch** asked did we cover Mr. Kneisler's report. I just want to make sure for the record we covered all the reports. That's all.

**Ms. Krimko** replied I think we did address them all. I think we addressed everything in his report through our testimony.

**Mr. Hirsch** advised okay. I just wanted to make sure so when I did the resolution, I didn't find out we missed something.

**Mr. Palmieri** opened the floor to the public for questions/comments. There were none.

**Ms. Krimko** said she would just like to add that we have presented the testimony of numerous professionals in support of the application for the use variance, for the bulk variances. We've made the accommodations that the Board and its professionals requested and as a result, we would ask the Board to vote favorably.

A motion to close the public portion of the McDonalds' matter was offered by Mr. Battista and seconded by Mr. Moafi. A voice vote in favor was unanimous.

**Mr. Hirsch** reminded the Board there is a use variance which requires 5 affirmative votes. Usually we take the vote on the use variance first so we can get that count...and then the second vote is normally...assuming that passes...then the second vote would be on the site plan with the bulk variances and waivers that were discussed. That way you don't mix up the simple majority and the five requirement.

A motion to approve the use variance in the McDonalds' matter was offered by Mr. Slazyk and seconded by Mr. Diamond.

**ROLL CALL**

Yes: Messrs. Slayzk, Diamond, Palmieri, LaValle, Lomangino, Moafi & Battista  
No: None  
Abstain: None

A motion to approve the bulk variances and site plan was offered by Mr. Slazyk and Mr. LaValle.

**ROLL CALL**

Yes: Messrs. Slazyk, LaValle, Palmieri, Diamond, Lomangino, Moafi & Battista  
No: None  
Abstain: None

A motion to accept the June 7, 2007 meeting minutes was offered by Mr. Diamond and seconded by Mr. Lomangino. Mr. Battista was ineligible as he was not a Board member yet. A voice vote in favor was unanimous.

A motion to accept the June 21, 2007 meeting minutes was offered by Mr. LaValle and seconded by Mr. Palmieri. Mr. Battista was again ineligible as he was not yet a Board member. A voice vote in favor was unanimous.

A motion to accept the July 19, 2007 meeting minutes was offered by Mr. Battista and seconded by Mr. Palmieri. A voice vote in favor was unanimous.

A motion to adopt the resolution appointing Feist Engineering through December 31, 2007, as the Board Engineer was offered by Mr. Lomangino and seconded by Mr. Slazyk. A voice vote in favor was unanimous.

BOROUGH OF TINTON FALLS  
ZONING BOARD OF ADJUSTMENT

REGULAR MEETING  
AUGUST 16, 2007

A motion to adjourn was offered by Mr. Slazyk and seconded unanimously.

Respectfully submitted,

Doug Gotfredsen  
Board Secretary