Chairman Sendelsky called the meeting of the Zoning Board of Adjustment to order at 7:00 PM.

Adequate notice of this meeting, as required by the Open Public Meetings Act of 1975, has been provided by the Annual Notice published in The Home News & Tribune on November 22, 2014 and has been posted in the Main Lobby of the Municipal Complex on January 2, 2015.

The Chair called for the Pledge of Allegiance to the Flag.

Roll Call
Board Members present were Sendelsky, Dave, Shah, Errico, Skibar, Feterik, Reeves and Comba. Also present were Messers P. Bradshaw, M. Carr, H. Bignell, S. Lombardi and L. Buckley.
Absent was Board Member: Taglianetti

Chairman Sendelsky states that Z 38-2015. Asis Patnaik, 11 Birch Road, has been postponed until February 16, 2015, applicant will notice. Case # Z 62-2015. Jeffrey Fung, 1 Elmwood Terrace, has been postponed until December 15, 2015; applicant will notice. Case # Z 69-2015. Thavasimuthu Prasad, 31 Fairmount Avenue, has been postponed until December 15, 2015; no further notice required. Case # Z 56-2015, Altaf Hussain, 205 Old Post Road, has been postponed until January 19, 2015-No further notice required.

Old Business: None

New Business:

Case # Z 63-2015. Michael DePasca, 73 Alcoa Avenue, Edison, NJ 08837.
Section 37-63.1(13). Bulk variance sought to construct an inground pool. Maximum lot coverage required 40%, existing, 42.8%, proposed 46.8 %. Affected property is located in the RB Zone at 73 Alcoa Avenue, designated as Block # 808, Lot # 36 on the Edison Township Tax Map. All paperwork is in order.

Michael DePasca, the applicant, is sworn in to testify on his own behalf. He states that he would like to put in an inground pool for his kids. He received a copy of the engineer’s report and will comply. Mr. Reeves asks if the wooden fence on the property is on his property or in the right-of-way. Mr. Lombardi states that there is a wood fence on the survey is in the right of way. The fence has since been removed.

Within 200’ radius: none
Outside 200’ radius: none
Condition(s) for approval: Eng. report

Whereas no objectors appeared, a motion was made by Mr. Errico to approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood. Motion seconded by Mr. Reeves. AYES: Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. NAYS: None

Section 37-63.1(13); 37-4.16. Bulk variances sought to construct a deck, paver patio, walkway and retaining wall to a single family dwelling. Maximum lot coverage required 25 %, proposed, 31 %. Deck coverage required 2 %, proposed, 2.16 %. Affected property is located in the RAA Zone at 2 Kitchen Court, designated as Block # 415, Lot # 20.20 on the Edison Township Tax Map. All paperwork is in order.

Varun Marria, the applicant, is sworn in to testify. Mr. William Voltz, licensed Engineer in the state of NJ and prepared the plans. Mr. Marria states that his deck is falling apart and would like to add a new deck and a patio.
They state that they did not receive it; a copy is given for review. They agree to comply with the report.

**Within 200’ radius**: none  
**Outside 200’ radius**: none  
**Condition(s) for approval**: Eng. report

Whereas no objectors appeared, a motion was made by Ms. Feterik to approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood. Motion seconded by Ms. Shah. **AYES**: Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. **NAYS**: None

**Case # Z 67-2015. Scott Linde, 35 Garden Street, Edison, NJ 08817.**
Section 37-4.16. Bulk variance sought to construct upper and lower decks in the rear yard of a single family home. Deck coverage required 4% (300 square feet), proposed, 6.6% (496 square feet). Affected property is located in the RB Zone at 35 Garden Street, designated as Block # 212, Lot #0 29-31 on the Edison Township Tax Map. All paperwork is in order.

Scott Linde, the applicant, is sworn in to testify on his own behalf. He states that he would like to put decks in the rear yard to enjoy. He received a copy of the engineer’s report and will comply.

**Within 200’ radius**: none  
**Outside 200’ radius**: none  
**Condition(s) for approval**: Eng. report

Whereas no objectors appeared, a motion was made by Mr. Errico to approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood. Motion seconded by Mr. Skibar. **AYES**: Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. **NAYS**: None

**Case # Z 68-2015. John & Anna Elichko, 997 Beatrice Parkway, Edison, NJ 08820.**
Section 37-63.1(7). Bulk variance sought to construct a single story rear yard addition to an existing single family home. Rear yard setback required 33 feet, proposed, 21 feet. Affected property is located in the RBB Zone at 997 Beatrice Parkway, designated as Block # 827, Lot # 4 on the Edison Township Tax Map. All paperwork is in order.

John Elichko, the applicant, is sworn in to testify. He states that they would like to increase the size of the dining room, kitchen, hopefully a half bath and laundry room. His wife has some medical conditions and it would be easier to have the laundry there. He received a copy of the engineer’s report and will comply.

**Within 200’ radius**: none  
**Outside 200’ radius**: none  
**Condition(s) for approval**: Eng. report

Whereas no objectors appeared, a motion was made by Mr. Bader to approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood. Motion seconded by Mr. Skibar. **AYES**: Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. **NAYS**: None

**Case # Z 22-2015. Nabil Bader, 63 Melbourne Street, Edison, NJ 08817.**
Section 37-13.1. Use variance sought to permit continued use of a property as a two-family residence. Required, single family home, proposed, two-family home. Affected property is located in the RB Zone at 63 Melbourne Street, designated as Block # 356, Lot # 18 on the Edison Township Tax Map. All paperwork is in order.

Jeffrey Kantowitz, attorney, is here to represent the applicant. In addition to Mr. Bader, Mr. Kantowitz has Mr. Cray Rincamp, Planner, to testify. Mr. Kantowitz states that the relied they are here seeking is technically a use variance, this is a zone that doesn’t permit a two-family; two single family attached dwellings, he will explain why he describes it that way. He believes there may be a variance required for two uses on a lot; two primary uses.
Mr. Bader gives some history of the site; he is sworn in to testify. He states that he resides at the property of this application; he has resided there for 3 years. He does not own the property; he is in process of buying it but it is being help up for a CCO because of the different uses. Mr. Bader states he moved into the property 2 ½ years ago as a tenant; he was one of two tenants on the property. Within a few months he had an agreement with the owner of the property to purchase; as far as he knew it was a two units, that was in May 2014. They went for closing and the lawyer told him to get a CO; when he went for that the told him (Township) that it is not a two-unit, it should be a single family.

Mr. Kantowitz would like Mr. Bader to describe physically what the home looks like; size, location, etc. Mr. Bader states that there are two separate lots on that property. One is 75 x 100 and the second lot is 66 x 100; so he said he has a double lot. He said there was an old 5 bedroom home and in 2002 it was approved for a second addition with three (3) bedrooms so it looks like two houses attached. To his knowledge, he states is was used like this since 2002. Mr. Bader states that he is paying taxes on two units; he states that he asked the tax office and they said he was paying for a two family, the zoning department said it’s a single family home. He said he checked around and people with the same size house are paying half in taxes than what he pays.

Patrick Bradshaw would like to keep it straight, who owns the house? Mr. Kantowitz states that he testified that he is a tenant in the house and the application has the owner’s signature. Mr. Bradshaw states that he gets that part, but he (Mr. Bader) keeps talking about paying the taxes. Mr. Bader states that he does pay the taxes on the property but it is still under Mr. Shah’s name.

Chairman Sendelsky asks how many people are currently living in the home. Mr. Kantowitz asks to clarify; which part of the home. Chairman Sendelsky states the entire property at 63 Melbourne, the dwelling. Mr. Bader states that when he came to the property as a tenant there was, next door divided, one guy living upstairs and there was family downstairs. Mr. Kantowitz states that are two units side by side. The left unit (face the property) there is one single family downstairs and one person upstairs who has been there a long time. On the right is Mr. Bader and his family; his wife and four kids. There is family, a guy and his wife, a lot of kids, in the left side; he doesn’t know how many kids.

Mr. Kantowitz asks Mr. Bader if he knows under what arrangement the gentleman upstairs is living in that structure, does he function as part of the household with the family of several children downstairs? Mr. Bader states they are separate. Chairman Sendelsky asks if there is anyone in the basement; Mr. Bader states no. He said he had his cousin and his wife who just had a baby staying there for about four weeks; they left the middle of August, 2015. Only him and his family have been living in the structure (right side) since then. The man upstairs is there; he was related to the previous owners and stayed. The people downstairs Mr. Bader allowed. He (Mr. Bader) would like to ask the person upstairs to leave and to keep the family that is there now, a single family unit only.

Mr. Lombardi states that the property prior to Mr. Bader, the house originally existed as a single family home. Two owners prior to him had the home and came in for building permits to put an addition on the home. When you’re looking at the house from the roadway from Melbourne, the addition was put on the right side. At that time the house was a single family house and the permits were issued for a single family house. Subsequent to that, a certificate of occupancy was issued and from that point on the house was occupied. At some point, the applicant has submitted, there were some changed made and the openings in the home which allowed access to what appears to be both sides of the house were blocked up and accentually a second dwelling unit was constructed or installed.

There were complaints made to the Health Department about housing issue at the house and to the Zoning Department; inspections were made not long ago. The inspectors went there and there are three dwelling units in the house, one on the right, a second on the left and a third unit about the second unit. The inspector also noted what appeared to be a rooming unit in the basement area. There was not a kitchen; there was a bed,
bathroom and a counter area; it seemed to be an efficiency type of set up in the basement. When they were there, there wasn’t anyone living there; there is a separate entrance to that area. Chairman Sendelsky asks Mr. Lombardi if there were four people living there; Mr. Lombardi states that he doesn’t know, but there could be a possibility that there were. Mr. Kantowitz asks when the inspectors came out. Mr. Lombardi states several times and during the day, but he doesn’t have the specific dates available.

Ms. Feterik asks Mr. Lombardi about the applicant stating he is paying double taxes, and has a double lot; is it a multi-family. Mr. Lombardi states that it is his understanding that the tax assessment, whoever went there from the assessor’s office, recognized that it was being utilized as two dwelling units and assessed it accordingly as two dwelling units. That doesn’t mean it is legal as two dwelling units, it just means they are assessing it in accordance with its use. It is not the tax assessor’s duty to determine the legality of the use but they are taxing it in accordance in the way it was being utilized the last time they were there.

Currently there is more than two units there. Mr. Kantowitz wants some clarification from Mr. Lombardi that when he (Mr. Lombardi) states there are more than two units, he is suggesting that there are two units in the left side. There is a bathroom, bedroom, and kitchenette upstairs; that is what was reported to him by the inspectors. Mr. Lombardi states that the structure that is there had a front door on that side of the house which allowed access not only to the lower level of the home but to the upper level; currently when you walk in that front door and open it, there is no access to the lower level of the home, only the upper level. There is a staircase that separates that upstairs rooming unit, shall we say, from the rest of the downstairs area completely. In order to get into the unit you couldn’t enter the front door and get into the lower level.

Mr. Lombardi states that the Health inspector and the Zoning inspector were there simultaneously; there were written reports and a violation notice was sent out. Mr. Kantowitz states that if the Board wants architectural testimony they will come back. Mr. Taglianetti states according to the drawings there is a wall between the units; is it fire rated? Mr. Bader states that there is 5/8” sheet rock on both sides and the drawing they showed that the door going upstairs is closed. The building department would have to inspect and make sure it is a two-hour fire rated wall. Mr. Kantowitz states that if that is a concern, fire safety, structural safety, they would be able to have testimony to show so; they are prepared to do that and eliminate that third unit.

Mr. Reeves states that the architectural drawings, A-1 and A-2, says proposed alterations to 63 Melbourne. But all of the drawings states existing; is this how the home is or is going to be? Mr. Bader states it is existing today. Ms. Feterik asks Mr. Lombardi is it goes back to a single family dwelling, would the taxes be adjusted to a single family home; yes they would be once the permits have been taken out and the work was done.

Mr. Dave states that the drawings are proposed. Mr. Kantowitz says it’s how the home is now. Mr. Lombardi states that the drawings submitted to the Board are not the plans on file in the building department. The original drawings that would be on file in which the work was done in 2002 does not show the second kitchen; just alterations to an existing single family home with open access throughout the whole structure itself. Mr. Lombardi did see pictures of the inside of the home; there were walls put up and a second kitchen built.

Mr. Kantowitz states that he would like to continue next month since he just came into this case and would like to give the Board more information and more research. One, he would like to get the permits and see the plans originally given to the building department. Second, he would like to determine what kinds of inspections were made. Number 3, to assure themselves to exactly what is physically inside the structure so that if they suggest certain things as part of this application, they are not shooting from the hip. He would like to request and continuation. Chairman Sendelsky states that he would like to hear from the applicant and the public.

Mr. Kantowitz will bring back the Planner and the applicant to answer questions he doesn’t know the answer to this evening. Chairman Sendelsky states to Mr. Kantowitz, in all fairness to everyone, didn’t you think that these questions would have been asked tonight. You (Mr. Kantowitz) knew it wasn’t a two family home. Mr.
Kantowitz states no disrespect Mr. Chairman, but it was his understanding that there was side by side units but there was not a separate living unit upstairs with a kitchen facility. That was his understanding. Mr. Dave wants to know how many people and families. Mr. Bader states that him and his family, the other family with many kids, upstairs with two cabinets and a sink. He does not have a lease with the guy upstairs and asked him to leave. Chairman Sendelsky asks Mr. Bader were do the tenants pay the rent to; upstairs pays me $500 a month and the family pays to him also. There are three families living there.

Chairman Sendelsky states that the problem is that there is an illegal dwelling unit there now and there are people living there in what he thinks is an unsafe condition, he doesn’t know if they want to postpone this any longer and allow this. Mr. Kantowitz states that the intent of the applicant is to get an approval, removing one of the tenants and correct the situation. Its fire safety, carbon monoxide, fire rated walls, etc. Chairman Sendelsky would like to know what is in there; Mr. Lombardi states that he does not know.

Mr. Lombardi states that there were notices sent by the Health and Zoning Departments. The zoning violations are pending on this case. The Health situation would have to be determined by the Health officer as to what and how they do it. The zoning has not been addressed. The Health violations he can’t comment on; only the Health departments knows. Mr. Reeves states that if they do nothing (Board) that they are going to continue to have violations. Chairman Sendelsky would like to hear from the public and know there concerns. Mr. Lombardi states that if work is done in the home, it would have to meet the laws. The building department and fire would inspect prior to any CCOs.

**Within 200’ radius: none**

1. James Rich, 68 Melbourne Street, is sworn in. He states that he is directly across the street. There is pretty much a lot of activity going on. There is at least three to four families that live there, they change around. Sometimes there are box trucks at night, cabs at night, two different school buses; one at 8 am and one at 12 noon. One parks on a neighbors lawn, maybe two hours each day. He has lived on the land for 101 years and this is the first time they had to come here.

2. Ken Smith, 66 Melbourne Street, is sworn in to testify. He states that he and his wife have owned 66 for the last twenty years, prior to that is was his mother, prior to that was his grandparents so it’s been around 80 years in the family. When he opens his front door, he sees some kind of restaurant equipment. There is a car that has been pushed back behind the trees that is from a different tenant that moved out like six months ago. Besides that, Melbourne street was owned by Margie Bureck, and in 2002 they did a welfare check on her, they called the police, and she was found in a coma in the basement. She lasted about another year than died and the house was sold. They complained about it then, but the Town said there was nothing they could do about it since it was a single family residence. It became a nightmare after that. They have anywhere from 5 to 15 to 20 cars, this was in the beginning before he took over. Not only 3 families, a full blown construction company was run out of there. He states that the apartment upstairs is an efficiency apartment because his mother lived up there for 15 years. He says it is a fire trap.

3. Benjamin Toro, 59 Melbourne Street, is sworn in to testify. He wants to know if they don’t have a CO how are they living in the house? For a two family? Mr. Lombardi states that it is his understanding that a CO was issued for a single family house in 2002, whenever the initial work was completed. Mr. Toro states that the guy (Mr. Bader) doesn’t own the house, he is paying taxes on it, and the lawyer doesn’t know anything about the whole house and he representing him. He states they park on the front lawn and garbage is everywhere. Nothing against the guy, he is against what he wants to do. He wants it to stay a single family neighborhood.

4. Frank Price, 68 Melbourne Street, is sworn in to testify. He states he has lived there all of his life, 88 years, third generation on this property. He thinks what is going on across the street, 3 families, 5 families. Not the best quality of life in their town.

5. Jo Ellen Toro, 59 Melbourne Street, is sworn in to testify. She has lived there for 34 years. She states that she has nothing against the family that lives there, but they are asking for a two family, they have
been using it as a three family. There has in the past been people living in the basement. He is a family of six, the other family is a family of six, and two upstairs so there is 14 people living in the house. There are six adults and eight children. The cars aren’t too bad right now, but in the past there have been a lot of issues with cars. Is he going to close it off, rent it, who is going to check on this? This has been going on for like 15 years; people move in in the middle of the night. They have had to call the police in the past. She believes there are too many people living in the house right now.

6. Roberto Lasurto, 60 Melbourne Street, is sworn in to testify. When he purchase his house in 2003, two houses were there. He thinks when the owner lived there (original) it was taking care of.

7. Mary Smith, 66 Melbourne Street, is sworn in to testify. She is directly across, the roof has been messed up for years, and garbage. She agrees with what everyone is saying. What about her property value? It should be a single family home, not people coming in and out all hours of the night.

Outside 200’ radius:
1. Jessica Komiski, 417 Brook Avenue, Piscataway, NJ is sworn in to testify. She states that she doesn’t live on the street. She is the fiancé of Ken and Mary Smith’s son. She is always over there and parks across the street, where the house is. One night, one or two am, the front end of her car got smashed up. It was the second time and the side of her car was all scratched up because people go in and out all hours of the night.

2. Tim Smith, 417 Brook Ave, Piscataway, is sworn in to testify. From the blueprints of the construction of the addition, it was clear in the plans what the intentions were. After final inspections he did what he did and made it a rental property. It decreases the value around the house.

3. Louis Wolke, Peak Road, is sworn in to testify. She states that she has been following this and has gone to the neighborhood. She is a bit confused with the testimony given than she has even been. This is a neighborhood well maintained single family homes, the only exception is 63 Melbourne Street, which is badly maintained and an eye sore. The lawn on the right side of the house between two trees is being used as an addition driveway. There are large amounts of junk or items covered in plastic in the backyard to the left of the home. Property maintenance issues. People bought homes in the area knowing that under the zoning ordinance they were single family homes and they have every right to expect it will be kept that way in compliance with the law. There is nothing positive about this application which is a use variance which is the most serious of variances. There are a lot of negatives. Ignorance of the law by an applicant is no excuse to grant them a variance. The applicant should have done his homework. She strongly urges the Zoning Board to deny this application for the reasons mentioned above.

4. Patti Ringer, 74 Elm Street, is sworn in to testify. She states that if they have been dealing with this for a year they why aren’t they prepared. Why isn’t the owner here? Have there been fines? The owner was noticed for violations. The health department sent violations to the owner also. How can he not know how many children are living there?

Application will be continued on December 15, 2015; no further notice required.

Five minute recess.

Case # Z 16-2015. Henry Abadi, 10 West 33rd St, New York, NY 10001.
Section 37-33.1. Biffricated-Use variance sought for a 12,000 square foot retail strip mall. Use variance, no retail, proposed, retail. Affected property is located in the LI Zone at 460 Plainfield Avenue, designated as Block # 3.B, Lot # 8.A on the Edison Township Tax Map. All paperwork is in order.

Bob Smith, attorney, is here on the applicant’s behalf. Court stenographer present; transcripts will be on file in the zoning office.

Whereas no objectors appeared, a motion was made by Ms. Feterik to approve the application, there were no objectors, and feels this would not be a detriment to the neighborhood. Motion seconded by Mr. Comba. AYES: Sendelsky, Dave, Shah, Feterik, Errico, Reeves and Skibar. NAYS: None
Case # Z 65-2015, India Heritage Foundation, Inc. 2505 Forest Haven Blvd, Edison, 08817.
Section 37-33.1. Use variance sought to permit use of existing property as a House of Worship. Use, not permitted. Affected property is located in the LI Zone at 7 Kilmer Court, designated as Block # 3.B, Lot # 9.A on the Edison Township Tax Map. All paperwork is in order.

Jeffrey Kantowitz, attorney, is here to represent the applicant. Court stenographer present; transcripts will be on file in the zoning office. To be continued on December 15, 2015; no further notice required.

**Resolutions to be Adopted:**

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<th>Case No.</th>
<th>Applicant</th>
<th>Denied/Granted/Date</th>
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<tr>
<td>Z55-2015</td>
<td>BAPS, LLC</td>
<td>Approved June 16, 2015</td>
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<tr>
<td>Z 64-2015</td>
<td>Kaluskar</td>
<td>Approved October 27, 2015</td>
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Acceptance of Minutes: October 27, 2015
Miscellaneous: None

A motion was made by Mr. Errico to approve the above resolutions; motion seconded by Mr. Comba. **AYES:** Sendelsky, Feterik, Dave, Errico, Skibar, Reeves and Shah. **NAYS:** None

A motion was made by Mr. Comba to adjourn the meeting; motion seconded by Mr. Errico. **AYES:** Sendelsky, Feterik, Dave, Errico, Skibar, Reeves and Shah. **NAYS:** None

The meeting was adjourned at 10:35 pm.
Minutes were taken during the meeting by Laura A. Buckley, Secretary.