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June 1, 2023

Michael Comba, Chairman  
Edison Zoning Board of Adjustment  
4 Remington Drive  
Edison, NJ 08820

Re: Edison Zoning Board of Adjustment  
Annual Report of Variance Applications for 2022

Dear Chairperson:

As required by Municipal Land Use Law, N.J.S.A. 40:55D-70.1, this office has prepared this report which may be used by the Zoning Board for the required annual review of its decisions on applications and appeals for variances. Information was collected from the files of Edison Zoning Board of Adjustment Agendas and hearing minutes, as maintained by the Secretary of the Zoning Board of Adjustment. All information is assumed to be accurate. The next procedural step would be for the Zoning Board to adopt this report by resolution, together with any recommendations for zoning ordinance amendments or revisions that the Zoning Board may choose to make. The report and resolutions should then be transmitted to the Governing Body and Planning Board, pursuant to statute.

## **1. Summary of 2022 Variance Requests**

### **A. Total Applications**

| # of Applications              | # of Use<br>Variances | # of Bulk<br>Variances |
|--------------------------------|-----------------------|------------------------|
| <b>Total = 49 Applications</b> | <b>33</b>             | <b>140</b>             |
| Approved = 33 Applications     | 21                    | 103                    |
| Denied = 3 Applications        | 0                     | 8                      |
| Rescinded = 1 Applications     | 0                     | 4                      |
| Postponed = 12 Applications    | 12                    | 25                     |

In 2022, the Zoning Board approved 33 formal applications, which fell into the following two categories:

- 21 Individual use variances sought (with or without associated bulk variance)
- 103 Individual bulk variances and/or design waivers sought

In addition to the above 33 applications that were approved, three (3) applications were denied, and one (1) application was withdrawn.

Twelve (12) applications in 2022 were postponed and carried over to 2023. This information will be counted in subsequent annual reports.

## B. Total Applications by Zoning District

Out of 37 applications heard, 31 applications or 84% were located in the Residential Districts, followed by Commercial Districts then Industrial Districts.

The frequency of variance, use or bulk, to zone locations is as follows:

|                                            | Zone District                         | Number of Applications | % Applications by Zone | Number of Use Variances | Number of Bulk Variances |
|--------------------------------------------|---------------------------------------|------------------------|------------------------|-------------------------|--------------------------|
| <b>Residential</b><br>31 Applications      | R-B                                   | 18                     | 49%                    | 4                       | 52                       |
|                                            | R-BB & RBB-TH                         | 7                      | 19%                    | 4                       | 17                       |
|                                            | R-A & R-AA                            | 6                      | 16%                    | 3                       | 16                       |
|                                            | <b>Total of All Residential Zones</b> | <b>31</b>              | <b>84%</b>             | <b>11</b>               | <b>85</b>                |
| <b>Commercial</b><br>4 Applications        | GB & GB-H                             | 3                      | 8%                     | 5                       | 17                       |
|                                            | GC                                    | 1                      | 3%                     | 3                       | 7                        |
|                                            | UR                                    | 0                      | 0%                     | 0                       | 0                        |
|                                            | <b>Total of All Commercial Zones</b>  | <b>4</b>               | <b>11%</b>             | <b>8</b>                | <b>24</b>                |
| <b>Industrial</b><br>2 Applications        | L-I                                   | 1                      | 2.7%                   | 0                       | 15                       |
|                                            | RI & RI-1                             | 1                      | 2.7%                   | 2                       | 13                       |
|                                            | RR1, RRD                              | 0                      | 0%                     | 0                       | 0                        |
|                                            | <b>Total of All Industrial Zones</b>  | <b>2</b>               | <b>5%</b>              | <b>2</b>                | <b>6</b>                 |
| <b>All Zones</b><br><b>37 Applications</b> |                                       | <b>37</b>              | <b>100%</b>            | <b>21</b>               | <b>115</b>               |

In 2022 the highest number of applications (18 of 37) were in the R-B Zone (49%), followed by the RBB/RBB-TH Zone accounting for 19%. The R-B Zone continues to lead all other zones in variance applications often ranging from 40-60%. The remaining applications were distributed among the other zoning districts of the Township

Out of the 31 applications located in single-family residential zones, approximately 45% of the applications were for decks, pools and fences, 32% for residential additions, 13% for new SFH construction, 6% for Multi-family homes, and 3% for places of worship.

|               | Fence Deck<br>Pool Patio | Residential<br>Addition or<br>Porch | New SFH<br>Construction | Multi-<br>Family | Place of<br>Worship | Total     |
|---------------|--------------------------|-------------------------------------|-------------------------|------------------|---------------------|-----------|
| R-A (&PRD)    | 3                        | 1                                   | 1                       | ---              | ---                 | <b>5</b>  |
| R-AA          | ---                      | ---                                 | ---                     | ---              | 1                   | <b>1</b>  |
| R-B           | 7                        | 8                                   | 1                       | 2                | ---                 | <b>18</b> |
| R-BB (&RBPUD) | 4                        | 1                                   | 2                       | ---              | ---                 | <b>7</b>  |
| RBB-TH        | --                       | ---                                 | ---                     | ---              | ---                 | <b>0</b>  |
| <b>Total:</b> | <b>14 (45%)</b>          | <b>10 (32%)</b>                     | <b>4 (13%)</b>          | <b>2 (6%)</b>    | <b>1 (3%)</b>       | <b>31</b> |

**C. Use Variance Applications**

The 37 applications contained twenty-one (21) use variance requests which may be subcategorized as follows:

- 7 requests to permit new prohibited uses or expand existing nonconforming uses
- 11 requests for use variance triggered by Floor Area Ratio regulations
- 2 requests for use variance triggered by building height regulations
- 0 requests for use variance triggered by density regulations
- 1 request for Amended Use

| <b>Zone</b>            | <b>All Use<br/>Variances</b> | <b>Use Variance for:</b> |                |                 |                |                            | <b>Total<br/>%</b> |
|------------------------|------------------------------|--------------------------|----------------|-----------------|----------------|----------------------------|--------------------|
|                        | <u>Total</u>                 | <u>Use Only</u>          | <u>Height</u>  | <u>F.A.R</u>    | <u>Density</u> | <u>Amended<br/>/Appeal</u> |                    |
| Residential Districts: | 11                           | 3                        | 0              | 8               | 0              | 0                          | 52%                |
| Commercial Districts:  | 8                            | 4                        | 2              | 2               | 0              | 0                          | 38%                |
| Industrial Districts:  | 2                            | 0                        | 0              | 1               | 0              | 1                          | 10%                |
| <b>Total:</b>          | <b>21</b>                    | <b>7 (33%)</b>           | <b>2 (10%)</b> | <b>11 (52%)</b> | <b>0 (0%)</b>  | <b>1 (5%)</b>              | <b>100%</b>        |

1. Floor area Ratio Applications

Eleven (11) out of twenty-one (21), or 52% of use variance requests were to permit a floor area ration (F.A.R.) in excess of the ordinance maximum. This is slightly higher than the 32%-45% levels recorded since the ordinance was adopted in 2007. Out of those eleven (11) F.A.R. applications, 73% were located in a Residential Zone and 18% were located in the Commercial Zone. This represents a continued high rate of F.A.R. applications in the residential zones following the adoption of the residential F.A.R. ordinance.

2. D1/D2 Use Variances

Seven (7) out of the twenty-one (21) which represents 33% of use variances were for D1/D2 Uses. Only the approved applications had Use and/or Bulk Variances. The 3 denied applications and the 1 withdrawn application only had Bulk Variances.

**D. Bulk Variance Applications**

The 37 applications contained a total of approximately 115 bulk or hardship variance requests/design waivers, which may be subcategorized as follows:

- 6 Lot Area Variances
- 5 Lot Width Variances
- 2 Lot Depth Variances
- 12 Front Yard Setback Variances
- 7 Side Yard Setback Variances
- 6 Combined Side Yard Setback Variances
- 9 Rear Yard Setback Variances
- 13 Lot Coverage Variances (building cover)
- 14 Impervious Coverage Variances
- 11 Maximum Lot Coverage by Deck/Patio
- 3 Height (bulk) of the building variances
- 1 Accessory Structure Side Yard Variances
- 2 Accessory Structure Height Yard Variances
- 3 Accessory Structure Rear Yard Variances
- 0 Minimum GFA
- 2 Parking
- 2 Parking Design
- 1 Parking Near Lot Line
- 1 Loading
- 1 Sign Area
- 2 Sign Height
- 1 Sign Setback
- 6 Fence Setback
- 2 Fence Height
- 0 Cell Tower Setback
- 0 Cell Tower Visibility
- 0 Gas Pipeline
- 1 Landscaping
- 2 other

Total: 115 Total Bulk or Hardship Variances/Design Waivers

1. Wireless and Telecommunications Antennas and Equipment Applications

There were no wireless and telecommunication applications for 2022.

**D. Bulk Variance Applications-Continued**

The frequency of bulk variances to zone locations were as follows:

| <b>Variances/Zone</b>        | <b>RA,<br/>R-AA<br/>RA PRD</b> | <b>R-B<br/>RB-PUD</b> | <b>R-BB</b> | <b>GB GB-H<br/>GC</b> | <b>LI<br/>RI/RI-1<br/>ROL</b> | <b>Total</b> | <b><i>Percent of<br/>Total</i></b> |
|------------------------------|--------------------------------|-----------------------|-------------|-----------------------|-------------------------------|--------------|------------------------------------|
| Lot Area                     | 1                              | 4                     | 0           | 1                     | 0                             | 6            | 5%                                 |
| Lot Width                    | 0                              | 4                     | 0           | 1                     | 0                             | 5            | 4%                                 |
| Lot Depth                    | 0                              | 1                     | 0           | 1                     | 0                             | 2            | 2%                                 |
| Bldg. Setbacks               | 4                              | 15                    | 8           | 6                     | 1                             | 34           | 30%                                |
| Lot (bldg.) Coverage         | 3                              | 7                     | 2           | 1                     | 0                             | 13           | 11%                                |
| Impervious Coverage          | 4                              | 8                     | 0           | 1                     | 1                             | 14           | 12%                                |
| Lot Cover - Deck             | 2                              | 5                     | 3           | 1                     | 0                             | 11           | 10%                                |
| Height                       | 0                              | 0                     | 0           | 2                     | 1                             | 3            | 3%                                 |
| Accessory Structures         | 1                              | 2                     | 1           | 2                     | 0                             | 6            | 5%                                 |
| Min GFA                      | 0                              | 0                     | 0           | 0                     | 0                             | 0            | 0%                                 |
| Parking                      | 0                              | 0                     | 0           | 2                     | 3                             | 5            | 4%                                 |
| Loading                      | 0                              | 0                     | 0           | 1                     | 0                             | 1            | 1%                                 |
| Sign                         | 0                              | 0                     | 0           | 4                     | 0                             | 4            | 3%                                 |
| Fence                        | 1                              | 4                     | 3           | 0                     | 0                             | 8            | 7%                                 |
| Cellular Setback             | 0                              | 0                     | 0           | 0                     | 0                             | 0            | 0%                                 |
| Landscape/Buffer             | 0                              | 0                     | 0           | 1                     | 0                             | 1            | 1%                                 |
| Pipeline Buffer              | 0                              | 0                     | 0           | 0                     | 0                             | 0            | 0%                                 |
| Gas Pipeline                 | 0                              | 0                     | 0           | 0                     | 0                             | 0            | 0%                                 |
| Gas Station Setbacks         | 0                              | 0                     | 0           | 0                     | 0                             | 0            | 0%                                 |
| Other                        | 0                              | 2                     | 0           | 0                     | 0                             | 2            | 2%                                 |
| <b>Totals:</b>               | <b>16</b>                      | <b>52</b>             | <b>17</b>   | <b>24</b>             | <b>6</b>                      | <b>115</b>   | <b>100%</b>                        |
| <b>Percent of Total (%):</b> | <b>14%</b>                     | <b>45%</b>            | <b>15%</b>  | <b>21%</b>            | <b>5%</b>                     | <b>100%</b>  |                                    |

## **E. Zoning Denial Review**

During 2022 three (3) Applications were denied and one (1) was rescinded.

### **a. Denied**

- 2 Residential (RB) applications and 1 Residential (RA) application for Bulk Variances to install fences.

### **b. Withdrawn**

- 1 Residential (RA) application for Bulk Variances to construct an inground pool, patio, walkways, pool house and carport.

## **2. Patterns of Applications**

### **A. Patterns Found in 2022**

| <b>Zone</b> | <b># of Bulk Variances</b> |
|-------------|----------------------------|
| Residential | 85 (74%)                   |
| Commercial  | 24 (21%)                   |
| Industrial  | 6 (5%)                     |

Eighty-five (85) out of One Hundred-Fifteen (115) bulk variances, accounting for 74. % of all bulk variance requests, were located in a Residential zone. The remaining bulk variances were distributed among the Commercial and Industrial Zones. Out of the Eighty-five (85) residential bulk variances requested, Twenty-seven (27) requests (32%) were building setback variances and Thirty-four (34) requests (40%) were building coverage and/or lot coverage variances. These represent similar frequencies that were found in the 2001-2021 statistics.

### **B. Patterns Found in 2001-2021**

In 2021, approximately 57% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 56% of the total applications in this zone

In 2020, approximately 49% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 62.5% of the total applications in this zone.

In 2019, approximately 49% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 79% of the total applications in this zone.

In 2018, approximately 56% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 72% of the total applications in this zone.

In 2017, approximately 69% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 62% of the total applications in this zone.

In 2016, approximately 63% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 70% of the total applications in this zone.

In 2015, approximately 51% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 78% of the total applications in this zone.

In 2014, approximately 49% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 79% of the total applications in this zone.

In 2013, approximately 59% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 65% of the total applications in this zone.

In 2012, approximately 47% of the bulk variances involving residential dwellings were requested in the R-B zone and setback/lot coverage variances combined to account for 62% of the total applications in this zone.

In 2011, approximately 63% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 62% of the total applications in this zone.

In 2010, approximately 53% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 54% of the total applications in this zone.

In 2009, approximately 64% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 76% of the total applications in this zone.

In 2008, approximately 59% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 62% of the total applications in this zone.

In 2007, approximately 60% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 67% of the total applications in this zone.

In 2006, approximately 54% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 68% of the total applications in this zone.

In 2005, approximately 45% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 59% of the total applications in this zone.

In 2004, approximately 55% of the bulk variances involving residential dwellings were requested in the R-B Zone and setback/lot coverage variances combined to account for 63% of the total applications in this zone.

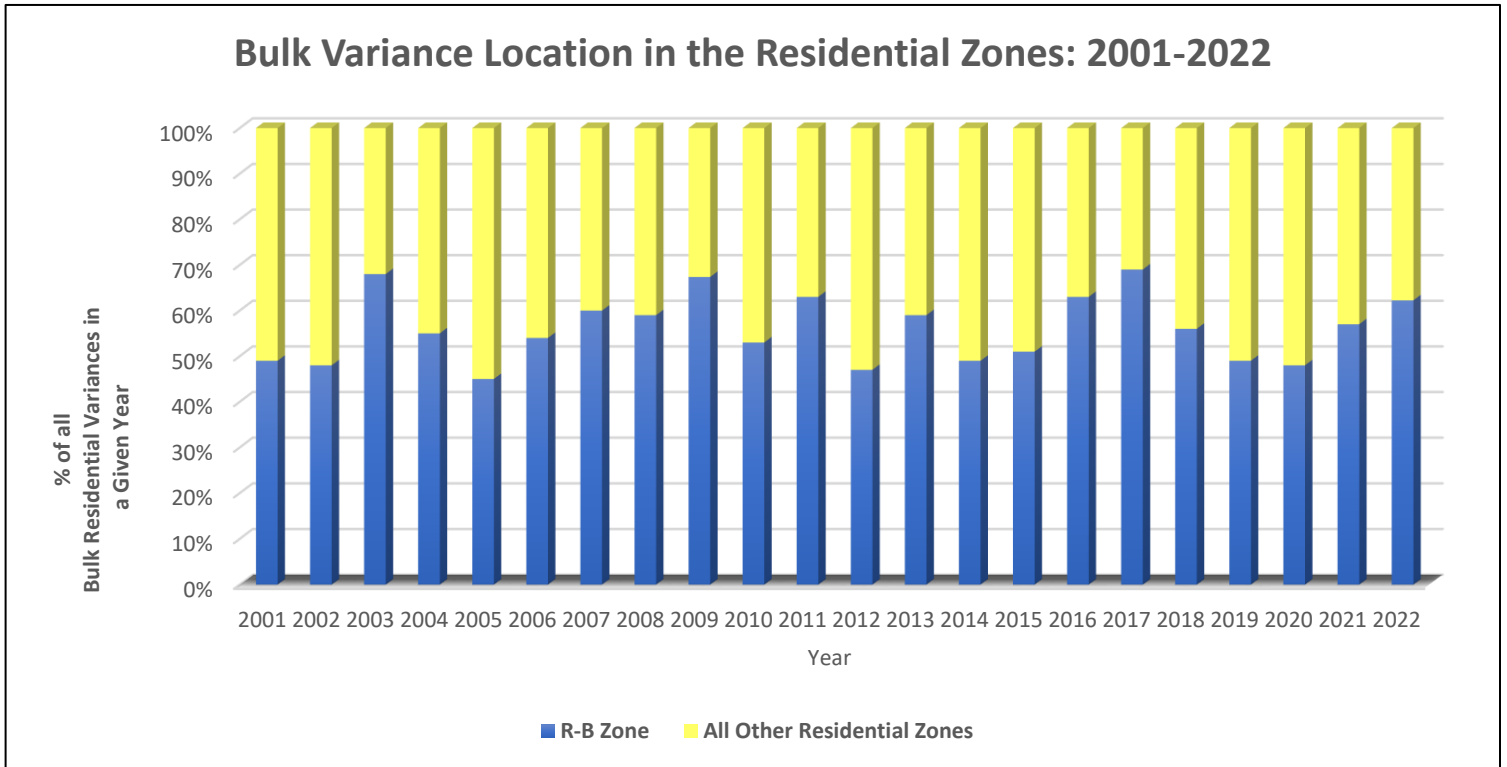
In 2003, approximately 68% of the bulk variances involving residential dwellings were requested in the R-B Zone, and setback/lot coverage variances combined to account for 70% of the total applications in this zone.

In 2002, approximately 48% of the bulk variances involving residential dwellings were requested in the R-B Zone, and setback/lot coverage variances combined to account for 72% of the total applications in this zone.

In 2001, approximately 49% of the bulk variances involving residential dwellings were requested in the R-B Zone, and setback and lot coverage variances combined to account for 68% of the total applications in this zone.

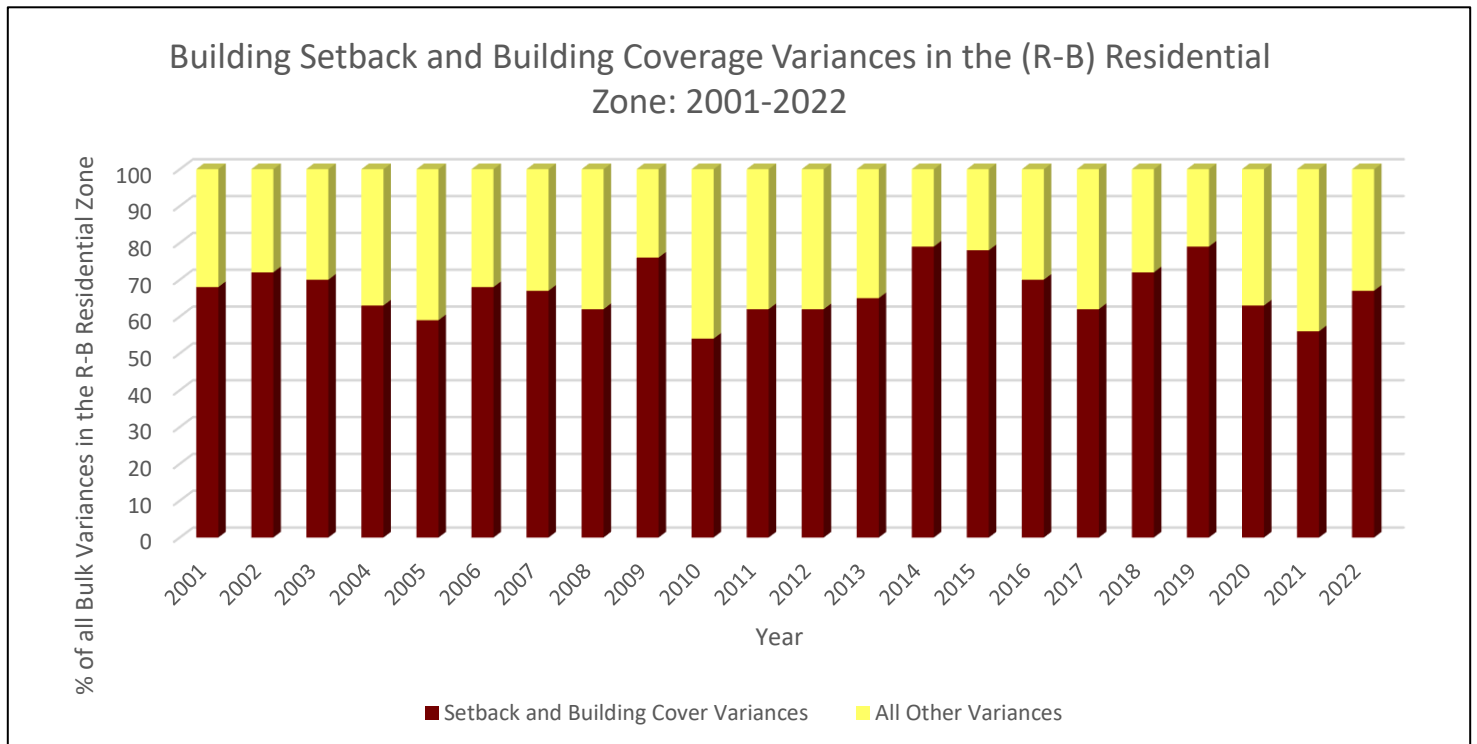
### Bulk Variance Location in the Residential Zones

From 2001-2022, the frequency of bulk variance applications involving residential dwellings in the R-B zone fluctuated around an average mean of approximately 55.8%.



### Building Setback and Building Coverage in the R-B Zone

The high percentage of applications involving setback and lot coverage variances continued in 2022, for the twenty-second year in a row. A twenty-two year mean of the rate of these applications continues to be about 67% a year in this zone.



### 3. Conclusions & Recommendations

As in several prior years (2001-2021), many of the bulk variances involving expansions to single-family residences occurred in the R-B Zone and variances for lot coverage and building setback topped the chart in this zone, as well as the other residential zones. **This pattern may indicate a need to consider examining yard setback and lot coverage requirements in this R-B Zone.** This has been our suggestion for the past several years, as our calculations for these past years remain similar.

Finally, any changes to the Edison Township Land Use Ordinance should reexamine the need for an FAR calculation in the residential zones. Controlling the size of single family dwellings can be easily accomplished with setback, building and imperious coverage standards. Eliminating the need for a “D” variance would be more cost effective for the Township residents.

Please do not hesitate to contact this office with any comments or questions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Henry D Bignell".

Henry Bignell, PP

For the Firm

HB/lb:

: All Board & Staff Members

Board Attorney & Twp. Attorney.

File #8022-22