

TOWN OF VICTOR ZONING BOARD OF APPEALS, May 15, 2023

A regular meeting of the Town of Victor Zoning Board of Appeals was held on May 15, 2023, at 7:00 p.m.

PRESENT: Michael Reinhardt, Chairman; Alexis Ogra; Mathew Nearpass, Vice-Chairman; Fred Salsburg, Lya Theodoratos

OTHERS: Brian Ridley, Darwin and Tammy Wood, Jim Colombo, Adam Ryczek, Victor Code Enforcement, Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Chairman Reinhardt called the May 15, 2023, Zoning Board of Appeals meeting to order at 7:00 pm.

**PLEDGE OF ALLEGIANCE**

Chairman Reinhardt welcomed everyone. He gave the meeting announcements; location of emergency exits and restroom. He asked that guests please sign the attendance sheet. Agendas and business cards are at front entrance. He asked to silence cell phones and that applicants use compass directions and descriptions to create a complete meeting record. Applicants will have opportunity to be heard with as few interruptions as possible. We will talk one at a time, not over each other. Also, to let the board know if there are additional exhibits.

PAST MINUTES:

On motion of Fred Salsburg, seconded by Alexis Ogra:

RESOLVED, that the minutes of the meeting held on May 1, 2023, BE APPROVED.

Adopted: Ayes 5, Nays 0

PUBLIC HEARING

**Wendy's Sign, 7473 St Rt 96** **11-Z-2023**  
seeking an area variance to allow a third business sign on the east elevation of the building when §165-5 B. (3) allows for businesses have a sign at each separate entrance to a public right-of-way. The building has entrances on both the north and south elevations. The east elevation, while having frontage does not have an entrance.

Chairman Reinhardt- Alright, first application is the Wendy's sign application.

Mr. Colombo- good evening, Jim Colombo, Skylight Signs, representing HAZA Foods and Wendy's for their national sign redo if you will, this is a national program with Wendy's new logo, which would be, the hardship they're asking for is that, to produce the third sign on that east side of the building to where driving from north to south we think it would be more beneficial for consumers to enter on the extended driveway which is, you know even further south if you're coming north to south, so we thought the third sign on the front of the building, which we know does not have a door and that's part of your policy for signs, um, would be advantageous to customers entering the building. You can see Wendy's new logo includes the logo uh, that if you look very closely now has mom incorporated into it, and that's part of their new deal and, new sign face nationally if not worldwide, um ...

Mr. Nearpass- I'm sorry it has what incorporated into it?

Mr. Colombo- if you can, look at her collar, um, it looks like a necklace but it's definitely "M.O.M" it says mom, I don't know if that's for Dave's mom, or what it was for but that was uh, just something to point out to you, how's that? – But, um, again all they're asking for is that third sign on the east side, which would be advantageous to any consumer coming from north to south to enter the restaurant. We'll be changing the existing pilon face out but just the faces will be changed that size is not increasing, and we'll use the same structure on that. And that's about it.

Chairman Reinhardt- okay, so couple of points.

Mr. Colombo- yup.

Chairman Reinhardt- one, I think, I'm presuming you've done applications before.

Mr. Colombo- yes.

Chairman Reinhardt- alright, so we have because of the proximity to state route 96, it has to go to County Planning Board for review and they will return their comments, we'll take a look at it depending on how they view it is going to dictate exactly what if anything we can do.

Mr. Colombo- yes.

Chairman Reinhardt- as far as I understand it, county will take a look at it on June, is that right the 14<sup>th</sup>, Amber?

Ms. Downs- yea, that's correct.

Chairman Reinhardt- so, our next meeting is June 5<sup>th</sup>, so that's not going to be ...

Mr. Colombo- right, right.

Chairman Reinhardt- it'll be on the 19<sup>th</sup>.

Mr. Colombo- June 19<sup>th</sup>? Here.

Chairman Reinhardt- June 19<sup>th</sup>, here, another point, that you used the word hardship, hardship is not an element in the, either granting or if you will denial of an area variance, if you look at the criteria, its going to change the character of the neighborhood, is it substantial, is there another method feasible ... so I would ask you, take a look at the criteria for an area variance, because we've had this before, it's like well we really, really want it and it's a hardship, it doesn't apply to an area variance, alright. So, before I go back and ask some questions for myself, Fred you have any questions?

Mr. Salsburg- I totally agree that the north facing sign isn't very effective, I tried to, made an effort to look for it and I was having trouble...

Mr. Colombo- agreed.

Mr. Salsburg- much less casually, uh, would there be any opportunity to move the north sign to the east side?

Mr. Colombo- yes.

Mr. Salsburg- okay.

Mr. Colombo- oh yea, they're willing to do that, and you know, uh, the presentation as it was as I presented but, yes, they would definitely listen to that option.

Chairman Reinhardt- good question.

Mr. Salsburg- well it's a nice sign, it isn't uh, loud or irritating ...

Mr. Colombo- we're basically staying with the colors, we're eliminating the yellow, which is kind of antiquated and, the sign industry just putting more of a white. To incorporate with their national logo.

Mr. Salsburg- well that was my thought.

Chairman Reinhardt- alright.

Mr. Salsburg- I don't see a way to uh, operate on the north side without a variance, because of, there's no entrance, is that true? --- Is there any opportunity to eliminate the variance? ---

Chairman Reinhardt- yea, and I, I let's just ---

Mr. Salsburg- to stay ...

Chairman Reinhardt- make sure we got this straight, Adam, if the applicant moves the sign from the north to the east, and just has two signs, would they need a variance?

Mr. Ryczek- yes.

Chairman Reinhardt- they still need a variance if they move the sign. Right.

Mr. Ryczek- because that frontage doesn't contain an entrance.

Mr. Nearpass- no door.

Chairman Reinhardt- I wanted Adam to get that on the record, just for clarity. Got it.

Mr. Ryczek- yes.

Chairman Reinhardt- okay --- more questions, Fred? ---

Mr. Salsburg- no, that was my best one.

Chairman Reinhardt- Matt do you have any questions?

Mr. Nearpass- have you thought of putting an entrance on the front?

Mr. Colombo- well my next, their next question to you was, um, the future, uh, what's building behind there, is there any other entrance coming from that project behind them that's incorporating on, towards their property? Are they using that same entrance as Wendy's/Taco Bell?

Mr. Ryczek- yes. The entrances aren't changing, the parcel.

Chairman Reinhardt- and that would include Delta Sonic, there's ...

Mr. Ryczek- correct.

Chairman Reinhardt- no.

Mr. Ryczek- right, it's the same two access points, one off of 96, and one off of Co Rd 42.

Mr. Colombo- right, nothing to Wendy's on that, on 42.

Mr. Ryczek- nope.

Mr. Colombo- Delta.

Mr. Ryczek- it's the same.

Mr. Colombo- right.

Mr. Ryczek- same curb cut, nothings moving.

Mr. Colombo- I could certainly bring that question up to them.

Mr. Nearpass- I mean that would, I'm assuming, that would alleviate the issue of needing a variance?

Mr. Ryczek- if they added a door to the front of the building? Yea, but it, its kind of a driveway, so they might run into other code issues ...

Mr. Nearpass- other code issues, okay.

Mr. Colombo- right.

Mr. Ryczek- it's not really parking lot in front, its drive ...

Mr. Nearpass- okay. Um, I also see in the front area there's a lot of signage in the window, um, I know it's allowed, but is there, you know in lieu of window signage that screams free and 2 for 1, and all that other stuff, would they be opened to no window signage in lieu of um, a fixed sign on top. I don't know, I'm just kind of free wheeling it here a little bit because I ...

Mr. Colombo- I'm not going to answer that question, I'll bring it up to them, alright.

Mr. Nearpass- yup.

Mr. Colombo- definitely.

Mr. Nearpass- I mean the, how long has Wendy's been there?

Mr. Colombo- ooo.

Mr. Nearpass- probably aren't many people in Victor that don't know it's there.

Mr. Colombo- right, right. Travelers, and what have you, so, I was thinking on the way here and I've been, I grew up here so, exit 45 motel sign, I don't know if you guys go way back to remember that one, uh which was like 40' overlooking the thruway and neon "Exit 45" ...

Mr. Salsburg- I remember that.

Mr. Colombo- right. Okay, and it was um, that was 40 ...

Mr. Salsburg- that was in the era that I called it Machine Gun Manor.

\*laughter\*

Mr. Colombo- I get what you mean. Window signs, I've got on here question mark, okay.

Mr. Nearpass- yea, so I, I'm, I mean at this point I'm indifferent, I, I'm I tend to lean towards, you know that, Wendy's is a known entity, I, you know and I don't think there's any issues with understanding, you know where it is, and we're just, it'd just be further adding to the kind of clutter of signage in the area. Um, I don't know if again, if there's any, we've been pretty tight on variances with, certainly in this corridor as well so, I mean if there's other examples of where we've given variances in the past, to do something like this, but normally the only one I can think of is probably, was the Mattress, uh ... which mattress place is it?

Chairman Reinhardt- Metro Mattress.

Mr. Nearpass- Metro Mattress where we um, it was a bit of a give and take, um, I can't remember the specifics but I think they took signage off of a monument sign, in lieu of something else, so there's maybe a similar uh, application would have been able to do that, but that was um, kind of, there was something in it for the applicant and also something in it for the Town to balance that out, so.

Mr. Colombo- okay.

Mr. Nearpass- I'll be looking forward to hearing what they have to say, maybe to those questions.

Mr. Colombo- if I recall our conversations with uh Wendy's, few weeks back about adding the door, it did come up, and I, I don't think that will happen with them as far as, because the drive through is right there, you know you got the side entrance which I know is not a front entrance, but you know I don't think, I'll run that by them again and I think ...

Mr. Nearpass- just wanted to ask the question and ...

Mr. Colombo- oh, for sure.

Mr. Nearpass- because I don't want to design the ...

Mr. Colombo- nope.

Mr. Nearpass- the project for them ...

Mr. Colombo- right.

Mr. Nearpass- but, right, I want to, you know before we issue any variance, just want to make sure we do our due diligence and really understand what, a need or a want or what are we dealing with here.

Mr. Colombo- got you, man.

Chairman Reinhardt- Alexis, questions?

Ms. Ogra- um, no questions, I mean, it just seems, I know we got to vote on this in June, but it seems almost a little excessive on the signage, you've already got two on the building, and a monument, plus we've got Delta Sonic going in, plus we have Valvoline going in, um, it seems like a little much for right now, so, I'm interested to see I guess what, you know if there's any alternatives, you're looking at, maybe. That's it for me.

Chairman Reinhardt- Lya?

Ms. Theodoratos- is the, are the three signs, are they illuminated?

Mr. Colombo- yea, internally illuminated. LEDs.

Ms. Theodoratos- yea, and um, what time is Wendy's opened until?

Mr. Colombo- I'm not sure, I don't know if they're opened until 11 or 12:00, I'm not sure. And you know, is there a, a restriction on the illumination overnight, is that what you're asking? ---

Mr. Ryczek- its during business hours only.

Mr. Colombo- during business hours only, which they would adhere to if that's the case.

Mr. Ryczek- if they are 24 hours, it can be on all night.

Mr. Colombo- right. Thank you.

Ms. Theodoratos- I think it, I think the sign looks okay, I actually prefer the sign, the sign you're proposing rather than the posters in the window.

Mr. Colombo- right.

Ms. Theodoratos- if they could, you know, it looks nicer.

Mr. Colombo- you know with the reader board, the manual reader board there they can display, their 2 for \$1.00 hamburgers or whatever they want to do instead of putting it on the windows, I agree, but I will definitely take it back to them with that and ---

Ms. Theodoratos- that's ...

Mr. Colombo- I know they're willing to work, so ...

Ms. Theodoratos- I don't have any more questions, you addressed them earlier. My other questions.

Mr. Colombo- thank you.

Chairman Reinhardt- alright, uh, I'm in agreement with Alexis, the, you already have two signs, and a monument.

Mr. Colombo- right, that's ...

Chairman Reinhardt- right in front, where you want to put that third sign, uh, and I would hazard a guess the County Planning Board is going to come back and say the, especially in that area, um, there's a big concern about over signage, um, most and I've said this not just to you or --- all the applicants that want a sign especially on 96 in that corridor uh, in today's day and age, I used to do trip tick, that's what my dad taught me with, right?

Mr. Colombo- mhm.

Chairman Reinhardt- now you put it in your phone, Waze or whatever it is Google Maps, you could almost just, turn right, turn left, turn right, and you're there, right? --- so, signage as much as businesses want to come in and say people cant find us, I, I'm not quite in that camp, um, its been there for quite a while, I think there's quite a bit that you're going to have to overcome to say this is really what's going on, its not going to change the character of the neighborhood, all those elements, take a good look at it and apply the, this is what your argument is, isn't just say, we really need that and people can't find us, because that, just kind of, doesn't ring very loud in my ears on why it's a good thing to have. Um, anyone from the public want to speak for or against the application? --- alright, so you know we have to wait, is there anything else you want to add or ...

Mr. Colombo- nope that's it.

Chairman Reinhardt- comment on.

Mr. Colombo- that's it, I appreciate the time and the input and um, I will go back to them and I will wait for you then, as far as what the county says?

Chairman Reinhardt- right, you can pretty much bank that the county will uh provide us with those comments, we'll have a chance to take a look at them, we're going to give you a chance to respond to their comments, whatever those comments may be, we're probably going to ask a few more questions, things, alternatives and uh what can be done and really looking hard at what that, those criteria elements are.

Mr. Colombo- so in the meantime, I should apply for the June 19<sup>th</sup> meeting?

Chairman Reinhardt- you don't have to apply, you're ...

Mr. Colombo- oh, I don't, okay.

Chairman Reinhardt- you just come here.

Mr. Colombo- I will, okay.

Chairman Reinhardt- you'll be on the agenda.

Mr. Colombo- perfect.

Chairman Reinhardt- alright?

Mr. Colombo- yup, I'm good.

Chairman Reinhardt- questions?

Mr. Colombo- I'm good.

Chairman Reinhardt- very good.

Mr. Colombo- thank you all for your time.

Chairman Reinhardt- have a good night.

Mr. Colombo- you too.

Chairman Reinhardt- we'll see you on the 19<sup>th</sup>.

Mr. Colombo- you got it.

**Ridley Pole Barn, 7896 Co Rd 41**

08-Z-2023

Seeking an area variance to place a pole barn forward of the frontline of the home where §211-31 G. (2) states accessory structures are not permitted to be forward of the frontline of the principal structure.

Chairman Reinhardt- okay, the Ridley Pole Barn.

Mr. Ridley- good evening.

Chairman Reinhardt- how are you?

Mr. Ridley- good, how're you?

Chairman Reinhardt- good.

Mr. Ridley- Brain Ridley.

Chairman Reinhardt- Did you have a chance to look at the County Planning Board comments?

Mr. Ridley- I did, they came over about 2:00 this afternoon.

Chairman Reinhardt- yes.

Mr. Ridley- so ...

Chairman Reinhardt- yes, they did. Alright.

Mr. Ridley- yes, I did have a chance.



Chairman Reinhardt- so, there's, they considered it a Class 1, so what that means is that there isn't a need for a what's called a super majority, um, are you familiar with that at all, or otherwise ...

Mr. Ridley- no.

Chairman Reinhardt- I can walk through a little bit.

Mr. Ridley- yea, would you, please?

Chairman Reinhardt- so if the County Planning Board comments, its an advisory board and if they say we're recommending a denial, that means this board can vote to approve, but we would need a majority plus 1.

Mr. Ridley- okay.

Chairman Reinhardt- so we are a board of 5, so it would be 3 + 1, is 4. Right, but it's a Class 1, that means we can do, if its an approval, all you need is 3.

Mr. Ridley- okay.

Chairman Reinhardt- 4 or 5, but you need a minimum of 3 for approval. But there's some comments that the County Planning Board has put in front of us that I think are pertinent, they're important, and it needs to be addressed for uh, I think the board would like to see it as far as, again what your responses are.

Mr. Ridley- yea, and I tried sending that over to my engineer right away, um just for him to look over as well, to try to get some answers before tonight but that didn't happen.

Chairman Reinhardt- yea, so, I think and if it turns out that if you feel that, whether questions we're asking you, you juts, I don't know the answer to them, can I come back the next time, that is certainly an option, um, we're not trying to force anything on you, we don't want anyone to guess, if you know the answers to them, great. The County Planning Board did seem to have, I think a fair amount of concern and I probably agreed with you that not to disturb all of those drumlins and hills and there's probably not a lot of options that you have. They did have a question though on the wastewater and the grading within, or if its, if it's going to have an impact on the conservation easement. That I think is a relatively significant concern. Do you know if where you want to put the pole barn and the home, if that's going to have any kind of impact, negative impact on the conservation easement?

Mr. Ridley- no, it shouldn't, and that was part of the planning behind all of this, my engineer, they actually had sent a letter over, Id forwarded it to Amber earlier today, I think maybe you guys have gotten it, where they had looked at that with putting the pole barn in back, where it would actually cause more disturbance or more erosion trying to bring grading into the back and bringing in fill as well. Because originally that was my, my original option when I was looking at the first layout, one of 3, to do there what I would have liked to have had that pole barn in the back northeast corner, but they told me it made more sense if we could and they knew they told me, up front I would have to go before the board probably looking for a variance, but it would make more sense based off of the development of the land and everything and the topography and keeping everything as much as we can intact. To shoot for this, this idea here instead.

Mr. Ryczek- Mike, are you referring to the first comment from the County?

Chairman Reinhardt- uh, no, it looked like there was a question, is wastewater system, the grading within the conservation easement.

Mr. Ryczek- correct.

Chairman Reinhardt- I took that to mean that, is there going to be any kind of negative impact into the conservation easement.

Mr. Ryczek- I think what they're asking is because the proposed septic system is within the conservation easement ...

Mr. Ridley- the leech field.

Mr. Ryczek- yes, this is, this is written into the conservation easement language.

Mr. Ridley- correct.

Mr. Ryczek- as allowed.

Mr. Ridley- yup.

Chairman Reinhardt- alright.

Mr. Ridley- the well and the uh, leech fields are allowed within the conservation easement.

Mr. Ryczek- yes. The way I was reading it, is a portion of the proposed onsite wastewater treatment system and or associated grading within the conservation easement? Yes. Is this allowable? Its within the conservation easement language, that that's allowed.

Chairman Reinhardt- okay. Alright, so another question they asked is whether the driveway is going to comply with chapter 55 of spacing standards. What is that?

Mr. Ryczek- chapter 55, is access management, it's a pretty long chapter, I'd have to get back to you. Um, it's not something that I look at particularly.

Chairman Reinhardt- do you know what spacing standards are?

Mr. Ryczek- so if you were to look in chapter 55 in our code book it actually has a lot of drawings about different situations proximity to intersections, other driveways, it has to do with, I believe line of sight and you know instead of having 50 driveways all in the same 100 feet, I think they're trying to minimize that, for you know safety, but I would have to get back to you on whether or not that applies to this specific parcel and the location of the driveway, I know that the site plan has to go to Planning Board, so that's something that's going to be scrutinized at that level.

Chairman Reinhardt- say the last part again.

Mr. Ryczek- the site plan for his driveway has to go to Planning Board.

Chairman Reinhardt- okay. Alright.

Mr. Ryczek- so it will be reviewed...

Chairman Reinhardt- its going to be addressed.

Mr. Ryczek- correct.

Chairman Reinhardt- so we don't have to put a pause on this just because we don't have the answer today.

Mr. Ryczek- correct.

Chairman Reinhardt- spacing standpoint, okay. Alright that's good to know. Alright, I may have interrupted you, I'm sorry.

Mr. Ridley- no, no you're fine.

Chairman Reinhardt- okay.

Mr. Ridley- I'm learning too.

Mr. Salsburg- I think with a lot this big there must be spacing already there.

Chairman Reinhardt- alright so, lets um, lets ask some questions, Matt do you have some questions for him?

Mr. Nearpass- I was trying to in dropbox here, doesn't seem to be playing with me today, I think last time we didn't have a picture of the overall site, I think the, was this a question ...

Chairman Reinhardt- we have one.

Mr. Nearpass- um, is the building going before the house.

Mr. Ridley- yes.

Mr. Nearpass- or am I thinking of another one.

Mr. Ridley- no, the pole barn before the house.

Mr. Nearpass- yep. Um, and so you, did we settle that, you're in agreement that the house is going in first or how is that being ...

Mr. Ridley- the house would, yes. Yea, the house would have to go in first.

Mr. Nearpass- okay.

Mr. Ridley- okay, per you guys as well, you know the house would have to go in first, um, as long as the foundation is set, I can start on the pole barn, as well because my, the initial plan would obviously be, pour all the concrete at one time.

Mr. Nearpass- alright.

Mr. Ridley- so instead of having to break it up on different segments, so ...

Mr. Nearpass- you would finish the house before the pole barn?

Mr. Ridley- I would like to get the foundation set on the house. Yea and then ...

Mr. Nearpass- but will it be finished first? The house or the pole barn?

Mr. Ridley- the house would probably be finished first. Yes.

Mr. Nearpass- oh, okay.

Mr. Ridley- yea, yea, yea. Overall, the house would be finished first.

Mr. Nearpass- okay.

Mr. Ridley- uh, the overall plan is, it's basically the home is a barn-dominium so it's a poured concrete floor, so if I'm pouring that I want to pour the floor for the pole barn at the same time.

Mr. Nearpass- sure. That was really my only question. Um, Mike hit on you know the various topics, the other one was in that letter that we had it talked about a green space requirement, is that also part of the Conservation Easement?

Mr. Ryczek- that is the conservation easement.

Mr. Ridley- I think they were talking about the Conservation Easement.

Mr. Nearpass- that is the easement?

Mr. Ridley- 50% ... yea.

Mr. Nearpass- okay. Alright, no other questions.

Chairman Reinhardt- Alexis, questions?

Ms. Ogra- no questions.

Chairman Reinhardt- Lya?

Ms. Theodoratos- no questions.

Chairman Reinhardt- Fred?

Mr. Salsburg- well this is pretty similar to one just down the road, we did last year, and we got good information, I'm pretty comfortable with it.

Chairman Reinhardt- bear with us.

Mr. Salsburg- at least it's got a lot of grade lines on it, if they're right or not I don't know. But there's a lot of them.

Mr. Ridley- I do know another thing that we were looking at, um, is I scrutinized this a little bit more, I know one of the questions was the size of the pole barn, which I said 40 x 80 would be the biggest I would go, I would never go any bigger than that, I may go smaller.

Mr. Salsburg- cars, that's the part I remember was cars.

Mr. Ridley- yea, I got your spot saved for you. Um, but we know, I also looking at the lot to the west of us their highest point elevation is like 851 or 852 or something like that and the pole barn is actually an elevation of around 830 so its almost 20 feet below the site line of the house to the west of us, so if you're coming, driving eastbound you may not even notice its there. So, and I know that's a concern of everybody's with it being in front and everything like that and then also we talked about my engineer said, you know uh, developing trees you know around it as more blockage or anything like that as well, so

—

Chairman Reinhardt- are you telling us there will be buffering?

Mr. Ridley- there will be what, I'm sorry?

Chairman Reinhardt- buffering, vegetation, unless I misunderstood.

Mr. Ridley- uh, yea there, possibly, yea. I mean if everything is inside of the easement, yea we could, I could do something like that too.

Chairman Reinhardt- did you, or do we have a distance, lets see, um --- how far is the pole barn from the road?

Mr. Ridley- that I didn't hear back from, um, I don't know if I can figure that out based off the --- I can get you an exact distance.

Chairman Reinhardt- Adam, can you tell how far that is ...

Mr. Ridley- but I ...

Mr. Ryczek- I ---

Mr. Ridley- I'm pretty positive the front of the house sat around 375 off the road, so I would say probably, and I would get you an exact measurement but I'm going to say a couple hundred feet the front side.

Mr. Ryczek- the lots is 600 something feet deep, or is it 500? ---

Mr. Ridley- its 539 on the, so say 540 on the west side there.

Mr. Ryczek- so, it looks, it looks like the center of the pole barn, well slightly ...

Mr. Ridley- it's about 250 ...

Mr. Ryczek- a little more than halfway...

Mr. Ridley- yea.

Mr. Ryczek- it's definitely over 150' without question. It's probably the front of the pole barn is closer to 200'

Mr. Ridley- yea, that's about what I was figuring.

Chairman Reinhardt- okay. Uh, anyone from the public want to speak for or against the application? --- Anyone else have any other questions? Alright, lets walk through the criteria a little bit, certainly if there's any questions/comments that anybody has, chime in:

1. An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: the applicant has hired an engineer and in short it appears that due to the topography of the land that the best location for both the home as well as the proposed pole barn are located in the optimal locations. Anyone want to add anything else to the first criteria? - --

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: Although there does seem to be some indication that it could be, it just seems to be cost prohibitive as well as significantly disturbing the topography of the land. So arguably it cannot be achieved by some method feasible for the applicant to pursue. Would anyone like to comment or add anything to the second criteria? ---

3. The requested area variance is substantial.

Justification: The pole barn is significantly forward of the proposed home, however again as we indicated and stated in the first and second criteria it is the best location for both the proposed home and proposed pole barn. Would anyone like to comment or add anything to the third criteria? ---

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Justification: it is supported by the applicants engineer that it will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Anyone like to comment or add anything to the fourth criteria? ---

5. The alleged difficulty is self-created.

Justification: The applicant has and wants to put the pole barn forward of the proposed home. Would anyone like to add anything to the fifth criteria? ---

AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. One condition that the board is going to impose is that the foundation is going to set, the foundation of the home, proposed home, is going to be set before any construction commences for the pole barn. However, the applicant has indicated that it is the intent that the home is going to be finished first before the pole barn, is that accurate?

Mr. Ridley- correct. Just want to get the concrete poured all at one time.

Chairman Reinhardt- Sounds like a good idea. Any other conditions or comments for the proposed resolution? Or Conditions?

Ms. Ogra- no.

Chairman Reinhardt- alright then I would entertain a motion for Approval.

A motion for approval was made by Alexis Ogra and seconded by Matt Nearpass:

This resolution was put to a vote with the following results:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Fred Salsburg	Aye
Alexis Ogra	Aye
Lya Theodoratos	Aye

Adopted: 5 Ayes, 0 Nays

Chairman Reinhardt- motion carried, good luck to you, thank you, thanks so much for your patience.

Mr. Ridley- thank you very much for your time. I greatly appreciate it. Have a good night.

Chairman Reinhardt- you too.

**WOOD**, 6721 Co Rd 41 09-Z-2023  
seeking an area variance to subdivide 2.609 acres into 2 parcels (approx. 1.1 acres and 1.5 acres) to sell off the additional parcel to an individual who wishes to construct a residence when § 211-27.3 states the maximum living units per acre of gross property area in the B overlay for a Residential 2 property is 0.50.

Chairman Reinhardt- okay, Wood.

Mr. Wood- yes.

Chairman Reinhardt- how are you?

Mr. Wood- good, how are you?

Chairman Reinhardt- good. Uh, the county submitted comments that's also a Class 1, it's the same drill as before so do you understand all that or you want me to review it for you again?

Mr. Wood- could you review it a little bit, I, I ...

Chairman Reinhardt- sure, sure.

Mr. Wood- we did get the e-mail also this afternoon, but ...

Chairman Reinhardt- okay. So, um, when a the County Planning Board, its an advisory board, so it means then that when they give us some information we have by law certain things that we need to do, in this case in a Class 1, they give us comments we have to consider them but it doesn't mean that, if it was a Class 2, we would have to if we wanted to approve a variance, you would need a super majority, which is 3 + 1, so you would need 4 votes for approval. In this case it is a Class 1, albeit there are comments but if it is to be approved, if the board decides to approve it you would need just 3 votes for approval. Alright, that make some sense, you have any questions?

Mr. Wood- yup, got it. Understand that, yup.

Chairman Reinhardt- but there are questions that the County Planning Board had asked, and I think it would be wise for us to then ask those questions along to you and see what those answers are, I think it would help us.

Mr. Wood- okay.

Chairman Reinhardt- so, um, just for clarification, if I'm not mistaken this is the second time, you're looking for subdividing this, its not the particular parcel, but you've done it before um, right the lot was divided once before?

Mr. Wood- right.

Chairman Reinhardt- now you want to divide that lot again?

Mr. Wood- yea.

Chairman Reinhardt- right?

Mr. Wood- right, it was 4.4 acres uh, and I think it was about 5 years ago, we divided 1.8 off that 4.4 leaving 2.6, right.

Chairman Reinhardt- one issue that caught my eye from the county planning board is that in a nutshell version of it, they didn't like you writing on the survey.

Mr. Wood- right, right.

Chairman Reinhardt- you're not supposed to do that.

Mr. Wood- yea, I was not aware I couldn't do that, but ...

Chairman Reinhardt- okay.

Mr. Wood- I thought it would be, you know most convenient way to show how, you know we were ...

Chairman Reinhardt- I don't think there's a survey police that's going to find you ...



Mr. Nearpass- I was surprised it was part of the New York State education law, that was ...

\*Laughter\*

Ms. Ogra- I was surprised they knew that.

Mr. Wood- yea.

Chairman Reinhardt- alright, so I'm going to have questions later on, but I think I'd like to hear what the board has questions for you, so uh Matt, do you have questions?

Mr. Nearpass- um, obviously the, the county had asked about this chapter 55, town code right, this specific question the proposed lot is unlikely to be able to meet access spacing standards in chapter 55 of the town code, did you have a chance to review that or take a look that was one of their first ...

Mr. Wood- well that's concerning the density, is that the, is that the law that ...

Mr. Nearpass- no I believe that's referring to how it's, how the driveway is cut in between driveways, I'll look to Adam is that generally, what?

Mr. Ryczek- yea. Uh, because we got the comments later so just going through that chapter right now it looks like what they're referring to is the minimum distance between driveways, which is 125' and I'm just loosely scaling this off of the satellite image that was provided, from the county GIS, and it looks like they'll be able to have 125' on each side, um, so from 6721's driveway and 6715, it says it's unlikely, it doesn't say that it won't, but ...

Mr. Nearpass- okay.

Mr. Ryczek- just loosely scaling it, I don't know that that's an issue.

Mr. Wood- there would have to be about what, 270' between our driveway and the next one for that, that there has to be 150' on each side? Or 125' on each side?

Mr. Ryczek- you would need 250' total.

Mr. Wood- 250' total.

Mr. Ryczek- well plus the width of the driveway.

Mr. Wood- right, right.

Mr. Ryczek- so, yea 270'

Mr. Wood- and you feel that I didn't measure that, I don't know ...

Mr. Ryczek- I'm not engineering, I just, to try to address the concern using the scale provided on that map, it looks like you'd be okay.

Mr. Wood- okay.

Mr Nearpass- I'm good for now.

Chairman Reinhardt- Fred, questions?

Mr. Salsburg- well, it's a B overlay, was there an A? Now there's a B? What happened to the regular, uh  
—

Chairman Reinhardt- I'm not sure what the question is, what the difference between an A and a B overlay?

Mr. Salsburg- yea.

Chairman Reinhardt- Adam?

Mr. Salsburg- what's the intent of it? Because these aren't small lots, its, we're not calling it a development, are we? ---

Mr. Ryczek- it's for subdivision, any subdivision, the A overlay allows .33 units per acre, so you would need 3 acres, you would need 6 acres to have 2 house parcels, to subdivide to start, he's in the B overlay which is .5 units per acre, so you need 2 acres for each house, so he would need 4 total acres, like he had when he subdivided the first time which is why he didn't have to come here for a variance because he started out with enough acreage to divide it into 2. That overlay district, now he has less than 4 acres in the B overlay, so subdivision requirements require him to have that acreage or get a variance.

Mr. Salsburg- max of a sub, of a regulation that doesn't have any real basis but, asking for bigger lots, I don't see the reasoning for it.

Chairman Reinhardt- I think it's, the intent is greenspace. If somebody has a parcel and subdivides it to such an extent without it being in a subdivision, it puts some uh, I would argue reasonable parameters on how many times you can subdivide it without being in a subdivision and trying to keep the greenspace.

Mr. Salsburg- have there been any prior variances on this do you think?

Chairman Reinhardt- Adam did some research and for what he's, the applicant is asking for there have, there's no variances that have been approved for less than 2 acres in the last 15 years. So that, to me that says that uh, to try and preserve the intent of the code, we shouldn't be legislating via variances and overrun what the code is telling people what they can and cannot do. And if they don't like it, they certainly could ...

Mr. Nearpass- how'd he get the 1.8 then? Though, where he is now, so he, before it was, he subdivided one other parcel off and that's 1.8 acres. That's it right here.

Chairman Reinhardt- right but that's ...

Mr. Nearpass- the hand drawn one.

Chairman Reinhardt- right, he's done that already, he ...

Mr. Nearpass- but he didn't need a variance to do that?

Chairman Reinhardt- no. That's what he wants to do.

Mr. Nearpass- no, no, no this one is existing.

Mr Ryczek- because ...

Mr Salsburg- they call it close enough.

Mr Ryczek- at, he had all of that acreage as one parcel, he had 1.86 + 1.45 ...

Mr Nearpass- right, but he split it to 1.86, I thought it had to be a minimum of 2 acres for one house?

Mr Ryczek- no, you need that acreage to subdivide, he could have subdivided it down to ...

Mr Nearpass- okay.

Mr Ryczek- a half an acre, and created a new parcel if he chose, you need that acreage to start. How you subdivide it isn't restricted as long as it meets the minimum lot size.

Mr Nearpass- if he would have split this into 3 at the same time back then, he would have been, okay?

Mr Ryczek- he would have needed a variance.

Mr Nearpass- because it wasn't 6?

Mr Ryczek- correct.

Mr Nearpass- got it.

Chairman Reinhardt- you have more questions, Fred; you want to come back? I can go back to you if you'd like.

Mr Salsburg- there isn't much R-2 in this area then is there, it's this overlay that overrides regular R-2 lot size.

Chairman Reinhardt- the, well Adam, can you speak to where does the overlay start and stop in that area?

Mr Ryczek- I don't have the map in front of me, I can't answer that, I'd have to look it, at where the, I think the last time we were looking at it, its right on his property line, it changes from A to B, and I think he's in the more favorable overlay district A is more restrictive.

Chairman Reinhardt- which goes which compass direction? East, west?

Mr Ryczek- to the east.

Mr Nearpass- so the other side of Brace Road.

Mr Ryczek- no, to the East is towards Farmington, so the parcel to the right if you're looking at the picture.

Chairman Reinhardt- towards Brace Road would be west.

Mr Nearpass- got you, I was thinking it was on the other corner. Yup, yup, yup.

Chairman Reinhardt- alright. Alexis questions?

Mr Salsburg- not exactly done, I just ground to a halt, I ---

Chairman Reinhardt- we'll come back; we'll give you another chance.

Ms. Ogra- I don't have any questions I mean I'm, generally I don't have a problem with it, um, I think you know, you, I guess you could make an argument that if you cleared that vegetation there to put a home in it might make it safer for some of those people coming out of their driveways because people on that road would be able to see them, or they'd be able to see kind of thing, um, and I saw the comment from the county planning board about you know conservation and what not, I, we obviously have a conservation built into our town code, so as long as it met that when somebody is building something I don't see really a problem there, and you know to, I think they mentioned something about covering it so you couldn't see it from the road, but you know your driving so fast on that road anyways, you really shouldn't be looking out the window.

Mr Wood- right.

Ms. Ogra- other than straight ahead, um, so I don't have a problem with the division here.

Chairman Reinhardt- Lya?

Ms. Theodoratos- um, questions, the parcel that you want to divide to, do you plan on building, if it's granted do you plan on building the home or do you plan on selling it?

Mr Wood- yea, no I would plan on selling it, yea.

Ms. Theodoratos- that's all I have for now.

Mr Wood- okay, alright.

Chairman Reinhardt- alright, so um, it does cause some concern for me that you've already subdivided it once, and now you want to divide it again, uh, and the history out there is that there haven't been any variances that have been granted, so if it's the, you know what the big deal and maybe to Alexis' point its like well you know you're driving by and whose going to see it, all those kinds of things, however, on the other side, the concern should be if we're going to over legislate or completely circumvent what the code is saying that you shall not do this, it's a big ask is what you, you're looking for, that concerns me, because the board says yea its okay, no harm, no foul, then the neighbor comes in and they want it, and they want it and then, now the piece of legislation that says for that overlay to protect the greenspace, shouldn't be done that way.

Mr Wood- right.

Chairman Reinhardt- right, does that make some sense, as far as ...

Mr Wood- I understand that...

Chairman Reinhardt- sure.

Mr Wood- its like you kind of set a precedent for ...

Chairman Reinhardt- yea, right.

Mr Wood- someone in the future and ...

Chairman Reinhardt- right. It is a case-by-case basis, but it is a ...

Mr Wood- right.

Chairman Reinhardt- a hard thing when we've heard it many times before, an applicant will come in and says well you've done this before

Mr Wood- right

Chairman Reinhardt- and you've allowed this, you've allowed this

Mr Wood- right

Chairman Reinhardt- and it's like well, oh okay we hear what you're saying and its all, is it going to change the character of the neighborhood, well I think you might be able to see that if properties in that overlay, owners of the properties, were permitted to subdivide, subdivide, subdivide, it most certainly would change the character of the neighborhood.

Mr Wood- mhm.

Chairman Reinhardt- I don't think you would dispute or anyone here as you're driving up and down Boughton Hill / 41 its opened, there's lots of space out there, people might like that, but if you divide it again and again, you want to live in a subdivision, you want neighbors close by, that's okay, that, some people like it, some people don't.

Mr Wood- yea.

Chairman Reinhardt- so that's a concern that I have and hopefully I'm making my point on that.

Mr Wood- no, I understand what you're saying there, I mean, but like the next 4 lots to the east are all less than an acre I believe, it does, it would kind of blend, but I understand which is kind of interesting because that's in the overlay district A, like you said which is tougher, you need more space typically, I'm curious as to how they did that back then? Because they must have had a larger parcel and just met the requirement for the ....

Mr. Ryczek- that or it could be pre-exist the current.

Mr Wood- yea.

Chairman Reinhardt- so you could have, I think what Adam was saying and to hit his point maybe a little more, that the parcel that you had that when you were permitted to divide it without a variance, you could have had an acre. You could have, right, its, what's ...

Mr Wood- yea.

Chairman Reinhardt- you could have a very small, not very small, but arguably an acre, even though you're asking for something that's more than an acre in this instance, but then because you start with the

whole, if you want to cut a small piece of the pie out, you were permitted to do that, but because now you're new starting block isn't big enough to divide it that's why you need a variance.

Mr Wood- so if I ever want, if I had wanted to divide that into 3 lots in the beginning, I would have had to get a variance at that point ...

Chairman Reinhardt- yes.

Mr Wood- so I decided not to do that.

Chairman Reinhardt- right, so ...

Mr Wood- and I'm asking for one now.

Chairman Reinhardt- so that's why, again I think you're understanding, hopefully understanding ...

Mr Wood- I am.

Chairman Reinhardt- if you would have divided it into 3 you still would have needed a variance.

Mr Wood- right.

Chairman Reinhardt- which is why you're here today because you need a variance because you're trying to divide something your piece of pie isn't, your whole isn't big enough to do that.

Mr Wood- correct.

Chairman Reinhardt- do you know, because I, well granting a variance with, let's say runs with the land, it doesn't stay with the person, so what that means is when you sell if you decide to sell that parcel someday whatever parcel it is, that if there's a variance attached to it, you don't, YOU don't take that variance with you, it stays with the land. So...

Mr Wood- okay.

Chairman Reinhardt- if the board grants the variance and on that particular parcel that you want to subdivide, the variance stays with it, so the new owner is then subject to the variance. Another concern I have is would you need any other variances, side setbacks, side to side front to back, for putting a home in there. Arguably if you wanted to put a, I'm being facetious, an 8,500 SF home ...

Mr Wood- right.

Chairman Reinhardt- on an acre, not going to fit. Right?

Mr Wood- correct.

Chairman Reinhardt- its too big and you're going to need a variance.

Mr Wood- correct.

Chairman Reinhardt- when people come back and they say well I need more variances, if you need lots of variances then you shouldn't be doing that in the first place.

Mr Wood- yea. I understand.

Chairman Reinhardt- make some sense on that?

Mr Wood- yea, yea. Could they be, they'd be limited, whoever was to purchase that property would be limited to that size of the lot to, as to what size home they would want to put on it.

Chairman Reinhardt- probably, yea.

Mr Wood- yea.

Chairman Reinhardt- yea, yea.

Mr Wood- right.

Chairman Reinhardt- okay. Um, we've probably just thrown a lot at you. Any questions, comments, things you want to address before we press forward a little bit?

Mr Wood- uh, no I think on our first meeting I explained how I felt, I didn't think there'd be any negative impacts on anything, to the area, and you know I had neighbors here and I was, they were supportive of that also ...

Chairman Reinhardt- mhm.

Mr Wood- but, so ...

Chairman Reinhardt- um, they did, they did support, however sometimes when people support a certain position, it's a self-serving piece and they're going to say well gee if I support you then you'll support me and ...

Mr Wood- right.

Chairman Reinhardt- and we're all getting what we want, so there's some uh, caution that I have with that.

Mr Wood- yea.

Chairman Reinhardt- anyone from the public want to speak for or against the application? --- Suzy, do we have anybody? – No, okay. Alright, so let's just take a little straw poll here, on where we stand if we need further discussion or if you need more time.

Mr Wood- mhm.

Chairman Reinhardt- uh, Fred, where are you on this?

Mr Salsburg- I think this is uh, hardship ask because 1.1 acres and 1.5 acres the whole town is full of smaller ones than that, and I would say with the A zoning and the B zoning and whatever else is down the road, not that big a deal.

Chairman Reinhardt- alright, so I hear you right, looking at the, we know that hardship doesn't really apply here but, if I hear you right, that um, granting this variance you believe would not change the character of the neighborhood to the detriment?

Mr Salsburg- right.

Chairman Reinhardt- alright. Any of the other criteria that you want to take a look at about why you feel uh, the way that you do, or does that sum it up? Just giving you a chance...

Mr Salsburg- that's all I got.

Chairman Reinhardt- okay. Um, Matt, where are you on this?

Mr Nearpass- so I agree with Fred in that I don't think an undesirable change would be made to the neighborhood, uh, a 1.1-acre lot is still a good size lot, it seems similar to the neighbors, where I'm kind of, what I'm kind of weighing more heavily you know the part of the code is, I think it is a very substantial ask, right, I think you'd find there's probably several of them, many other people in this same situation that now might say, ah the bar is a little lower now, I'm going to go ask for the same thing and what I just don't have is really that something that's unique about your situation or why you have to do it that can tie a yes, an in favor of vote to.

Mr Wood- mhm.

Mr Nearpass- so that, to Mikes point, we worry about setting precedents a little bit in some areas, although everything stands on its own, I don't see what really makes this unique um, for you to have to do it, right.

Mr Wood- I understand that.

Mr Nearpass- um, and you've, you've done well, I think, and you've subdivided it once and successfully, and you know per the code um, I just don't see the justification to do it again. I think it's a want, I think it'd be nice, I'm sure um, you know I'd try to do the same myself, Id be, you know but uh, I think without really having um, a bit of an anchor reason as to why you need some sort of, such a substantial um, variance from the town ...

Mr Wood- yea.

Mr Nearpass- that's what makes it tough for me, I, I think it'd be in character of the neighborhood, no problem.

Mr Wood- right.

Mr Nearpass- um, it's self-created, but as I just go through the rest of the criteria, to me the one that really just stands out and I weigh more heavily in this particular one is that.

Mr Wood- right. Yea.

Mr Nearpass- it's a large ask ...

Mr Wood- I just felt there was, you know we would, it'd work out well for everyone, myself with not only aesthetics but you know brings in another family into the neighborhood, and I could elaborate on



that, I've been in Victor since I was 5 years old so, you know I enjoy the town, and any opportunity, if there's anything I can do to help someone else enjoy the town it's a big thing for me, so but yea everyone I think everyone, I don't see a downside to it that's all, I mean...

Mr Nearpass- yea, I mean, to me the only downside is anyone else that has 2.6 acres ...

Mr Wood- right.

Mr Nearpass- can now go, ah, I can now carve out a piece of it and make another home.

Mr Wood- right.

Mr Nearpass- and it's just not, it's not the intent of the code or the rezoning also.

Mr Wood- right. Understand.

Mr Nearpass- that's all. That's my, and maybe there are other creative ways you can do that, can you go to your neighbor to the south and buy more land? I mean you could ...

Mr Wood- I actually considered that, yea.

Mr Nearpass- that too, right I mean.

Mr Wood- I thought of that. That would give us more land to divide then maybe that would work too. Yea.

Chairman Reinhardt- Alexis, any different thoughts on where you're at, are you uh still okay with it?

Ms. Ogra- no, I, yea I agree with Fred, um it doesn't really change the character of the neighborhood, I see what you're saying with you know you don't want to almost set a precedent but you know kind of open a can of worms I guess if you have you know every other neighbor coming in asking for the same thing but if we have that problem, that's something the, you know at that point it'd be an issue almost for the Town Board that you know listen you guys got to look at the code, we've got all these people coming in for this, um, so I don't have a problem with it. Sir, do you have a lot of deer over there?

Mr Wood- pardon me.

Ms. Ogra- do you have a lot of deer?

Mr Wood- yea, we, there's deer there. There's a lot of the are in the back too that uh, is all overgrown as you can see ...

Ms. Ogra- oh, I guess you know if they put another house in there, there'd be uh, less vegetation close to the road, so maybe people would, uh could see the deer coming.

Mr Wood- that's true.

Ms. Ogra- so uh, that's another point I guess, but other than that I don't have any other questions/ comments.

Chairman Reinhardt- okay, Lya, where are you on this?

Ms. Theodoratos- well, I would oppose this and I'll tell my reasons, I think the whole area that um, Brace Road, Co Rd 41, is absolutely beautiful and gorgeous, because you're not one on top of one another, I move here from a place where pretty much everybody was one on top of another, and I've also seen places where they had no regulations and that, the place I'm talking about is overseas, and they just kept building, building, building on the whole mountain changed the whole landscape, and there's its, horribly polluted, and my fear is that eventually like was said before well the neighbors will say well you issued it already once, and its, it might set a precedent, so eventually this might change the whole character of this whole area, and I know you said at, a 1.1 acre, it's a decent sized lot to put a house and again it wouldn't, somebody probably would not put a very big house because they have to fit it there, but the more it, if every lot is divided there are more and more houses and its going to look totally different, and you get to appoint then where it's not the same town that you remember it from years ago.

Mr Wood- right.

Ms. Theodoratos- and another thing, you know I applaud what you said, you know you want to give somebody else a chance to move into the beautiful place what it is, but also you haven't had somebody that close to you, you know sometimes they say be careful what you wish for ...

Mr Wood- right.

Ms. Theodoratos- because you never know, you might get a neighbor who is, you know not the best neighbor. You know but that's none of us know that.

Mr Wood- yea.

Ms. Theodoratos- but it was earlier said you know some people like to live with a lot more property, some with less, and then those people should move to a regular subdivision, which you know and a lot of those beautiful ones around there, so that's really my thinking because I've come from a place where there's a lot more populated and you know so to speak one on top of the other even with private homes.

Mr Wood- yea.

Ms. Theodoratos- you know, so ...

Mr Wood- well, yea, again like I said I've lived here since I was 5, I've seen a lot of these housing development's go up and its almost inevitable it's getting more and ...

Ms. Theodoratos- yea.

Mr Wood- more dense, uh and those lots are probably less than half an acre.

Ms. Theodoratos- oh yes.

Mr Wood- but those people live in, and uh, this would at least allow a 1-acre lot for someone to live in and have an option other than going into one of these housing developments, so I mean there's a couple ways to look at that too, but ...

Ms. Theodoratos- yea, yea, there are several ways, at least with these subdivision developments that they build, at least the way they, even though those lots are probably many of them are probably a lot smaller

than the 1.15 acre but, but the way they're sorted out, they, you know they make it even look, look aesthetically better.

Mr Wood- right.

Ms. Theodoratos- so then when when individuals ...

Mr Wood- well that's, that was kind of my point too with making that particular lot a home to blend in with the other 4 to the east and our house, so

Mr Theodoratos- yea.

Mr Wood- but, yea I appreciate it, and I know what you're saying.

Chairman Reinhardt- okay, so I'm going to take a wild guess here you probably have a feeling how the board has an idea of which way its going to go, when we've had this situation before, um, that it may not go as well as the applicant would like, we give the applicant an opportunity to say, you know could I have some more time, maybe there's something that I can think of in the next meeting to maybe persuade the board to think differently, so that's one option, others are you say I want to withdraw my application, I want to, because there are consequences to a negative or if you will a denial for a request, you can't ask for it, tomorrow, right there's a limit or a time that you can go back and ask for it, a variance again, if you withdraw it, you can ask for it again, re-apply, maybe under some type of different strategy.

Mr Wood- mhm, okay.

Chairman Reinhardt- you follow me so far?

Mr Wood- yup.

Chairman Reinhardt- or you know they may say gee I want to go get an attorney because an attorney will hopefully know the law better than others and could get a different strategy for you, I'm giving you some options on what to do or if you just want to say you know what, okay let the board do what it wants to do and make a decision.

Mr Wood- mhm, yea.

Chairman Reinhardt- questions about that?

Mr Wood- yea, yea it seems like a close one here, I'm looking at 2 and maybe a 2 and 3 situation so, I guess what I'm understanding is if I get a denial, it would be a while before I could ever apply even if Zoning Laws were to change or things like that, correct?

Chairman Reinhardt- right, so an option could be because I think you heard me before is that a Zoning Board, a judicial branch of the government, it is not meant to re-legislate or change the laws at this board.

Mr Wood- mhm, yea.

Chairman Reinhardt- if you wanted to change the law, you go to the legislature which is the Town Board, so if you were to go to the Town Board and say you know what, I think what's happening here is I'm getting the short end of the stick, I should be able to divide it, the density and whatever your argument is

that you present and get the board to change those codes that might help you in the long run so you could subdivide it.

Mr Wood- mhm.

Chairman Reinhardt- make sense ...

Mr Wood- yea.

Chairman Reinhardt- or not?

Mr Wood- right. If they change the codes.

Chairman Reinhardt- if they change the codes.

Mr Wood- right, so I ...

Chairman Reinhardt- if they decide...

Mr Wood- so I'd be looking for a, instead of a .50 in this situation, I'd be looking for a, like a .77 density. Before they would allow this type of split, correct?

Chairman Reinhardt- you're asking for legal opinion, and we can't do that, alright, but I think you're on the right track though is ...

Mr Wood- yea.

Chairman Reinhardt- you need to know who or what body of government to talk to to get what you're looking for.

Mr Wood- got you. Yea.

Chairman Reinhardt- does that make sense?

Mr Wood- mhm.

Chairman Reinhardt- alright, so questions?

Mr Wood- no, I mean I've tried to make all my points and the advantages of doing this and you know I don't know what else, unless you would have any suggestion, how I could ...

Chairman Reinhardt- I was trying to offer, give you some options on the, Adam, do you have off the top of your head if he, if there's a denial today, what's his waiting period before he can re-apply? Is it 9 months? Or uh ...

Mr Ryczek- my understanding is 1 year.

Chairman Reinhardt- its one year.

Mr Salsburg- I think I saw that too.

Chairman Reinhardt- okay. That, that's so it's a while.

Mr Wood- yea. If I thought there was any way I could convince I would take a year to do that without, but uh, so uh, yea, I ...

Chairman Reinhardt- you're not ...

Mr Wood- if it gets denied and I have a year before, uh I can do that again, uh, if that would give more time, for maybe the variances to change, or however someone ...

Chairman Reinhardt- its not the variances ...

Mr Wood- advised me on how to do it. You know.

Chairman Reinhardt- it's not the variances that's going to change, it's the town code.

Mr Wood- the codes changed, Sorry.

Chairman Reinhardt- right.

Mr Wood- I'm sorry, right.

Chairman Reinhardt- its okay.

Mr Wood- right. Yea.

Chairman Reinhardt- so how would you like to proceed? You want us to make a decision today, do you want some time to think about it and we can come back the next time, do you want to withdraw?

Mr Wood- yea, I, I don't know if the more time would help, I think I got a clear, like you said a clear voice of what's going, going to go down, so uh, one way or another doesn't matter I, to me I guess, um, because it probably would be a year before I would try to pursue it again anyways. So ...

Chairman Reinhardt- okay.

Mr Wood- if you want to just take the vote. We'll...

Chairman Reinhardt- okay. Alright, then that's what we'll do. Alright, then we're going to go through the criteria, um ---

1. An undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: One reason is that due to research there have been no variances approved for a less than 2-acre lot in the last 15 years. Another reason is this is the second time the applicant has divided, should say subdivided the parcel, um, that, um, the, this board should not be used to replace or circumvent Town Board legislation. Would anyone like to add anything or comment on the first criteria? ---

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the

applicant to pursue, other than an area variance.

Justification: He wants to subdivide, and the only way to do that is for requesting an area variance. Comments or additions to the second criteria? ---

3. The requested area variance is substantial.

Justification: The overlay B requires to start 4 acres and he has less than that amount therefore it is substantial. Comments or additions to the third criteria?

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Justification: We've heard nothing with regard to any kind of impact on the environmental conditions.

5. The alleged difficulty is self-created.

Justification: simply put the desire to subdivide the lot is self-created. I would also request that the minutes from May 1<sup>st</sup> as well as tonight May 15<sup>th</sup> be incorporated into the findings of fact. With that I would entertain a motion for DENIAL.

A motion for DENIAL was made by Matt Nearpass and seconded by Lya Theodoratos:

This resolution was put to a vote with the following results:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Fred Salsburg	Nay
Alexis Ogra	Nay
Lya Theodoratos	Aye

Adopted: 3 Ayes, 0 Nays

Chairman Reinhardt- okay, so it's denied.

Mr Wood- yea, thank you...

Chairman Reinhardt- that's so much ...

Mr Wood- very much.

Chairman Reinhardt- for your time and patience.

Mr Wood- appreciate your time, thank you.

Chairman Reinhardt- Alright we uh, hopefully everybody saw the Mobile Graphics has been TABLED.

**MOBILE GRAPHICS**, 7120 Lane Road      **TABLED 6/19/23**      10-Z-2023  
Seeking to modify a previously granted use variance (8/28/92) the new proposal includes a 7,488 SF building to support the existing business and provide an accessory apartment(s). The applicant would also like to add 2 additional employees. The property lies within a R1/R2 district.

Mr Salsburg- Do we know why?

Chairman Reinhardt- uh, I think its because the County Planning Board comments just came in, so they wanted some more time to ...

Mr Salsburg- oh.

Chairman Reinhardt- there was quite a few comments.

Mr Nearpass- it was DENIED as well. Right, it was a denial?

Mr Ryczek- it was denied.

Chairman Reinhardt- yup. Yup, so they're going to need uh, more time and I understood it the biggest, biggest hurdle is the lack of what's called um, dollars, and cents. Yup, so what they're referring to is dollars and cents proof is that they really need to show that they can't obtain a reasonable return on the property and often times what that looks like is what's the present value of the property, what could they sell it for, and they also have to how that they can't use that property for any other use that permitted in the district. Right, not just with, not just what they want to use it for but all the other things that they potentially could use it for, so Adam if you would on that note could you put a brief memo that, for the next time what are the uses that are permitted in that district. Because that's what they have to show, it's like I can't do all those things that are permitted in order to qualify for ...

Mr Nearpass- are they asking for one of the permitted things in there? Residential has got to be ...

Chairman Reinhardt- they're looking for a modification, so part of the modification is you look at what's the original use variance, is it a major or a minor ask, is it related to the use variance, but to really expand on the use variance, what they have to show is not only, we're not going to be able to get a reasonable return, they have to be able to show that all of those other uses that are permitted in that district they can't do it.

Mr Ryczek- so, it'll be R-1 district regulations because its split zoned, and the more restrictive so I can put it together for you...

Chairman Reinhardt- I think just, just so it's a little easier for us to find ...

Mr Ryczek- it's, yea. It's basically like there's 2 sections, so its single-family homes ...

Chairman Reinhardt- just copy it and ...

Mr Ryczek- yea.

Chairman Reinhardt- and highlight it.

Mr Nearpass- that's my point they're, part of their ask is for single family residence.

Chairman Reinhardt- what they're, what they really need ...

Mr Ryczek- they're asking for ...

Chairman Reinhardt- it is ...

Mr Ryczek- 2. Which is not permitted in R-1.

Chairman Reinhardt- the biggest piece is when a court says that the applicant needs to show dollars and cents financial proof, they have to not just say in a conclusory fashion, we cant do it because ... they have to show this is what the property is worth, this is what we can sell it for, here's the mortgage, here's the leans, here's all of what we're up against and we just can't get a reasonable return on the property it just doesn't have the value for what we should be able to do with it. It's a hard standard.

Mr Salsburg- well I saw a conflict between the apartments and the business. Itself.

Chairman Reinhardt- it is. Um, that needs to be addressed.

Mr Salsburg- yea.

Chairman Reinhardt- alright, so that will, well when they decide to come back, its either going to be the 5<sup>th</sup> or the 19<sup>th</sup>.

Ms. Downs- they asked for the 19<sup>th</sup>.

Chairman Reinhardt- oh, they asked for the 19<sup>th</sup>?

Ms. Downs- yea.

Chairman Reinhardt- excuse me, alright anything else Adam? Anything for us?

Mr Salsburg- lets us out a little sooner.

Mr Ryczek- I have nothing.

Chairman Reinhardt- we're good.

Mr Ryczek- the signage war continues.

Mr Nearpass- which one?

Ms. Ogra- the flags?

Mr Nearpass- did they make more flags?

Mr Ryczek- on route 96 pretty much, but there was actually a sign down, are you familiar with Blossom



Drive, just past, just prior to the new Marks? In that intersection there's a small business district there, so there was a non-permitted sign that the department has been trying to get down since 2017, I think, and I finally was able to manage ...

Mr Salsburg- they applied for a multiple ...

Mr Ryczek- variances.

Mr Salsburg- variances and got turned down.

Mr Ryczek- and were denied.

Mr Salsburg- I kind of liked that sign. Is it gone, the one I like? Well Michael there's good news, the guy on Dryer Road, went by today and I don't think there's anything in the driveway or in front of the house.

Mr Ryczek- he did put one new ...

Chairman Reinhardt- there's still ...

Mr Salsburg- I don't think there was even one there.

Chairman Reinhardt- there is.

Mr Salsburg- tonight.

Chairman Reinhardt- he still has one up.

Mr Ryczek- he had taken them all down, and then he put that new awning up, which doesn't have sides, so I'm hard pressed to call it a structure, he said its only going to be for the summer while they have tehri boat in the driveway so he doesn't have to take the boat up and down the stone road every time he wants to go out which I guess is often. If its still there in the fall, the other 5 have been moved up to the back of the parcel, he has quite a set up up there. Stone base, so...

Chairman Reinhardt- alright. Anything else? Motion to adjourn.

On a motion made by Mike Reinhardt and seconded by Alexis Ogra the meeting was adjourned at 8:15 pm.