

TOWN OF VICTOR ZONING BOARD OF APPEALS, June 19, 2023

A regular meeting of the Town of Victor Zoning Board of Appeals was held on June 19, 2023, at 7:00 p.m.

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

OTHERS: Jeff Markin, Matt Garber, Rhonda Bailey, Kris Bailey, Nathan Esh, Bernard and Sandra Budimir, Mauro, and Karen Polidori, Lesia Pirmand, Drew Cusimano, Town Board Member, Adam Ryczek, Victor Code Enforcement, Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Chairman Reinhardt called the June 19, 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 Alexis Ogra, seconded by Fred Salsburg:

RESOLVED, that the minutes of the meeting held on June 5, 2023, BE APPROVED.

Adopted: Ayes 5, Nays 0

PUBLIC HEARING

EXTENTION OF TIME / BUILDING PERMIT

GULLACE PROJECT, 6710-6716 Mulberry Street

Seeking a one-year extension of building permit number BP2020-0311, which expires August 17, 2023. The project is to construct a 4-unit townhome totaling 6,987 SF with 4 garages (1,705 Sf), 8 deck/porches and 4 fireplaces.

Chairman Reinhardt- Alright, first the Gullace project, looking for a one-year extension on a building permit.

Mr Gullace- Mr Chairman, members of the board, my name is Dante Gullace, uh, I'm here on behalf of Linden Guaranteed Properties, Linden Properties, LLC, which owns the property. Owned by my children and myself. Uh, its uh the Gullace subdivision on Church Street which has been approved by the Town Board and uh, its uh it got an, uh permit that was issued and expires on August 17, of this year. And we would like to request an extension of that for one year.

Chairman Reinhardt- this is your second extension?

Mr Gullace- this is the, no that we're, there were 2 extensions. The second extension expires August 17. This would be the third extension.

Chairman Reinhardt- and in your application...

Mr Gullace- right.

Chairman Reinhardt- you seem to indicate that it's a number of things have taken place, cost of materials, um the, it's a bit of a complicated process going through Planning, but it sounds like you're going to be able to complete all those remaining approval process and break ground before the end of the year?

Mr Gullace- we're hoping that we can do that, I mean it depends upon getting that stuff done and getting the work done, that's, or getting the workers to come in, its still difficult to get workers, still difficult to get materials, so, and I'm hoping uh, you know uh, current thing that the housing market will improve with uh, interest rates maybe coming down, and uh, the inflation uh settling down a little bit because the housing business has declined quite a bit as far as building new houses.

Chairman Reinhardt- Fred, questions?

Mr Salsburg- no, I don't see any problem here.

Chairman Reinhardt- Matt?

Mr Nearpass- no questions.

Chairman Reinhardt- Alexis?

Ms. Ogra- has there been any work done, so far?

Mr Gullace- now we have done quite a bit of work, we meant, we just recently finished tearing down the 2 houses there's still one small building there, but we plan to use that as a construction office during construction, we started the road in from the um, uh side of Lynaugh Road to come in where this first construction will probably start.

Ms. Ogra- okay.

Mr Gullace- and uh, other than that we, we've held off because with the prices of the construction and the price of materials and then the shortage of labor the price goes up about the, right now roughly rule of thumb price of construction of new homes is going up above 30% and uh, you know adding that to the current level that they're at, makes the house pretty expensive, so we'd like to see that come down a little bit and allow you to build better houses and make them you know more livable.

Ms. Ogra- and then the proposed project that was approved was for townhomes and single-family homes, is ...

Mr Gullace- no, the, there are no single-family homes ...

Ms. Ogra- all townhomes?

Mr Gullace- in the, the uh townhouses on one side, on the east side of Church Street, there are townhouses on the west side uh, they're duplexes, because that's what Zoning permitted.

Ms. Ogra- I don't have any questions right now.

Chairman Reinhardt- okay, Lya, questions?

Ms. Theodoratos- no questions.

Chairman Reinhardt- Adam, anything else uh we need to know here?

Mr Ryczek- no.

Chairman Reinhardt- alright, anyone from the public want to speak for or against the application? --- Hearing none. Uh, I don't have any questions, if everyone is good to go with this, I would entertain a motion for APPROVAL for the extension of time for the building permit to expire that would be, Adam is, do you know if it's on today's date or is it from the date of expiration?

Mr Ryczek- I believe he gets one year from date of expiration.

Chairman Reinhardt- alright, so that's going to be August 17, 2024.

Mr Gullace- um...

Chairman Reinhardt- so I would entertain a motion ...

On a motion made by Fred Salsburg and seconded by Matt Nearpass, the extension of time was APPROVED.

Chairman Reinhardt- thank you.

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

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

Adopted: 5 Ayes, 0 Nays

Chairman Reinhardt- motion carried. Thanks so much, good luck to you.

Mr Gullace- thank you.

PUBLIC HEARING

MARKIN, 6894 Valentown Road

15-Z-2023

Seeking an area variance to keep his horse pasture fence where it is currently located forward of the frontline of the home when §211-41 H. states fences over 2 feet high shall not be erected nearer to the road than the front line of the principal building.

Chairman Reinhardt- Alright, next is the Markin project 6894 Valentown Road.

Mr Markin- hello, my name is Jeff Markin we're the home owners at, or I'm the home owner at 6894 Valentown, we've got um, 2 pastures that are going along the driveway coming into our parcel, our house, um, we're set back quite a ways away from Valentown, in fact you cant even see this from Valentown Road, we're over 350 feet or so back from Valentown, so we uh built the house a year ago um, we have a couple of horses and are looking to keep our fencing that we did there, I'll say we went ahead and built it, um, and I'll sort of say "my bad" for that, because I didn't realize that I needed to do something about a horse fence. So, but we would like to um keep it there obviously and um, we've talked to the neighbors and everybody, the people that can see it are supportive. I think one actually may have written a letter. That's it, yea.

Chairman Reinhardt- Fred, questions?

Mr Salsburg- uh, this is set so far back and its so nice, uh I have no objections. *inaudible*

Mr Markin- thank you.

Chairman Reinhardt- Matt?

Mr. Nearpass- I agree with Fred's comments in terms of the you know the fence and not being able to see it, just a question for you, it, so its not, its not zoned agriculture, R-1?

Mr Markin- Good question.

Mr Ryczek- R-2.

Mr Nearpass- R-2. I'm assuming its an allowed use the horse stabling or the ...

Mr Ryczek- yes, he just needs to be, the stabling of the horses needs to be 100 feet from any property line which it is, um these are just pastures, the fence just is, wasn't permitted the way the codes written to be forward of the frontline of the home, um other than that, uh, and it needing a building permit, there's nothing.

Mr Nearpass- okay, okay. No questions.

Chairman Reinhardt- you all set?

Mr Nearpass- yea, I'm all set.

Chairman Reinhardt- Alexis?

Ms. Ogra- How many horses do you have?

Mr Markin- uh, 2.

Ms. Ogra- no questions.

Chairman Reinhardt- Lya?

Ms. Theodoratos- I drove by today, I couldn't even see your house, or the fence and I think it's a beautiful fence, and I don't like fences but that type of fence I really like, I think it looks beautiful so I'm for it staying.

Mr Markin- thank you.

Mr Salsburg- is there some construction on going there, I saw an excavator ...

Mr Markin- oh...

Mr Salsburg- and some ...

Mr Markin- yea, the neighbor um, had a water issue ...

Mr Salsburg- oh.

Mr Markin- so, they had to dig up to find where the leak came from and so that's all his and they've put a bunch of it over on us, but they'll clean it up.

Mr Salsburg- mm.

Chairman Reinhardt- okay, I think you said 350 feet plus or minus from the roadway?

Mr Markin- from Valentown, yea.

Chairman Reinhardt- and its for a couple of horses, uh you know the County Planning Board uh, because that's what they do and you were, had to be a certain distance from, I'd have to look at a map, got to be either to a state highway, or another municipality, but in any event, they took a look at it, you were exempt, um ...

Mr Nearpass- I Think it was ...

Chairman Reinhardt- they want to know how far the fence was from the right-of-way, I think you've already answered that. Um, you got a picture of the fence, so I don't think there's really any other concerns we need to address here. Um, its well buffered, lot of vegetation and I think to Lya's point you can't see it, when you're going down Valentown Road. Uh, would anyone from the public like to speak for or against the application? ---

Mr Markin- okay, yea there's a couple other letters here that ...

Chairman Reinhardt- alright so we have uh, how many do you have there?

Mr Markin- well, Todd and Christine I think um, Bialaszewski submitted one, I think you may have that and then uh, Polidori and Ferri is the other sort of in front of us and they've got a letter here of support.

Chairman Reinhardt- look here and see who else gave you support... I'm finding 2, I don't know if there's another one, there's just the 2, alright so we have 2 via e-mail for support. I'm not hearing any opposition. I'm sorry ...

Mr Markin- I didn't know if you wanted these or maybe you already have them. These are the originals with the signatures.

Ms. Boughton- I can take them, thank you.

Chairman Reinhardt- yup, we can make them part of the record. Alright, it sounds like uh, unless I'm mistaken, everyone is pretty good with this? ---

Ms. Ogra- yup.

Chairman Reinhardt- so let's run through the criteria:

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: Largely the distance is 350 feet plus or minus from Valentown, its well buffered, vegetation, we have a couple neighbors are, that are in support, uh there's no line-of-sight issues with Valentown traffic, and its for, apparently for a horse pasture area. That fair enough, that accurate? – Okay. Anyone want to add anything else to the first criteria? --- Alright.

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: I think we can rely on the first justification, that its not going to change the character of the neighborhood and there is support from the neighbors, and we also will, lets put in there, for the first criteria, that County Planning Board looked at this and found 33.6 acres R-2 and found this to be exempt.

3. The requested area variance is not substantial.

Justification: Again, 350 feet plus or minus from Valentown, consider that to be not substantial.

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's a fence, there is a picture that was attached with the application, I cannot see how that particular fence would have any kind of impact of the physical/environmental conditions of the neighborhood.

5. The alleged difficulty is self-created.

Justification: It is a pre-existing fence so I would consider that to be self-created. Would anyone like to add or comment on any of the criteria or conditions?

Ms. Theodoratos- well Mike maybe on number 4 you could also state that its also well buffered and a lot of vegetation around.

Chairman Reinhardt- okay, we can add that. Anything else? --- Alright, I would entertain a motion for APPROVAL.

On a motion made by Matt Nearpass and seconded by Lya Theodoratos: The application was APPROVED.

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, thanks so much.

Mr Markin- thank you.

KEYSTONE CUSTOM DECKS, 6731 Setter's Run 12-Z-23
seeking an area variance to reduce the setback to 8' where 10' is required by §184-20 which states authorization to approve or deny cluster development and to grant variations in the dimensional standards (area) of Chapter 211 Zoning, concurrent with subdivision review as provided by §278 of the Town Law is granted to the Planning board, The parcel is a located within The Village on the Park major subdivision which is a clustered project. Under the clustering provisions the side setback (minimum yard) for parcels was reduced from 15' to 10'. The parcel is also a corner lot; therefore, it has two front setbacks and two side setbacks.

Chairman Reinhardt- Alright next is the Keystone Custom Decks.

Mr Esh- Good Evening.

Chairman Reinhardt- How are you? Good evening.

Mr Esh- so yea, we had a meeting a couple weeks ago, um and we went over quite a few things, we, in conversation with Bernie, we came up with a, or we noticed a few other details as well, um, that I'm not sure if we discussed or not, one of those is, um, the proposed uh, porch is not entirely, it's not the whole side, um is not past the setback it's just the one corner.

Chairman Reinhardt- right.

Mr Esh- so that's the only, the east corner is the only spot that we're seeking a variance for, it's not ...

Chairman Reinhardt- I'll use my pointer, so that right there ...

Mr Esh- correct.

Chairman Reinhardt- on that corner, that's the only piece that's an issue, right?

Mr Esh- mhm.

Chairman Reinhardt- okay.

Mr Esh- um, and also while that map is there, um with it being a corner lot it does push the house further back into the property, which I think creates a little less room in the backyard for porch/deck, you know building things of that sort. Um, whereas if it was just a straight lot and the house was parallel to the road, I think it would allow a little bit more space on the back side of the property, um, and yea, one of the other things, I think we might have discussed it last time, but also I saw the county had asked the height of the porch, the porch wouldn't be over 15 feet, and it would be lower than the garage, so it would not be visible from the road, um, so yes. And then I also included 2 pictures that show where the post would go, in relation to kind of the living area, and then I also remembered that you had asked for renderings with the porch at 17' versus 20' and I brought those with me, so if you'd like to see those I have um 3 of each and I have 1 of an overhead view and then one from the side view both of the 17 and the 20 if you would like to see those.

Chairman Reinhardt- sure, love to.

Mr Esh- the first 3 are from the overhead view um, and it's the 17' the second one, the second one is the 17' and the side view. And then I have 3 more of the top view, and 3 more of the side view at 20'.

Mr Nearpass- which ones are these? 17'?

Mr Esh- those are 17' and these are 20'

Chairman Reinhardt- okay, lets hold on, we're going to hold onto those just a second, these, the first two that you gave me, um, of the 17'

Mr Esh- mhm. So, you can see from the side view what it does to limit the space in between the column ...

Chairman Reinhardt- one second, I'm going to mark these so we're not going to get them all ...

Mr Esh- yea.

Chairman Reinhardt- jumbled up. Alright, uh I'm going to mark the overhead uh, 17' and we're going to call this exhibit 1, put that one in the record, and then the side view of the 17' will be exhibit 2. Okay, now we have the second set that you gave us --- and its an overhead and a sideview and what's the measurement on these?

Mr Esh- 20'

Chairman Reinhardt- okay.

Mr Esh- that's the one that would be seeking a variance for, the 17' would get the structure back within the setback...

Chairman Reinhardt- right, so I'm going to label and mark the overhead of the 20' as exhibit 3, then the side view 20' as exhibit 4. Okay, ready, go ahead.

Mr Esh- um, so the 17' structure you can see how tight the column is to the corner of the house ...

Chairman Reinhardt- are we looking at the overhead or the ...

Mr Esh- the side view.

Chairman Reinhardt- that's going to be exhibit 2.

Mr Esh- exhibit 2, um you can see how narrow that gets between the column and the house, compared to the side view of the 20' which would be the 4th one maybe? – 3rd or 4th?

Chairman Reinhardt- exhibit 4. Is the ...

Mr Esh- 4 ...

Chairman Reinhardt- the side view is exhibit 4.

Mr Esh- yes, so that shows how much space would be created in between the column and the house, so that was one of the concerns um that we had with moving it back ...

Mr Nearpass- what's really the concern?

Mr Esh-um, just ...

Mr Nearpass- that you're going to walk, in one design you're just going to walk to the right of it, in another design you kind of have the option to walk left or right ...

Chairman Reinhardt- I think there was a letter that the homeowner submitted and, I'm going to paraphrase, summarize it, to issues, one is just what you're describing, being able to walk through the house structure the corner of the house, and the pillar, this 16' pillar, and the other is not being able to observe the kids in the pool while they're in the covered area.

Mr Esh- mhm.

Chairman Reinhardt- fair enough?

Mr Esh- yup.

Chairman Reinhardt- okay. Go ahead.

Mr Nearpass- that was the other one I didn't understand, is it because the pillar would be in the way, because I think the, the patio, or the furniture itself would be in this same location right, underneath it ...

Chairman Reinhardt- so what I'm, the overhead um, drawing that you gave us.

Mr Esh-mhm.

Chairman Reinhardt- originally. Where it shows the pillar being 14' and then the back of the garage being 21.8' if the pillar, if you reduced that to 17' what's going to happen is that 16' x 16' post is going to then get close to the corner of the house and then the space is only going to be about ...

Mr Nearpass- right.

Chairman Reinhardt- 2 ½' or so ...

Mr Esh- mhm.

Chairman Reinhardt- right?

Mr Nearpass- right, I'm just trying to figure out how to me it just seems like it would improve the view to the pool because you're moving it closer to the house and you're allowing more space to the right of ...

Mr. Esh- we, yea ---

Mr Nearpass- the ...

Mr Esh- and some of that does depend a little bit on where you're at, but I had taken a couple picture and send them in, and that, those pictures where with the column where the proposed build would be and also at the 17' and then the picture that, where I took the picture from was about the center of the building where you would think that you know you'd be sitting by a table, you know lawn furniture, etc.. And that kind of showed a little bit more where the post would be in relation to the pool.

Mr Nearpass- right, exactly, so you're referring to this one, right?

Mr Esh- mhm.

Mr Nearpass- right, so if the, to me, if the posts were closer to the house you'd see more of the pool, if I put the post farther out its going to be ...

Mr Esh- okay, I thought the, from ---

Mr Nearpass- right, I mean I ...

Mr Esh- I thought from the picture and from when I was there it looked a little bit the other way.

Mr Nearpass- if I have the post ...

Mr Salsburg- I assumed it would be the other way too.

Mr Esh- and also the one thing that you, the other thing you do kind of create is the closer you get that post to the house, the more you are creating a wall there when you look out through versus a whole gap to look out through. Um, if that makes sense, the closer that we get that back you know, and the more you go back into the house the more your, the less space you're going to be looking in between they post and the house. If that makes sense.

Mr Nearpass- I don't think it's a, I don't think they're talking about the sun, I think they're talking about that this post is obstructing the view of the pool. Well, that's what I'm saying is here, if the 20' the post is going to be here ...

Ms. Ogra- yea.

Mr Nearpass- okay, it whatever its going to be here.

Ms. Ogra- so they've got, let's see you said here right, this is 17' it's got to be pulled out *inaudible*

Chairman Reinhardt- Alexis? Mic?

Ms. Ogra- oh, if its 17' you've got to pull it out, you've got to pull out your seating area further probably not underneath the roof to see the end of the pool. On the 20' you're touching the edge right on the roof to put your furniture right underneath the roof, not be right under the sun but you'll see, you'll be able to see the end.

Mr Nearpass- in both diagrams the furniture is in the exact same spot. Right?

Mr Esh- mhm.

Mr Nearpass- the furniture hasn't moved, in the diagram.

Ms. Ogra- yea.

Mr Nearpass- so there's, I'm just trying to, and I get it, its very easy for, I just don't think the safety, in my opinion, well safety isn't part of the criteria but...

Mr Esh- mhm.

Mr Nearpass- but to me the, if I was going to play the safety card, the safety card is the one with it closer to the house because then you would see the whole pool. I mean that, I, I or I wouldn't have used it in my argument.

Mr Esh- um, yea ...

Mr Nearpass- or I ...

Mr Esh- you don't... You won't see the whole pool but yea I guess you would be creating if you sit more towards the east side of the porch ...

Mr Nearpass- right.

Mr Esh- you would see more of the ...

Mr Nearpass- so in that ...

Mr Esh- but this is from kind of where I just figured you know the most general um center of where you're going to be in the porch area.

Ms. Ogra- yea. I see ...

Mr Nearpass- so if it was here, if my finger was the post, or if my finger was the post.

Mr Esh- I think, I think the biggest ...

Ms. Ogra- but if it's here ... but if you're sitting out here ...

Mr Nearpass- but the view doesn't change, I mean you have to solve for something, I mean you can always kind of move, I men, I'm, I'll, I won't beat it to death it just, that particular point ...

Mr Esh- yea.

Mr Nearpass- is a bit of a moot point to me.

Mr Esh- yea, Okay.

Mr Nearpass- whether I'm for or against it I just don't think it has any ...

Mr Esh- okay, fair enough ...

Mr Nearpass- in my opinion any impact that, the one with the farther out is right in the middle of where the, where you're going to, where you took the pictures, its going to be right in the middle of the pool.

Mr Esh- Yea, I think the biggest thing that it will create is the closer that it gets to that corner the more its going to become an extended wall.

Mr Nearpass- sure, it'll be so close that you're not, I mean, again the drawing ...

Ms. Theodoratos- yea.

Mr Nearpass- the drawings I think do a great job

Mr Esh- right.

Mr Nearpass- and I appreciate you doing that for us, to me it looks that the you know with it closer to the house there's no ...

Mr Esh- mhm.

Mr Nearpass- its at least close enough to where your, like you're really, at least I wouldn't ...

Mr Esh- right.

Mr Nearpass- try to squeeze through it.

Mr Esh- okay.

Mr Nearpass- um, in with it farther away, sure you definitely have the option, right and you left, or you can go right ...

Mr Esh- yea.

Mr Nearpass- totally see that.

Mr Esh- mhm.

Chairman Reinhardt- you have other points you want to add before we ask questions?

Mr Budimir- I have a couple

Mr Esh- okay.

Mr Budimir- um, I'm Bernie Budimir, uh one thing is looking from the front of the house you can't really see the structure because it's hidden behind the garage and shed, the only place you can see it from is Duck Hollow for about a 10-20-foot section, while you're driving by. So, its well-hidden. Um, second thing is the neighbors all support it, we talked to all 5 neighbors around us plus a few more and you probably got those letters, I assume. --- Okay. So, there's no issue there and the last thing is you know with this being you know a triangle shape back yard that's such a unique situation that I don't think this variance would set any precedence because its not your typical, you know we're not asking for the whole structure to be closer to the back yard, its just one corner, so, I don't see many more people using this as a precedence to get variances. If that makes any difference. That's all I have.

Chairman Reinhardt- okay.

Mr Budimir- thank you.

Chairman Reinhardt- Matt other questions ...?

Mr Nearpass- I'm okay, I'm good.

Chairman Reinhardt- Alexis, questions?

Ms. Ogra- you guys are going to keep the trees?

Mr Budimir- yes.

Ms. Ogra- no more questions.

Chairman Reinhardt- Lya?

Mr Budimir- they'll get bigger and bigger.

Ms. Theodoratos- no questions.

Chairman Reinhardt Fred?

Mr Salsburg- well the, just the corner is encroaching and requires a variance, that true with both dimensions? There's one of them clear of the setback? The side setback? They both require a variance.

Mr Ryczek- the 17' rendering would be code compliant, Fred.

Mr Esh- yea. I see what you're saying now, yes. The yea like he said. The 17 feet ...

Mr Salsburg- Why not just go with that?

Mr Esh- um, it was the space that they had wanted to create and the amount of room they thought was a good amount for them.

Mr Salsburg- its still a big porch. Okay. That's all I got.

Chairman Reinhardt- alright, um, want to touch on County Planning Board a few comments, but determined this to be a Class 1, I think you've answered the question already, the height of the structure will be no more than 15' on Matt's point, and actually the 2 points about distance between, if it were 17

feet, uh a 16 x 16 pillar, is it the pillar or is it the stone work that's below it? When you measure it, when you're 16 ...?

Mr Esh- 16", that's the column, the stone column.

Chairman Reinhardt- okay. So that's an aesthetics, right, that's optional, it looks nice, uh so that's something that you are creating a look for so that distance between the home and the stone aesthetic column is, it's something that you created, that's narrow because you're doing that, you could do other stone, you can do no stone ...

Mr Esh- mhm.

Chairman Reinhardt- and that would be even a little wider, the piece about uh you can't see the children in the pool, with a 12 or a 17-foot pushed in. Move a chair. If you, if the child safety is that important, move the chair. You get closer, I'm not buying that one, uh and to Fred's point, it's a big deck, it's a big, covered area. Your rendering, and I think shows, we touched on this last time, the sun is to the west of the home, so the home, the, already, even if it's a 17 foot covered area, you're going to get shaded area and its even going to cast a bigger shade more than if it is 17 feet, its going to go much like what this rendering is showing, well beyond the home. Even maybe encroaching the pool, so you're going to be in the shade even though it, you're not going to have the cover directly over you. The, what I also noted, and its helpful, your neighbors are supportive, but the one that's curious to me is 778 which is the side yard, that's the big piece, right, isn't that your neighbor 778, where the variance is encroaching?

Mr Budimir- they're one of the letters

Ms. Ogra- no, they're not. It's like 788.

Chairman Reinhardt- its 788?

Ms. Ogra- no 778.

Mr Budimir- 778.

Ms. Ogra- Duck Hollow.

Chairman Reinhardt- 778. And that's in here.

Ms. Ogra- no, its not.

Mr Budimir- the first people I talked to.

Mr Esh- if its not in there, then it was probably on either my um ...

Mr Budimir- I have copies of all of them.

Mr Esh- okay.

Chairman Reinhardt- if you have the 778, um I'd like to see that one. ---- You know if anyone is going to be bothered ----

Mr Budimir- that's ...

Chairman Reinhardt- okay, um.

Ms. Ogra- well that is, yea.

Mr Budimir- is that in there?

Ms. Ogra- no its not.

Chairman Reinhardt- nope, I didn't see it. So, um, can we have these, we'll make copies and send these back to you, okay, great. So, that's um, both homeowners, so that's 2, 3, 4, 5, 9, 10, I have 11 does that sound right? --- 11 total?

Mr Esh- yea I had, I mean, I had tried to send more, I don't know if I didn't get them all through or --- I think it's the full neighborhood.

Chairman Reinhardt okay.

Ms. Boughton- when did you send them?

Mr Esh- uh ...

Mr Budimir- last week.

Mr Esh- yea.

Ms. Boughton- alright if it was earlier in the week Amber would have gotten it, she was out Friday and toady, so I did not get anything off of her e-mail ...

Mr Esh- no, it was, it would have been earlier, I had, she had confirmed that she had received them all but, I don't know, yea.

Ms. Ogra- we have a lot, but I don't think that many.

Mr Esh- okay.

Chairman Reinhardt- but I'm, I need a number. Do you know how many are in here? I know there's more than 15, more than 20?

Mr Budimir- there's 20 households.

Chairman Reinhardt- 20 household, okay.

Mr Budimir- maybe 40 letters, but ...

Chairman Reinhardt lets go with that, 20 households. That are supportive ...

Mr Salsburg- very substantial.

Chairman Reinhardt- anyone from the public want to speak for or against? --- alright. Not hearing any of that. Okay. Um, I just I have that concern and you can do it, you can build it and comply with the code.

Mr Salsburg- well doesn't the applicant have a choice here to make. Go with the bigger one and we vote ...

Chairman Reinhardt- well if we get there ...

Mr Salsburg- or go with the smaller one and we don't vote.

Chairman Reinhardt if we get to that point, what I'm, I'm walking through is the criteria. Uh, so with that many neighbors, looking at the first criteria, uh I think it's, I think the board would be hard pressed to say that there's going to be an undesirable change in the character of the neighborhood, so that's for your benefit. Can you achieve it by some other method, well sure you can pull it back 17, uh 17 feet and still accomplish what you need? Is it substantial, you need 2 feet, you're looking for, you're looking for 8 feet and 10 feet is required, are you measuring from the post of from the roof line?

Mr Esh- I think that was originally from the post, so I guess if it's from the corner of the eaves, I guess technically it would be more like 7' instead of 8' that was when I thought it was the corner of the, that was the original one I had handed in and that was when I thought it was from the corner because if I measure the corner to corner of the house, the survey would show the corner to the corner of the house, not the eaves.

Chairman Reinhardt- so we are now at 7', we can't guess at it. Right, we have to be able to when you know, when Adam looks at it, goes out and measures it, if its 6 ½ or 8 ½ something different than what you've asked, there's going to be a bind and you're going to be back here again asking for ... I don't think you want to do that ...

Mr Esh- no.

Chairman Reinhardt- right. So, you're relatively confident, sure its not 7', its not 8 its 7 feet that you're looking for?

Mr Esh- correct.

Chairman Reinhardt- okay. Um, even on that note, you're looking for 3 feet, is that substantial? --- Its close ...

Mr Salsburg- I don't think so.

Chairman Reinhardt- I don't think so but it ...

Mr Salsburg- I don't think so either ...

Chairman Reinhardt- um, is it going to change the, any kind of impact, so on that issue, how are you going to do and manage uh, the rain? How are you going to mitigate that, so it doesn't spill off into your neighbor's yard?

Mr Esh- if we need to, we could take it underground and into the drainage, does your drainage go in ground? Do you know that. So, we could tie into the existing drainage and take it into their drains. Um, with the downspouts going into the, to the ...

Chairman Reinhardt- anyway, either consult with Adam, or do everything you can ...

Mer Esh- mhm.

Chairman Reinhardt- not to have any kind of impact on your, because its close ...

Mr Esh- right.

Chairman Reinhardt- you are going to be close if it rains hard its going to go flying off that roof and into your neighbor's yard and you don't want to do that to your neighbor. Um, self-created, that seems to happen like that. So, let me take a quick straw poll here, Fred where are you on this? On if its 20' ... as proposed, 20', they're looking for a 7' setback variance, as we just went through the criteria, unless you want to ...

Mr Salsburg- uh, in my opinion, there's a first class back up option that doesn't require the variance to begin with. And I'm in favor of that.

Chairman Reinhardt- well that hits the second criteria pretty square. That is if were looking at 20', as I just went through them briefly, I think it's, it's a close call on how are you going to balance that, especially again that undesirable change in the character of the neighborhood, uh the applicant has 20 plus neighbors, households that are okay with it and especially his neighbor to ...

Mr Esh- east.

Chairman Reinhardt- it'd be the east. To me I think that's the biggest impact, is that neighbor ...

Mr Salsburg- yep.

Chairman Reinhardt- right to the east.

Mr Budimir- everybody around the property all 5 neighbors ...

Chairman Reinhardt right but that corner ...

Mr Salsburg- I can see, I can see your point in that being important. But we usually do whatever we can do to not need the variance ...

Chairman Reinhardt that's correct.

Mr Salsburg- and we're kind of hanging on to that.

Chairman Reinhardt- that's right. And, well I think what usually happens is if the applicant has an indication that this isn't going so well, maybe we can push it back to 17' for example. That's what I'm trying to get a gage is, where everyone is on the current proposal, for the 20' covered area, which would, they're asking for 7' for the setback.

Mr Salsburg- well I guess we've, but the code squeezed them down in the corner, we're semi-responsible for that being so tight, so I'll give that away. I could uh ...

Chairman Reinhardt so it's a close call.

Mr Salsburg- I could vote either way.

Chairman Reinhardt- okay.

Mr Salsburg- I could vote ...

Chairman Reinhardt- Matt?

Mr Salsburg- for the bigger one.

Mr Nearpass- yea, I, so I think it looks great either way in my opinion, its going to be a great ...

Mr Salsburg- either way, yea.

Mr Nearpass- structure, um, I really think it can stay complaint with the code where 2 are now, now its 7, although if I kind of look at the awning are we sure that its really only 1' over because it looks like it sticks out quite a bit, you know its great that your neighbors now that works in your favor although their letters all say 8' and we're going to give you another foot, it is tight in that corner, right, I mean normally its 15' for that particular subdivision it was brought down to 10' and now here we told the public it was going to be 8' and now we find tout after 2 meetings its probably more like 7, 7is. Um, and I just don't think there's been much of a case for the difference, you know the difference between 20 and complaint with the code, I think it's a great project either way, um, so it my opinion is it can, its 17' is where I'd like to see it, comply with the code. I just haven't seen anything that's really um, you know if it fits within the neighborhood and we have plenty of cases where you know neighbors um, you know are in agreement with it, your current neighbor today may not be your neighbor tomorrow or next year, but it is tight, um, and its more of a, want than a need, I think again I just don't see that difference. I don't think it will be a, you know a negative impact to the neighborhood, um I just think the what is it, the you know, I'm kind of weighing the third criteria or the fourth one a little heavier where it's the you know can it really be done by some other method feasible to the ...

Chairman Reinhardt- second.

Mr Nearpass- sorry the second. To the applicant, um and it just seems like you know 17' is very feasible or reasonable um, I will ask you though is 17' in compliance, if you bring it to 17 with that 1' overhang? - -- That is ...

Mr Esh- yea, because otherwise it would be, we could make it 18', because we were 2' too close, or 2' past, so if we need, if its 3' over, going back 3' should ...

Mr Nearpass- alright. That's where I sit on it, I'm just one vote, but I think it looks great ...

Chairman Reinhardt- Alexis? Where are you on this?

Ms. Ogra- I don't have a problem with it, my, I'm glad that you brought up about the one neighbor because I saw it and I noticed that they hadn't put in a letter, or at least that we didn't have the letter, I thought about bringing it up but, you know when you think you've had 2 meetings they've had almost 2 notices to say something about it, but obviously they have said something about it and they're in approval with it. Um, on, you know the point about like your neighbors change, you know that when you buy, like if you're going to buy a house, you know, you know what you're looking at. If, so, it's really only the, I would say the opinion of the current neighbors that I really would care about. Um, it's a small amount, so I, you know variances are a big thing, but I would say that just because its so small and its not making such a large change it doesn't really have too much of an effect on me. I'd say you know like making exceptions are a big deal, um but for this is not, it's a small one, um I'll say in my day job outside of this, I um, you know will have constituents contact our office, I work for the state, um, and we get, you know someone call about someone asking you know they failed their police exam, physical test by 2 seconds on their run, well can you get it changed, well, you know its only 2 seconds, but with that you're dealing with police. Public safety etc. With this, we're dealing with 2/3 feet on a porch so, I don't have a problem with it.

Chairman Reinhardt- okay, Lya, where are you on the 20' ...

Ms. Theodoratos- well I, both of them look fine to me, but I think because it's a tight yard I think probably once it's build the 17' might look better, because it's a small corner and um, Mike brought up great points about the sun and being shaded, so that's something you may want to consider because when you have a pool, you want as much sun as possible, and the porch the way, either the 17 or 20 is going to provide enough shade and covering for your activities, so, I mean I could go either way but I think 17 would be better. Especially once its erected and you know maybe the 20 looks too big and too shaded. That's all I have.

Chairman Reinhardt- okay. So I am probably closer to Fred's line of thinking, its you know playing into the you certainly can achieve it by another means, it's a big structure, and what your trying to accomplish in that area, I'm presuming, it happens sometimes you go swimming in the rain, but most of the time your there, it's warm, you want to get some shade, um, as far as being able to see in the pool, alright maybe your out there under the covered area it is raining, but your eating, you're not, the pool isn't an issue, um not being able to get through the 16" stone pillar, its 2 steps to the left you know, which ever direction your going. And you're around the pillar. It's not that big, its what's troubling me is it's a big, it's a big structure, and great thanks so much you know getting those neighbors um, but to Alexis' point, neighbors change, right and that structure is going to be there, I've seen your work, it stays, its going to be there for a long time, so with that, I cant tell you what to do, you know I think you're hearing the board there's some concern, uh its not a you know thumbs up, woo-hoo, let's get it done, and its not a complete heck no, not going to happen.

Mr Esh-mhm.

Chairman Reinhardt- so this is now, what Fred I think was talking about you want to go ahead with the vote, at the 20' and see how it goes, if it does, I think you know there's consequences to that. Which means that it would certainly hold up the project, or you can say no we can do the 17' and, Adam am I right, they don't need a variance, right?

Mr Budimir- wait, can I saw something?

Chairman Reinhardt- hold on just, let me finish and I will certainly get back to you.

Mr Ryczek- we would just have to review the new plans ...

Chairman Reinhardt okay.

Mr Ryczek- yea, I, you know it would, it would just have to be code complaint at that point, whether its 17' or 16.9' or 17.2' whatever it is from the eve to the property line would have to measure 10'. Okay?

Chairman Reinhardt- and he might be, if its 17' it might be inches but it certainly not going to be 3' ... So, go ahead, you'd like to say something?

Mr Budimir- my concern is ...

Chairman Reinhardt- come on up.

Mr Budimir- we never, yea, since we didn't measure, I mean moving it back 3' is not going to gain us 3' right, because its uh, triangular shape. So, we may have to go 4', I'm just, I'm asking. Right, because its not perpendicular, you're moving it back this way, you're not going to gain, if you move it back 2', you're not going to gain 2' from the setback in my opinion. Am I looking at it wrong?

Mr Nearpass- the posts are square, right, the ...

Mr Budimir- the posts are square, but you're not moving it, you know if this is the setback, you're not moving it this way, you're moving it this way.

Mr Salsburg- it'd be the square root of 3.

Mr Nearpass- but I thought by moving it back 3' that was what got you the other 3', you know what I mean ...

Ms. Ogra- no, he's ...

Mr Nearpass- by moving the whole thing back you're moving both pillars, right?

Mr Budimir- it would be both. Yea.

Ms. Ogra- yea.

Mr Budimir- but the other one doesn't matter because it's been like 20' away. I'm just thinking out loud, I guess. We have to move it 5' ...

Chairman Reinhardt- my point earlier, we don't want to guess at this ...

Mr Budimir- no, right, I know. I understand.

Chairman Reinhardt- so if, and the last, I think the last meeting Fred had suggested you know 17' and I think it was based on the question where does that roof line needs to be code complaint, but this is now tripping the other question, that you were measuring from the post not the eve line, the roof line.

Mr Esh-um, so my original measurement was to the post which would have been 8', um and so when we figured out that the eves are what matter, or the point that you would measure to, we had just went one more foot because they would be a foot out over but what he's saying is when you move it away at an angel you don't get a foot per foot, right?

Chairman Reinhardt- mhm.

Mr Esh- so, I'm not, so I guess he's wondering if we move it back, so we had just went that was what we had just went with, to make it code complaint would be 17' but I guess to know exactly we'd have to get it surveyed again. With the proposed drawing in it.

Chairman Reinhardt- so you are, you're representing the applicant, you can I'm good to go lets do it today we want the 20' all or nothing, see what the board has to say or its like you know what time out, I want to go back and measure and make sure that if it is 17' where that corner of the roofline is, I'm going to be code compliant.

Mr Esh- mhm.

Chairman Reinhardt- I think that's your choice right now.

Mr Esh- well ...

Chairman Reinhardt-on what ...

Mr Esh- so you were saying there is a, what's the procedure if it gets, if we got to vote for it and its denied?

Chairman Reinhardt- if it is denied, um it's a bit of a legal questions, but if its denied and you want to build it 17' or whatever it is code complaint, then you go right ahead and do it, but if you say no, I really want the 20', well then you can pursue and article 78 and appeal it, and it gets caught up in the courts and, you're not going to get your ...

Mr Esh- so...

Chairman Reinhardt- covered area, so there's, there's different avenues that certainly you can take but there's a period of time of when you can re-apply and it's a year, Adam, isn't it? On applications ... so if you are denied and you don't appeal it, you can't re-apply for that same variance until next year.

Mr Esh- so then we just have to really make sure that we comply to the 10' setback if it doesn't get granted.

Chairman Reinhardt correct.

Mr Esh- because then Adam would come back and say I think its over and we get it surveyed and it would be over, then we would have to wait for quite some time ...

Chairman Reinhardt- right. Or if its 4'/ 5' however it is to get pushed back, if you don't need a variance then, build it how you like.

Mr Nearpass- just so I make sure I ...

Mr Esh- so ...

Mr Nearpass- make sure I get this right, so its obviously the farthest out post that is the one that is closest, the fence line for the most part if the property line, right?

Mr Budimir- yea, pretty close.

Mr Nearpass- if you move that back, 3 feet, you're really moving it back 3 feet from the instance where you were, right? I think you are getting foot for foot. You're not moving it ...

Mr Budimir- I don't think so because its not, you not, I mean ...

Mr Nearpass- I'm saying is you move it back its ...

Mr Budimir- you're moving it back towards the corner of the house ...

Ms. Boughton- you have a pointer. On your podium. You have a pointer.

Mr Budimir- sorry. Thank you.

Ms. Boughton- yup.

Mr Budimir- so if you move it this way, if you move it this way it will be foot for foot, but if you going this way, its not quite, I mean it might be close, but it's not exactly ...

Chairman Reinhardt- right because its not perpendicular to it.

Mr Budimir- yea, right.

Chairman Reinhardt- right, it's at an angel.

Mr Budimir- I mean we really want the 20' patio, I mean we already did the homework and I mean, I, I'd say let's vote.

Mr Esh-mhm. Yea, so we'll go ahead with a voting, and yea.

Chairman Reinhardt- okay, lets run through, I know we did it quickly, Alright, so um ...

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 biggest piece we have here is the 20 plus letters that the applicant was able to obtain in the neighborhood and specifically the neighbor to his east, which would be the 778-side yard, that had no objection to it. Would anyone like to add or comment on the first criteria? - --

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: Per the discussion today as well as the previous meeting the approximate 17', this would be 17 x bear with me, it looks like its 22, but is it 22' 8"? Is that what that is?

Mr Esh- wide?

Mr Budimir- 21.8 wide, yes.

Mr Esh- 21.

Chairman Reinhardt- that particular dimension, is significant space so it certainly can be achieved by some method feasible to pursue other than the granting of an area variance. Would anyone like to add anything to the second criteria? ----

3. The requested area variance is not substantial.

Justification: And it should be noted that the applicant changed his request from 8' to 7' but even at 7' it would not be substantial.

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

Justification: The applicant has indicated that they will mitigate any roof rain runoff and directly into the drainage system and there would be no impact to the neighbor at 778. Would anyone like to add anything to the fourth criteria? ---

5. The alleged difficulty is self-created.

Chairman Reinhardt- alright I have, I crafted the motion for approval phase, so I would entertain a motion for APPROVAL.

On a motion made by Alexis Ogra and seconded by Mike Reinhardt:

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

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

Adopted: 2 Ayes, 3 Nays

Chairman Reinhardt- that's 3, okay alright, so you understand the uh consequences and ...

Mr Esh- yea.

Chairman Reinhardt- and what you need to do next.

Mr Esh-mhm.

Chairman Reinhardt- okay. Good, thanks so much for your time.

Mr Salsburg- what was the vote count?

Chairman Reinhardt- 2 to 3. 2 in favor, 3 nays.

Mr Nearpass- 2 in favor, 3 nays.

Chairman Reinhardt- thank you. Yup this goes with the record, right? ---

Mr Nearpass- I don't think either drawing we knew how close it was going to be to the property line. Just a quick comment there, I don't ...

Chairman Reinhardt- I don't know who's these are. Yea so there might be duplicates in there. Hopefully, I didn't take yours. If I did... Alright, there's a little more order. Okay, uh the PIRMAND 6404 Erica Trail.

PIRMAND, 6404 Erica Trail

13-Z-23

Seeking an area variance to keep shed located where it currently sits forward of the frontline of the home. The property lies within the Affronti at McMahan Road Planned Development District. The parcel is a corner lot therefore has two front setbacks. Accessory structures are not permitted to be forward of the frontline of the primary building per §211-31G. (2) of the town code.

Ms. Pirmand- good evening.

Chairman Reinhardt- Hi, how are you?

Ms. Pirmand- good how are you?

Chairman Reinhardt- good.

Ms. Pirmand- so since the last meeting, we've asked um, our immediate neighbors to submit letters if they were not opposed to or didn't have any objections for the shed location, I believe there were 5, 5 letters submitted. I believe. Um ---

Chairman Reinhardt- that sounds right, okay go ahead.

Ms. Pirmand- um and I went ahead and measured from the shed, I remember you asked to, what was the distance from the shed to the street, Louise Way and it was I believe about 40' um ...

Mr Salsburg- so does that figure?

Ms. Pirmand- I'm sorry?

Mr Salsburg- what was the distance?

Ms. Pirmand- 40 feet.

Mr Ryczek- you said that was to the street?

Ms. Pirmand- to the street. To Louise Way.

Mr Ryczek- okay.

Ms. Pirmand- right. From where the shed ends to the road.

Mr Ryczek- okay.

Ms. Pirmand- yea.

Chairman Reinhardt- other things you want to tell us before we ask you questions?

Ms. Pirmand- um, no, I mean, we're, we were planning on, I don't know if that going to make a difference, we were planning maybe plant, um plant some greenery around it, just to make it look a little um I don't know livelier.

Chairman Reinhardt- alright, uh we'll ask you some questions ...

Ms. Pirmand- okay.

Chairman Reinhardt- Alexis? Got some questions?

Ms. Ogra- um, there's one letter here from your neighbor Arbane and Marietta but there's no address, do you know what their address is?

Ms. Pirmand- they are ... they are across, not directly across but a little bit to the side, so that's I don't know, I don't have the map of the neighborhood.

Ms. Ogra- are they on Erica Trail? Or on Louise Way?

Ms. Pirmand- they are on Erica Trail. So, we had, 1,2,3 neighbors that are directly across from us and then one immediate right next door, Pete and Daniel and James, they're right next door to us.

Ms. Ogra- okay, so I've got 6401 Erica Trail, 64, which is right across the street from you, 6402 Erica Trail, which is directly next to you, and then this one, are they to the, if you're looking outside of your home window...

Ms. Pirmand- they'll be to the left.

Ms. Ogra- so they're 6399. Are they more, are they across the street from your neighbors at 6402?

Ms. Pirmand- uh, slightly, their property is more, yes.

Ms. Ogra- okay, yea I can see on the ...

Ms. Pirmand- halfway ...

Ms. Ogra- yea its like kind of tilted ...

Ms. Pirmand- yea. Tilted, yup.

Ms. Ogra- 6399. Um, what kind of um, you said like landscaping you were going to put around ...

Ms. Pirmand- yea, I mean, yea maybe we I don't know shrubs, trees just something to kind of make it look like you know its not so like you know out there in the open land.

Ms. Ogra- okay.

Ms. Pirmand- um, I think that's going to make it look better.

Ms. Ogra- and what sides were you planning on putting that on?

Ms. Pirmand- I'm thinking the side of the shed, so ...

Ms. Ogra- like facing the street? Of in between?

Ms. Pirmand- facing the street. Right.

Ms. Ogra- okay. And then in between the house and the shed, um there's like a lawn mower and there's some power tools ...

Ms. Pirmand- those pallets are going to be gone, we just waiting for bulk trash to get rid of all, that, all that's going?

Ms. Ogra- what about the lawn mower?

Ms. Pirmand- that's going too, that's, my husband is wanting to get rid of it.

Ms. Ogra- okay.

Ms. Pirmand- so, that's, yea, that's going to be picked up.

Ms. Ogra- um, and in between the shed and the house, like in this photo, its all mowed, but then recently I could tell like the lawn has been mowed but in between the shed and the house wasn't. Was there a reason for that? Or ...

Ms. Pirmand- between the shed and the house?

Ms. Ogra- yea.

Ms. Pirmand- you mean where the pallets are?

Ms. Ogra- yea. But like there's still obviously some grass there in, like ...

Ms. Pirmand- um ...

Mr Salsburg- where the pallet is?

Ms. Pirmand- um, I think ...

Ms. Ogra- in front of the pallet and, in front of the ...

Ms. Pirmand- no, I think my husband mows there. But the grass yea, I don't know ...

Ms. Ogra- right here.

Ms. Pirmand- yea maybe that picture, but yea, it doesn't look long now...

Ms. Ogra- not in this picture. But like today it is. It was like a foot. I'd say at least.

Ms. Pirmand- um, I don't know, I didn't notice. But yea, once that area is cleared up, he'll be able to go in with a tractor and mow it.

Ms. Ogra- okay. Um, I don't have any other questions. Oh, were these the only 3 neighbors that you asked? Or did you ask any other neighbors? For letter?

Ms. Pirmand- there should have been 5.

Ms. Ogra- um, so there's only 3 houses, but its 5 individuals.

Ms. Pirmand- 5, so, Jordan, Bill ...

Ms. Ogra- sorry, one second. Let me just ... I've got William Erwin, Peter Mott ...

Ms. Pirmand- Peter Mott.

Ms. Ogra- Danielle James.

Ms. Pirmand- Danielle James. So, Pete and Danielle, they are, they live together.

Ms. Ogra- live together, yea.

Ms. Pirmand- but they're right next door to us. Right.

Ms. Ogra- yup so, and then Arbane ...

Ms. Pirmand- Arbane ...

Ms. Ogra- so there's 5 individuals but only 3 homes.

Ms. Pirmand- 1, 2, 3, what about Jordan?

Ms. Ogra- um ...

Ms. Pirmand- there's a letter from him too. I think he was the first one that sent, that wrote a letter.

Mr Ryczek- I think it was a part of the original packet ...

Ms. Pirmand it was sent to Amber, right.

Ms. Ogra- original, okay.

Mr Nearpass- is one of those 1172? Louise Way?

Ms. Pirmand- mmm....

Mr Nearpass- one of your, one like basically in your back yard?

Ms. Pirmand- no. So, he's across from us, not directly across from us, but next to, next to Bill Erwin's house.

Ms. Ogra- so Jordan is 6403? So, he's ...

Ms. Pirmand- probably, yes, probably that's, yup. That's them.

Ms. Ogra- so they're right across, right on the um, across from the T of Louise Way.

Ms. Pirmand- yea, so he's the, he's like facing ... exactly facing the street. Yup.

Ms. Ogra- did you ask anyone else?

Ms. Pirmand- um, we just focused on the immediate neighbors, whoever was just around us and really you know seeing the shed.

Ms. Ogra- um, okay I don't have any other questions.

Chairman Reinhardt- okay, Lya?

Ms. Theodoratos- yea, a couple of questions. So, at the last meeting Fred had made a comment that the shed looks a lot smaller than the pictures and I hadn't gotten out to drive there yet but I did since the meeting ...

Ms. Pirmand- okay.

Ms. Theodoratos- and that is very true because the picture doesn't do it justice, so it is a lot smaller and also, I made a comment also based on the picture how the colors didn't look like it fit in, and it blends in ...

Ms. Pirmand- mhm.

Ms. Theodoratos- you know its what these phone cameras, they don't do justice, they're not professional ...

Ms. Pirmand- yes.

Ms. Theodoratos- pictures.

Ms. Pirmand- yes.

Ms. Theodoratos- and then, you know when I was driving around, I saw all the houses and your house, and the garage does look very small ...

Ms. Pirmand- very small. We barely fit our cars in it.

Ms. Theodoratos- Yes, and the Ryan Homes they've started out down south, and they came up here and they really the houses they build are cookie cutter and they're more geared for the southern temperature where they don't, they don't have snow blowers and they don't have lawn mowers either because the developments I knew from years ago down south they took care of that, you know ...

Ms. Pirmand- mhm, yea.

Ms. Theodoratos- that was part of the community so ...

Ms. Pirmand- yea.

Ms. Theodoratos- so I see how these garages are very small because I also had made another comment maybe you can fit something into ...

Ms. Pirmand- yea.

Ms. Theodoratos- I know um Matt made that comment but I see ...

Ms. Pirmand- yea.

Ms. Theodoratos- its ...

Ms. Pirmand- it's very small.

Ms. Theodoratos- its very small.

Ms. Pirmand- yea.

Ms. Theodoratos- and with that being said also, it looks a lot smaller than the pictures showed so um, there's little option with it, but when you said now, you're going to plant bushes, you know ...

Ms. Pirmand- yea.

Ms. Theodoratos- some shrubbery ...

Ms. Pirmand- yea make it ...

Ms. Theodoratos- that's going to look a lot better, even.

Ms. Pirmand- yes.

Ms. Theodoratos- much better than a fence, which we we're talking about last time.

Ms. Pirmand- mhm.

Ms. Theodoratos- also. So that's all I have to say now.

Chairman Reinhardt- Matt?

Mr Nearpass- I don't know to me the garage is a standard what is it probably 18-20 wide from wall to wall inside, I think it's the same size garage that ...

Ms. Pirmand- I don't know, I mean we own in ...

Mr Nearpass- everywhere ...

Ms. Pirmand- Jersey and we had a one car ...

Mr Nearpass- it's a 2 story ...

Ms. Pirmand- garage.

Mr Nearpass- was the house, was the garage smaller when you bought it? Like I'm just, I'm looking at your neighbors house he's got the same size garage, but he also got the bump out garage right to give him that 3rd space ...

Ms. Pirmand- mhm, yea.

Mr Nearpass- I know your neighbors say that its, it looks, they say it looks the part with the neighborhood, but it, to me it doesn't, I, I'm and the aesthetics aren't necessarily you know the end all be all but you know the shed was put up um, it's a vinyl style shed it could either easily be moved or, I just don't think it fits within the character of the neighborhood. Its just um, I think if you were able to reorganize or rearrange the garage or put some other things in storage um you may be able to achieve it, but I, you know certainly one that would be interesting is the house directly really behind you on Louise Way, that particular one, now they're. Maybe they're here, maybe they're not I don't know, um but it's that 11, is it 1172 I said that number earlier.

Ms. Ogra- yea, 1172.

Mr Nearpass-um, which is, its pretty much right in their front yard. Um, I just don't see how it, how it fits within the character of the neighborhood, in my opinion, there's um, got to be another way that's more feasible than, than erecting a what was it 8 x 12?

Chairman Reinhardt- 11, uh I had it here.

Mr Nearpass- 11 x 15?

Chairman Reinhardt- 11 x 18.

Mr Nearpass- 11 x 18, which is big, again the, its probably almost as deep as the garage inside, right I mean, so it's to me it's a substantial size structure um, the code was designed for these types of neighborhoods I live in one myself, a Ryan Home neighborhood. Um, you know where the houses are lined up and they have a certain look and a certain character um, so it's, this is a tough sell for me. I know it's already there and I try to look at this as if the shed doesn't exist because it shouldn't right, where we're kind of doing this out of order.

Ms. Pirmand- mhm.

Mr Nearpass- I just don't see how it, how it's the right thing to do, to allow it to exist in that location.

Chairman Reinhardt- Fred, questions?

Mr Salsburg- well I agree with Matt, I don't think it looks, belongs in there, I find it a little irritating that you put it up without a permit, uh, there's a place out back you've got some room, I wonder if it would be able to relocate, Suzy, could you put the instrument survey --- hard to read there but where the 35 circle is, its outside the setback line ...

Chairman Reinhardt- the 35 circle right there.

Mr Salsburg- yea. There's uh, I don't know what size it is, it appears to be 12 square or more. Did you look at that at all? In the back?

Ms. Pirmand- there's no room, I mean there's a patio and then the hill slopes down, so its not, the, its not leveled so there would be no, you know ...

Mr Salsburg- oh the, the grade line shows it staying pretty level in that, behind it. That it starts down.

Mr Nearpass- I think maybe, where I struggle a little bit is if the shed weren't existing, right ...

Ms. Pirmand- mhm.

Mr Nearpass- and you were here talking to us about it, I think we would be talking more about if something were allowed forward of the frontline, where you want to put it. Something smaller that had more of a look to the home.

Ms. Pirmand- mhm.

Mr Nearpass- and, and that's where my reluctance is, is that it's already there, it doesn't look like the home at all and its quite large.

Ms. Pirmand -mhm

Mr Nearpass- versus, for me, if it was something that we were able to work with you on and say alright if you get it this way, if you made it, if it was half the size or if it was this or with that. It might look a little more in character of the neighborhood or not be as impactful um, that's the difference. Right, um ...

Chairman Reinhardt- Fred? Are you done or did you have more questions?

Mr Salsburg- I, well it's a rather blatant self-created problem, I think. But that's it.

Chairman Reinhardt- okay, as I look and to the, to Fred and even Matt's point, he brought it up before about where that 35 is indicated on the survey instrument, um, can you talk about the patio, and I'm looking at the aerial, but the slope on where um, not on where the patio is, but next to it, uh this would be south of the patio area, I've, personally I have a shed that's, its about 12 x 20 and there was a slope ...

Ms. Pirmand- mhm.

Chairman Reinhardt- and you put 4 x 4 timbers on the downside of the slope, and you work it in the land, you can do it. It's possible, it isn't a, it can't be done ...

Ms. Pirmand- yea.

Chairman Reinhardt- it'd be one thing if you had a steep slope, yea I can tell by the ...

Ms. Pirmand- mhm.

Chairman Reinhardt- the topo map that there's a slope in there uh, so it can be done which is one of the criteria is do you have any options that you could do without the use of a variance --- you do have some uh neighbors that aren't opposed but you bought this side, the corner lot, you're subject to the front yards both where the driveway is and where Louise Way is, uh, I hear you're going to put some vegetation in, but I also you know as I'm looking at the aerial, I'm presuming, there's no walkout in that, in the home.

Ms. Pirmand- no.

Chairman Reinhardt you know what a walkout is, right, there's no door, no egress window ...

Ms. Pirmand- right, no.

Chairman Reinhardt- what I'm driving at is, if the slope was that steep right behind the home, there would be a door, I walkout or egress window but there's not. So, it, its, its not a significant enough slope or I don't think you'd, you can't put that shed back there and as my quick drive by, I didn't take a survey and stick out ...

Ms. Pirmand- yea.

Chairman Reinhardt- but I was eyeballing, so I think ...

Mr Salsburg- I don't think there's room for it back there.

Ms. Pirmand- my concern is the neighbor that's right behind us there. That its going to be right in their face.

Chairman Reinhardt- well the neighbor at 1172 ...

Ms. Pirmand- right.

Chairman Reinhardt- your forward of her garage if you're looking down ...

Ms. Pirmand- yea.

Chairman Reinhardt- this would be the south side of your home ...

Ms. Pirmand- mhm.

Chairman Reinhardt- going down Louise Way, that shed is now further out of where the line of homes are for Louise Way starting with 1172 and then going west, so aesthetically as you're looking at it, it looks out of place. Most sheds unless you have, I think larger homes, larger acreage ...

Ms. Pirmand- mhm.

Chairman Reinhardt- most sheds go in the backyard.

Ms. Pirmand- mhm.

Chairman Reinhardt- you want to put yours in the side yard, which troubles me on is it going to change the character of the neighborhood being on the corner lot, putting a shed there, makes it look like it doesn't belong there.

Mr Salsburg- I have a shed its 8 x 10, I can fit quite a bit of stuff in it. Seems like.

Chairman Reinhardt- alright, it's a, it's a large shed. 11 x 18 is a large shed.

Mr Salsburg- big enough for a car.

Chairman Reinhardt- how long has that shed been there?

Ms. Pirmand- um, November of last year.

Chairman Reinhardt- alright, anyone else have any more questions, comments, concerns?

Mr Ryczek- I just have 2 comments, Mike. Um, the instrument survey provided put the front house corner at 36.9' from the right of way line, the applicant has stated that the shed is 6' from the side of the house which would put the closest corner at 30.9' from the right of way, and then an 11' wide shed would put the shed well within the front setback that exists on the side so it would take an additional variance for a front setback reduction to leave the shed where it is, in addition to being forward of the frontline of the home.

Mr Salsburg- what was the second, the last thing you said I didn't, I couldn't hear.

Mr Ryczek- an additional variance for a front setback reduction of approximately 10.1' based on the numbers provided ...

Mr Nearpass- is it the ...

Mr Salsburg- that's Louise Way?

Mr Nearpass- on the yea the south side, there's that, where it says setback line ...

Mr Ryczek- correct.

Mr Nearpass- on this, so you're saying it straddles that.

Mr Ryczek- right, so she took the measurement from the street, but the measurements are taken from the right of way which is the dark thick line on the survey surrounding the property. Um ...

Mr Nearpass- Here, right. You're saying, it's really measuring from here ...

Mr Ryczek- yup.

Mr Nearpass- and then from right there to there.

Mr Ryczek- yup, so the, if you put the laser back up there, that number there, drawing the line from the front corner of the house to the dark right of way line ...

Mr Nearpass- yup

Mr Ryczek- a little to your right, yup, that says 36.9' so that's to the house corner ...

Mr Nearpass- got you.

Mr Ryczek- and then the setback line is at 30', so her house is only 6.9 feet from the setback, and now you have a 6-foot space and an 11' shed, so it's over the setback lien as well. I just wanted to make sure that all of the appropriate variances, you know were granted if a grant was to happen, um and then to Mikes point at the rear of the property, I'm not positive if she were to place the shed behind the patio that she wouldn't then need a setback reduction for the rear property line.

Mr Nearpass- yea and I think, I think its largely because the shed is a, we know that the shed is now a purchased known size shed, so if you're going to try to re-use an 18 x 11 shed ...

Ms. Pirmand- yea.

Mr Nearpass- I don't see anywhere on the property where you can put it in compliance with the code versus ...

Ms. Pirmand- mhm.

Mr Nearpass- I think if you would have went through the process you would have realized that you either need a smaller shed, different location and we all kind of either would have worked it out or it never would have made it to us, you would, Adam would have kind of told if it was here or there or here's your

options, I totally get, I mean it's, um we do see it a lot um, it's a tough pickle, right, given like I said, like you said you've already purchased the shed and you have it. Um.

Chairman Reinhardt- Adam, when, on the second variance that if this variance is granted, since she needs an additional 10.1 feet what does the code say that your permitted. What's it supposed to be 30? ---

Mr Ryczek- so, that's a Planned Development District (PDD) um, so it has some of its own rules, it defers to the R-2 district, um for you know things like accessory structures and what not, but that, you know the schedule 2 height and area requirements for R-2 require a 40' front setback and because this is a Planned Development District they were reduced to 30'. Um, so there's not a sentence in the code that specifically talks about what we are saying here other than it doesn't meet the setbacks that are required for the approved development.

Chairman Reinhardt- okay. I think with that, um it happens, that when someone asks for a variance and then sometimes like oh gee there's another variance that's going to come into play ...

Ms. Pirmand- mhm.

Chairman Reinhardt- so we've had applicants come before when its one thing if there's one variance but when there's 2, 3, 4 we've had them 5 and 6 variances for one parcel and it's like wow that's just too many.

Ms. Pirmand- mhm.

Chairman Reinhardt- it's a problem with the ask. Um, but the, what Adam was discussing and if this is granted you're going to need the 10.1 feet, for a variance for the front setback, uh, and it also concerns me that the discussion that we had about you moving the shed someplace that, that's not going to work either, you're going to need a variance no matter where you put it so, you have a shed the size of it, its just too large for the lot itself no matter where you put it, um, and considering the slope of the land ...

Mr Nearpass- the other one as well as there's a line drawn on this survey that says RG&E, pretty sure the shed is going right over it. It looks like ...

Mr Ryczek- I'm not quite sure it's there.

Mr Nearpass- you don't think its that, well its outside of the setback line, right because there's 4, 5, there's 4 or 5 feet between the structure, the building itself and the house.

Mr Ryczek- correct.

Mr Nearpass- and then you go another 11.

Mr Ryczek- correct.

Mr Nearpass- so.

Mr Ryczek- so yea, I mean its probably near the edge of the easement, but I'm not ...

Mr Nearpass- yea. Not in the middle of it. But ...

Mr Ryczek- yea.

Mr Nearpass- but I think it's ...

Mr Ryczek- that a, that's RG&Es ...

Chairman Reinhardt- any other questions, comments ... anything you want to add, ask?

Ms. Ogra- I just have one question, um you said last time when you build the house, um since Ryan they come with different options, there was an option to build a 3-car garage, but you didn't go with it?

Ms. Pirmand- correct.

Ms. Ogra- okay, um, was there a reason why?

Ms. Pirmand- it was just additional cost.

Ms. Ogra- okay.

Mr Nearpass- I do have one suggestion, and Mike depending on how you feel the vote is going to go but, is it worth it to maybe ask the applicant to propose a different size shed in a different / in another location and just in terms of trying to make something that is smaller less impactful but still has some utility to you that isn't the existing shed that if you took kind of all of our comments and may help you, like maybe less of a impact from a variance perspective, if it were smaller or closer to the house or a different color and a different size, um ...

Chairman Reinhardt- I don't know if that's going to help because even, even if you go a, an 8 x 10 shed, the width almost no matter where you put it on the side of that home is likely to trigger a need for the variance that Adam was talking about.

Mr Nearpass- well I was thinking more so if, if you had something smaller and you were able to put it in the back ...

Chairman Reinhardt- okay, okay.

Mr Nearpass- like what you were saying ...

Chairman Reinhardt- Yea, yea.

Mr Nearpass- and you might have to put, you know the back of it, might be on a couple blocks or you know to keep in level or something to that effect, um but it may be something that instead of just um, potentially ending up with a denial maybe there's just an opportunity to, to, I'm opened to just trying to work with you on it, um, its, yea its just that the current shed exists and uh, its uh, I'm not quite sure that ones going to work. But instead of just having the clock start for a year, getting a denial on shed and not being able to do anything, I'm juts wondering if it's worth it to have the applicant maybe present an option of 2 over the next month and think about what they want to do and that's all.

Chairman Reinhardt- understand is his comments, much like we told the other applicant that there's certain options you have and certain consequences ...

Ms. Pirmand- mhm.

Chairman Reinhardt- that if there's a denial tonight ...

Ms. Pirmand- mhm.

Chairman Reinhardt- you're going to be um, stuck with the decision for a year ...

Ms. Pirmand- mhm.

Chairman Reinhardt- presuming you don't appeal it. Uh, but if you say gee, I'd like a different option I'd like to think about it, we can table it, uh you come back the next time and say gee I'd like to think about doing it this way or that way, so it won't have such a, an impact ...

Ms. Pirmand- mhm.

Chairman Reinhardt- the kind of impact we're talking about, do you want to look at those options, think about it or do you want the board to vote today, uh, it's, we try and give the applicant as many choices as we can.

Ms. Pirmand- mhm. I mean my biggest issue is what do I do with the shed I have now ...

Chairman Reinhardt- Facebook Marketplace. I don't know.

Ms. Pirmand- I mean ...

Mr Nearpass- that was going to be suggestion, yea.

Ms. Ogra- Mike, if we denied the variance today, and then she wants to put it in the backyard would that prohibit her from applying for a variance ...

Chairman Reinhardt- no I, no, it's just, it's the ...

Ms. Ogra- just this specific ...

Chairman Reinhardt- same location.

Ms. Ogra- same location, okay.

Chairman Reinhardt- right, same side, same location. If it different, uh a different spot backyard, then it's a brand-new variance.

Mr Ryczek- that would be a different variance anyway because this one for forward of the frontline of the home and that would be for rear setback reduction. So, it's ...

Mr Nearpass- yea if she moves the location.

Mr Ryczek- yep.

Chairman Reinhardt- what would you like to do?

Ms. Pirmand- that's a tough one. Uh ...

Chairman Reinhardt- when I hear that, with applicants saying that, um, we can give you the next time, when is our next meeting? It's got to be July. --- So, July 17th should give you enough time to figure out which way you want to go, um I will caution that, you're not here on the 17th, we're going to vote.

Ms. Pirmand- mhm. Okay, so if we ...

Chairman Reinhardt- or we can vote tonight. You tell us how ...

Ms. Pirmand- if we decide to move it, go with a smaller shed, then we still have to ask for a variance?

Chairman Reinhardt- I think what you ...

Ms. Pirmand – I don't ...

Chairman Reinhardt- what you ought to do is if you decide on a smaller shed.

Ms. Pirmand- mhm.

Chairman Reinhardt- give Adam a call and say here's the size we're looking at, here's where we'd like to put it, and he's going to give you a better idea on yes, you need a variance, because you're going to need a building permit.

Ms. Pirmand- mhm.

Chairman Reinhardt- um.

Ms. Pirmand- okay.

Chairman Reinhardt- give him the location, take some measurements and then he can give you a much better idea on what kind of variance, if you do need one, what you're going to need, but it sounds like no matter where you put a shed on that parcel, you're going to need a variance in some way. Just one, one kind of variance may have less of an impact than another.

Ms. Pirmand- I mean either way its going to be a different process, right, for with another shed its going to be a, I mean ...

Chairman Reinhardt- the variance, it's the same analysis but um, depending on where it is on the property and what kind of impact it's going to have ...

Ms. Pirmand- mhm.

Chairman Reinhardt- it's going to, the questions will be a little different, the answers are going to be different, so the outcome certainly could be different, but I can't make any promises, because we don't know what it is yet.

Ms. Pirmand- sure, sure. Okay.

Mr Nearpass- I think you, you at least have the benefit of you've been here twice, right and you've heard a lot of our you know questions and answers and you probably have a feel for what at least some of our kind of hot buttons are, the issues and ...

Ms. Pirmand- yea.

Mr Nearpass- and kind of the side setback is a bit of a new thing now, right for the ...

Ms. Pirmand- yup

Mr Nearpass- um, the side of the house, um, yea I'm thinking if you could and often it is the permitting process that you know people end up coming in here, right because Adam will say hey, you know if you, this is what you really want you need another 2 feet over here or a foot over here or this or that, um and then you have the opportunity to either you know have it be compliant and get the permit or you know come in front of us and you know, you know um, like any other applicant I think now at least you have the um, benefit of hearing, you know having a couple q and a sessions to understand what might work a little better and maybe understand the property and the lines and the setbacks a little better, certainly I feel like I do after a couple meetings here, right.

Ms. Pirmand- so if I understand correctly if we, is there a possibility to move the shed we have now to the back of the house or no, or will this still ...

Chairman Reinhardt- as I understand what Adam's analysis is if you move that shed ...

Ms. Pirmand- mhm.

Chairman Reinhardt- in the backyard you're still going to need a variance because it is the rear setback issue...

Mr Ryczek- I just said there's a possibility, based on what I observed, I, it may squeeze in there, I would have to go out and measure ...

Ms. Pirmand -okay.

Mr Ryczek-but just based on the topography ...

Mr Nearpass- the patio ...

Mr Ryczek- and where the patio ends.

Mr Salsburg- I don't think there's any place to put it, too big. The way it is back there. Without a variance. The other house isn't very far away.

Chairman Reinhardt- I, I don't want to guess at anything, right.

Ms. Pirmand- yea.

Chairman Reinhardt- so, I think what it sounds like what should happen um, sorry ...

Ms. Pirmand- because I mean I would really like to keep the shed we have we just see if there was a possibility to move it, I mean even if it needs a variance or um ...

Chairman Reinhardt- alright, here's my suggestion, table this. Give Adam a call, and find out when he's available to come out to the property and get an idea will that shed fit in the back yard and if it won't what kind of variances are you going to need ...

Ms. Pirmand- okay.

Chairman Reinhardt- is it a foot, it might be ...

Ms. Pirmand- okay.

Chairman Reinhardt- 5 inches but ...

Mr Nearpass- stake the corners. Right, get a ...

Ms. Pirmand- sure.

Mr Nearpass- stake the corner see where it ...

Ms. Pirmand- yea.

Mr Nearpass- falls ...

Ms. Pirmand- okay.

Mr Nearpass- the elevation differences between front and back or side, that kind of thing ...

Ms. Pirmand- yea. Okay.

Chairman Reinhardt- we have, Fred's got a good eye, Adams our code enforcement officer, I think we'd like to get it right ...

Ms. Pirmand- of course.

Chairman Reinhardt- um, and that time I think would be well spent ...

Ms. Pirmand- okay.

Chairman Reinhardt- can we do that, Adam?

Mr Ryczek- yup.

Chairman Reinhardt- so give him a call...

Ms. Pirmand- okay.

Chairman Reinhardt- he's a busy guy, but he should be able to find sometime to run out there and ...

Ms. Pirmand- sure.

Chairman Reinhardt- and figure out what needs to be done.

Ms. Pirmand- okay.

Chairman Reinhardt- but in the meantime lets put you on the calendar for the 17th

Ms. Pirmand- okay.

Chairman Reinhardt- uh July 17th, okay.

Ms. Pirmand- okay.

Chairman Reinhardt- sounds good.

Ms. Pirmand- alright, alright thank you.

Chairman Reinhardt- very good, thanks so much. Thanks for your patience.

Wendy's Sign, 7473 St Rt 96

11-Z-2023

WITHDRAWN FROM AGENDA

seeking an area variance to allow a third business sign on the east elevation of the building 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.

SELF SERVE PET WASH, 7387 St Rt 96 Suite 200

14-Z-2023

WITHDRAWN FROM AGENDA

seeking an area variance for an illuminated LED sign with the words PET WASH to be displayed within the business window where §131-8 states luminance from windows must not originate from illuminated signs and §131-10 states exterior lighting of nonresidential use properties must comply with the provisions regarding time of day and hours of operation, *may only be operated during business hours.*

Chairman Reinhardt- We have a couple of withdrawals and then we have Mobile Graphics.

MOBILE GRAPHICS, 7120 Lane Road

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 Garber-Good evening Mr Chairman and members of the Zoning Board, my name is Matt Garber I'm with DDS, we were here a month ago, um on behalf of Mobile Graphics, we since then amended our application, um for the modification of the use variance, to include um the proposed 7,500 SF building and the minor site improvements also to provide 2 1-bedroom accessory apartments, um and to request the max number of employees be changed to 9 which would be adding 2 additional employees, um, and since then there was the County Planning Board meeting and they had um, come to the conclusion of denying, I'm guessing because they didn't get the amended application yet, because a lot of the stuff in the e-mail that I sent um Amber had answered a lot of their questions and I'm not sure if you guys got a copy of the e-mail I have extras with me if you didn't, I can hand out.

Chairman Reinhardt- I don't know if they denied it for the fact that they didn't get the information.

Mr Garber- okay.

Chairman Reinhardt- because it sounds like the points that they were hitting uh, summarizing it, it's a big ask, its ...

Mr Garber- mhm.

Chairman Reinhardt- un, does that use variance modification fit the neighborhood, has the business outgrown the ...

Mr Garber- right I answered that ...

Chairman Reinhardt- the particular area, and the lack of the um, what they call dollar and cents, you know not being able to prove the financials to uh the hardship piece.

Mr Garber- mhm.

Chairman Reinhardt- that's what I understood it, was their ...

Mr Garber- yea.

Chairman Reinhardt- their hook.

Mr Garber- okay. Um, Amber had told me to e-mail her um ...

Ms. Ogra- is this the ...

Mr Garber- and that would ...

Ms. Ogra- is this the e-mail form May 9?

Mr Garber- yes.

Ms. Ogra- okay. Yup, we have it.

Mr Garber- okay. Yea and that covered um a lot of the questions they have asked and the comments they had.

Chairman Reinhardt- were you able to submit anything about um, again those dollars and cents questions that they had? Do you know what I'm referring to on that or ...?

Mr Garber- yea. Yes, we do have, we do have um if Kris is able to come up, we have the dollars and cents for ...

Chairman Reinhardt- property value, property taxes, mortgage liens, um and its not so much to the owner per say, but its, it's to the land itself, its not being able to get the reasonable return out of that property.

Mr Garber- okay.

Chairman Reinhardt- if you have them, we'd love to hear it.

Mr Bailey- uh, I do not have everything that you just talked about, taxes ...

Chairman Reinhardt- okay, well what do you have?

Mr Bailey- Kris Bailey, the comment that I had was basically, or not the comment but the rebuttal was one of your questions about looking at off site storage, and I, I did look into that and I pulled some numbers together on my, myself, on uh what that might look like, um, an offsite storage would have to be climate controlled, uh for the materials that we work with, um finding that is a little difficult but uh, estimated about \$1,000.00 / month would be and a \$600.00 weekly cost to us, um to find off site storage which was estimated cost of about \$3,400.00 / month, the new building cost would cost us about \$3,000.00 / month, so it really didn't factor too quickly that we would seek outside storage.

Chairman Reinhardt- alright, so the, in the analysis in this, I'm not making this up, this is how the law works that for a use variance you have to find uh, you have to get all the 4 criteria and one of the criteria deals with the, the ability to get a reasonable return out of that property, not whether you specifically but again as the home owner or as the property owner, not being able to um sell the property or use the property um, that would really go for everybody for ALL the permitted uses in that area. So, you have a business its doing very well, you want to grow you want to expand, and that was at one of the points the County Planning Board was talking about, is well gee you're doing so well, maybe you've outgrown it, and putting, I'm going to be facetious for a moment, putting a 30,000 SF print shop in that location is going to change the character of the neighborhood. Would you agree with that? You know there's a number of, it's juts, its too big. Right. Eventually um, you have to look at to say well, what is it going to look like for what we want to do there, is it going to have any negative impact in the character of the neighborhood. You want to try and keep things somewhat stable, if its an industrial kind of piece, well then you go to the industrial area, uh if it can be done in an area without a huge negative impact on the particular area then sure you can do it, that's what this, the original use variance was for. But you're growing. And its, that's a good thing, so, that's what I'm looking at with the County Planning Board was talking about and recommending a denial. And on that piece what they're, the law requires us to do is, if we were to approve it, its not a simple majority, it's a majority plus one. So, we're 5, majority would be 3, majority plus one is 4.

Mr Garber- okay.

Chairman Reinhardt- so you would have to have to 4 out of 5 say, we hear you County Planning Board, but we're going to override your denial and grant the approval. Right, does that make sense?

Mr Bailey- yes.

Chairman Reinhardt- if not I can back up and explain it a different way.

Mr Bailey- no, I, I thought their token was part of what you guys decide and then seeing the County Board already kind of you know has an opinion about it ...

Chairman Reinhardt- they do, the County Planning Board is an advisory board, their, all that they do is help us see what kind of impact uh, occurs when variances are granted but more so how does a community, neighbors, uh especially when it impacts neighborhoods, communities, towns, the reason why the County Planning Board got to give us their opinion is because of the proximity to the throughway. So, other times if it was closer to the state highway, if it was close to Bloomfield, um Farmington, what not, but that's why they decided to, they have to, that's what the law requires. So, in their comments they're saying well gee originally it was a residential neighborhood, there was a good reason for the use variance to begin with, and then once you start, your business tarts to expand, uh now you're looking for more employees, and apartments, and almost doubling the size of your business. As far

as space wise. So, their concerns are, have you outgrown that parcel. I'll as you, is there going to be a time where you say, its not big enough for us anymore.

Mr Garber- okay. Um, so we do have a couple neighbors that signed letters, I can bring up if you want.

Chairman Reinhardt- sure. Thanks. These are ours to keep?

Mr Garber- yes. And uh, about it effecting the characteristic of the neighborhood, traffic wise um the business would be maintaining how it is existing uh there won't be more deliveries in and out, if anything there will be 2 cars parked in the back for the accessory apartments with traffic along that road with the NY State DOT and the busses, and the deliveries constantly going in there and the maintenance that goes in there, I would say its not changing the traffic of the road, and um the new addition building will be, I have renderings, I don't know if you guys got those, it'll be matching the existing building uh with how it looks. Yup, as shown up there. Um, yea. So, I think it's more of a, like a site modification rather than a business modification like you said, just having more space for storage and um, being able to move around a little bit easier in the existing building.

Chairman Reinhardt- ready for some questions? Or you got more?

Mr Garber- um, no you can, yea, I'm ready for questions.

Chairman Reinhardt- okay, Matt you got some questions?

Mr Nearpass- not much more than you've already talked about, I think the business has been a success, and to a certain extent I think you're at a bit of a cross roads with what can we do with the existing site, it probably the most cost effective, versus gee we've really come to the realization, we've really outgrown it, we've really outgrown the you know the conditions that were originally set on the particular parcel, being in a R-1 or having to utilize R-1...

Mr Garber- mhm.

Mr Nearpass- I don't know how you get by the, you know number 1 and number 4, right the applicant cannot realize a reasonable return provided that lack of return is substantial and demonstrated by competent financial evidence. The reason why you're in where you're in which give you the number 4, right self-created, is that the business has been incredibly successful, that's great ...

Mr Garber- mhm.

Mr Nearpass- um, I don't know how I, I don't know how you, I don't know how we get by those 2, right. And this isn't, with it being a use variance, its different, it's a harder, a higher bar than ...

Mr Garber- right.

Mr Nearpass- an area variance. Um, it just feels like and especially with the County also uh providing their input, you've outgrown the site. Its kind of where I'm at with it, I mean ...

Mr Garber- I think how, oops sorry I didn't mean to interrupt ...

Mr Nearpass- yea, no, no go ahead.

Mr Garber- How I see it is, we didn't really outgrow the site, we outgrow the current building and will be taking down the existing barn in the back that, and the use variance is only used as storage, no utilities going to it, where ...

Mr Nearpass- but not outgrowing the site would be, lets keep our business, I mean it'd be different if you were here for example and the, let's just say the business was in financial disarray because something happened, and oh, we've got to, we've got to expand or we've got to do something else to be able to um, do that and you and competent, and you had the financial evidence to kind of show that, that there's a real hardship that wasn't created, you know self-created ...

Mr Garber- mhm, okay.

Mr Nearpass- um, and, and there was really no other way to be able to utilize that, that land under any of the other uses that are allowed there, uh to Mike's point, your, I think your case is more of a we've been very successful and in order to continue being successful we've got to double our size. Right.

Mr Garber- if we were to propose a smaller expansion or not expansion, a smaller new building would that be seen as more approving or, if we were to shorten it up ...

Chairman Reinhardt- it's a hard question to answer.

Mr Garber- okay.

Chairman Reinhardt- because when your, you're looking at being able to approve a modification for a use variance, you still need to use the criteria that Matt and I have been talking about, and when you look at um, again the doubling of the square footage size, the law asks the Zoning Board say is this a major or a minor modification of the use variance, doubling of the size invites the answer to be, it's a major modification. You're asking for apartments that arguably really have nothing to do with the business and I, I know we've heard snip bits of why it might be related, but its still, its another expansion a major modification for the apartments, um the additional employees, all those are falling into the category of major modifications, would a smaller size building uh, persuade us to say its now getting into the minor, uh, could be, but you still need to show what those, and demonstrate the competent financial evidence and we've asked it before, and we cant take it lightly, that's what the law is, and if you're not quite sure what that term of art means, highly recommend go talk to an attorney that knows how to deal and especially in use variances, they're hard, hard, hard, hard things to get approval for. And all my research I've ever done, they are few and far between. Area variances uh, there's more latitude, there's more of a balancing test, but use variances, its an all or nothing, it's a high, high bar. So, on that piece, if you want to go back, think about it and say gee maybe we'll come back with a modification, we'll come back with some um financials some competent financial evidence that shows that we cant get a reasonable return with how we are using this property, again not just the property owners, its anyone that would have that piece of property being able to use all of those permitted uses in the area, not just what you, the, I don't mean to point sorry.

Mr Garber- no, you're good.

Chairman Reinhardt- not just what they're using it for, but all the permitted uses.

Mr Garber- okay.

Chairman Reinhardt- right, its, its lawyers are expensive, I understand it, but he/she they understand it and getting some valuable information from, valuable advice on how to proceed with this thing could benefit

you in the long run. But before I, I end that little self-speech we'll just go down the line a little bit, uh Alexis, you got questions, comments?

Ms. Ogra- um, oh the letters there were 2, but did you get anything from 7126 Lane Road?

Ms. Garber- is that next door?

Mr Bailey- so, I did actively talk with her, and she actually said she might be here tonight, and she is not present, um her question was the trees the apple trees, um would they be affected and uh, 17 feet from the building uh so, I basically told her that if she wasn't pleased with um, the plantings and stuff that are approved by the board that would talk and openly, you know do something that made her feel better about it , if, but the apple trees themselves are not affected.

Ms. Ogra- are they your apple trees?

Mr Bailey- they are like on the line ...

Ms. Ogra- they're on the line.

Mr Bailey- yea.

Ms. Ogra- um, and then are you, the 3 modifications, I mean would you be willing to I guess be opened to not all 3, or just 1, just 2, something like that.

Mr Bailey- yes.

Ms. Ogra- um, if you didn't build the new showroom or the, build the new showroom as its drawn now, would you, would you still want the extra 2 employees?

Mr Bailey- yes.

Ms. Ogra- to work out of the existing ...

Mr Bailey- yes.

Ms. Ogra- okay. Um, can I ask how set you are on the apartments?

Mr Bailey- not totally set on the apartments, that you know, have, and that was actually a question I wrote down, how, what is the bearings on you know a vote you know if you guys you know much like you did with the last person kind of give me the uh insight of, I'm looking where to go, yea, uh I mean quite honestly 25 years in Victor and being there, its hard for me to look at another location, its just the roots of the business are here, our clientele, you know the close proximity that we work with a lot of um businesses and stuff, it frightens me to think about moving, um it frightens me to think of my employees of you know directions that they live in and do I, if I have to make this decision do I pull it this way so that this guys got to drive that much longer, you know so I'll, just, you know we built it where we did and it you know it's just that nucleus's that happens around it that you know we've grown because of Victor, and where we're at. And we're excited about all that, but I cant be too excited to say look at a transplant, its just you know, where we've been so that's, I would love to work with you guys on some level and if it is taken down in size, if the apartments have to get thrown out its yes, um storage is the main function, of what we want to do and I voiced it before, um to gain storage we want vehicle installation to be at a, another site, would be ideal, so that we don't have to have the alleyway in the building now opened for

that vehicle installation we could start over taking that part of it by uh, you know equipment or just spread out because things are tight around there and that's, you know the business has grown, it, and I understand your point of the area and the business growing to a level where you know it, eclipses, that uh with the 40 x 60 barn that's already there, that's not being used except for storage that is falling apart, I do not want to put the money into that building I would rather take it down, and put up a structure that looks like the building that's next to it, um so I think that had appeal to it that is not really talked about too much, um how much that could look better, um but as far as the size goes, um that could be debatable obviously the larger you get then I don't have the problem that I ran into for 25 years, so you know the biggest footprint that would be allowed, would be what I would be after, so yea we're going for something bigger than we need today, tomorrow, but you know as provisions go and having a second building to your point too, if, if to me if I add on to my building its more of a difficult thing later on to deal with we go, you know, if our business shrinks and we have a recession that we go through then I have 2 buildings that I can do something with as opposed to one conglomerate that I'm stuck with and you know all my eggs are in one basket to say.

Ms. Ogra- um, on the 3 modifications, I don't have a problem with the increase on the employees, the apartments I would not be inclined to support, I know its for you know yourself and your family, um but I know you mentioned like, maybe down the road you sell the business, and you kind of have an issue where you know, you sell them the land and the business but your renting from them to like live on the apartment, I know technically yes it is residential, but you're using it for commercial use, I think you should really stay commercial, um, you know but I don't think that you wouldn't be able to find something you know with 2 bedrooms, you know 2 apartment kind of home in Victor to move into if you're looking to downsize yourself. Um, on the apartments for the showroom, if you're, to work something out with your neighbor there, just to kind of get some sort of approval form her, um or some sort of I guess agreement, especially if you got now trees on the property line, um just so you're some what some sort of agreement on it, um that we had in writing, that would be, I'd be more favorable on then the uh, the additional showroom.

Mr Bailey- the additional showroom?

Ms. Ogra- the building, the new building.

Mr Bailey- okay.

Mr Ryczek- so I think the showroom is on there because the use variance as it exists now doesn't allow for a showroom, but they have a showroom existing. So, they ...

Ms. Ogra- the new building, is what I mean.

Mr Ryczek- yea, so the showroom is existing in their existing building. So, they were trying to also modify the variance to include that showroom because right now it's not supposed to be there. I don't think they were trying to put a showroom in the new building ...

Ms. Ogra- oh, okay.

Mr Ryczek- Its part of their overall modification.

Ms. Ogra- so it'd be for, for then, because you have 3 listed. Increase the employees by 2, allow for 2 1-bedroom apartments for the owners and employee to live in, allow a showroom in the existing building occupying the eastern portion of the property and then the fourth would be ...

Chairman Reinhardt- the garage itself.

Ms. Ogra- the garage, okay. So, to allow, I mean allowing a showroom in the existing building that I wouldn't have a problem with, it would be the garage where personally I'd like to see something between you and the neighbor kind of thing, I guess, some sort of agreement. Nothing to formal, this is fine here. What you did with the other 2.

Mr Bailey- okay.

Ms. Ogra- Um, I don't have any other questions.

Chairman Reinhardt- Lya?

Ms. Theodoratos- a couple questions, um at the, the slide went pretty quick which had the floor plan of the new building, but I have my notes from last time, so in the, in the new building you're going to have, it going to be 20 x 30, thank you. So, 26 x 66 is for storage, and then also 44 x 74 for you know also future growth and storage, so and the rest is for you know the 2 apartments, do you anticipate, I know you've grown a lot in the past couple of years and that's why you're out growing this space, what if you, what if, your plans for future growth? Like within the next 4-5 years.

Mr Bailey- I, uh well I, this is why we're talking about this, this future growth I, aspect I think puts us at a 10-20 year mark, I mean if we, if we bridge that gap then you know I think we're in a different level of business and would be you know conducive to look elsewhere, at that point, but um, right now I, we're pretty small minded, um, you know family oriented size business, where, we we're not looking to go, we're not working on plans to double our business revenue or anything like that, we're looking to maintain our customers, we stay up to date with technology, um, that you know some of the big printers that we have and stuff, floor space, uh and equipment that we run, um so it's, its more so not, not the growth factor or not our projection of growth, um, year after year, we've had under 10% growth but it, its brought us to this level where you know we're starting to get tight where we are, so we have to seek out another avenue um that, like I mentioned the avenue that I haven't gone after is going somewhere else, um if you know, if it pushes us to that level then we have to go there, but ideally um, this is where we feel real comfortable.

Ms. Theodoratos- mhm, yea. And I think part of, part of your proposal having those 2 apartments I think that's what, that's what puts a negative light on this project, because I think I know I would be more meaningful if you did not have these 2 apartments at all, and juts kept that space for potential other growth or storage of equipment or material but having those apartments there because as Alexis said if ever you sell the property, those 2 apartments are there and whether you stay at them or somebody else go in it, it gets a little sticky. And uh ...

Mr Bailey- can that not be written up in some guidelines though, as far as the stickiness goes for the future? I know that Ontario County did mention that it could be bound by employees or owners or something in the, the you know the restrictions ...

Mr Garber- in the use variance it could say um, only to be used by employees or owners of the current business.

Chairman Reinhardt- there, are, there are, right. Per area and use variances there can be conditions to a granting of a variance.

Ms. Theodoratos- and um --- and why, if a variance is granted for this and you, and you do move ahead with expanding, you know, whatever form it is, with or without the apartments, but you said something, you know which was very true, if you transition like to another location, like for instance even lets say you move to the industrial corridor of Victor ...

Mr Bailey- mhm.

Ms. Theodoratos- but still there's going to, there's going to be a gap. With any business that expands, that's going to happen anyway.

Mr Bailey- sure.

Ms. Theodoratos- its going to be like 3 months. So, you know when you mentioned that there's going to be a gap of operations, that's something you cannot avoid, you're going to have that you know however long that might be, so I don't think that's a good justification for this variance, you know for that reason.

Mr Garber- how can't it be avoided? If they stay on the property though, without having that gap.

Ms. Theodoratos- well there might, they'll be some distribution, there probably won't be like a gap like you know maybe sometimes 2 months, like I know a business now where I used to live, 40-year business, 25 years in the location, they had a now shut down because the landlord is selling the property. And they said its going to be like 3 months. To open the new one, because they are in final negotiations for a new space. So, I mean I, you know if you expanded here, you wouldn't have that, but even if you moved to the industrial corridor to a new location, you're going to have some gap.

Mr Garber- sure.

Ms. Theodoratos- you know probably not as long but you know maybe a few weeks. You know that's to be expected. Um, lets see what else. You know like Mike said its just too many things with, its too many items with this. And like Alexis says I don't have a problem with 9 employees, I have a big problem with the apartments.

Mr Garber- okay.

Ms. Theodoratos- that's the big thing.

Chairman Reinhardt- Fred?

Mr Salsburg- well I think it's a pretty nice application to tear down that old garage and build a new nice looking one, with improvements, as far as the neighborhood goes, what kind of a neighborhood is it when its throughway in the backyard and school in the front yard, with all kinds of traffic one house on the east side and he's got a motorcycle track, that only leaves the one house on the west side compared to a neighborhood. I have a, I think its kind of a loose comparison so I would and say neighborhood is fine. And uh, I'd understand about this financial business, people that, I'd like to have, I think that you can do it as you and uh, I would agree with it. I wouldn't, I would, did you move up there after the fire?

Mr Bailey- no, we, were, we had the production facility ...

Mr Salsburg- it was there before?

Mr Bailey- we added on to the front because we had

Mr Salsburg- ah, yea. Yes, yes.

Mr Bailey- the offices. Yea.

Mr Salsburg- yea. Yes, yes. I remember seeing that now. So, I guess I'm more in favor of it uh, I don't like the apartments, I can't figure that out. I don't know what the zoning would be for that, light industrial with a

Mr Bailey- the apartments was a fifth hour thrown into the project, it was, I mentioned my son and stuff but, basically, we were looking at this well before apartment wasn't the reason for the building, the building was

Mr Salsburg- right.

Mr Bailey- the building was for ...

Mr Salsburg- right.

Mr Bailey- the business. The storage that we don't occupy that building and use it the way we can, its 40 x 60 barn, we really don't utilize it just because stuffs falling from the ceiling and it's just, I can't keep stuff over there that's any good, its not heated, its not cooled. So, I can really use it for the storage that I want to use it for right now, um so that's why we looked at this, the apartment was ...

Mr Salsburg- maybe ...

Mr Bailey- an afterthought.

Mr Salsburg- maybe if that was just put off, sometime in the future.

Mr Bailey- the apartment, yea the apartment is not ...

Mr Salsburg- it wouldn't be such a, theoretical impact. That's my thought.

Chairman Reinhardt- most of the discussion ...

Mr Bailey- is that they would like to see that, yea.

Chairman Reinhardt- happen I think in the last 10 minutes or so has referred and driven at the third criteria, about whether or not its going to change the character of the neighborhood. And that's all fine and good, you got to put it in there, we have some teeth if you will to plug those facts in there, but what we are I think as a board very short of is having what they call competent financial proof, the financials, and maybe I can describe it this way, there's people out there, I'm one of them, you do some DIY stuff, right, I like to do it, but there's a certain level its like this is way above my pay grade, right, I need somebody that really knows how things work. And do I build a deck for example that's 4 feet off the ground, 12, sure I can do that, 16 feet off the ground way above my pay grade, I need somebody that knows structure, how to tie things in, how to not, I think where you're getting at because these are use variances, you need somebody that really knows how this mechanism, how the law works here. We've asked, you've been here a few times, its really not something to play with, this is your business, its important, mi suggesting think about it, go talk to somebody that knows what the use variances are, have the minutes, right they're online, you show it to him or her and say, what the heck are they talking about,

how does this work, what is financial evidence mean, what is competent financial evidence mean, what are they looking for, I think you're going to start to see it's like, this is what he's, the boards talking about, this is what you need to show, they may be able to say to you, boy it's a big ask, alright, or maybe it's, like if you give them this, they might be able to help you, but with out those pieces we can't fit the puzzle together for you. We can't make the case for you. All we can do, we can give you some hints about what maybe you should be looking at, that we can look at this and decide yes, we're going to um, approve it by overriding the county planning board and saying no we still have it. We don't have the evidence; we don't have the facts to plug in here to override the county planning board. Alright, does that make sense at all ...

Mr Bailey- yea.

Chairman Reinhardt- and I'm not trying to say you'll throw a whole bunch of money at something, at a problem that may or may not happen ...

Mr Bailey- yea, I, I ...

Chairman Reinhardt- I think you've heard, I'm sorry to interrupt, I think you've heard the apartments is ...

Mr Bailey- yea, loud and clear on the apartments. Um, the financial stuff, I, you're right, it's above my pay grade, I'm not understanding what to present to you, to bring you what you're asking for, um and I just having a hard time justifying that an attorney is going to tell the story of what I can't tell. Uh ...

Mr Nearpass- sorry to interrupt but I, an attorney may also tell you like, this isn't possible. Like, they may tell you this is impossible. I mean they, they can give you their opinion based on, like I, again I sit here going I don't know how you get over the other than the financial evidence and the self-created aspect of it. I mean, before you guys tonight we talked about you know area variances and area variances you can be flexible, it's a balancing act, you know there's certain applications that you know the characteristic of the neighborhood weighs more than others, there's the aspect of it being self-created doesn't necessarily, doesn't necessarily, cant have a, necessarily have a, negative impact on the overall case, so everyone who comes in front of us with an area variance its always self-created, generally. Because it's something they want and therefore its self-created, but it doesn't prevent them from getting an area variance, a use variance is a completely different animal, it **does** prevent you from getting the use variance. It's a ... number 1 and ...

Mr Salsburg- well I ...

Mr Nearpass- number 2 and number 3 and number 4. It's, it's not like the other that have been in front of you, who we probably and I'm just you know, we probably see 2 use variances a year. At most, I mean they're tough, and I think a lot of people too when they seek counsel, they kind of tell it to the, the way it is, that it's a very high bar. Um, and its great that you're coming in here with a success story, right. Not trying to um, not the opposite, but its, it's a high bar, and I don't know how more to say it, I mean, yea I mean to Mikes point it was great we were talking about we've got letters from neighbors and a lot of it is focused on number 3 and that's great, I think that probably checks that box, um but the others its, we can't, I cant go oh, you know number 3 is so great it outweighs number 1 and 4, and 2, its just not, it's not the same thing, so I think to Mikes advice, its probably talking to counsel, even if its just spending a couple hours with someone to say, what do you, you know what do you think the pitch is, what are my odds of something like this, you know how would I tackle the um self-created piece, how to I tackle the financial evidence piece when my business has been wildly successful, right, it, its tough.

Mr Salsburg- one thing I'm a little confused about is number 4 says, the alleged hardship, I don't know who is alleging a hardship.

Chairman Reinhardt- we have, that's, that's ...

Mr Salsburg- we haven't heard anything from the applicant to that

Chairman Reinhardt- that's tied in though on a use variance. What you're saying is, I have a hardship here, I can't use the property the way that the code allows other people to use it.

Mr Nearpass- that's my point, is that there is no hardship. The hardship is that their business has been successful, and they've outgrown the site, but that's not a hardship per, per the law.

Chairman Reinhardt- its, maybe in a better example, it, I consider myself relatively educated, I would do my own taxes, would I do the taxes of constellation brands, no, that's super complicated stuff, you got to really know, it's a very small niche and that's kind of what this stuff is. You know its just not any attorney out there, you know the accident attorneys, maybe they know how to do it, maybe they don't, but you want somebody who knows municipal law, that knows zoning law, that knows how this stuff ticks, and what those pieces that need to be delivered to a zoning board to have any chance of getting a use variance modification granted. I think as it sits right now, everything that you're asking for probably isn't going to end well.

Mr Bailey- no, I ...

Chairman Reinhardt- you don't have the pieces ...

Mr Bailey- I, I, I understand that. With something existing I didn't know how you know that worked, with it, you know good standing 25 years, and business looking to expand have a building that's existing, you know that's where my mind is going, not proving, hey you know the guy wants to expand he's in Victor, pat him on the back help him on his way make sure he complies to code. That's not the case, I mean the case is, you know, you're not going to put it up unless you prove you got the right numbers that show to me it's just ...

Chairman Reinhardt- I think we're spending ...

Mr Bailey- doesn't make sense.

Chairman Reinhardt- more time with you because you have been here ...

Mr Nearpass- yea.

Chairman Reinhardt- you are an established business, we'd like you to, we you know the village, the town, we'd like you to stay here, but there's a certain point it's like, the ask is too big and sometimes the, as much as we like to say, yes it looks like it's a great project, it's a wonderful thing to do, we got to follow the code, you got to follow the law and there's certain, latitude that we have, but we don't have again, I'm going back to those pieces, our hands are tied. We can't juts grant it.

Mr Bailey- yea, I mean the hardship wise, I've I mean we've spent \$10,000 in engineering and you know coming to meetings and stuff so far so, looking for an attorney and going \$20,000 / \$30,000 deep and its still kind of up in the air of where we're at so, that the hardship part to me is that. It's, I've already spent you know the money I didn't think id have to spend to get where I am, and now its just like, you know ...

Mr Nearpass- I, look I'm with you, the hindsight is always 20/20, um, you know the first step when it's a use variance is usually probably talking to an attorney, even with us we would probably also talk to Town attorney and the response that your attorney would provide to us because it gets that, that specific. Um, and trying to prove, I honestly can't, been here for 16 years, maybe I've seen 1, that's made it through the goalie. Its, its, to Mikes point its ...

Mr Bailey- we did have an attorney the first time ...

Mr Nearpass- right and ...

Mr Bailey- when we ...

Mr Nearpass- yup and I saw that.

Mr Bailey- went through this process.

Mr Nearpass- and I've read through all of that, and I think the Town did you know, did a lot to make it work for you, right for, it was 2006? I think the last, last one or the amendment to it and there's a lot that the Town was able to do to get that use variance in, in place, and it was also very specific, right, no showroom, um, no expanding, only 7 employees, you know it, it had those, those guardrails on it because they, you know they were extending an olive branch to you to operate that way in a residentially zoned, you know parcel and it just feels like again that the day has come, right and you, you know you've been successful and the Towns you know gave you the latitude to operate as you needed to and yea, but with that comes um, unfortunately the red tape involved in now trying to change it and grown from there, when the, you know the exceptions were made for that site to help you ...

Mr Bailey- would it be a different meeting if the existing building we, rebuilt just on that footprint? Alone?

Mr Nearpass- I think its everything, it, its so, even something like we want a showroom, and we want 9 people, I still don't know how to answer those 2 questions. I don't know how to say its not self-created and that you have a hardship. Even if you were here in front of me saying I need 2 more people, now maybe if it was a, I need 2 people but they're both going to be remote, and its not going to add it, that's maybe an easier sell, but I don't know how to get through the it's not self-created. Because again you're here because its self-created because of your success. Not because of, not, even a failure is self-created. To a certain extent, now a lot of people can point to, oh well for example the pandemic, that wasn't self-created, this all happened that would be very, very true, um, and that could be used as a you know not self-created thing, maybe for certain circumstances, um and we've got to financial hardship or something else happened you know, a chemical spill on your neighbors property polluted and made it a brown site, and now you cant realize a return on that parcel because you can't use it for any of those very specific things that are on there, like to Mikes point, earlier, there are you know very strange you know things that could happen, that could make a site not usable by anybody, um, those are the ones that are generally in front of us where there is something like that, that happens and it's, like I said its great that you know you guys have been very successful but it um, it, I just don't know, I don't know how to use the use variance to um, the rigidity of the use variance for conditions the ands, to give a company that's been successful, more. Its really meant for the opposite, its meant for um, we've got a financial hardship here, we cant utilize the, get the use out of this particular parcel that because of x, y and z, and the outgrowing piece I, I think it's kind of the expectation that if you, you out, you got the use variance, it got to a, you to where you are, you've outgrown it, um and you, you either stay as is, or, or you grow out of the parcel that, that's I don't know I can't think of another growth story where a use variance would ...

Chairman Reinhardt- yea, its.

Mr Nearpass- would show a hardship. Think about that, right. How would a success, I don't know how to spin a success into a hardship and, with tax returns and competent financial, its just, and its not a, an area variance, an area variance again we can be more lenient and weigh things differently, a use variance especially, as well as with a denial form the county with it being a majority plus one, just ...

Chairman Reinhardt- so ...

Mr Nearpass- I feel for you.

Chairman Reinhardt- you have options here I think, its certainly we can take a vote today, but I think you've figured out its probably not going to go well because we ...

Mr Bailey- yea.

Chairman Reinhardt- we're missing pieces. Certainly can table it for the next time, we're not going to keep going over this kind of thing, because I think you really got the picture of, if we see something different, if you decide to talk to somebody that knows how this mechanism works, you are able to plug in these pieces for us, so that we can take a hard look at it, certainly would look at modifications, you know we can't make any promises, there's no crystal ball, because we're not quite sure what you're thinking about. Um, its your choices and we've I think you've heard today and other nights, we want to give the applicant as many opportunities as possible so that maybe they get what they want, maybe they don't, but you've had a fair shake at it.

Ms. Ogra- I just have a couple questions if you don't mind. Um, and I liked your I think it was Matt who wrote it, you repeated references to tremendous business success, um, but my question would be, right now because you are, you know you're doing so much work and you need 2 extra employees, has your turn around time for customers gotten longer, are you having, are you losing customers, that say no that's way too long for me to wait, sorry I'm going somewhere else, any of these, have you had any of that, where you're almost, you've got too much business that you can't handle it right now?

Mr Bailey- uh, the short answer is my wife and I want to exit the business ...

Ms. Ogra- okay.

Mr Bailey- I mean we need 2 bodies to backfill us.

Ms. Ogra- okay.

Mr Bailey- we don't count as the 7, so that, that is part of the issue, um, we do work 60 hours a week ourselves right now, and if we pull ourselves out we are trying to go remote 20 hours a week, and still keep things functioning, it isn't uh, a product of delayed times, deliveries to customers or anything, its more so because you know we've put our 25 years in and just need to rest up a little bit we can't put the energy into it that we have year after year, right now so it's, its you know we're looking to get people in so that we can try to Segway out a little bit, so the number of bodies in the shop really isn't going to change a whole lot, that's, that's the ideal look for us, again its not a growth factor that we're trying to exponentially grow its just maintaining what we have.

Ms. Ogra- okay. And so, the building, the proposed new building ...

Mr Bailey- mhm.

Ms. Ogra- that would I mean, help you grow your currently, you've outgrown the current building?

Mr Bailey- the equipment wise and stuff, yea, well in stages. You know since we, when we first built it we had basketball courts in the back, we had you know tons of room to play around but as we've grown through the years you know we've taken up floor space and now we've got the pinnacle where I cant plan another piece of equipment that I'd like to buy because of floor space, and so that's my hardship is there are pieces of equipment I would go to buy tomorrow if I had a, room for it, I don't have room for it. Plain and simple and I can't figure out how to reorganize stuff without taking my vehicle bay and that's an integral part of what we do, so its tough to say we don't do this anymore um so, yea. Yea, it uh, you know you, what you guys have shared with me is you know, maybe its time that we have to look elsewhere, I, that's the point blank, its kind of blunt right now that you know ...

Chairman Reinhardt- we didn't ...

Mr Bailey- we're asking for something that's probably impossible.

Chairman Reinhardt- we didn't, we didn't answer your question, and I think Adam could help, you had asked if you didn't do the garage, but you used the same footprint as the barn that you want to knock down ...

Mr Bailey- yea.

Chairman Reinhardt- would he need a use variance for that?

Mr Ryczek- yes, because right now, so that, that barn became part of that parcel when you did an administrative lot line adjustment and one regulation was that barn is not supposed to be used for business use, personal storage only. So, because, if he was to then build a new barn um, for business use, it would be a modification to the use variance. If they rebuilt that barn for personal use, he just needs a building permit as long as it doesn't grow in size.

Mr Nearpass- I thought, Adam though the way you pitched it is, well was they, they need the use variance for the showroom that exists today.

Mr Ryczek- correct. I don't know, you know I don't know, so the way that its written, I don't know how long that showroom has been there, you know I, I've only been here you know just about 2 years, I've only done the inspection that's required once, um, seems like a significant amount of space, I mean it's a, it's an obvious showroom, there's displays, and things like that, so even to keep that showroom, it seems like your use variance needs modification. The way it's written as is. And I know there was some confusion you guys were under the impression that the last time you came in for a modification that that was included or maybe it was the building addition after the um, but I didn't ...

Mr Bailey- that was all during the fire and things happened fast and I know ...

Mr Ryczek- yea.

Mr Bailey- the board helped us along our way quickly there too in our transitions, so ...

Mr Ryczek- I was juts unable to find anything written that the showroom was now allowed, like that condition of the original use variance had been eliminated. So ...

Mr Garber- I have a question. Would taking down the existing barn in the back and building a new one, would that show a hardship of that barn not being able to be used because it's falling apart? Or no, would that not be ...

Chairman Reinhardt- I don't think you can use it ...

Mr Ryczek- they're not supposed to be using it for business use anyway.

Mr Garber- but for storage.

Mr Ryczek- for personal storage only.

Mr Garber- personal storage.

Chairman Reinhardt- I jumped in there, sorry. Did you have other questions? ---

Ms. Ogra- no I was just trying to almost look for the hardship I guess in the financial aspect of, if you're not able to do the business that you are currently, getting, coming in, because of the lack of the additional building, the lack of the employees, kind of thing. That was it.

Chairman Reinhardt- well what would you like to do? --- You can ...

Mr Bailey- well obviously

Chairman Reinhardt- it's a big question.

Mr Bailey- yea, I know, we're tabling the whole structure obviously, it's a question of do we need to re-apply to go after the employees and the showroom. Or can that be a vote and we nix off the other 2 ...

Chairman Reinhardt- right now, all the, the apartments, the employees, the showroom, and the size of the garage ...

Mr Bailey- all together ...

Chairman Reinhardt- right, that's all, the public has been properly noticed, if you at any point want to say you know what juts take the apartments off, scratch it off, you can certainly do that, if you can do it tonight, you can do it on the 17th, you can, we just need something in, formal whether it's in writing via e-mail or you say I'm good with not having fill in the blank and that's what you do ... if you want to think about it, that's absolutely, I encourage you to do that, I don't really want, I don't think anybody on the board wants to say gee I wish I would have had 10 more minutes to think about it because we understand. This isn't something that you normally do, your wheelhouse is printing and doing other, and you can do it like clockwork, this could be a nerve-wracking experience, so thinking about it a little bit at a time and then you let us know what you want to do and then we'll do it. You know and making a decision on the 17th, or you want to make modifications to the current uh, use variance application, modification to the use variance, you certainly can do that, or you just say, you know what just make a decision.

Mr Bailey- no, we need to make modifications for sure. So ...

Chairman Reinhardt- alright, then uh, submit them and if they're in time we'll do it on the 17th.

Mr Bailey- okay.

Chairman Reinhardt- sounds good?

Mr Bailey- sounds good.

Mr Garber- what time would they have to be submitted by to be on that agenda? 2 weeks from today?

Chairman Reinhardt- and if that's not enough time, then just let us know and we'll get a date for you.

Mr Garber- no, that's plenty.

Chairman Reinhardt- as long as this isn't ongoing, we can keep um, not say adjourning it, but we can keep the hearing opened. Um, as long as there's some active, I shouldn't say, we can't be, an infinite item.

Mr Bailey- there's got to be some kind of progress. Or forget it. Yea, I get it. We're not here wasting your time, that's not why we're here.

Mr Ryczek- I think the pamphlet on the back table there has the submission deadline dates for each meeting, um it might be the pamphlet in the front of the little display there, okay.

Mr Garber- okay. Thank you.

Chairman Reinhardt- okay. Very good, thanks so much for your time and patience. Okay, uh, Adam, anything else for us?

Mr Ryczek- not today.

Chairman Reinhardt- anyone have anything else? ---

Mr Salsburg- the use permit that they got already, the uh, this is the same use.

Mr Nearpass- no its not.

Chairman Reinhardt- no, no ...

Mr Salsburg- well bigger.

Chairman Reinhardt- no, no ...

Mr Salsburg- the same use, they're doing the same thing.

Chairman Reinhardt- no. No ...

Mr Nearpass- if you want ...

Chairman Reinhardt- the original use variance had to do with a doctor's office.

Mr Ryczek- Fred, it also says that the business can't grow substantially ...

Mr Nearpass- Fred, I can read it to you ...

Mr Ryczek- as part of it, the use variance.

Mr Nearpass- and this is from their attorney, "the only proposed use at the subject property will consist of production, location only and would not contain a showroom or other customer friendly display area, no signage is proposed at the location so no further, to further ensure that there will be little customer interaction at this site." We're already doing that today. So that's kind of the, is where he's at, they proposed that they wouldn't ...

Chairman Reinhardt- right, and it was largely a function because they had a place ...

Mr Nearpass- the fire.

Chairman Reinhardt- in the village.

Mr Salsburg- Main Street, yea.

Mr Nearpass- and then they had a fire, right and then ...

Mr Salsburg- yea.

Mr Nearpass- but that was kind of, I don't think anything has happened, the fire wasn't in 2006? Was it?

Mr Ryczek- no, I think it was ...

Mr Nearpass- I think it was later.

Mr Ryczek- 2014? Maybe ...

Mr Nearpass- yea, it was, it was later on.

Mr Ryczek- yea, it was kind of an outline...

Mr Salsburg- yea.

Mr Nearpass- the never modified the use variance, they I think they, you know they, I don't know who they went in front of, but they moved the showroom temporarily with air quotes to um, to the facility on Lane Road...

Mr Ryczek- I don't know if that was even a modification there, I think it went before the Planning Board, only for an expansion, after their other business burned. I don't think they ever modified the use variance and I think they were under the impression that it was modified but the criteria of the use variance never changed, they went to the Planning Board in 2014 to put an addition on, because of that, um so the criteria of the use variance never was amended or modified, um so to, the showroom is, has anybody been, stopped in there?

Chairman Reinhardt- Yea, I've been there.

Mr Ryczek- yea, so I mean ...

Mr Salsburg- I've been in there.

Mr Ryczek- it's a substantial amount of square footage so ...

Mr Salsburg- I wouldn't call it a showroom. I didn't see a showroom, they got a ...

Mr Nearpass- its not supposed to be for customers.

Mr Salsburg- they've got a toner that you walk up to do business but ...

Mr Nearpass- no, but it supposed to be for production only. So, when I have customers ...

Mr Salsburg- I'd say that's probably what it is.

Chairman Reinhardt- there's products though, there's banners and ...

Mr Ryczek- yea.

Mr Salsburg- well that's what they make.

Chairman Reinhardt- it's just then it's a showroom. They're showing off their product.

Mr Nearpass- if you told me if you walked into ...

Mr Salsburg- I didn't see a show room.

Mr Ryczek- so when I walked in Fred, I mean its full of, of examples of what they make, stand ups, and banners, and you know signs ...

Mr Salsburg- yea, that probably was, there probably was. Yea.

Chairman Reinhardt- okay, does anyone have anything else they want to discuss before I entertain a motion for adjournment?

Mr Salsburg- I've heard enough.

Chairman Reinhardt- alright.

On a motion made by Alexis Ogra and seconded by Matt Nearpass the meeting was adjourned at 9:30 pm.