

TOWN OF VICTOR ZONING BOARD OF APPEALS July 6, 2020

A regular meeting of the Town of Victor Zoning Board of Appeals was held on July 6, 2020 at 7:00 p.m. There was no public gathering based on the recommended precautions for limiting exposure to COVID-19. The following members were present virtually via ZOOM and the meeting was live streamed via YouTube:

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Fred Salsburg; Sarah Mitchell

OTHERS: Lucas Cullen, 7758 County Road 42; Scott Shields, 682 County Road 9; Jeff Perine, 1687 Strong Road; Steven and Kristine Brown, 1062 Azzano Circle; Laura Baranes, Premier Signs; David Cox, Passero Associates; Alan Benedict, Code Enforcement Officer; Martin Avila, Code Enforcement Officer; Ed Kahovec, Town Board; Kim Reese, ZBA secretary

PAST MINUTES:

On motion of Fred Salsburg, seconded by Matt Nearpass:

RESOLVED, that the minutes of the meeting held on June 15, 2020 BE APPROVED with the earlier correction provided by Mr. Salsburg.

Adopted: Ayes 5, Nays 0

PUBLIC HEARING:

CULLEN GARAGE ADDITION, 06-Z-2020

7758 Co. Rd. 42

Applicant is requesting an area variance to construct an addition onto their existing garage. The addition will be located closer than 15 feet to the side lot line. Code requires a 15 foot side setback and more specifically §211-20C states that accessory structure, such as storage sheds, must observe a 15 foot property line setback on residentially zoned property.

Chairman Reinhardt – Next is following up with the Cullen garage from June 15.

Marty, do we have any comments, opposition, in favor from the public?

Mr. Avila – None on line right now, no.

Chairman Reinhardt – So, I think that's all we were waiting for. So, to review for the criteria, they are asking for a variance to put up a garage, 40 x 60 and to the east is a 16 1/2 foot flag lot so there really isn't going to be any impact to the east. It's impractical to put the addition to the west because of the breezeway, as well as that it's too close to the front door. The new garage will be straight to the road. And, trying to buy that flag lot would unnecessarily complicate the project and also no one spoke against the application at least for the first criteria for it will not create an undesirable change in the neighborhood. Would anyone else like to add anything else to the first criteria?

Okay. So going on to the second criteria, whether or not the benefits by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance. Much like I've indicated, to push that garage, the addition to the west it sounds like it would further complicate the project, cutting off the breezeway and crowding the front door. Would anyone like to add anything to the second criteria?

Hearing none, we'll move along to the third criteria. The area variance is not substantial, much for the reasons we've already indicated. Would anyone like to add anything else to the third criteria?

Hearing nothing, the fourth criteria is the proposed variance will not have an adverse impact or effect on the physical or environmental conditions in the neighborhood or district. I heard nothing from anyone regarding any kind of impact it would have to the physical or environmental conditions. Would anyone like to add anything else to the fourth criteria?

Hearing none, the fifth is this difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the variance. I want to make sure that we have the location for the distance. Al, has it been specified how much they need?

Mr. Benedict – Say it again, please.

Chairman Reinhardt – I'm looking for how much that they are looking for. I have my notes, but I don't have the dimension, the number that they were looking for. How close they need to that lot line?

Mr. Benedict – I don't have any materials here with me. For some reason 10 feet sticks in my head.

Ms. Reese – I have Al's comments here, it says the garage addition is located 10 feet from the lot line, Schedule II indicates that the side setback is 15 feet.

Chairman Reinhardt – And, Al that's including any eave overhang?

Mr. Benedict – I don't know. Mr. Cullen would have to answer that; whether the eave hangs out further than the 10 feet.

Chairman Reinhardt – Is Mr. Cullen here?

Mr. Cullen – Yes, I'm here.

Chairman Reinhardt – So, the question we have is if the measurement includes the eave. So if the board grants the variance, the measurement will be taken from the eave to the lot line. Is 10 feet going to be sufficient?

Mr. Cullen – I hadn't taken that into the account. I was considering the side of the building. I just hadn't thought of that. Nobody had brought it up until now, so.

Chairman Reinhardt – Well Al, that is where the measurement is taken from, is that correct?

Mr. Benedict – That is correct. The nearest point use projection of the building.

Chairman Reinhardt – Mr. Cullen, do you have an estimate or preliminary drawings of how wide that eave is going to be?

Mr. Cullen – Yes, I do. We were actually looking at four foot eaves to match the house, but if that's going to be a sticking point then we can reduce those.

Chairman Reinhardt – When you mean reduction, how much are you talking reduction? Three feet, two feet? We need to have a discussion about this. About what those eaves are going to look like. Where the measurements taken from.

Mr. Cullen – I mean if it's a sticking point then I can reduce them accordingly and at this point we haven't done any digging or anything so I can move the building a little bit if necessary.

Chairman Reinhardt – Well let's discuss this a bit with the board then. Matt, with Mr. Cullen's comments with four feet eaves that would mean the variance would be six feet if my math is right. You have thoughts on that?

Mr. Nearpass – I don't think it's too significant compared to what we've already reviewed. It would be nice to know to your point, Mike what exactly are we looking at. It doesn't sound like it's a big deal to the applicant to move it. So, if we just kept it at 10 feet and we gave him a 10 foot set back, is that ok, can you live with that? Knowing where it's going to be measured from?

Mr. Cullen – I can certainly live with that. If I could keep the eave distance, that would be preferable because it would make the garage portion match the house. Everything would look like it was built together rather than. My eaves currently are quite wide. They are four feet on average around the house. By the front door they are actually six feet. So, just the way the house was built with substantial eaves. So if I put a good size building up with a one foot overhang it is going to look.

Mr. Nearpass – I get it. If it matches the house, I'm ok with it, Mike.

Chairman Reinhardt – Fred, thoughts on the four foot eave.

Mr. Salsburg – Well this application is way back from the road and trees. There's no factor for the public, because it is so far back and hard to see, but I think in view of this extra intrusion, Mr. Cullen ought to live with one foot. Move the building over a foot and have one foot eaves and kind of compromise on it. So it would be nine feet instead of 10.

Chairman Reinhardt – Alright Donna, what are your thoughts on this?

Ms. Morley – I'm okay with it either way.

Ms. Mitchell – I'm okay with it, too.

Chairman Reinhardt – With the four foot eaves?

Ms. Mitchell – I am.

Chairman Reinhardt – I tend to agree with Matt and Donna and Sarah. Largely because of the sixteen foot conservation easement buffer. I don't think it's going to have any kind of impact especially since that garage is it looks like it's more than 160 feet back. So with that, let's incorporate the request for the variance to be six feet to the lot line. Mr. Cullen, are you comfortable with that?

Mr. Cullen – Yes.

Chairman Reinhardt – Alright. Would the board members have any discussion or thoughts on the conditions for this variance?

(No)

Chairman Reinhardt – Al, is there anything else that you'd like to add or let us know about with this application.

Mr. Benedict – Nothing additional. I just want to know if you had heard my response earlier, to your earlier question. My internet kind of died out at that point. You'd asked me if the setback was to the nearest projection and my answer was yes it was.

Mr. Salsburg – That came through, Al.

Chairman Reinhardt – Okay, so the variance will be request for six feet and I think we are prepared to entertain a motion to grant this variance for six feet. Can I have a motion?

Mr. Nearpass – I'll make the motion.

Ms. Morley – I'll second that.

Chairman Reinhardt – All in favor. (Aye) Opposed. (None)

Motion carried. Thank you, Mr. Cullen. Good luck.

RESOLUTION

Re: 7758 County Road 42, Garage Addition Area Variance, Appl. No. 06-Z-2020

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on June 2, 2020 from Lucas and Jodi Cullen, 7758 County Road 42, Victor, NY requesting an area variance to construct an addition onto their existing garage, whereas the addition will be located six feet to the side lot line. Schedule II Area and Height Requirements indicates a side setback is 15 feet; and,

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on June 7, 2020 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on June 15 and July 6, 2020 at which time no residents spoke for/against the application,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings:

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: To the east of the proposed project is a 16 ½ foot flag lot, which limits any impact to the east. It is impractical to put the addition to the west because of an existing breezeway and also the proximity to the front door. And, trying to purchase the flag lot would unnecessarily complicate the project. No one spoke against the application.

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: As stated in the first criteria to position the garage addition to the west would further complicate the project, cutting off the breezeway and crowding the front door.

3. The requested area variance is not substantial.

Justification: The variance is for six feet and the garage appears to be more than 160 feet back and there is the 16 ½ foot buffer from the flag lot.

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

Justification: Nothing presented indicates any kind of impact this project would have to the physical or environmental conditions.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

On a motion made by Matt Nearpass and seconded by Donna Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Lucas and Jodi Cullen, 7758 County Road 42, requesting an area variance to construct an addition onto their existing garage, whereas the addition will be located six feet to the side lot line and whereas Schedule II Area and Height Requirements indicates a side setback is 15 feet, BE APPROVED.

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

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.

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

Michael Reinhardt Aye
Mathew Nearpass Aye
Sarah Mitchell Aye
Donna Morley Aye
Fred Salsburg Aye
Adopted: 5 Ayes, 0 Nays

SCOTT SHIELDS, MODIFICATION TO EXISTING AREA VARIANCE FOR POOL RELOCATION, 07-Z-2020

682 County Road 9

Applicant is requesting a modification to an existing area variance to relocate a pool, whereas §211-31G(2) states no accessory structure shall be forward of the front line of the primary building. The property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – Next we have the Shields pool application. Marty, do we have any comments, opposition, anything from the public?

Mr. Avila – There’s nothing on line right now, so no.

Mr. Benedict – Mike, as of when the five days were up there were not any comments from the public. I’m not aware of there being any since then either.

Chairman Reinhardt – Okay. Good. So, I know there was an issue as far as trying to get the location and it seemed to be where it’s measured. Al, has it been pinned down at all about where the measurement is taken from for where the pool is to be located from the right of way?

Mr. Benedict – I don’t know that we’ve done that.

Chairman Reinhardt – I have measurements from 214 and 215 and somewhere in that neighborhood. Does that at least ballpark, sound about right? If it's 215? Just so we can place where the variance is going to be?

Mr. Shields – Yes, that's accurate.

Mr. Salsburg – Mr. Shields has done some excavating to make a spot for the pool and it ought to be a pretty easy measurement. I think its 200 feet from the road. It's sure is a lot nicer location than the original one.

Mr. Shields – I agree.

Mr. Salsburg – It's a lot closer to the road, the original one was.

Chairman Reinhardt – Mr. Shields, do you have a measurement on where that is?

Mr. Shields – Yeah, it's about 215 to the center.

Mr. Nearpass – To the center of the pool or to the center of the road?

Mr. Shields – 215 from the road to the center of the pool.

Chairman Reinhardt – So, Al, where is the measurement taken? Is it to the center of the pool or to the edge of the pool?

Mr. Benedict – As far as the distance?

Chairman Reinhardt – If we're going to grant the variance, I would prefer to at least take a measurement from the right of way to the pool and preferably not to the center of the pool, but to the side of the pool that's closest to the road.

Mr. Benedict – I would agree with that.

Chairman Reinhardt – So, Mr. Shields do you have a measurement from the edge of the pool that's closest to the road?

Mr. Shields – Well that measurement, the yellow line that goes all the way down, it's covered up on this document. But I can tell you that it is 15 feet from the barn edge and I can pull up the original doc here if you give me just a second and I can tell you the exact measurement. And of course, it's not on there. One second.

Mr. Nearpass – If the current measurement is to the middle, you going to just add about 14 feet to it?

Mr. Shields – Yeah, I don't know if you remember the original variance, because this is a modification to the existing. It was 230 feet from the road and that was essentially the closest measurement from the road to my home. So we are about 15 feet from the edge of the barn to the edge of the pool at its most western, basically at the top of this map where the pool is located here. So give me one second and I'll tell you exactly what that measurement is. So that measurement, the yellow measurement from the road to the barn is 219, so it is 204 from the road to the most western edge of the pool. And it's 27 feet in diameter, so it's 204 minus 27 to the most eastern portion.

Chairman Reinhardt – So, let me ask the board then, if 204 is tight and we allow you another couple of feet to make sure that it's within there. The last thing we need is to have you have to come in and ask for another modification to the variance. So if it's 200 feet that gives you plenty of room from the edge of the pool to the right of way. Is that accurate?

Mr. Shields – Well, my math says 177 is from the right of way to the most eastern edge of the pool. That's 204 minus 27 feet.

Mr. Nearpass – Can someone bring up the map again so we can all see it simultaneously?

Mr. Shields – So according to my survey map that yellow line that extends all the way to the barn is 219.

Mr. Nearpass – But that's to the road, correct? Not the right of way.

Mr. Shields – Yeah, I'm sorry. To the road, yes. From the road all the way to the barn.

Mr. Nearpass – Are we using the road, Mike or the pavement edge as the anchor for this or are we using the?

Chairman Reinhardt – The pavement edge can change, but I think the right of way shouldn't. So what I need is the number for the variance is the measurement from the right of way to the eastern edge of the pool.

Mr. Salsburg – That'd be 177.

Mr. Shields – Correct.

Mr. Nearpass – So, if we give you 175, that'd give you a couple foot buffer?

Mr. Shields – Works for me.

Chairman Reinhardt – Okay. Let's go through the criteria.

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.

This is a modification to an existing variance. The original pool location is approximately the same distance and so we had some trouble with locating the exact location, but it's to be moved further to the south?

Mr. Shields – The original variance had it probably half the distance on the north edge. This is obviously switching to the south edge.

Chairman Reinhardt – So it would be to the south and it is proposed to be located 175 feet from the right of way to the most eastern edge of the pool. We did not hear any comments or opposition from the neighbors. Would anyone like to add anything else to the first criteria?

Hearing nothing, then the second is whether the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Again, this is a modification to the variance and also the backyard is, you can't put a pool there. Mr. Cullen, it's because of the trees and you can't put a pool back there is the bottom line?

Mr. Shields – You can't even sled down it even though it's a really nice hill. It's just too wooded.

Chairman Reinhardt – So would anyone like to add anything else to the second criteria?

Hearing nothing, the third is the requested area variance is not substantial. Again, largely because this is a modification to a prior variance and all that we're doing here is that the pool is being located to the other side of the (inaudible).

Mr. Salsburg – It's also, Mike within the approved fence area line and before it was outside of that line.

Mr. Shields – Well the fence was new as of last year.

Mr. Salsburg – Yes, but it would have been out of it, not it's in.

Mr. Shields – Yes, absolutely.

Chairman Reinhardt – Okay. Fourth, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Did not hear anything from anyone regarding any kind of environmental conditions or impact to the neighborhood. Would anyone like to add anything else to the fourth criteria?

Hearing none, fifth the alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

Again it's a modification of a preexisting variance. So, with that does anyone want to add anything to the criteria that we ran through or make a condition? Hearing none, let's entertain a motion to approve this variance.

Mr. Salsburg – I'll make that motion that we approve the variance as you first read it.

Chairman Reinhardt – Second?

Ms. Morley – I'll second it.

Chairman Reinhardt – All in favor? (Aye) Opposed (None). Motion carried. Alright, good luck Mr. Shields. Have fun with the pool.

Mr. Shields – Will do. Thank you.

RESOLUTION

Re: 682 County Road 9, pool relocation modification to Area Variance, Appl. No. 07-Z-2020

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on June 8, 2020 from Scott Shields, 682 County Road 9, Victor, NY requesting a modification to an existing area variance to relocate a pool forward of the front line of the house, whereas §211-31G(2) states no accessory structure shall be forward of the front line of the primary building. A modification to an existing variance from 1977, which grants approval of the pool to be forward of the front line of house with a specific location is required;

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on June 10, 2020 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on June 15 and July 6, 2020 at which time no residents spoke for/against the application,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings:

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 new location would be to the south and it is proposed to be located 175 feet from the right-of-way to the most eastern edge of the pool. No comments or opposition from the neighbors.

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: This is a modification to a variance and a pool cannot be located in the backyard because it is too wooded.

3. The requested area variance is not substantial.

Justification: Largely because this is a modification to a prior variance. Also, in the new location, the pool would be within the approved fence area line

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

Justification: Nothing was presented regarding any kind of environmental conditions or impact to the neighborhood.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

Justification: This is a modification of a preexisting variance.

On a motion made by Mr. Salsburg and seconded by Ms. Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Scott Shields, 682 County Road 9 requesting a modification to an existing area variance to relocate a pool, whereas §211-31G(2) states no accessory structure shall be forward of the front line of the primary building, BE APPROVED.

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

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.

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

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Sarah Mitchell	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Adopted: 5 Ayes, 0 Nays

PERINE GARAGE ADDITION – 09-Z-2020

Margo and Jeff Perine, 1687 Strong Road

Applicant is requesting to construct garage addition which is less than the required 15 ft to the property line, whereas §211-20C states accessory uses must observe a 15 ft property line setback. The property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – Who will be making the presentation for this?

Mr. Jeff Perine – It will be me, Jeff Perine. Good evening.

Chairman Reinhardt – Let me ask you, just quickly. Have you ever made an application for a variance?

Mr. Jeff Perine – Probably seven years ago for the original.

Chairman Reinhardt – Let me just quickly run through the drill a little bit. I think you heard, there's a set of criteria, there's five criteria we take a look at. What we generally do is allow the applicant to make the presentation then we'll ask the board for questions to try and clarify what it is you're looking for and why you're looking for it. Because we are on Zoom, we have to wait for public comment and we really can't do that because although they can hear it, if they want to make a comment what they do is they submit their comments to the town and at the next meeting we review them and from there we take that into consideration before we grant the variance. If that sounds okay to you we can press forward.

Mr. Jeff Perine – How long is the up for review sign stay in my front yard or how long should it be there to allow them a reasonable amount of time to respond?

Chairman Reinhardt – I would suggest that review signs stay there until the decision of the board occurs. So timing wise that would be then the next cycle – two weeks from today.

Mr. Perine – Understood. That's fine.

Chairman Reinhardt – So you would like to put a garage addition. It's an addition to your barn. Is that right?

Mr. Perine – Correct. There's an existing structure that we put up post and beam, board and batten with a steel roof that's my fine artwork there. So, the existing structure is there to the right. Again, it's wood sided, steel roof and the plan is to add to the left that requiring the variance because it encroaches on the neighbor's property line to the left. It will be identical construction. Our objective is to reduce it in size a little bit to give it a little bit more shape to the property rather than creating a very big monolithic structure. Our plan is to store lawn equipment, summer vehicles in there and the alternative was to move to the right of this structure which is to the south but there is a roughly 75 footish blue spruce there that we would like to preserve and us moving to the north we have a nice set back from the road. It's covered actually from the roadway by a tree line. There's another tree line in between us and our neighbor to the north, so it's really not very visible but again moving to the north would be preferable to us to save that tree.

Chairman Reinhardt – I'm just looking at the aerial. So you had said encroaching into your neighbor's property and I hope you don't mean that exactly.

Mr. Perine – No, I don't. I mean requiring a variance to be within the 15 foot setback to the north line.

Chairman Reinhardt – So this proposed structure is going to be completely on your property.

Mr. Perine – Yes, sir. I did misspeak and as we get into it, I did not know there was an overhang. So to Matt's comment before if we could get, I'd like to match the overhangs that are on this which are about 12 inches, so that there's symmetry to the building. So, I'd need to do new math to ask what that proper variance is. Thank you for correcting my grammar, there.

Chairman Reinhardt – Just for clarification and make sure we're on the same page that we understood each other.

Mr. Perine – 100 percent, appreciate it.

Chairman Reinhardt – Yes, you're welcome. So then do you have that measurement with the eave? I think Al had it approximately 4 ½ feet? From the eave to the lot line?

Mr. Benedict – I did a calculation, Jeff based on whether you build that flush with the existing garage versus flush with the back of the garage and it ranged between, best I could guess, was 4 ½ to 5 feet. That was not considering the overhang, so now you're looking at 3 ½ to 4 feet.

Mr. Perine – And, the overhang is measured 12 inches but to Matt's point, I wouldn't mind having a little cushion. Not that I'm cheating the system, but a cushion's always good, right?

Chairman Reinhardt – So, three feet? Is that what you're asking for?

Mr. Perine – I think that's the net of the math. Yes, three feet. My neighbor to the north is probably another 3-400 feet. These are five acre lots, so there's significant space between all of these houses and out buildings.

Chairman Reinhardt – Alright, my review I saw that this borders a conservation easement? Is that accurate?

Mr. Perine – Not that I know of, no. I've never heard about a conservation easement on this property.

Chairman Reinhardt – Al, is there some conservation easement on the property or it abuts the property?

Mr. Benedict – Not that I know of.

Chairman Reinhardt – Alright, then I don't know where I got that from. My apology.

Mr. Perine – No, don't worry about it. We did meet with the conservation board a couple weeks ago. I don't know if that made it into my notes somehow.

Chairman Reinhardt – And part of your proposal here and I think you alluded to is you're doing as much as you can to preserve the buffer, the green space, the tree line. Is there any intent of taking any trees out on the addition?

Mr. Perine – No, sir.

Chairman Reinhardt – I saw that there was a letter there was no opposition from a neighbor, Jocelyn. Who is that, do you know?

Mr. Perine – Jocelyn lives to the northeast of us. Call it two lots away.

Chairman Reinhardt – What's her last name?

Goldberg-Schaible

Chairman Reinhardt – Matt, do you have any questions for the applicant?

Mr. Salsburg – That was the neighbor, two doors down?

Mr. Perine – Correct.

Mr. Salsburg – How about the next door neighbor? They alright with it?

Mr. Perine – The neighbor to the north, we’ve briefed her. She doesn’t have a problem. Our neighbors across the way, we’ve talked with them. No problem. We’ve kind of made the rounds here to make sure that everybody is okay.

Mr. Salsburg – So it’s going from 15 to three?

Mr. Nearpass – So, let’s see, the way it’s being proposed, I’m okay obviously the lot being a five acre lot and well wooded. I think there’s a level of reasonableness we can be here with a request like this. The one question I do have, it does look like there is another structure to the north of it. Is that coming down? Did I read somewhere that’s?

Mr. Perine – When you go to the map, give me a visual crutch, please.

Mr. Nearpass – I’m looking at an aerial map and maybe I’m looking at the wrong building. So it’s the satellite photo, on the very north end, there are two structures. I’m assuming we’re adding to the structure that is the light roof? As light as the white colored roof.

Mr. Perine – Whoever is doing the wonderful cursor work that is the existing structure in black. The proposed structure is in red and that red shed that’s listed as removed, rotted and has been removed from the property.

Mr. Nearpass – Okay that was the only question I had.

Mr. Perine – I wanted to make sure we had the right one. It’s to the west of the, west side of the property.

Chairman Reinhardt – Okay, Fred any other questions?

Mr. Salsburg – No this is so far back from the road. I’m happy with this.

Ms. Morley – No questions.

Ms. Mitchell – No questions.

Chairman Reinhardt – Are there measurements? When you say far back from the road. How far back is the house? Do we have that someplace?

Mr. Perine – It should be on the map.

Chairman Reinhardt – It looks like it’s 325 that sound about right?

Mr. Perine – That sound about right, yes.

Mr. Salsburg – It’s more than that. The 325 is to the corner of the house.

Chairman Reinhardt – That’s what I was looking for. It’s further back from that.

Mr. Salsburg – 350 or 340 or something.

Chairman Reinhardt – It’s more than 325 feet. Trying to clarify your point on far back from the road, it’s more than 325 feet. So, what I think is happening here, the board needs to vote on the next cycle, but it seems like there’s some support for this. And, all that we really need to do is wait for the public comment. Marty, is there anybody on line? Watching, listening?

Mr. Avila – There are four people watching, but there have been no comments on line yet.

Chairman Reinhardt – I think the best way to do this then is wait for the next cycle. Make sure that there are no other public comments on this and we can move forward with the resolution. That sound right, Mr. Perine?

Mr. Perine – Correct.

Chairman Reinhardt – Very good. Alright, does anyone else have any questions, comments? We'll keep this open. Sounds like we're good. Mr. Perine, any other questions for us? Before we let you loose?

Mr. Perine – Plan on being back here is two weeks, you said?

Chairman Reinhardt – Yes.

Mr. Perine – No, I'm good.

Mr. Nearpass – Two weeks are we off of zoom and back at the town hall?

Mr. Avila – There's no for sure on that yet. Jack expects that we'll probably know by Wednesday at the latest.

Mr. Kahovec – We're hoping so, but no confirmation yet.

Chairman Reinhardt – So, we're going to pencil that in for maybe.

BROWN GARAGE ADDITION – 08-Z-2020

Kristine Brown, 1062 Azzano Circle

Applicant is requesting to build garage addition which is less than the required 15 ft property line setback, per Schedule II, Area and Height Requirements, side setback for principal structure is 15 ft. Property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – So next is the Brown application. Who will be presenting for the Brown garage?

Mr. Steve and Mrs. Kristine Brown – I think both of us will be.

Chairman Reinhardt – So, we have your application. Were you listening to the other applications?

(Yes)

You know the drill. We're going listen to your proposal and then the board is going to ask some questions. And because we are doing the virtual zoom meeting we have to wait until the next cycle to make sure that we have addressed if there any public comments on this. So, with that, if you would make a presentation for you'd like an additional garage.

Mr. Brown – We just want to add it to the existing structure which we are just applying for a 12 foot garage coming out to the south and 12 feet wide and 36 feet deep which leaves us 10 feet to go before the property line, so really we're just within the variance amount of five feet and we're going to have it set back eight feet from the existing garage and it blends in with the rest of the neighborhood. The majority of the houses within the neighborhood also have a third garage so you know it's not like we're going to be having something different than the rest of the neighborhood. And there's plenty of space in between our lot and our neighbor's structure. There's an additional 10 feet like I said, to the property line and then there is probably from the property line to our neighbor's house to the south there's probably approximately around 40 feet.

Mrs. Brown – I don't think it would look unusual either because I feel like a lot of the other properties in our cul-de-sac have a little bit more property on one side than they do the other and I feel that there's any less property when we build this garage. I'm new to this. I just feel like it wouldn't look unusual because I feel like a lot of the houses in this cul-de-sac have those same closeness as what we would have to the other houses.

Mr. Brown – There are houses that are closer than the distance that we're currently talking about after adding the garage on.

Chairman Reinhardt – So you heard the prior discussions with the eaves, we have to take into account. The measurement that you're taking is it from the edge of the house or from the eave?

Mr. Brown – From the edge of the house.

Chairman Reinhardt – So there's going to be an eave, so you're going to need, if it's a foot, you're going to need 9 feet. We're trying to get the measurement to the lot line.

Mr. Brown – If it's going to match the rest of the house, it's going to be about a foot.

Chairman Reinhardt – Okay, so what you're asking for then is nine feet. You had mentioned in your application there are other houses with this third garage. Do you know if any of them needed a variance?

Mrs. Brown – They were built that way. We were the only house in here that aren't the original builders.

Mr. Benedict – To the best of my knowledge as Kristine said those were all built per specifications and met the setbacks. There weren't any additional ones built after the fact.

Chairman Reinhardt – So if I understand you Al, then there are no variances in there for the third garage or whatever structures they have in there.

Mr. Benedict – Correct.

Chairman Reinhardt – While it's important I understand you're telling us that there are other similar kind of structures with this third garage, it's important then to note that you need a variance because of the position of where the house is situated. And, also the configuration of the lot itself it's a bit of pie shape. Is that right?

Mr. Brown – Yes.

Chairman Reinhardt – I think we had I noticed a Mr. Mott is opposed to this application? Do you know Mr. Mott?

Mr. Brown – Yes, that's correct. We spoke with him.

Mrs. Brown – I did speak with him yesterday. He did come over and he said that he talked to his wife about it and they are just not in favor of it because they feel that it will depreciate, decrease their value of their house and he said he totally understands where we're coming from. He said they call them a three car garage, but you can't get two cars in it. He said he had this same situation with the house he had before that and that's why they moved here, but he just doesn't want us to do it because he feels like it will depreciate his home. Which I don't know if it necessarily would because I feel that we would be. . . I know a lot of the neighbors that I have spoken to in the neighborhood feel like this is just going to increase their value of their house.

Mr. Brown – We've done some modifications since we've moved in almost a couple years ago. Since we bought the house, we've put an addition on the porch, we've just recently had our house appraised because we're looking to refinance our house and we were pleasantly surprised with the number that the bank came back with so we feel with the work that we've done, not only inside, but outside the house, we've added substantial value and we would also think that we would continue that trend by adding the garage onto the house.

Chairman Reinhardt – And, Mr. Blair is in favor of the addition. Do you know who Mr. Blair is?

Mr. Brown – Yes, the neighbor across the street.

Chairman Reinhardt – So to back up a little bit, you had indicated that there are other neighbors that are in favor of your proposed structure. While, I hear what you're saying that they are in favor of it, it would hold more weight if you had either letters from them or they would email us or some type of communication much like with Mr. Mott and Mr. Blair did. So we have something in writing and have it in the file instead of your word that these people are in favor of it. You're going to have two weeks because we have to go through the cycle again, but I would suggest or even recommend that if you have neighbors that are in favor of this and wish to comment on it, please have them contact and let us know their feelings on it.

Mrs. Brown – Okay. I think they will.

Chairman Reinhardt – Alright, so let's get some questions from the board. Matt? Do you have any questions?

Mr. Nearpass – Sure, first question here. I do agree with the applicant that it is within character of their neighborhood. I mean just looking at the other homes plenty of them like they said have kind of that third garage bump out. The one question I have though is a little different is do you need to extend all the way to the back of the house? Most of those garage bump-outs are really just the garage and they don't really extend all the way through.

Mr. Brown – It's not necessary to go all the way back. We figured we would go for the gusto and then if we do need to subtract from that, we're amenable to doing that as well.

Mrs. Brown – We just have to go, I think Al said, we have to go at least three to four feet in because of the shape of the cul-de-sac, so we're losing some of that garage, like a lot of the people in here have that garage closer, I think they are only like a foot back. We would have to go at least three feet back I think Al said. We don't necessarily have to go to the very far back, but.

Mr. Nearpass – Would you be okay understanding what the dimensions of those garages are and putting the dimension of that garage in this location?

Mrs. Brown – Yes that would be fine.

Mr. Nearpass – Again, I'm only one board member and that's just a suggestion that I think that would help, at least from my perspective.

Mrs. Brown – Yeah, we would be fine with that. Our goal is to just be able to get another car in the garage.

Mr. Nearpass – Okay. The other one was I do disagree with the comment that it would have a measurable impact on home prices. I know there are a lot of people that have that concern. You're really looking for a nine foot buffer versus 15 or you're looking for a nine foot encroachment? What the number?

Mr. Brown – It's nine feet to the property line.

Mr. Nearpass – Okay, so you're really looking for a six foot variance.

Mr. Brown – Correct.

Mr. Nearpass – Although you're not quite going half way, somewhat debatable I think how significant that is, but you're definitely not going to the lot line. I do agree there are some other homes that also look like they would be of similar distance once something like this is put in. There's two lots just to the north of it that I'm just looking at google earth photo of the neighborhood. So, I'm okay with it. Again, I'm personally would like to see the garage the same dimension of the other homes. Again, it looks like what is it 1064 or 1066 if I'm going the right way with the addresses, and your point if you have to have it pushed back, that's fine, but to me that makes sense. I'm okay with it, Mike.

Mrs. Brown – Okay. Thank you.

Mr. Salsburg – If I remember I don't have it in front of me, but did the adjacent neighbor say that he was concerned about drainage in his letter?

Mr. Nearpass – Yes, that's the letter?

Mr. Salsburg – Has he got a legitimate concern about drainage, you think? Is there something you can do about it?

Mrs. Brown – Are you taking about our property? Are you talking to us?

Mr. Salsburg – I'm asking if the neighbor had an issue with the drainage?

Mr. Nearpass – The letter does say that and I guess I'll quote it because I have it here in front of me, "it is our feeling that the current plan to put the garage closer to the property line will result in potential issues with drainage again and also hurt the property value, decreasing the buffer between the homes."

Mr. Brown – I think that with the question of drainage, I think the two properties slope into each other, so they have a downward slope going in to it as well as our does.

Mr. Benedict – I think perhaps if Marty can bring up the photo that shows where the garage is potentially going to go to show the area between the two houses and that would give you an indication of what they looks like. You see it slopes off quite a bit from the Brown's house and there should be a swale between the two houses that flows to the back as well as to the front depending on where you are on the property.

Mr. Nearpass – I'm assuming any gutters or eaves-troughs that are coming off of that are going to be piped into the drainage system like all the others?

Mr. Brown – Yes.

Mr. Nearpass – Are you okay with that as a condition?

Mr. Brown – Oh yeah, that's fine.

Mr. Salsburg – I don't see where the low point between the two houses is going to change. I think he's reaching for something here. I'm all set.

Chairman Reinhardt – Great. Donna, any questions?

Ms. Morley – Nope. All my questions were answered, thank you.

Ms. Mitchell – I guess I just have a question for Al. Would this garage addition cause potentially more drainage issues?

Mr. Benedict – The variance would be for nine feet, a nine foot set back, the building would be at 10 feet, so you still have 10 feet to work with to form a swale and that's in my opinion more than enough room to direct the water in between the properties where it's supposed to go.

Ms. Mitchell – Okay. That was the only question I had. Thank you.

Ms. Morley – I have a question, so the swale will not change then? How it's already set up after they put their garage in? Or it will be made different?

Mr. Salsburg – I don't think it will change.

Chairman Reinhardt – Al, does the swale need to be modified? If the garage goes up, the existing swale there won't be affected?

Mr. Benedict – If they constructed it correctly, I don't see a reason why you'd need to touch the swale.

Ms. Morley – Ok, thank you.

Chairman Reinhardt – I want to touch on something because I've had experience with this personally on three car garage and where we piggy back the third garage behind one of the bays, is that an option for you?

Mr. Salsburg – Go two deep, you mean?

Chairman Reinhardt – Right, so if you go two deep on one of the bays, so you have then three spaces. I'm asking if it's feasible. The criteria is whether or not there is a feasible means to accomplish what you'd like.

You're looking for another bay. Again if you can't put a bay behind whichever garage space you have then I'd like to know that.

Mr. Brown – We currently do have that set up. We do have one then a two. The bay that extends far back it's been used as storage, lawnmower, tools, things of that nature.

Chairman Reinhardt – I'm not saying you had to do it just looking for if this is a possibility to put the addition directly behind one of the bays so then your storage (inaudible) and now you have three bays but you're piggy bagging vehicle one and three. Is the house set up that you can do that?

Mr. Brown – If there's nothing in there, yeah.

Chairman Reinhardt – I'm not being clear on what I'm asking you. Do you understand the question?

Mr. Brown – If you could just repeat is real quick for me.

Chairman Reinhardt – Okay. So what I'd like to know is you currently have a two bay garage, correct?

Mr. Brown – We currently have a three. The one on the right side of the house goes two deep and then there is one if you're looking at it from the street on the left hand side that's one deep. But the current configuration of it is we have lawnmowers, tools, etc., our kids' stuff in the back of the two bay one. We were just looking to add one on the back for extra parking. We were just looking to add one on the side for extra parking. Right now currently with the configuration, the width of the garage and cars getting in there we have no wiggle room to the left or the right with two cars getting in there, we'd have to get out of the sunroof.

Chairman Reinhardt – Alright, if I understand you correctly with the current footprint, the floor plan, specifically the garage, that has three bays.

Mr. Brown – Yes.

Chairman Reinhardt – And, you're using one of the bays, the one that's piggy backed behind the first two for storage.

Mrs. Brown – We thought about doing, where the storage is we could put a car and put a car behind it and get a shed, but we have so much stuff, we couldn't get everything in the shed and we would have to put stuff on the side and we'd probably still have a hard opening up the car doors, but with our work schedule, I work at Rochester Regional and he's in sales. I come home earlier than he does, we have different hours so we would always be having to plan that. It would be a big hassle having to see how to arrange those cars every single day. And then we still would have stuff on the side, so it would be easier if we could just store stuff and we could not get two cars in that side. I can't get in the car and get my kid in his car seat. We can just never park in there. I can't get my child in his car seat with the cars parked by the side.

Mr. Brown – And, we sent a couple pictures along in the file to kind of show the width of the garage, how close the cars would have to be parked together.

Chairman Reinhardt – Okay, that's all the questions I have. Anyone else have any other questions?

I'm not hearing any other questions, so what we're going to do is meet back and discuss this in two weeks looking for public comments if there is anything else you'd like to add? If there are letters that you can add in support of the addition.

Mr. Avila – There are three comments on line, currently. One from a neighbor Russell Scott. His comment is everything these neighbors do is classy and brings up the value of the neighborhood. As a next door neighbor I totally support these good neighbors. The second comment was from Nicole Bonaci. They have our support down the street. They did a great job with the front porch addition. And, the final comment was from Carla Marshall. The Browns have done an amazing job adding value and curb appeal to their homes since they moved in. My husband and I are in favor of the addition.

Mr. Salsburg – Three for three.

Chairman Reinhardt – So that makes four. Four in favor and one opposed. To the Browns are there any other neighbors do you think that would comment on this?

Mrs. Brown – They might. I don't know.

Mr. Brown – We would probably have to do some additional digging.

Chairman Reinhardt – Well let me ask this. To Matt, I want to circle around. Matt are you comfortable you have enough information to make a decision on this one?

Mr. Nearpass – Yeah, I am. Ideally I would like to see the garage footprint not be the 12 x 36. I'd like to see it match the other bump out garages in the neighborhood. I don't know if anyone else on the board wants to talk about that or discuss it or if everyone is just in favor of it going all the way back 36 feet. It's not going to hold me up.

Chairman Reinhardt – Well let's talk about that a little bit. Why don't you expand on what you are thinking here with this?

Mr. Salsburg – Does the depth show from the road?

Mr. Nearpass – No, I was just thinking within character of the neighborhood and just the mass that is going to be pushed toward that neighbor to the south. The one neighbor that was objecting. I don't know if that helps the situation or is visual impact of it, I don't know if he/she would consider it a concession, but you know if we truly want to stick with the character of the neighborhood and we can all see those bump outs 1068, 1066, although there is another bump out behind that one. 1063 that was the size in which I was kind of imagining versus going all the way to the back end of the house.

Mr. Salsburg – I think it's a good idea to shorten it up. I like the term lessening the impact.

Chairman Reinhardt – So Fred, are you in agreement with Matt on this?

Mr. Salsburg – Yes, I am. I think he's got a good idea.

Ms. Morley – Can I see the drawing on where the garage would go to that they are adding the addition on? Is there a drawing for that?

Mr. Avila – I'm sorry Donna, can you repeat that?

Ms. Morley – Yes, do you have a drawing to show me where the garage addition is going to go? Or how long it would be on the side of that house?

Ok, thank you.

Chairman Reinhardt – Did you have questions, Donna on this?

Ms. Morley – No I just wanted to see where it would go to and it's not any longer than the house is right now, so I don't think it would be that much of an obstruction. Okay. Thank you.

Mr. Nearpass – The only reason for my comment was that it's probably twice as long as the other bump outs in the neighborhood when we had the satellite photo.

Chairman Reinhardt – Right. I agree with you especially since it's already a three bay garage and now you're adding almost two more bays to the depth of it and to be aesthetically pleasing well the front is going to look like the other neighbors I think that the visual from the south is when you're really going to see how large that addition is. That's your point, Matt isn't it, just the depth of the bump out.

Mr. Nearpass – Exactly.

Chairman Reinhardt – So either, Mr. or Mrs. Brown or both what's the reason for the depth then?

Mrs. Brown – Honestly, we thought that it would blend more with the house. It's not of huge issue for us, if you want us to make it as big as the other houses have, that's fine. We just thought it would blend more and we

figured if we're doing it, it would just give us that much more storage space for the back. That's what we were thinking, but if you'd rather have us make it shorter, we just have to take into consideration we are going eight feet back, so I think it would end up being almost that length anyway because we're going eight feet back?

Chairman Reinhardt – What do you mean eight feet back?

Mrs. Brown – Al said we had to go eight feet. We had to go at least three feet back because of the shape of the cul-de-sac.

Mr. Nearpass – Understood. Let's look at 1068 so you're right, if you pushed that. I'm just saying if you took the same dimensions as that 1068 bump out garage and shifting it to meet your eight foot requirement, that's what I'm recommending.

Mrs. Brown – Okay.

Mr. Nearpass – So, it probably looks like it would be five feet back from where that is.

Mr. Salsburg – It might be 24 feet deep or something like that.

Mrs. Brown – We would be happy with that, too.

Chairman Reinhardt – So, 24 feet to Matt deep you think would blend in with the neighborhood?

Mr. Salsburg – It's what the others one are.

Mr. Nearpass – I don't know what the other one's are, all my recommendation is find out what the other ones are and make it the same dimensions. So go eight feet and the same footprint. Again, that's my suggestion.

Mrs. Brown – We appreciate that. Thank you so much.

Chairman Reinhardt – Is this something Matt, that you'd want them to come back with a modified drawing so that we could just make sure we are all on the same page with it? Are you ready today?

Mr. Nearpass – I personally can visualize it. I think we have sufficient information in front of us. If Fred, or Donna or Sarah if they want to pipe in, too. But I'm okay with it.

Mr. Salsburg – Me, too.

Chairman Reinhardt – Fred, you're comfortable with the 24 feet deep?

Mr. Salsburg – No, it's the same as the neighbor's garage is, whatever that is. I'm just guessing 24.

Mrs. Brown – Well we can find out and we'll make sure that it's the same size. The same length.

Mr. Nearpass – We're really here with the nine foot set back and the stipulation that it's the same footprint as the other third car bump outs in the neighborhood. I guess if that were a condition. Mike, does that sound reasonable? None of us have those dimensions here, but I'm okay with the nine foot side setback with the same footprint as the other third car bump outs in the neighborhood. Is my recommendation.

Mrs. Brown – Thank you.

Chairman Reinhardt – Okay. Sarah anything else you want to add, comments?

Ms. Mitchell – No, I'm in agreement with those changes.

Chairman Reinhardt – Donna, you're in agreement?

Mrs. Morley – Yes, I thought it was fine the other way, but 24 is good if they are good with it.

Mr. Salsburg – Al, do you know how deep the other garages are?

Mr. Benedict – I do not.

Chairman Reinhardt – Alright, if we go through the criteria

The first being whether or not an undesirable change *would* be created in the neighborhood? Sounds like it's not. There are similar garages as far as the looks of them. This was a later build with the eaves, the applicant would be looking for a six foot variance. The applicant has I think I count four neighbors in support, one that's not. There would be no impact to the swale. Would anyone else like to add anything else to the first criteria?

(No)

Mr. Salsburg – That the depths match the neighbors' houses. Did you say that?

Chairman Reinhardt – No, I didn't say that, but I thought we were going to put that the proposed garage would match the depth of the garages in the neighborhood.

Mr. Nearpass – Just so we all understand, it will be farther back, it will match the footprint of the other garages in the neighborhood.

Chairman Reinhardt – Right, that's good. The footprint of the garage.

Mr. Nearpass – I'll look to the Brown's. Did I say that right? So, it will be pushed a little farther back, but

Mr. Brown – Yeah, it is going to be set back off to the side, it will probably be eight feet back from the front of the house and we'll take a look into the sizes of the additions of the third car garages in the neighborhood.

Mrs. Brown – And, make it the same.

Mr. Nearpass – And, you said it needed to be pushed farther back because of the

Mrs. Brown – Al said the way that the cul-de-sac is shaped.

Mr. Brown – We had to be a certain amount of feet away from the curb.

Mr. Nearpass – Okay.

Mr. Benedict – You need further explanation than that, Matt?

Mr. Nearpass – No, I'm okay.

Chairman Reinhardt – Alright, second criteria the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

For what we said for the first criteria and I don't think there's anything else we need to add to that. Does anyone else want to add anything else to the second criteria?

Hearing nothing, we'll go to the third criteria the requested area variance is not substantial. They are looking for a six foot variance. Would anyone like to add anything to the third criteria?

Fourth, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Especially with Al's comment that the swale as it exists should not be impacted or touched with the proposed garage addition.

Mr. Salsburg – And, there are several other three bay garages in the neighborhood.

Chairman Reinhardt – Okay, the alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

I think we have it, but also let's put it in the condition that it will be the same footprint as the other garage bump outs in the neighborhood. Would anyone else like to add anything to the criteria or the conditions to the proposed variance?

Alright, hearing nothing I would entertain a motion to approve this variance with the conditions.

Mr. Salsburg – Doesn't it have to wait until the next meeting, Mike?

Chairman Reinhardt – Marty, with those that were viewing is there anyone else that was viewing, but did not offer comments?

Mr. Avila – That’s kind of hard to tell, it just gives me a number, but I don’t believe so considering there were only three people viewing and I got three comments, I would assume that was it. In the past, a couple of the other meetings, we’ve left it up to the chairman to decide in instances like this whether or not it’s going to go forward with the resolution or wait.

Mr. Salsburg – Has it been in the paper?

Mr. Avila – Yes, it was announced in the paper.

Mr. Salsburg – Oh, it was, oh okay, good.

Chairman Reinhardt – I’m comfortable moving forward. Is there anyone on the board that feels uncomfortable about moving forward on this? Matt, Fred, Donna, Sarah?

(No)

Mr. Nearpass – I’ll motion to approve.

Mr. Salsburg – Matt motioned. I seconded.

Chairman Reinhardt – All in favor? (Aye) Opposed? (None) Motion carried. Good luck, Mr. and Mrs. Brown on your project.

Mrs. Brown – Thank you so much.

Chairman Reinhardt – You’re welcome.

RESOLUTION

Re: 1062 Azzano Circle Garage Addition, Area Variance, Appl: 8-Z-2020

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on June 17, 2020 from Kristine and Steven Brown, 1062 Azzano Circle, Victor, NY requesting a six foot variance thus allowing a nine foot set back to build garage addition, whereas Schedule II, Area and Height Requirements, side setback for principal structure is 15 feet;

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on June 28, 2020 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on July 6, 2020 at which time four residents spoke for and one resident spoke against the application,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings:

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: There are similar style garages in the neighborhood. The applicant is requesting a six foot variance. There are four neighbors in support, one opposed. There would be no impact to the swale. The proposed garage would match the footprint of the garages in the neighborhood.

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: This garage was a later build and with the eaves, the applicant is requesting a six foot variance. There would be no impact to the swale. The applicant will match the footprint of the other garages in the neighborhood. Due to the shape of the cul-de-sac, the garage must be a certain distance away from the curb.

3. The requested area variance is not substantial.

Justification: The applicants are looking for a six foot variance.

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 code officer’s opinion is that the swale as it exists should not be impacted or touched with the proposed garage addition. And, there are several other three bay garages in the neighborhood.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

On a motion made by Mr. Nearpass and seconded by Mr. Salsburg:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Kristine and Steven Brown, 1062 Azzano Circle requesting a six foot variance thus allowing a nine foot set back to build garage addition, whereas Schedule II, Area and Height Requirements, the side setback for principal structure is 15 feet, BE APPROVED.

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

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.
2. This garage will be the same footprint as the other garage bump outs in the neighborhood.

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

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Sarah Mitchell	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Adopted: 5 Ayes, 0 Nays

PREMIER SIGNS FOR KWIK FILL – 10-Z-2020

7188 State Route 96

Applicant is requesting to install vinyl graphics on gas canopy at Kwik Fill, 7188 State Route 96. Applicant requesting modification to previous variance granted for the front setback that included a condition that no

signage was allowed on the canopy except for those required by law. Applicant also requesting variance for three elevations with signage per §165-5B(4). The property is zoned Commercial-Lt Industrial and owned by United Refining Holdings, Inc.

Chairman Reinhardt – Next is the Kwik Fill sign. Who will be making the presentation for that?

Ms. Laura Baranes – I will be.

Chairman Reinhardt – You're looking for a modification for a previous variance? Is that right?

Ms. Baranes – I'm not really sure what was there before. I know that there are signs on the left and the right side and I believe on the front right now. I just started doing their signs about six years ago, so I'm not really sure who put the other signs up or what. We're looking to remove the illuminated signs that are on the east and west side and cover that up with just a vinyl wrap and then on the front also a vinyl logo with their branding to the right – Driving America. There's nothing on the back except for the green and the white. No logos or anything. We're doing a complete wrap on their gas canopies and on their stores at most of their locations. You'll see a sign on the front of the building right now, that would come down.

Mr. Salsburg – So, your application is just to change the overhead.

Ms. Baranes – Yes, it's just a vinyl. And, that's what's on there right now except for on the left and the right side. That's wrapped in vinyl, too but that actually does have, I think they are like a 3x3 illuminated sign boxes on them. And, it looks like you see over to the left of that drawing, that's an illuminated sign box. Yes, and then there's another one on the other side. And the front is just vinyl graphics.

Chairman Reinhardt – So, Al what I'm looking at this do you consider that one sign or for the face of the canopy is that one sign and the face of the canopy on, I don't see compass directions here. So the wrap that's on the south side of the canopy and then the wrap that's on the east and the west side, each have signage. Do we consider those three separate signs or is that one?

Mr. Benedict – Each elevation has its own sign, would be my opinion.

Chairman Reinhardt – And on the wrap with their proposal of one saying Kwik Fill and the other Driving America,

Ms. Baranes – That's their brand though, I don't think you consider that a logo or sign right?

Chairman Reinhardt – Well they can call it whatever they want, but the code speaks to that.

Mr. Benedict – My opinion was that it was not a business use sign and that it doesn't necessarily, what the company is or what it's selling or anything else. To me it's a non-business use sign.

Ms. Baranes – I've had a lot of other towns come to the same thing on that. I'm doing these all over down to the southern tier. And, the towns are very happy with them, actually. They're very pleased with the way they look when they come out. They said it makes the property look really nice.

Chairman Reinhardt – Well you do understand that each municipality has its own code?

Ms. Baranes – I do.

Chairman Reinhardt – While I respect you saying that it looks nice in other municipalities in the southern tier that's an irrelevant piece for our consideration.

Ms. Baranes – I'm just making a comment, that's all. That I've had a lot of good feedback from the towns. They say it looks like they are cleaning it up. There have been some towns that haven't allowed us to put any logo on it, just a green and white stripe all the way around because of a lot of other signage on the property.

Chairman Reinhardt – Al, just for clarification then, when you said one on each elevation. And, I see Kwik Fill on the south, the east and the west. That's one sign, even though it says Kwik Fill three different times.

Mr. Benedict – It's one sign on each elevation, so it's three signs. One on each elevation.

Chairman Reinhardt – And they need a variance for each?

Mr. Benedict – Each of those. The existing variance goes back to when they built the canopy and then it was going to be 23 feet from the road, a couple years later it changed hands and they came back for the same, the variance is modified to 19 feet from the right-of-way and then it's a condition of that that the approval was there were to be no signs on the canopy other than those that were required by legal requirements.

Chairman Reinhardt – Alright, so if we were to grant a variance there would be three variances for each side of that canopy.

Mr. Benedict – You'd be granting one modifying the existing variance, two you're granting a variance for a sign on third elevation. Code only allows signs on two elevations.

Chairman Reinhardt – Okay. So Laura, why the need for all the . . . the town I think takes it with great consideration over-signage, especially on 96. Why does this applicant need so many?

Ms. Baranes – It's the standard. They do it at every location. That's how they present it. They could actually, I think they would actually be happy with just Kwik Fill on the front with the Driving America and leave off the other sides. I mean the green and white would be there, but leave the logo off the right and the left side and then that makes two signs.

Chairman Reinhardt – The most important elevation for your client is on the south side of the canopy. Is that what I'm hearing you say?

Ms. Baranes – The front.

Mr. Salsburg – The roadside.

Ms. Baranes – Yes.

Chairman Reinhardt – Okay. Matt, you have any questions?

Mr. Nearpass – Possibly just the signage on the roadside maybe a compromise however. I guess what I'm wrestling with a little bit here is that the Town's made a decision twice now on the setback for that canopy and both times the town made it very clear and the applicant's made it very clear that they were willing to forego any signage on that canopy to have that variance. I kind of feel like you're trying to have your cake and eat it, too, right? We put the variances in place, the canopy was allowed (inaudible)

Ms. Baranes – I'm just asking a question for what my customer wants and what they are doing at all the other locations and it's not like it's a big illuminated lit up sign or anything. It's just a (inaudible)

Chairman Reinhardt – Time out. Hold on. Laura, I have to ask you to wait for the question or comments to be finished because Kim, our secretary is probably pulling her hair out right now, trying to figure out who said what, so we have to slow down a little bit so we can create a record, minutes. We want to hear from you so let Matt finish and we'll hear from you. Okay? Thanks so much.

Ms. Baranes – Okay.

Mr. Nearpass – So again my point was and Laura maybe you knew the history maybe you didn't, but a deal was made twice with the Town that the canopy can exist this far from the road where it would normally not be allowed. Your client agreed, no signage on that canopy, so unless you have maybe some measureable business impact or something that you can bring to me, at least for my okay on this that says hey here's why we need a sign. Other than just hey they have a new marketing manager and they just carte blanche said we want all of our canopies to have the logo on it. You made it clear earlier that some towns have allowed and some towns haven't, you know it's a gray area here because all of our codes are different. So, the way I'm looking at this is Kwik Fill struck a deal with the town of Victor twice. Both times Kwik Fill has agreed to not have that signage on that canopy and right now unless you have some material evidence that says hey look that decision made years ago has crippled us business-wise and it's made it difficult for people to know where we are, I'm not for it at this point.

Chairman Reinhardt – Go ahead, Laura.

Ms. Baranes – I just feel that they are not really the typical sign. They're not illuminated sign and they're not a bright sign, they're not a flashing sign. It's just vinyl that's going across a gas canopy. It's not obtrusive. It's not anything that's be blinding to someone. There are signs up there already. There's a sign on each side of it and there's a sign on the front. I have no idea who did those, but there are three signs on that gas canopy right now.

Chairman Reinhardt – Matt, anything else you want to add or comment before we move to Fred?

Mr. Nearpass – No, move on. I might come up with questions later.

Mr. Salsburg – I think it has a Kwik Fill sign on it now and the new sign has a Kwik Fill on it and I don't see much of a change. If we allowed one sign on the roadside, took the other two off. It's a pretty good deal. And, that's what we should do, in my opinion.

Chairman Reinhardt – You're in favor of modifying the variance and granting the application?

Mr. Salsburg – Yes, with the roadside sign the way the new picture is. It's almost no change.

Chairman Reinhardt – Donna, questions?

Ms. Morley – None.

Ms. Mitchell – I don't have questions at this point, I was just listening to the background because I didn't know what led up to the modification, so Matt kind of filled me in a little bit on that. So, nothing at this point.

Ms. Reese – Excuse me, Mike, this did go to County and we should have their comments before the next ZBA meeting.

Chairman Reinhardt – Great. Okay, thank you for that.

Mr. Nearpass – I have one comment, or at least a question for Al. Al, for everything that you have in front of you should there be signs on that canopy today?

Mr. Benedict – A business is allowed a monument sign and a wall sign. If they want to put it on the building or rather have it on the canopy to me that would be up to them where they want to put it. Barring the variance, that specifically said no signs.

Mr. Nearpass – So, you're saying the variance that says no signs shall be on the canopy. You're okay – they would be compliant with the code if they put one sign on the canopy in lieu of another sign?

Mr. Benedict – They would be compliant with the code barring the variance that was granted years ago with the condition saying no signs.

Mr. Nearpass – So, the site as it is today with all the variances in place and the Town code as it is, are they allowed signage on the canopy?

Mr. Benedict – No.

Mr. Nearpass – Okay, that's what I was looking for.

Chairman Reinhardt – Okay, my comments I'm following suit with Matt. I agree with everything he said and his thoughts on that, so we do have to wait for the County Planning Board for the referral, so this will wait for the next cycle. But before we do, Laura do you have anything else that you want to add, discuss, ask us questions?

Ms. Baranes – Well yes. If they don't allow the copy on the canopy, I would request that the green white be on there, just to cover up all the old copy and to keep it uniform with all the other stations. There have been a couple towns that don't allow any copy on the gas canopy, but they allowed the green and white swirl to go around the gas canopy.

Chairman Reinhardt – Al, is there anything in the code that prevents that, just the color wrapping of the canopy?

Mr. Benedict – No. It would tend to be more of a planning board decision. If I had any questions about it. But considering that the other Kwik Fill at the other end of town has similar colors and wrappings, I don't see why it wouldn't be allowed to do it on this one.

Chairman Reinhardt – Okay so from a zoning board standpoint, you're not seeing . . .

Mr. Benedict – I don't think it's a question for you guys.

Chairman Reinhardt – Okay, great.

So. Laura . . . Fred, you have something to want to add?

Mr. Salsburg – Well yeah, Al just brought up the other Kwik Fill just down the road. Does that have the Kwik Fill name on it, on the gas canopy?

Mr. Benedict – I believe it does. Those signs were approved as part of site plan approval when that station was rebuilt in which the code allows the planning board to add additional signage without exceeding the square footage.

Mr. Salsburg – Well if that Kwik Fill can have a sign on it, why?

Mr. Nearpass – You have to remember the restriction on the signage was put in place as a tradeoff with the setback, that's why. If that other variance didn't exist, then we probably wouldn't be having this discussion, but the tradeoff that was made was we'll let you be 19 feet from the road or the right of way whatever it is, if you forego signs on the canopy. We're really working against the prior deals that have been made, not the code. I'm assuming the other Kwik Fill maybe was already compliant with whatever setbacks (inaudible)

Mr. Salsburg – Yeah, it probably was. That goes back to the old gas station 40-50 years ago that was there, the Rotary station.

Chairman Reinhardt – Okay. Any other questions Fred? (No) So what we are going to do is wait for the county planning board to make their comments and then circle back in two weeks and decide on what we are going to do with this variance request. So Laura, what I invite you to do is if there is anything else that you want to submit or if you have something else you want us to look at we'll certainly do that. If you would though just do it as timely as you can so we can all review it. Do you have any questions for us?

Ms. Baranes – No, the only thing I just wanted to say is I'd like to keep at least the Kwik Fill logo on the front just one, but if I can't have any signs on the front, I'd like to keep the green and white stripe going around it. Clean it up and remove the existing signs that are on there now and put the new green white stripe going around there.

Chairman Reinhardt – Understood. Anything else?

Ms. Baranes – No that would be it.

Chairman Reinhardt – Okay great. So we're going to hold this open. We're waiting for the comments from the county planning board and if there is anything else you want us to look at, we will. You have a good night.

Ms. Baranes – Thank you. You, too.

VICTOR EAST AUTO GROUP (VICTOR JEEP) – 20-Z-2018

David Cox, Passero Associates, representing Victor East Auto Group, 6484 State Route 96

Applicant is requesting to construct a new dealership, whereas §211-24A(9)(b) states motor vehicle repair must be at least 1,000 ft from boundary of a residentially zoned district, §211-24A(9)(c) states motor vehicle repair must be at least 500 ft from any off-site structures of residential use. And to allow parking 40 ft from ROW instead of the 80 ft required by §211-32A(2)(c)[1][a]. The property is zoned Commercial-Lt Industrial and owned by Richard Colucci.

Chairman Reinhardt – Last is the Victor East Auto Group. Who will be making the presentation for that?

Mr. David Cox, Passero Associates

Chairman Reinhardt – Good evening, David. Thank you for your patience.

Mr. Cox – Absolutely.

Chairman Reinhardt – Safe to assume you've done variance requests before? I will certainly review with you if you'd like. We look at certain criteria and ask some questions and give you at least a chance to respond. So, with that if you would make your presentation and then we're probably going to ask you some questions about it.

Mr. Cox – Okay. Sure thing. So I'm David Cox with Passero Associates. Also on the line is Matt Indiano who is with Victor Jeep. So Chrysler actually reached out to Matt Indiano about doing the dealership in Victor. Currently there were dealerships in Canandaigua, Penfield and Henrietta and there was really just this void in Victor. The people in Victor who had those vehicles had to travel a little bit of a ways to get to a dealership, so they felt having something in Victor would be a really good idea, so they actually reached out to him and knowing his background and how successful he's been with the Victor Chevy, so that's where he moved forward with that and found this piece of property which works out with distance-wise from other dealerships. There's certain requirements he has to meet so this property meets all those requirements. One of the things we've been doing, we've been working on this project for two years so far is there's a flood plain on the property, so we've actually been dealing with FEMA over the last two years to get approval to actually do a dealership on this property. So since Matt knew it was going to take a while to get through FEMA he put in that temporary dealership on Anthony Place kind of kiddie corner southwest this project. He's been operating that temporary dealership until he can get the real dealership open. So the temporary dealership does have a variance to operate within a 1000 feet of the residential district which is one of the variances that we're requesting. The other variances we're requesting are to be with 500 feet of any residential structure and then for the property, the parking to be within 80 feet of the road right of way. We are requesting 40 feet where 80 feet is required. So, I'll kind of run through the five proofs now. The first proof is no undesirable change to the character of the neighborhood. We have Auction Direct directly to the west. We have commercial property to the south. Van Bortel is just a little bit to the east and we have the Farmington waste water treatment plant to the north. So a car dealership at this location really isn't going to change any character to this neighborhood. We also looked at some of the distances to pavement to parking. Van Bortel has about 40 feet from the edge of pavement to their parking spaces. We are proposing between 60 and 105 feet and then directly across the street we have Marks' Pizzeria which is a zero foot set back.

Number two is can this be achieved by some other method. Given that this commercial property is directly adjacent to residential property we can't change the zoning of the residential property. So that is what it is, we can't really change that at all. As I mentioned before there is a flood plain and a flood way on the property so we actually have creeks on both sides of our property. We have Fish Creek on the west side and we have Mud Creek on the east side. And, the flood way is actually quite wide there on Mud Creek. So there's 160 feet buffer from the property line to where we have our pavement. So there's already 160 foot buffer to the residential district that's completely vegetated and we will leave completely undisturbed, so no change to that.

Whether the variance is substantial. The right of way in this area is somewhat very irregular. Most of the other properties the right of way is 10-20 feet off the property where for our property the right of way width is 20-25 feet off the pavement. So the property is just set so much further off the property if we actually had our pavement 80 feet off the property line, the pavement would be 135 off the pavement edge in some areas which would be very far away. As a dealership you want that presence of your inventory cars along the road when people are driving by. You want that out as far as you can so people see all the different cars that are for sale, inventory is a huge thing for car dealerships. The more inventory the better. That draws people. That makes a

business more successful in that car dealership realm. And as I mentioned before right directly across the street is Mark's Pizzeria which is actually zero feet, so our asking for 40 is much larger than what's already existing across the street.

Number four is is there any adverse effect or impact on the physical or the environment. A car dealership doesn't generate a lot of smells like the wastewater treatment plant to the north does. It's not a large traffic generator. A car dealership more gets a kind of a slow trickle of cars in. Service is kind of offset every 15 minutes so that you don't get a rush of people. So there's not this standard 8 o'clock rush or the 5 o'clock rush. There's really just a trickle throughout the day so it's not a huge impact on traffic. This project would operate under normal business hours; it's not 24 hours. Normal business hours for the surrounding properties. We are preserving a lot of the existing streams and woods and property. We have 44 % green space with this project which is very high for a car dealership. Car dealerships are usually very very low on green space, but we are providing 44%. And as well as lots of additional landscaping especially along the front. We have some berm and landscaping to really dress up that front area.

The last thing is is it self created? The zoning district lines were set in place by the town. Obviously we don't have any impact on that and we just happen to be this commercial property happens to be right up against residential property. And, some of the specific criteria for the code has for the 80 foot front setback that if you are going to give a variance for that 80 foot parking setback we need to meet three criteria for that. The first one is you have to provide room for future road widening. So as I mentioned before since the pavement is so far from the property line we have 60-105 feet of grass area from the pavement edge to where our parking would be so I mean even if they went and made it a four lane road opposed to the two lane road that it is, you know that's going to take up an additional 20-30 feet and we still have plenty of additional land for any future road widening.

Number two is the building frontage needs to be less than 25% of the parcel frontage. And we do meet that. We have a pretty big parcel frontage so that's not an issue and the third one is at least 70% of the frontage has to be heavily planted and mounded. And that's where I was talking about before where we do have berms and heavily landscaped area in the front so we meet that criteria as well. And with that I can answer any questions you may have.

Chairman Reinhardt – Okay. Thank you. What I was concerned about was on your first criteria and the analysis of pointing out that there were other dealerships in the neighborhood, but isn't the important piece here for two of the variances that you are asking for is the proximity to the residential areas and the offsite structures. It really has nothing to do with how close you are to other dealerships.

Mr. Cox – Yes.

Chairman Reinhardt – Let's talk about that. How many residential houses are within a thousand feet of the dealership?

Mr. Cox – I'm counting eight single family houses and there's obviously townhouses and apartment buildings within that area.

Chairman Reinhardt – Ok, we've touched on this before with other automotive repair and the proximity to the residential areas and some of the concern is the noise levels. So can you tell us where the repairs are going to be taking place?

Mr. Cox – Yes, so we have strategically, the repairs are more on the west side of the property. So that is what is facing Auction Direct. So it's on the opposite side of where those residential properties are on purpose to keep any noise associated with the service toward the Auction Direct side.

Chairman Reinhardt – Okay. Matt, any questions, comments on this one?

Mr. Nearpass – Yes, just a couple here. The only thing, we have some time, I'm assuming we need to wait for the county to come back on this and is that true, Mike.

Chairman Reinhardt – I believe so. Kim is that right we are still waiting for the county planning board?

Ms. Reese – I hadn't sent this one to the county because I thought it went earlier, but I found out that the county had only done a technical review because we then were waiting for FEMA. So, I still would have to send this to county which would be by the 30th of July and their meeting is August 12 and the next zoning meeting after that is the 17th.

Chairman Reinhardt – August 17th?

Ms. Reese – Yes, so instead of coming for August 3, the county meeting is the 12th and then our next zoning meeting is the 17th.

Chairman Reinhardt – Okay, great, thank you.

Mr. Nearpass – Mike, the applicant had said the auto dealerships are always very sensitive and very well aware of how far they are from the pavement edge. I understand it's a very important thing. I guess one thing with this site I would like to see if you maintain that same distance as if you look from Mr. Tire all the way down through Auction Direct, if you maintain that same distance from existing pavement edge, what is that number? What does that look like? At this point I'm considering that in your neighborhood and to be and I know we could probably look another ½ - ¾ to a mile down the road and Kitty Van Bortel might have something that's closer, but obviously if you look at Otto Tomotto and the other areas they are all similarly far away. So I guess I'm being a little sensitive to you've got two other, one's an auto dealer and the other one is Mr. Tire, with similar setbacks. I guess I'm being sensitive to not letting you get twice as close to the pavement to the others, because I know exactly what would happen next. So I guess what I'd like to see is what's the number if you just had to maintain the same distance from the road as the other dealers and obviously is that something you can live with and if not, why?

The other question I've got and I guess initially for Al, so where the applicant currently is would that 1,000 foot radius around their existing location for the most part are those same homes and those same apartments within that 1,000 feet or are they all completely out of it? I thought that also pulled in some of those homes, too, just quickly looking at the map. And if so, have there been any complaints? What's been the situation at the existing location?

Mr. Benedict – The 1,000 feet actually pertains to a residential district not a structure used as a residence and that generally falls to area to the north. Have not had any complaints that I'm aware of. The 500 feet that they are talking about is to residential structures which goes to the apartments to the east. Even on that subject I have not heard that I recall of any complaints.

Mr. Nearpass – With those, are those same structures within their current location today? Or how far outside of that? Are they 100 feet outside of that location? What I'm just trying to get at is it sounds like they are a good neighbor where they are today. If that's true great then I'm going to say I'm assuming they are going to be a good neighbor where they are looking to go as well.

Mr. Benedict – I think that their present location the closest residential district is to the south, so it is a different neighborhood so to speak. As well as the structures that are within 500 are also in that southern area, so it is a little bit different than the area that they would be moving to.

Mr. Nearpass – But there are, it's a similar situation where there are residential structures within, not the same ones, like within the same distance.

Mr. Benedict – Correct.

Mr. Nearpass – And, you haven't heard any complaints.

Mr. Benedict – Not that I recall.

Mr. Cox – And, a lot of the properties are within a 1,000 for Van Bortel that are within a 1,000 for this property.

Mr. Nearpass – Understood. I'm just trying to use to your advantage the fact that you've been in the neighborhood and there haven't been any complaints, so to me that's promising. As Mike has talked about maybe it'd be good to hear if there is anything unique or special that you're doing to mitigate the sounds or the times that you're working on certain things or if all the work is just done inside and it's a high quality insulated structure then maybe that's what the strategy is, but anything you can talk to regarding the noise mitigation I think it would be helpful and again just going back to my first question which was I'd just like to see what that distance would be if you stayed within the other two neighbors just to the west of you. I'm okay with questions for now.

Mr. Cox – One of the things that they did do is the hours for the service don't start until 8am, so you don't have any service traffic before 8am. I know a lot of other dealerships start up at 7, so they will be 8 o'clock so that just provides a nice little buffer that's not too early in the morning.

Mr. Nearpass – Good.

Chairman Reinhardt – You're all set, Matt. Great. Fred questions?

Mr. Salsburg – I wasn't concerned about the sound or the (inaudible) too for that matter. The way the property is located even though going from 1,000 feet to 200 sounds like a lot, I think it's so much vegetation with the stream in there, it's lesser of a problem that might ordinarily be. But, I was concerned about the (inaudible) from the highway. That's the one that I was looking to learn a little more about because the drawing that I'm aware of didn't show what the setback situation is very well. There's a one liner and on the screen here I was having trouble reading it. And, I thought 40 feet was kind of close, so I'm glad Matt had the idea of matching it with the other two. I'm pretty sure Auction Direct is set back a good bit further. Maybe not. But that's my only concern because the front row is going to be solid cars where the pizza place across the street the front row is hardly used at all fortunately. I'd hate to have that be solid cars. So I would look to see if we can do anything at all with increasing the setback. That's my only comment.

Chairman Reinhardt – Great thank you. Donna, questions, comments?

Ms. Morley – Can I see a picture of their parking, please, Marty? Thank you.

Mr. Nearpass – My thought was if you drew a line from Auction Direct that's what you get. That was my suggestion at least.

Chairman Reinhardt – Sarah, questions, comments?

Ms. Mitchell – I guess I just have a question about the hours of operation for service. You did say they wouldn't start until 8am. What days of the week is that?

Mr. Cox – Matt, are you on to answer that?

Mr. Indiano – As far as service goes it's going to be Monday through Saturday. I wanted to just address if I could the noise issue with service. There's such a transformation over the past two-three years. It's actually been massive as far as the noise standards go. Air compressors aren't really the thing we even use anymore. They used to be this loud thumping and you'd always here the impact wrench. That loud high-pitched whine that you seem like you could hear forever. It's like nails on a chalkboard. The different compressors that we use now that we still have to have to air to fill up tires and the like and operate the tire machine are what's called the shrew type compressor. They're actually located within a couple feet of the mechanics now. That's how

quiet they are. So that's changed substantially. On top of that 95-99% of the tools used in our shop are electric versus air. They are not pneumatic any more. They are actually lithium ion. It's truly amazing. These little impact guns that take your tires on and off and torque them to the same spec as that big old gun before that made all the noise are actually more powerful. And they are electronic and they are silent. So we don't see a lot of noise issues in our shop at all any more. We don't do a lot of muffler work so we don't generally see cars coming in with mufflers hanging off or making any kind of crazy noises, but I just wanted to address that noise issue with that. But getting back to your original question it's Monday through Saturday.

Chairman Reinhardt – And, 8am to what?

Mr. Indiano – 8am until 5:30 two days a week and 8am until 7 two days a week, three days a week, excuse me. And, Saturday it's generally two or three o'clock.

Chairman Reinhardt – Sarah any other questions?

Ms. Mitchell – No, just another comment in agreement with Fred and with Matt on the set back with the neighboring properties, like Auction Direct and the tire place. And, just a general comment that I saw their rendering and I like the way the building looks. I'm a jeep driver, so I like it.

Chairman Reinhardt – My thoughts and comments, I'm following in line with Matt, especially in that corridor right there to have some uniformity to it, I think is going to help aesthetics so I'd also be interested in seeing some kind of a sketch or layout on where the setback is similar to

Mr. Salsburg – The pavement for the parking edge on the road.

Chairman Reinhardt – Yeah, and I thought we went around a bit with Auction Direct about that and had some concerns they wanted to (inaudible) that and Matt, do you remember that?

Mr. Nearpass – Yeah, they wanted to put a fence I think around it and I also believe at one point they were looking to get closer to the road as well. Remember there was a sign that got hit by a car and that whole thing and so I think that our pushback was to say look you want to push your cars where a car went off the road and knocked a sign over. We hung in there on the current setback.

Chairman Reinhardt – So David are you open to that idea at least drawing something out for sketch and having it be similar to Auction Direct and Mr. Tire?

Mr. Cox – Yes, I'll take a look at that and see what that looks like and submit that.

Chairman Reinhardt – Great and I think that the sooner you can get that and I think the county planning board would like to take a look at that as well.

Mr. Cox – Sure. Perfect.

Mr. Nearpass – Mike I was going to ask Matt as well what his thoughts or comments were on that.

Mr. Indiano – I don't have a problem with the uniform. I don't. If that's what we have to do. My only concern is like David had said, Matt, it's tough with that setback. You know at our other store it was a straight line. I just want to make sure that it's not this zig zag line or we can come up with some kind of meeting in the middle so that it's uniform.

Mr. Nearpass – That's what I was recommending from the pavement. Whatever number you have to do from the setback of your property line, but when I was looking at that drawing I was saying well as long as you just kind of maintain that flow from the current pavement edge to where the cars are and you follow that flow. It doesn't look like you'd have to give up too much.

Mr. Indiano – I have no problem. David can put that together and we'll go from there. I can understand keeping it uniform would be nice.

Mr. Salsburg – Congratulations on getting your FEMA approval.

Mr. Cox – That was quite the hurdle.

Chairman Reinhardt – Al, do you know if there's any expiration on that?

Mr. Benedict – I don't believe so. Just that once they do build it they have to refile for a lomar. I don't recall it being an expiration on it.

Mr. Salsburg – Well there's also a maintenance clause that it has to be the flood basin has to be maintained. And I was wondering it seems like the occupant would be responsible for that work. Is that automatic or is usually reverts to the town?

Mr. Cox – No, the maintained from that aspect is more that you're not allowed to do anything to block it. You're not able to fill in it. So you want to maintain that floodway so that it can continue to operate as is. So, as far as, there's nothing we need to do in there, we just need to stay out of it.

Mr. Salsburg – Okay.

Chairman Reinhardt – All set, Fred?

Mr. Salsburg – Yep.

Chairman Reinhardt – Anyone else, questions, comments, thoughts? David, questions, comments, thoughts? Okay great. So, you know that the game plan here, we need to get it to the county planning board, wait for their response and then we're going to have you back August 17th. Again, if you can get those sketches, drawings on what that similar setback looks like to the other dealership that would be great. The sooner, the better. There's any other things you want us to look at, we'd be happy to. Okay?

Mr. Cox – Okay. Sounds good.

Chairman Reinhardt – Great. Very good. Then, I think we're all set. Have a good night.

Mr. Indiano and Mr. Cox – Thank you.

Chairman Reinhardt – Does anyone else have anything to bring before the board?

Mr. Nearpass – The public have anything, anybody on line?

Mr. Avila – There is no one on line.

Chairman Reinhardt – Al, anything else we need to know?

Mr. Benedict – No, I don't think so.

Chairman Reinhardt – Great. Alright. Then motion to adjourn.

Motion to adjourn Mr. Salsburg, seconded by Mr. Nearpass. It was unanimously agreed and RESOLVED that the meeting was adjourned at 9:00 PM.