

TOWN OF VICTOR ZONING BOARD OF APPEALS, September 5, 2023

A regular meeting of the Town of Victor Zoning Board of Appeals was held on September 5, 2023, at 7:00 p.m.

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

OTHERS: James Bonsignore, Woods Oviatt Gilman, LLP; Khris and Rhonda Bailey, Scott Hellinger, Jameson Hellinger, Joey Hellinger, Harry Heuer, Frank Pavia, Town Council, Harris Beach; Ed Kahovec, Town Board Member; Adam Ryczek, Victor Code Enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Chairman Reinhardt called the September 5, 2023, Zoning Board of Appeals meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

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

PAST MINUTES:

On motion of Fred Salsburg, seconded by Lya Theodoratos:

RESOLVED, that the minutes of the meeting held on August 7, 2023, BE APPROVED.

Adopted: Ayes 3, Nays 0, Abstained 2

PUBLIC HEARING

**HELLINGER, 6850 Co Rd 41**

**18-Z-2023**

Seeking an area variance to place a pole barn forward of the front line of the home.

Chairman Reinhardt- Alright, Hellinger am I pronouncing that right?

Mr Hellinger- yup, Hellinger.

Chairman Reinhardt- Hellinger, okay. You have a request for a variance to place a pole barn forward of the frontline of your home ...

Mr Hellinger- yes.

Chairman Reinhardt- why don't you come on up and we're probably going to ask you a few questions and I'm going to take it this is your first time for a variance?

Mr Hellinger- yes.

Chairman Reinhardt- alright. And You are?

Mr Hellinger- Scott Hellinger.

Chairman Reinhardt- thank you. The matter had to be referred to the County Planning Board so we can't make a decision today.

Mr Hellinger- okay.

Chairman Reinhardt- so the way that works is uh, we're going to start creating a record, we're going to hear your application. We may ask you a few questions, and then at a point when the County Planning Board reviews your application their going to send us some notes and things, depends on how they treat it, will depend on how we're going to vote. But we won't be able to decide on it today.

Mr Hellinger- okay. Understood.

Chairman Reinhardt- the County Planning Board ...

Ms. Downs- September 13<sup>th</sup>, so then the meeting following that would be September 18<sup>th</sup>.

Mr Hellinger- okay. Do I have to be present for that?

Ms. Downs- for the county meeting, no.

Mr Hellinger- okay, alright.

Ms. Downs- I will forward their comments.

Mr Hellinger- You told me about it, I think when I originally filled out the paperwork is that because its on a County Road, okay, yea, I think that's what you told me.

Chairman Reinhardt- there's right, General Municipal Law requires that if it touches boundaries of whether it be a State Road or other municipalities that the county gets to weigh in on whether or not there's going to be a county impact to the local municipality is the nutshell version.

Mr Hellinger- understood.

Chairman Reinhardt- great. Alright, tell us about your application.

Mr Hellinger- so, Id like to put up a 30 x 50 pole barn to the left of my property, um the set, I don't know exactly what the setbacks are going to be at, obviously they would be within whatever I'm supposed to be at, I think its like 40 and 15' from the side, correct? – So, It'll be more than that, um, I'm going to have a, upon approval, I'm going to go ahead and have BME come out and do a grade map and all that stuff so I can turn that into you guys, uh, we're going to be using it for storage of I have a 2 tractors, a trailer, a camper, 2 pick up trucks, and a 2 hot rods.

Chairman Reinhardt- utilities?

Mr Hellinger- it will have utilities, yes.

Chairman Reinhardt- electric?

Mr Hellinger- electric, and gas. And I, I'm pretty sure I'm going to put water in there, I'm not 100% yet, uh there will not be a uh, there will be no septic. So, no toilet, just water, maybe a hose in there, drain.

Chairman Reinhardt- okay. When it comes time, its going to be extremely helpful if you don't guess at it, on where this is going, you know you can say its going forward but as close as you possibly can, if you don't have it today, that's fine, but next meeting if you could say its going to be 20' from the sideline or especially from the road, its going to be 100... whatever that number is, so do your very best, alright, uh, Fred, do you have any questions?

Mr Salsburg- this is a pretty dramatic request. We've uh handled a number of these this summer but they've all been big lots, forests in front of it, uh different situation, this is boom right there. And I'm a little concerned you're going to run out of room with it. I kind of wish you could have come before, but as uh Mike said you're going to have to make a pretty good drawing, first class sketch or a poor survey map one or the other.

Mr Hellinger- yea, it'll be ...

Mr Salsburg- to locate it.

Mr Hellinger- yes, it'll be a survey map.

Mr Salsburg- I think its going to be touch and go.

Mr Salsburg- that's all I got.

Chairman Reinhardt- alright, Matt, questions?

Mr Nearpass- yea, so, so the house is there, or you've started construction on it ... is it...

Mr Hellinger- the house is there, um we're finishing up drywall now, uh we'll be putting in utilities in probably the next week all the underground utilities will be going in, uh there is a garage attached to the house that is not up yet, its juts a 2-car garage, um and then there's a porch going on the front.

Mr Nearpass- what would it look like to put something in compliance? Like where would ... where would you put it?

Mr Hellinger- um ...

Mr Nearpass- How big would it be ...

Mr Hellinger- I don't know, I mean I would do the same size, I guess I ...

Mr Nearapss- I may not have to, I mean to make it go, I'm saying to make it compliant, you may say look I got to make it 20' smaller, like to be bale to fit within um, within what the code allows today, I always like to get an idea of you know given the site that you have and any unique characteristics to it, like what is, you know there's needs and wants ...

Mr Hellinger- you mean in compliance as in behind the house?

Mr Nearpass- as in, yes behind the front setback.

Mr Hellinger- okay,

Mr Nearapss- of the house, yea, yea.

Mr Hellinger- so, the only reason because I would love to put it behind the house, the only reason I can't put it behind the house is because there's an expansion area for the septic system, so I mean if you, I'll put it behind the house as long as you guys are fine with me putting a driveway over my expansion area for my septic system to get to it ...

Mr Nearpass- I ... I don't deal with septic systems or expansion areas, but I'm guessing we're talking like the leech lines your talking ...

Mr Hellinger- yea, so my septic runs to the right side of the house, and it goes there's probably another 60' of expansion area before it hits my property line, um that's the only reason why I didn't think I could put it behind my house because there's ...

Mr Nearapss- so when you were developing the property, is this a last minute add, was it something ...

Mr Hellinger- yea ...

Mr Nearpass- was it a ...

Mr Hellinger- we didn't know we were going to be doing this. Um, the, the idea is to be bale to store, you know my tractors and the cars and have it all on the property and not have to go other places and have it all right there, I mean if I can, if someone can give me an answer, I don't know who I would talk to but if someone would, if I could get approval to put it in the back right corner of the lot, I'm not against that at all, my only concern is that expansion area right there, I mean I'm perfectly fine with putting it on the back right ...

Mr Nearapss- yea, I, you'd have to talk to a civil engineer or somebody ...

Mr Hellinger- yea, I just don't know ...

Mr Nearapss- that knows ...

Mr Hellinger- when I talked to BME it was a no, no.

Mr Nearapss- okay. Um ...

Mr Hellinger- just because if I had to use that expansion area in the future, they're like well then you have a driveway there, how will you access the back if you end up having to use the expansion area, and I'm like, I don't know ... I can't there's no room to go around there, the expansion area actually almost touches the property line if you go, I don't know if you guys have it or not, there's a print, there is a, its an older print, with elevations on it, of my property and the uh, there should be the septic engineering plan on there and it'll show you exactly what I'm talking about.

Mr Salsburg- I haven't seen it.

Ms. Theodoratos- no.

Mr Salsburg- this does show what likes like a drain field off to the east end so is the garage on ...

Mr Hellinger- yes.

Mr Salsburg- on the west?

Mr Hellinger- yea, the garage ...

Mr Salsburg- west end of the house.

Mr Hellinger- yup.

Mr Nearapss- and you said it was 30 x 50?

Mr Hellinger- yes.

Mr Nearpass- um, I guess no further questions for now. It just seems like an odd request given that you, this was a complete field probably just months ago, right and you kind of had the opportunity to play around with it a little bit, I don't see too much really within the neighborhood of you know structures being forward of the frontline, there's often obviously there's County Roads right, where you have the, you know the barns that are right up next and they're kind of within character, um, Id, I guess I'm just kind of on the fence, Id be interesting to see kind of what it looks like when its kind of drawn out with the right numbers, I'd still like to see something in terms of um, what you could or couldn't do to be in compliance, I can tell from the drawing here obviously if you can't drive over those leech lines which I'm sure you probably can't, um, that kind of self-limits yourself to a certain degree...

Mr Hellinger- yea, that was ...

Mr Nearapss- although if its just for storage maybe you don't drive over it, I guess I don't know or very often, I don't know how you deal with that. Um, I mean I have property with leech lines, and I drive my truck over it sometimes when I need to get back there but um, versus having a, a formal driveway that goes to it but, just kind of my comments right now.

Chairman Reinhardt- Alexis?

Ms. Ogra- um, everything you're going to be storing in the garage is that for personal use or any for business use?

Mr Hellinger- yup, I have a well, I use my truck for business use, yes.

Ms. Ogra- okay.

Mr Hellinger- there's 2 trucks, they're both used for business, um my hot rods are not used for business, the tractor, I guess it could be used for business, I don't use it currently for business, um, my camper isn't for business, uh, I think that's all that I'll be able to fit in there, I have an enclosed trailer too, that is used for business.

Ms. Ogra- okay. Do you have employees that like report to the ...?

Mr Hellinger- no, I do not.

Ms. Ogra- okay.

Mr Hellinger- I don't have any employees actually ...

Ms. Ogra- okay.

Mr Hellinger- its just me.

Ms. Ogra- okay. Um, and then from the site plan drawing, do you share a driveway with the 6848? ... Does it ...

Mr Hellinger- I do, yes.

Ms. Ogra- okay. Um, no other questions.

Mr Hellinger- okay.

Chairman Reinhardt- Lya?

Ms. Theodoratos- once its completed do you plan on putting like any vegetation forward of the barn, or that area?

Mr Hellinger- oh, to, so do you mean, so when you say forward of the barn, do you mean like on the, the south end? ... so ...

Ms. Theodoratos- yes.

Mr Hellinger- yea, the south end. I mean I could, I wouldn't be opposed to doing that if that helps get it approved, I will definitely do that. So, you guys don't want to see it so you wouldn't want to see it from the road?

Ms. Theodoratos- well the only reason I'm asking is because the other properties don't have those barns forward of the house, its more opened, and with the others that we got the past couple of months they, there was a lot of trees, a lot of vegetation so you didn't see it, so I, you know I'm just, I'm just bringing that up.

Mr Hellinger- yea, I wouldn't be opposed to um, planting trees or a hedge row of some sort in front of there that would grow over time and maybe completely block that whole south end of the barn so that you couldn't see it.

Mr Salsburg- I think that big a barn is uh, would take a lot of foliage.

Mr Hellinger- yea. Well, I'm willing to plant it if you guys and willing to approve it.

Ms. Theodoratos- that's all I have.

Chairman Reinhardt- alright, as Matt indicated, I think you acknowledged this is a new construction, and that'd be yes...

Mr Hellinger- yes, sir.

Chairman Reinhardt- so when I look at a plan, I'm looking at drawing marked sheet 1/1.

Mr Salsburg- on the board?

Chairman Reinhardt- yup, that's on the board. So, where it shows future garage, why didn't you put the house there and then put the garage where its labeled 6850? And comply with the code.

Mr Hellinger- um, I wanted to see the golf course, I set the house back, almost I think its as far back as I could legally get it so that I could get the golf course view.

From audience- I can attest to that.

Chairman Reinhardt- hold on one second. So, this is, this gets into Matts, the need, and the wants, so what we have is one of the criteria and I think you, hopefully you looked at it, is whether or not the applicant can achieve this by some feasible method, right hopefully, you know what I'm talking about, there's 5 criteria ...

Mr Hellinger- oh yes, yep. I read through that.

Chairman Reinhardt- so that's the questions that we're, some of the questions that we're driving at this, is did you have an opportunity to comply with the code, and you did. You chose that because you wanted to look at the golf course, that's your choice, that's where you wanted the house and now, you're asking for the variance to put the barn forward of the house.

Mr Hellinger- yes, sir.

Chairman Reinhardt- and there's also a shared driveway and I, as far as I know that hasn't even started construction yet, so your neighbors to the east and to the west, I guess we don't know what's going to happen to the east just yet, but at least to the west, they're not looking at a house, they're going to look at a pole barn. So, then we could look to the first criteria is it going to change the character of the neighborhood or detriment to nearby properties, potentially the answer is going to be yes, it will. There's, in that particular area, to Fred's point, there aren't pole barns or barns or it doesn't exist. So that has the feel/potential for changing the character of the neighborhood. So, you're going to have some time to think about it, right, when you come back hopefully, you'll have some answers about um, there's a pole barn over here, just down the road, or something that shows that in that neighborhood, that there are similar types of conditions that exist.

Mr Hellinger- So, let me ask you this, if you were, so if you were my neighbor, on the east side you would rather have a pole barn in the back yard, than in the front side yard of my yard?

Chairman Reinhardt- that would, the neighbor would ...

Mr Nearpass- what about your neighbor to the west?

Chairman Reinhardt- its not what, what the neighbor would rather have, the question is can you comply with the code, did you have an opportunity to comply with the code, and you did. And that jumps to the fifth criteria, was this self-created... so, you created the problem, the problem being that you want to put a pole barn on the property forward of your home.

Mr Hellinger- yep.

Chairman Reinhardt- okay.

Mr Hellinger- yes, sir.

Chairman Reinhardt- we're not asking, if you know what the answer is today then fine, if you don't then, you have some time to think about it, and if need be um seek help, you're asking good questions , we're asking questions, but when the day is done we have a duty and obligation to the community to comply with not only the code, but also if we grant a variance we have to plug in facts to this set of criteria. Alright, does that make some sense?

Mr Hellinger- yup, I understand.

Chairman Reinhardt- okay, alright. Any questions?

Mr Hellinger- nope.

Chairman Reinhardt- great. Uh ...

Ms. Ogra- I have one more question.

Chairman Reinhardt- go ahead.

Ms. Ogra- um where are you currently storing everything that you ...

Mr Hellinger- uh, it's in the yard.

Ms. Ogra- okay.

Mr Hellinger- currently.

Ms. Ogra- no other questions.

Chairman Reinhardt- would anyone from the public like to speak for or against the application?

From audience- about the application, yea.

Chairman Reinhardt- sure, come on up tell us who you are.

Mr Heuer- I live those 2 little boxes ...

Chairman Reinhardt- come closer.

Ms. Downs- just make sure you're in the microphone.

Chairman Reinhardt- tell us who you are.

Mr Heuer- Harry Douglas Heuer, 6854 Boughton Hill Rd. and I'm the 2 little houses to the left, um I got to live next to Scott and I don't want to you know, I don't want to create issues and problems, my problem is basically with the board, okay. I've lived here for 30 years, and if I can take juts a little time to give a little history lesson about that piece of property because it's been nothing but problems to everybody who has lived along side it, okay. The guy who had the house next door ran into some gambling problems over at the racetrack and they banned him from the track, so he decided because he



had houses that he was going to put an exercise circle around the property that is right next to, not next to but the next one over ...

Chairman Reinhardt- 6820? What, to the east?

Mr Heuer- to the east, there's ...

Chairman Reinhardt- okay.

Mr Heuer- you got one blank and then one other, there's a house on it, okay. And the barn fell down um, you know and there were issues but how do you, how are you going to get rid of that and it sat for years and there were kids getting into it and nobody wanted to, address the issue, okay. So, what he did was he screwed up the water system there's some underground stuff in there and it got all wet in the front and then in the summer time it would back up and we had one year in general that it backed up so far it went all the way over about 20' from my property, that in conjunction with the work that they did that year on Co Rd 41, we had mosquitoes like you, you know they were as big as planes. Okay. Drainage over there was also interrupted by Mr Dianetti who owns the golf course when he put the 8 holes, the last 8 hole course he put in the back, okay, because he's got everything coming from a high spot draining to my property and right where my property line is and I have pictures if you want to see it, it gets about 6 inches deep in a gully, that runs all the way across the back of my house, he also came and he took, he had 55 acres in that lot and he spent a good 3-4 weeks with some guys with a bull dozer moving all the dirt around in there, in order to create at least a 32 foot high driveway that was going to be shared on this particular property in order to get in there, whenever I would come down to talk to the board and it was on the agenda, all of a sudden I'd ask Mr Dianetti, when are you going to talk about this? – Oh, we're not ready for that, okay and we pulled it off the schedule, okay, fine, so come to the next meeting but you know if I come to the meeting everything's pulled off, you know the agenda, okay. I traveled at that particular point in time with my wife and I wasn't home all the time, you know, so it got passed. Next thing that happened, was he was going to try to make 2 pieces of property out of it. Okay, well at one point in time he was going to put at least 4 houses in there and the only way that he could do it was to put in a septic system for everybody along the road in order to get enough resources in order to handle the waste from that property and he wasn't successful in talking everybody out of this septic systems and going with, you know with uh a sewer system there. The next thing that happened is because this president was set, that cut that property in half, one next door he put the house up, they had that so now he's got 2 lots instead of 1. Mr Dianetti could never get a perk test to work until he did it in the middle of one of the worst droughts that we had years ago, and they only dug holes this deep. Yea, I watched it. And all of a sudden, he's got the property, now he's got two pieces ...

Mr Pavia- sir, is this tied to the application that's before the board?

Mr Heuer- I'm getting there. Water from all of this drainage lines up and it lays right on the property line, and that's kind of the end of it, his property is up high, the Town Board has made him put, pay, you know pay for having all of this re, you know re-graded and redrawn all again, and you know, Dianetti told me that he spent what was the number, \$125,000.00 in bull dozing costs creating that property, pretty sure that's what the number was, I am concerned that I'm never going to get anything in the back of my house but a flood area. And the flood has got to go down into a culvert that goes across under the road, and just lays there, okay. I would like this, to see, and he's going to put right in that pathway where on some of your drawings here it shows that the drainage is going to go, that's a drainage area, I want somebody to basically make me confident that I'm not going to get, you know uh drained out. I can't even get grass to grow, the other thing Dianetti did was he put, he made, he didn't make behind my house an um, oh what do they call it, uh, forever, forever forest ...

Mr Salsburg- Conservation easement?

Mr Heuer- yea, yea its, its yea. Conservation Easement. But he did the people next door to me and the one for Heart, which is the next house over, and the other people had the option to buy the property, you know he wouldn't, he wouldn't sell to me to get the, you know to, to get the property back, I don't know why, as far as, as far as the barn is concerned, its, I've got one right next door, its probably you know, less than 30' away from where he's got his trailer right now. I don't care if he puts up, you know puts up a barn, and I don't care if its in front of his house, in back of his house but if he's going to put it there, I want to make sure that I don't lose what little drainage area down to the thing is going to come about, you know ...

Chairman Reinhardt- alright ...

Mr Heuer- and it seems like you put these laws in place but the minute anybody, and even across the street the president has been set for, for cutting those properties in half. Um, Monica Hammon had property there, and now it's, its 2 pieces of property. It was 13 acres over there.

Chairman Reinhardt- right, for clarity purposes this board does not create the laws, that's not our purview, that's the Town Board that creates them. This board is only, has the duty to look at the code and see whether or not a variance should be granted based on the 5 criteria that the law requires us to look at.

Mr Heuer- mhm. Okay.

Chairman Reinhardt- whether or not its going to change the character of the neighborhood, whether or not uh, its substantial. Whether or not the applicant had an opportunity, a feasible means to do it and comply with the code, whether or not there's any kind of environmental impact, whether or not it was self-created. I'm pretty sure the questions that were being asked by this board ...

Mr Heuer- mhm ...

Chairman Reinhardt- in some way shape or form, were asking to have those facts fit into the criteria.

Mr Heuer- okay well then, my question basically is, is this particular building going to um, help or hinder the drainage that is supposed to be coming down there but isn't now because, I mean it was originally designed that way. But now it doesn't, it can't come up, and it can't go down ...

Chairman Reinhardt- so there's a question then on whether or not the barn being forward of the home is going to create an environmental impact, a negative environmental, we're going to find out, we don't ...

Mr Heuer- okay.

Chairman Reinhardt- we may not have that today. But we're going to get to the bottom of it and figure it out.

Mr Heuer- but it seems like every time you know something happens with those properties around there a variance shows up ...

Mr Nearpass- I can't ...

Mr Heuer- and its ...

Mr Nearpass- honestly, I don't remember the last, I've been on this board for almost 20 years, I can't remember the last time we've actually had a variance in this neck of the woods, now subdividing properties isn't a variance ...

Mr Heuer- yup.

Mr Nearapss- um ...

Mr Heuer- guess not ...

Mr Nearpass- we had a variance request actually just down the street from you that we denied, or maybe the applicant withdrew because they were working on that 2 or 3 family home trying to refurbish it, honestly, I don't recall many, if any variances ...

Mr Heuer- there's only one house, you know I've been there for so long.

Mr Nearpass- I mean there's a, I see quite a few houses, there's 1,2,3, 4, 5 ... there's half a dozen, to a dozen homes within you know just go straight down Co Rd 41 until you hit Brace Road, right? --- It's quite a bit and completely understand that there's been subdividing going on and you ...

Mr Heuer- granted ...

Mr Nearapss- land owners have certain rights, but I'm, I'm just saying your ...

Mr Heuer- granted ...

Mr Nearapss- but its...

Mr Heuer- but none of there houses flood because ....

Mr Nearapss- you're complaining to the wrong board.

Mr Heuer- in the way that the course goes over ...

Mr Nearpass- you're complaining to the wrong board. I think you're complaining to the wrong board.

Mr Ryczek- sir, can I interrupt for a second.

Mr Heuer- excuse me.

Mr Ryczek- should this applicant receive the area variance to allow the barn in front of his home, the size of his barn requires him to go to the Planning Board ...

Mr Heuer- his barn is going to be a third bigger than the one I've got next door to it.

Mr Ryczek- okay, all my point is, is that it'll have to go to the Planning Board, and it's the Planning Board who is going to address things like grading and drainage and that's going to be the board you're going to want to come talk to with your concerns beyond the variance. Okay? Juts so you know. Theres another step that Mr Hellinger is going to have to take should he receive; this board is only to grant a variance to allow a structure in a location that is not permitted by code. That's it. Okay, all the drainage

and stuff will be addressed by the Planning Board, you'll be notified again because of your proximity and that's the board you're going to want to bring your drainage concerns to, okay?

Mr Heuer- mhm.

Mr Ryczek- okay.

Mr Heuer- thanks.

Chairman Reinhardt- great, anyone else from the public want to speak for or against the application? – Have any questions for us before we let you go? Otherwise, we'll see you on September 18<sup>th</sup>.

Mr Hellinger- yea, I do.

Chairman Reinhardt- go ahead.

Mr Hellinger- um, so if I come back September 18<sup>th</sup>, uh you guys want to know setbacks, correct?

Chairman Reinhardt- it's the ...

Mr Hellinger- or an idea of a setback.

Chairman Reinhardt- no, better than an idea. So, the location as it pertains to how far it is from the road, how far it is from your side, that, the east and the west, uh, is going to be important because what we don't want is the application saying, oh gee, we got the variance and then start putting your thumb up in the air and saying uh, it goes over there. That's ...

Mr Hellinger- understood.

Chairman Reinhardt- that's poor record keeping.

Mr Hellinger- understood.

Chairman Reinhardt- survey maps, specific locations on where its going to be, um and right now if you're going to, if the variance is granted and it impacts the side setback there's requirements for that as well, so we cant tell you if you need variance for that, but I can tell you if you put it 5 feet from the side setback you're going to need another variance ...

Mr Hellinger- no, it won't, it will not be 5 feet.

Chairman Reinhardt- okay.

Mr Hellinger- it'll be 15' at minimum.

Chairman Reinhardt- hopefully, you understand my point is it has to be specific to where it is you want to put it to see if you need another variance.

Mr Hellinger- okay, understood.

Chairman Reinhardt- um, and I think you were hearing some questions, uh I would highly recommend you talk to your builder; um be prepared for questions regarding whether or not there would be any kind

of environmental impact should the variance be granted, and that barn be constructed forward of the home. Okay?

Mr Hellinger- yes, sir.

Chairman Reinhardt- any questions?

Mr Hellinger- um, the I'll get an answer also on the, the back, I'll get a, like an email or something from BME about the possibly putting it in the back and whatever impact it would have if I can drive on it, if I can't, uh if it matters if I'm in the expansion field area, because I don't know that answer right now, uh I can try and get it and then maybe that'll change, maybe I can comply, and go up in the, there's tons of room on the right side of my property to put a building like that, and to be in compliance.

Chairman Reinhardt- those, those are going to be ...

Mr Hellinger- I do have one question though, is it, what is the rear, is the rear setback for a building like that 40'? Is it 15' for the rear?

Mr Ryczek- rear and side.

Mr Hellinger- okay. Alright. I'm good,

Mr Ryczek- no portion of the barn can be forward of the home though, its not just like the whole thing, none of it could be forward of the home without a variance, okay.

Mr Hellinger- none of it, so when you say forward of the home do you mean none of it can stick past the front of my house.

Mr Ryczek- correct.

Mr Hellinger- it can go down the side of my house.

Mr Ryczek- correct.

Mr Hellinger- okay. Go it.

Chairman Reinhardt- so as far as the feasibility element, there are times applicants have come before us and said Well I don't like how it looks, Id rather not. That's really not a good enough reason as far as the board goes, its can you comply with the code and other applicants have said it wont work because the topography is terrible, it's a steep slope and I can't build it back there, that's far different than I don't like how it looks. You follow me that there's a big difference ...

Mr Hellinger- yea, and I'll, I guess I'll have to get somebody out there to look at that too, there is a slope back there, its not a big slope, I don't know if it would change well just like what he's talking about, I don't know if I put something in there, I got to talk to someone to see if its going to change how that property drains out because I don't want to, you know I don't want to mess with the guy who is going to be building on the property next to me that builds homes ...

Mr Nearapss- oh I think regardless of where you put it, right, it's an impervious service and it's a lot of it, so regardless of where you put it on the property, you're going to want to know what you're going to do with the water that's not going to be, you know ...

Mr Hellinger- right.

Chairman Reinhardt- the engineer, we've had engineers from BME before, um they understand what variances are, the elements that need to be shown what facts need to be plugged in, so talk to them, you've hired them, on how all this, this mechanism works.

Mr Hellinger- okay, alright sounds good.

Chairman Reinhardt- all set.

Mr Hellinger- thank you.

Mr Heuer- I have another question if he were to ...

Chairman Reinhardt- come on up ...

Ms. Downs- I can't hear you back there.

Mr Heuer- if he were to come out with his uh sewage pipe from the uh, that drawing there on the left side of his house which would be the west side and curve down he would have enough room in order to go where that supposed runway is, is supposed to be, and then put the side that's flat enough down at the bottom where he was going to put the building in order to put his septic tank. You know his, his drain tank, what do you call it drainage field. Is, and there wouldn't be any uh driving over it that way. Is that something that is considered uh okay in your book ....

Chairman Reinhardt- you're asking a bit of an ifs and buts kind of question, until we have the applicant say this is what we're doing this is what ...

Mr Heuer- well I'll talk to him about it then...

Chairman Reinhardt- so, yea talk to him afterwards ...

Mr Hellinger- I don't know either.

Chairman Reinhardt- okay, thanks so much.

Mr Hellinger- thank you.

Chairman Reinhardt- alright, see you on the 18<sup>th</sup>.

**MOBILE GRAPHICS**, 7120 Lane Road 10-Z-2023  
Seeking to modify a previously granted use variance (8/28/92) the new proposal includes a 3840 SF building to support the existing business. The applicant would also like to add 2 additional employees. The property lies within an R1/R2 district.

Chairman Reinhardt- alright, Mobile Graphics, how are you?

Mr Bonsignore- Good How're you Mike?

Chairman Reinhardt- Good, uh I understand that, that there's been a change, uh the 2 accessory apartments have been withdrawn.

Mr Bonsignore- that is correct.

Chairman Reinhardt- so now the question is uh, whether or not um from what I see is the issue is whether or not there is a new use variance being requested or if its just a modification. Right. And I think its your position is, its just the modification, the modification looking for the number of employees, the show room, and the additional building. Is that it, in a nutshell?

Mr Bonsignore- that's it in a nutshell.

Chairman Reinhardt- alright, so because it was before the County Planning Board, they looked at it with the apartments included, now we have an issue of whether or not it has to go back to the County Planning Board for another review, because of its proximity so we have our council here if you could touch on that ...

Mr Pavia- yea, and that's a good question, Mr Chairman because I do believe the County Planning Board recommended disapproval for this plan, and that requires a super major vote from this board to overturn \*inaudible\* sorry, I think the recommendation of going back to the County Planning Board is one that you guys might want to consider, uh, the notes are not, the notes of the County Planning Board are not that helpful, but they did note the accessory apartments, and they did appear reading through the lines not to be pleased about the apartments, um so I think it might be who of you to consider or having this board refer it back to them, obviously they can still issue a disapproval but with the new proposal they may very well not and then you're now as you know subject to only a majority vote by this board for approval.

Mr Bonsignore- okay, um I think in that case what Id like to do is present tonight as we have intended.

Chairman Reinhardt- sure.

Mr Bonsignore- uh, perhaps kind of canvas the board get a feel for what everybody is thinking and if we are at a stage where any of the board members are uncomfortable voting or approving um you know rather than taking a vote tonight then obviously you know the, that option I would, we'd like to put back on the table, just you know we don't want to self-impose any additional adversity if we don't have to.

Mr Pavia- so Mr Chairman do you also want me to weigh in on whether a new variance, use variance is required by this board or modified use variance ...

Chairman Reinhardt- it would be, I think it would be very helpful if the board heard your opinion that if it is solely a modification of the use variance do, we apply the criteria as we would for a use variance or is it a different uh, different criteria that we look at for a modification.

Mr Pavia- so I, I do agree, and I know Adam issued a memo to this board and I believe Adam, correct me if I'm wrong, you also stated that you think a new use variance was required, you thought a modified use variance was what was necessary. And I agree with that, I do however believe that this board still has to apply the 5 criteria that you would do to a new use variance to the modified variance, um having said that a number of that criteria by mere factor of the prior use variance being granted has already been determined. Um, for example um, the unique nature of the property and the fact that the use that it is currently being conducted or the use that's currently being conducted by the applicant does not create an

adverse uh impact on the community to the environment, I think for the use itself has already been addressed, this board may however feel that the enlarged use that the modified application seeks, you may want to still go through that analysis and I would recommend that you still go through that analysis for the modification. Um, the financial evidence of not being able to secure a reasonable rate of return, well that has already largely been determined by the existing use variance because the argument, the analysis remains the same, could they obtain a reasonable rate of return if they were subject to the residential requirements of the district. This board has already determined that's not the case. Um, in my mind and my opinion, the use per say is not changed, they just wish to increase the capacity of the use. Um, I think one of the areas that the board will want to look at is, the fifth criteria and that is granting a minimum variance, scope of variance but also taking into consideration that the variance if issued, you know that the character of the community is protected and that the um welfare of the community or neighborhood is protected, that I think a criteria that you may still want to go through as a result of the modified scope of the use that they're presenting to you. In sum I think you are, I think some of the elements of the requisite criteria have already been addressed by this board but then others of the requisite criteria I think this board should go through a review of it with respect to the modified increased scope of the use that the applicant is proposing, if that makes sense to everybody.

Chairman Reinhardt- I think it does, uh, lets for clarity purposes though is it before the board on whether or not we're looking at solely a modification or um are we looking at, the better question is, the apartments are off the board ...

Mr Pavia- correct.

Chairman Reinhardt- its not a whole new use variance anymore, it is solely a use variance, and this board doesn't have to try and decipher whether or not it's a new or it's a modification. We're only looking at a modification.

Mr Pavia- correct Mr Chairman. I think the original proposal with the accessory apartments complicated the assessment for you guys, and it may very well kicked the application into a new use variance application, now that the applicant has removed that, the sue that they're proposing with the modification remains the use that ahs already, is already operating on the existing ...

Mr Nearpass- how does it if you're asking to also add for example a sales and marketing or a show room, you're adding to the use of the ....

Mr Pavia- that goes to the increased scope of the use, but the use itself, the uh retail or commercial use that he is doing on the property now to his existing variance largely, that remains the same. He's just adding to the scope of that use.

Mr Nearapss- what scope ...

Mr Pavia- through a modification.

Mr Nearapss- but you're saying adding scope, new scope ...

Mr Pavia- no, not a new scope, I ...

Mr Nearapss- its new scope right ...

Mr Pavia- he has an existing scope of his use; he wants to enhance it but still consistent with the commercial use that he's operating on the property today. By adding the storage building, adding the



employees, adding some uh parking area as I saw on the site plan, I don't know if that's true. So, the use itself, the commercial use remains the same, that he's operating under his current use variance, he just wants to enhance it. But still consistent with the commercial use that he's conducting today under the existing variance. So, I think those enhancements are what you need to as a board go through the criteria for.

Mr Bonsignore- we're prepared to address all of those concerns.

Mr Pavia- I assumed you were but, I just wanted to make sure the board understands my opinion and what I think you need to do ...

Chairman Reinhardt- before we proceed I just, anyone else from the board have a question for council? --- Good. Okay, so I think the first question for you and your clients is whether or not you would like to refer this back to the county for their evaluation and untangle the 2 concepts of, now that the apartments are out of the way, solely, we're still going to give you the opportunity though to present but I think it would be helpful for us on our questions if we know are you going to go to the Planning Board or not. And if you want to take a few minutes out in the hall that absolutely fine.

Mr Bonsignore- yea, we'll just take a quick second.

Chairman Reinhardt- absolutely go ahead.

Mr Pavia- sorry if that was verbose.

Chairman Reinhardt- no, it was good. It was thorough, it's a yea it was certainly a uh, a unique situation ...

Mr Pavia- yea, I mean its very unique, I don't think I've ever either presented a modified use variance on behalf of an applicant of represented a municipal board for a modified use. Its pretty rare.

Chairman Reinhardt- yup, right.

Mr Salsburg- I have a question about the showroom.

Chairman Reinhardt- well, hold on, lets, I think let's have them back in so ...

Mr Salsburg- okay.

Mr Bonsignore- Thank you --- I think based on the information we'll be able to present tonight we're comfortable proceeding tonight without having to go back to the County Planning Board.

Chairman Reinhardt- so we, then I'm going to have a question for council then, they've stated, council stated that they're comfortable proceeding, with that in mind for a granting of the use variance modification, it going to have to be a super majority.

Mr Pavia- correct. 4 out of the 5 of you will have to vote to approve the application.

Chairman Reinhardt- I think what we can do, and I think what you were referring to that before, is if you get a feel and say hmm, I think we would much rather send it off to the county planning board um and untangle those 2 pieces and then come back that's, we'll give you that chance to do it.

Mr Bonsignore- okay.

Chairman Reinhardt- alright. Fair enough?

Mr Bonsignore- thank you.

Chairman Reinhardt- okay go ahead, let's hear what you have to say.

Mr Bonsignore- for the record I am James Bonsignore from Woods Oviatt Gilman on behalf of the applicants and I know this application has been before you for some time and I don't want to reinvent the wheels, I want to try and be as brief as I can, but as Frank mentioned you know I think as we run through these statutory criteria we'll be able to answer and address the questions and concerns and some of the additional questions that were in Adams letter of August 31, um so I'm going to go a little bit in reverse order since the issues have already come up and that's in the grand thing of the, in this case the modification to the use variance to ensure that the minimum or that the relief granted is the minimum necessary in order for the applicant to achieve their goals, and you've hit on one big point along those lines already and that the, they've removed the accessory apartments from the application, you know fully understanding that that would put this into a different category/different creature whatever euphemism you'd like to use and shifting this from a modification to a new application they've opted to remove that from the equation, so that in and of itself is uh an immediate step to make sure that any relief that will be granted here is going to be minimum necessary and in doing so there a pretty drastic reduction in the size of the new building as well, so originally it was proposed to be approximately 7,500 SF, now were down to about 3,800 SF/ 3,900 SF, so the building size has been affectively halved from what was originally proposed, and that's an important point because when you look at the site as it is, there is already an existing 2,400 SF accessory structure on site. So basically, we're tearing down the existing structure and replacing it with one that's a little bit larger. So, in terms of you know the minimum necessary to grant the application when you take all of those things into consideration, especially the fact that the new building is, is marginally larger than what is already there and is of newer construction better looking building, etc. I think you'll find that what were doing in addition to the additional employees and what's being called a showroom, I think you're going to find that it's a, we're definitely in keeping with protecting the character of the neighborhood and not adversely affecting in any way the health safety or welfare of the surrounding community. So, with that I'm going to run back to the beginning of the statutory criteria, and this is when it was already discussed a little bit as well, and that's whether or not the applicant could see a reasonable return on the investment in the property with respect to, with respect to a residential or permitted use. Again, I agree with council that this is an issue that has already been determined but we understand you know these are different times that application was granted a long time ago, so we wanted to make sure that we presented some additional evidence to further bolster and support the board's decision of making the finding originally, so what we did we contacted revolution real estate as a local real estate agent that deals in both residential and commercial real estate in the area, and we had them do an analysis for us, and we presented a package from them that discusses you know new residential construction which would be a requisite for this property if they were to sell it for a permitted use, and what they did is they've found a couple of comparables and then also if you look on the second page of their presentation you'll see a location map that shows our site and the sites of the 2 comparable sales and then the sites of additional homes for sale in the area. Our engineer is also provided us some information regarding the demolition costs, as it is this is a commercial use which we now know it has been for over 30 years, in order to sell the property for residential use we'd have to demolish not only the existing accessory structure but also the, the larger structure in which the existing commercial use is housed, so right off the bat, we've got about 100,000 worth of demolition costs approximately 3 quarters of which can be attributable to having to demolish the existing commercial building. So right off the bat in terms of reasonable return they're in the hole close to 100,000, then as you see based on values for new home construction and the comparable sales, you know they're averaging, those sales netted anywhere

from 50,000-100,000 less than the median sale price would be for residential property in the area, and they've attributed that reduction in intrinsic value to those sales on the basis of the proximity to i90. And this is a subject that for better or worse I have a lot of unique experience with because I grew up on Reeves Road in Pittsford New York which is directly adjacent to i90 and I can't tell you how many nights as a kid I was woken up by truck horns, trucks hitting their brakes, load engines reeving, etc. And we've got a very very similar situation here, it is not the most ideal location for a residential use especially if you want to open your windows in the summer. And that notion is further evidence by the fact that there's a, if you look to the sunset manor subdivision just a little bit further up the road, there are at least 4 lots, 4 available home sites that have been on the market for 2 ½ years. So, the desirability of building a new home in a location such as this is not ideal by any means so when you factor in the demolition costs, the fact that even if you are able to sell it, you're going to sell it for drastically reduced value based on median cost for new home construction in the area, and then the fact that you've got 4 other lots that honestly are situated similarly but not even as close as this subject property is to i90 and they haven't been able to sell those for 2 ½ years, I think it's pretty evident that in order to convert this back to a residential use is not going to be economically feasible in any way for them. So, on that basis I think we meet the first criteria in showing that they're not able to reap a reasonable return on trying to convert this for a residential use. The second issue again council eluded too and that's whether or not the hardship is unique to the property and does not otherwise effect a substantial portion of the district or neighborhood, again that's been established and if you look at the location of the property its right up against i90, there are other residential homes around it, but because of the way this lot is situated with a proximity to i90 as opposed to having you know some of the vegetative buffer that, that the other surrounding properties have, you know that could potentially buffer that noise from i90, it's a very different physical situation from the other homes and properties in the neighborhood and again that also goes to, back to the first criteria in order to achieve that kind of vegetative buffer that's another 10s of thousands of dollars in cost to make this a viable residential lot you know in order to install that kind of vegetation or sound buffer to make this a desirable residential location so those 2 criteria actually kind of tie together. Again the third criteria whether or not it will change the essential character of the neighborhood or have an adverse effect or impact on the physical or environmental conditions, in tis case we're tearing down a smaller building and putting up a building that's about 1000 SF bigger and that's really in terms of the physical change to the property the only real difference, the newer structure will be a little further front loaded on the property but again its going to be newer construction, its going to be in keeping with the construction of the amin building so aesthetically its going to look better than what's there now, and to kind of talk about some of the other criteria in terms of the use of that structure, again you know were in an odd situation, you know between the pandemic, and between the applicants issues at their other location on Main Street that had burned down some years ago, it's a bit of a catch 22, business is good, and they'd like to expand upon that but at the same time, again it'd be cost prohibitive to try and move the entire operation off site either to purchase or rent a new space because of the financial factors and trying to sell the property you know they would really only be limited to selling the property for another similar commercial use that could go into the existing structures, so it all ties together. And the reason I bring that up is because we are seeking to add 2 additional employees and to utilize that additional building but again the intensity of the use for outside viewers is going to be nominal at best, you know there would be one or two extra cars parked on site on any given day, and the use would be contained within the building that the whole purpose of constructing the newer slightly larger building, just to ensure that there is no impact visual or otherwise to the surrounding community by containing everything onsite in the building and making sure that that impacts if any is minimal at best, likewise with the showroom, as its been described, I think that's a bit of a misnomer, because this isn't like a typical business, you know like a say a flooring store or a home improvement store where they are going to be setting up you know mock kitchens, or things like that, and you know people could just be driving by and say hey you know we've been talking about re-doing the kitchen lets pop in there and you know see, see what our options are. That's not this type of business, any customers that come to site are usually existing customers coming to check on status of their order or pick up an order, you know likewise they don't advertise and to answer one of the questions

in your letter, no there is not going to be any proposed signage on either building in keeping with the original grant when the Baileys were here in 2006. So, to the extend that there is a quote unquote showroom, yes there may be some sample pieces in there for people to look at when they come in to pick up their orders or if somebody calls you know through word of mouth and says hey I, this is what I'm interested in doing do you have anything I can take a quick look at before I make a decision, yes that would be available, but the intensity of those visits and the frequency, its just, its not their business, its not what they're looking at, it's not what they want, um, you know so to call it a show room is really more, its really more of a glorified waiting room, with a couple of sample pieces. And uh, you know any of the board members should you not feel comfortable in approving the application are more than welcome to come to the property and see what they've got out there if you haven't already, I think it would be pretty evident that this isn't what you would typically refer to as a showroom, but again you know they do need that little bit of extra space in case you know the customers do have questions, but the vast majority of trips generated to the site, you know vehicles in and out, delivery vehicles that's really not going to change significantly if at all from what's there now, it's just a matter of having a little extra space to service their customers a little more quickly with some potential additional equipment and a couple extra hands, I mean that's really what it boils down to in terms of the request in front of the board in that regard so to be honest you will probably see more traffic trips from amazon post pandemic in the area then you're ever going to see generated by this use. You know the last criteria is always a tough one because no matter when you're talking about a variance area/use, there's always some kind of element of self-creation. But in this case you know I've been doing this 25 years and I think this is one of the best cases that I've got in showing that this wasn't a self-created hardship because we have a 30 year history of this property and a 30 year history of the Zoning Board acknowledging that this property in particular is not ideal for a residential use, and year after year through multiple applications this board has routinely and continually found that you know the commercial use of this nature is suitable for this location. So, to that extend you know any modification of the existing use variance in terms of self-creation the use as council mentioned is already there all we're trying to do is just make sure that the business continues to remain viable and to do so again, couple extra hands, little extra space, and that's, that's it in a nutshell. So, with that if the board ahs any questions we're happy to answer them.

Chairman Reinhardt- alright before I do and council correct me if I'm wrong, but your analysis was really based on the property being returned to a residential and the impracticality of that. I get all that, the use variance has already been granted, you're looking at a modification so shouldn't your analysis really be the modification of the existing use variance and going through the criteria for example, showing competent financial evidence on why you need the modification of the permitted use. I think we all get that it's close to the throughway, ad the cost of trying to get it back to a residential is astronomical ...

Mr Bonsignore- agreed.

Chairman Reinhardt- so, focusing on and I think we talked about this before on, maybe in a very generic way love having the business in Victor, its great but there's a time that a business, I'm not picking on this particular business, but sometimes businesses outgrow and they get too big and too good for what they're doing and they don't fit in that piece of property anymore, so back to my question then, shouldn't the analysis be on modification that you're looking for that you need to show competent financial evidence that'd be the first criteria that we need it tweaked here, and this is why, because fill in the blank.

Mr Bonsignore- yea, I, I actually gave that a lot of thought and I understand where you're coming from but when were dealing with the, when we're dealing with the statutory criteria it deals with the reasonable return for a permitted use. And you know it's a bit of a grey area because is this technically a permitted use. Well its only permitted by way of the use variance, so its not technically a permitted use, its one that had to get special dispensation from this board in order to operate, so you know we struggled with that analysis as well in terms of you know the economics of expanding the business here again I think its goes

to the overall criteria of insuring that the grant is the minimum necessary in order for them to achieve their goals, you know the business is expanding and they're comfortable with what's being proposed that they will be able to meet their customers needs on site without having a detrimental effect to the community and they're comfortable with the space that their seeking, and to go beyond that you know that would be wonderful if they could, but they're not at that stage yet, so the space that is being requested is more than sufficient right now for their needs in terms of any kind of expansion of the business or insuring that they're able to continue to meet their customers needs, so I know as a round about way of answering your question, but I ...

Chairman Reinhardt- let's get some questions, um Alexis you got questions?

Ms. Ogra- um, why did you reduce the size of the building?

Mr Bonsignore- it was two fold, like I said one of the reasons was because we withdrew the request for the accessory apartments, which would have been included in this building, so that alone reduces the size of the building and in reviewing the withdrawal of that request they reexamined the size of the structure and again to meet the criteria reduced it to what is pretty much the minimum that they need to accomplish their goals.

Ms. Ogra- and then I think at one of the previous meetings there was a comment about a neighbor and apple trees did you settle that issue? Neighbor who was concerned about ...

Ms. Bailey- she was supposed to come to that meeting.

Mr Bailey- she hasn't acknowledged \*inaudible\* sorry ... uh Kris Bailey, 650 Old Dutch Road, she, the neighbor we have contacted, she has not given us feedback we sent letters, I've talked to her, um I did show her after we talked about that, I showed her the line of the apple trees, its 15' back, she hasn't brought up any more concern to that, um we can replant stuff if that had to be in agreement, but I don't think it's a outlasting concern she hasn't been present in any of the meetings or sent in letters or anything so I'm not, I haven't gotten a voice of how concerned she is about you know the project overall.

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

Chairman Reinhardt- Lya, questions?

Ms. Theodoratos- with the reduction of the size of the building um, what at the May 15<sup>th</sup> meeting when it was going to be 7,488 SF, you had allocated approximately like 840 SF for the storage because the other was for the accessory apartments and then whatever hallways and other rooms were in there, so now that its going to be 3,840 are you anticipating storing more stuff in this building than you were originally?

Mr Bailey- the storage area is basically scaled down the same way that it was in the first proposal, its almost 2/3 storage with a third use for the business, the storage factor is more personal but its also you know overflow you know if we did have to get another chunk of it for business use later on, you know the buildings there, but ...

Ms. Theodoratos- so a lot of the storage is going to be stuff that you had in this old building that you plan on taking down.

Mr Bailey- correct.

Ms. Theodoratos- some person stuff ...

Mr Bailey- correct.

Ms. Theodoratos- and is it, is it going to be a, just like an opened storage, like an opened building kind of ...

Mr Bailey- it won't be completely opened, it'll have a wall between the 2 areas, to separate ...

Ms. Theodoratos- so it'll be like 2 rooms ...

Mr Bailey- business from storage...

Ms. Theodoratos- yea, and um, what other I know you'll have electricity in there, what other utilities do you plan on having in there?

Mr Bailey- we plan on having a bathroom over there.

Ms. Theodoratos- mhm. Okay. And I, I just want some clarification because I saw something in your letter Mr Wood. On page 2, item 2, it said the single residence, residential neighbor other than the Baileys home, I thought you sold the property?

Mr Bailey- yea, that should have been updated.

Ms. Bailey- that was an error.

Ms. Theodoratos- okay.

Mr Bonsignore- sorry about that. But you have actually hit on an excellent point, um when asking about the storage, again in terms of expanding the commercial use that's permitted under the use variance just because there's a construction of a new building, again as Kris just mentioned its not entirely for the business, so that's, you know by utilizing you said about 2/3 basically so, um you know the net increase in terms of business use is about 1,000 SF, give or take. You know, so again keeping the use, the proposal to the minimum necessary that they needed just for a little bit of overflow for the existing building, the remainder of it will be the same exact personal storage use as it exists now.

Ms. Theodoratos- okay, that's all for now.

Chairman Reinhardt- Matt?

Mr Nearpass- yea, my questions are similar along the lines of where Mike was going earlier in that, normally someone would seek a use variance and maybe or maybe not a modification because of some hardship, we and I, I wouldn't put business growth in the hardship, ever business obviously wants to grow aspires to grow, generally needs to grow, trying to figure out what those trip wires would be then for the modification versus an incremental use variance, I mean for example if they wanted their growth plan said we need 6 more employees, how would I weigh that differently than 2. If they needed 8 or 10, or 50, like what, what would be and maybe it's a question to our council as well is what really are those trip wires that would turn this from a modification to a well you know you're really asking for additional use, it is the same use, I am completely on board with that and I appreciate the debate we had earlier but it's the same use but it's a, um a larger footprint or a larger density of the same use on the same parcel, and I mean if the numbers here were all double or triple I think we'd all, you know you would have had the exact same pitch to us, right and probably our council would have said the same thing and we'd be going

well okay they're asking for 40 people, like how, and that's the, I'm just trying to understand what the trip wires are, like what would it ...

Mr Pavia- yea, I mean...

Mr Nearpass- I know we're in a grey area ...

Mr Pavia- if you look, yea you're in a grey area, if you look at the 5 criteria and the 1, the financial criteria, to answer the chairman's question, I believe that relates back to residential, the potential residential use of the property, if we were to remove this use variance, rescind it from them, to try to you know do a residential use on that property, the reasonable rate of return analysis has, it goes to that. It doesn't go to the enhancement of the use; it really still relates back to if they had to be forced to develop this as a residential use. Um, I think ...

Mr Nearpass- the current use is now an allowed use.

Mr Pavia- yea, it's a permitted use now.

Mr Nearpass- so ...

Mr Pavia- um, so, well it's not, it's a use variance that runs with the land, which is treated like a permitted use. Um, number 2 the alleged hardship I think it still goes back to the original assessment that was done by this board for the previous variance that they, that they uh had issued, as well as the self-created hardship. I mean as council has indicated for numerous times this board has determined that that has not been a factor that has prevented a use variance being granted. In my mind criteria 3 and 5 are really the criteria that you need to as a board assess this enhanced use that they would like to do on the property and that is if granted will it alter the character of the neighborhood or will it have an adverse effect on the physical or environment and again granting the minimum variance and um deemed necessary but also ensuring that and adequate to address the unnecessary hardship but at the same time ensuring that the character of the neighborhood is preserved and protected as well as the welfare and safety of the community. To me, 3 and 5 really appear to be the kite, the factors that stand out the most in this boards assessment of the variance being, the enhanced variance being requested. And of course, and you know this already, although area variances are not, are exempt from SEQR, use variances are not. And the applicant has provided a SEAF so this board will have to make a SEQR determination as well, which also requires this board to think about the potential adverse environmental impacts that might result form the enhanced use.

Mr Bonsignore- I think you just kind of touched on one of the important points and one of the reasons why we went back and examined the financial criteria, um with respect to the residential side of things is because under the, under the terms of the code its whether or not under the regulations, well the regulations say that this should be residential and that's, that's why we went that direction juts as you kind of indicated here, um because that's what the code requires, requires of us. That's what the code requires us to analyze so that's we did that and again in terms of, of the use you know the, the 2 employees and a little bit of additional space you know the net effect is nominal at best, again we're doing a new, new building that's nicer, newer, still maintaining the, the residential storage use, you know so we, we've tried to kind of craft everything to make sure that we, we kind of press all the buttons if you will.

Mr Nearpass- I'm with you on that and I, you know after the discussion tonight and the removal, I'm, I'm on board with, with the way this is now, what I'm just trying to understand is well what if in a year you need 4 more employees, I mean, it is possible, it happens all the time with our, you know commercial

areas, you can outgrow your site, at some point you may be successful enough that its like I either need another site or I need to move and expand into a larger location, um ...

Mr Pavia- so, I think at that point, you as a board have to determine is it so big now that it's completely out of character of the neighborhood. Is it beyond the scope of the minimum variance ...?

Mr Nearapss- okay, almost every, every ask. Every time ...

Mr Pavia- its, is it going to create a potential impact to the environment and the safety of the community. That, you may determine as a board at that point if they come back and they want 20 employees, say no, we now determine you don't meet that, those factors outweigh the fact that you still have financial hardship, you still have, and that doesn't mean that they're use variance goes away, it just means they cant have a 20 employees, they've got to keep it at the level that they have now. Which ultimately may result in them deciding alright we're so big now we got to get out of this property we have to go somewhere else.

Mr Bonsignore- and that's one of the reasons why I mentioned you know amazon deliveries, you know for better or worse, we're living in a brand new post pandemic environment where a lot of people are having their food delivered more often, they're having their groceries delivered, they're having all of their retail purchases delivered, so you know I, obviously I don't have exact numbers, but I think we can all agree that there's been a pretty substantial increase in those types of deliveries in the residential areas and you know if you look at the documentation that Revolution Real estate presented I mean you see the extent of the other residential development in the area to the east of the school um and further down the road, so you know the, those trips, I, the addition of 2 employees here and any potential customers is going to be far, far outnumbered by you know the trips in the neighborhood generated by ...

Mr Nearapss- and I don't think the debate has ever been about the 2 employees, I think the debate has generally been about is it, do you have to prove the incremental ask, like Mike was saying in addition to the use variance or are you comparing it to the original residential use um, going forward.

Mr Bonsignore- yea, use variances are an odd beast, yea and its all statutory so that's why it, and trying to, trying to maneuver those waters and deal with the financial hardship, I mean that's easily the most difficult criteria generally to prove when you're trying to do that and the self-creation are always the hardest when you're trying to establish a use variance, so um, I think when you view this in the aggregate, birds eyes view, however you want to describe it and looking at the history of the property, the fact that its been determined time and time and time again, through multiple applications that you know the financial hardship has been met for the use then it becomes you know a subjective determination as to where we go from there.

Mr Nearapss- agree, it was much more difficult before when there was actual residential use being proposed on the site ...

Mr Bonsignore- yea.

Mr Nearapss- so, I, I'm good, no further questions in my mind, I don't think we've crossed any trip wires.

Chairman Reinhardt- Fred?

Mr Salzburg- well I was wondering what the showroom was, then you described that, its almost nothing, a countertop ...



Chairman Reinhardt- really for, you know what for personal, personally I can, I've been in the showroom, lets call it a showroom for now, as a customer you walk in and there's a counter, there's a few items that um, that show their product but certainly not um as I think you were using the example of flooring, its no where near that, there's a countertop, you go in, this is what Id like, there's a few computer screens, and if you, most of the time I think their conversation happens when it's like well this is what id like, oh let me show you the graphics, okay, and you come back and they may show you a sample of, its not the typical if you will showroom, its not a car showroom, its not a tile, its not flooring, its not any of that. Its juts a space I think where customers come in and out of, and they're not there very long, they know what they want and they're, at least in my, my experience was there but ...

Mr Salsburg- the 2/06 variance uh, says it would not contain a showroom, and on the letter of intent it didn't say anything about a showroom, then there was a letter from DDS outlining the variances and it showed up as a variance requirement, is it still? Is the showroom still ...

Chairman Reinhardt- yea, I think ...

Mr Salsburg- is the showroom still listed as and there's nothing to it ...

Mr Bonsignore- yea, the question ...

Mr Salsburg- why don't we just take it off.

Mr Bonsignore- the question was presented to us because of the nature of the space and in airing on the side of caution I think between the applicants, DDS, your office it was determined that, okay look if we're doing this, we should address this just to kind of put the issue to bed. Um, so ...

Mr Salsburg- just trying to comply with the least variance possible. That ought to be an easy one to eliminate.

Mr Nearpass- who called it the showroom? Did we call it a showroom at first, or did you guys call it a showroom first?

Ms. Bailey-*\*inaudible\** I didn't see anything mentioned about a showroom, but I think our old website ...

Ms. Downs- I just, I cant hear you while you're down there, I'm sorry.

Ms. Bailey- that's okay, Hi, Rhonda Bailey. I think our old showroom was on our old website, and it showed actually pictures of Mian Street and I think that's where Lya got that showroom look from because we don, we no longer have that storefront. So, the new one, in 2017 when we built it, I don't think we ever, it's just an entrance way, we never really labeled it a showroom, so I don't know where their room showroom came from.

Mr Nearapss- but we don't have, so the word showroom doesn't have to be in the use variance.

Ms. Bailey- I wish it wasn't, but ...

Chairman Reinhardt- I, I, but I think to, not to be argumentative, you have products in a room with customers come in, that are, show people uh, I think one if I recall right, it's a big banner that uh grads like, or parents of graduates like to use to put on the lawns ...

Ms. Bailey- that was actually our lawn sign that said congratulations 2020, which is still there.

Chairman Reinhardt- okay ...

Ms. Bailey- It's just ...

Chairman Reinhardt- so, so the ...

Ms. Bailey- somebody picked it ...

Chairman Reinhardt- there is some ...

Ms. Bailey- up and ...

Chairman Reinhardt- there is some display albeit minimal of the products that you provide is it, all inclusive no its not, I, it may be, but half a dozen at best of the kind, its just little table that was there, so it, it's got to be called something ...

Ms. Bailey- it's got to be called something because I don't dust it very often either so, it doesn't get touched, its more, you put a plant there a couple things there, some trifolds, like we print trifolds and we have a couple, but ...

Chairman Reinhardt- alright, so the ...

Mr Bonsignore- again, its, it's a glorified counter, where I mean they needed something to, to have their customers come in and pay or look on a computer screen as you mentioned to look at graphics, and things like that, so you know to that extent if there is any true concern or issue with it, I'm sure we could agree to a restriction that it wouldn't be expanded beyond ....

Mr Bailey- I just have a question, I guess my question, regarding the showroom is, is more traffic going on, right, you perceive a showroom as a catch all to, you know people going by, hey let's stop in, like you alluded to earlier, it's not a showroom you're driving by and say hey there's flooring lets go on, it's a, it is a, this is a place that someone walks on and we do want it nice, I mean we, we try to do everything high end, in the front of our building so that its we're selling products, so it is, kind of what it's you first the first 7 seconds you walk into a room, you get exposed to you know ...

Mr Salsburg- like a sample display ....

Mr Nearapss- yea like a client briefing ... I'm look, you walk in your doctors office, right and there's pictures and flyers and you walk, you know there's a, if it's a chiropractor like I go to, there's the skeleton, there's all that stuff, right and I wouldn't call that a showroom, Id, maybe like a, sometimes they use it to explain things to you and maybe its more of a customer briefing area or something to that effect but I'm, I'm just, I was trying to get, if we called it the showroom, then just tell us its not a showroom, it's something else, if you called it the showroom, then, I'm just trying to figure out why you called it a showroom, because you're right it does have that impression that ...

Mr Bailey- to me, its another like grey area, I mean, we do have a place that we make nice for people to come in and have an entrance area, um ...

Chairman Reinhardt- I think the general ...

Mr Bailey- how extensive you get for a, what every product that's up from, you know ...

Chairman Reinhardt- I'd like to at least the way I'm looking at it, it's to the number of employees that you've both said, it's like you are trying to um, work your way into semi-retirement get a couple of other employees, so this is the number of employees going from uh, what do you currently 7, you want to go 2 more, um, that's not my bug a boo. Calling it a showroom/display room that's not my bug a boo, I'll be honest with you, the bug a boo I have, even though you've reduced the size of the new structure, to half and I think this is now the second time I've heard it, you're going to use 2/3 of the building for personal use, now you're mixing in a, we'd like to expand our business, we need some extra space for and I want to keep going in there, but for your storage, for business, but now you want to put things, co mingle it with your personal stuff, but ride on the coattails of a use variance to make it bigger, so it almost invites the problem of our code enforcement officer saying well if its only going to be used for 1/3 business, then our code enforcement officer has to keep poking his nose in there or her nose in there, and say oh you're well beyond 1/3, you're using it more than what you said you were going to use it for, you understand my, what I'm concerned about is, is that mean what you say, say what you mean on asking for a use variance because your business is growing, good thing, you need some modification, not huge modifications, again tweaking a little bit so you can stay there, but now to throw in the person stuff in there is a big ask.

Mr Bonsignore- well, I, I view it a little differently because they already have the ability and the storage facility for personal use on site as it is, so the, that square footage of the personal use effectively really isn't going to change, you got about you know give or take maybe you know a few square feet here or there but you know that personal storage already exists, its approx. 2400 ...

Mr Salsburg- are you referring to the old garage?

Mr Bonsignore- correct.

Chairman Reinhardt- I understood that nothing is in there and it can't be used, and it needs to be knocked down.

Ms. Bailey- well the building needs to be knocked down, that's what we want, want to upgrade the building to make it better, um everything that's in there has to go somewhere, there's no electric to that ...

Chairman Reinhardt- what's the square footage of it?

Ms. Bailey- what's that?

Chairman Reinhardt- what's the square footage of the building that's going to be knocked down?

Mr Bonsignore- its about 2400 SF.

Mr Bailey- 20 x 60, 2400.

Chairman Reinhardt- 2,400 SF?

Ms. Bailey- yea.

Mr Bonsignore- and as Kris mentioned, you know in terms of comingling or interspersing personal use with the business use, um, there is going to be a dedicated wall and segregated space. So that was, again another consideration to make sure that the business use was holey sperate and again you know trying to minimize whatever the, trying to minimize the request to that extent so, you know, they're looking to

improve what they have for personal storage and add a little bit of extra space that's going to be segregated from the personal use ...

Mr Nearapss- no new things will be added to the personal storage, its only things that are in the existing garage? Or the existing barn? ...

Mr Bailey- currently, yes. I mean as you obtain stuff in life, I mean that's kind of a benign question, I think ...

Chairman Reinhardt- but, Matt, jumped, its fine but are you willing to put as a condition that if the board grants the modification of the use variance that business space of 1/3 of 3,840 Sf is going to be used for business, if it exceeds and starts to go into your personal space, you're going to be in violation of that use variance modification. Is that fair to say? --- Maybe you should ask council that, or he should ---

Mr Bailey- no, it is fair to say, is it also fair to say that we could come back to council and say, we need a bigger chunk of ...

Chairman Reinhardt- that's right ...

Mr Bailey- for business use.

Chairman Reinhardt- and if that's the case, then you got to come back for another use variance modification to go into that personal space. You can't use ...

Mr Bailey- correct.

Chairman Reinhardt- because I, what you're telling this board is, the 1/3, 2/3 split 1/3 being for business, 2/3 being personal, that how you're painting the picture, and if the board grants the variance, that's how they're looking at it, but if at some point down the line it turns out to be that you're using the entire space for business, you're going to be ...

Mr Bailey- not complaint ...

Chairman Reinhardt- in violation, and council am I right on the way ...

Mr Pavia- yea, I think if that's a condition that you're going to put in the use, expanded or modified use variance, yea that would be a violation.

Chairman Reinhardt- okay.

Mr Pavia- I think you're also telling him Mr Chairman, correct me if I'm wrong, to go talk to your council and if you do want the business portion of that storage to be increased, then come back to this board and show that you're taking half of that space for business, that would require a modification of the application before the board. If you're concerned about not having or outgrowing the allocated share of the storage for business. The current allocated.

Mr Bailey- okay. Yea, I think you missed the beginning story and I'll just recap, the building that we're um putting up right now, that we propose to put up, we have a vehicle bays that we do installations and stuff, so we have to pull inside our vehicles and that eat up a lot of floor space in our, in the larger building, our production shop, so if we can pull those vehicles out and do it next door, we can, we have more floor space that we can put machinery in and just spread out tables of laminate and stuff that were a

little tight with the space, so this is going to give us a lot of room, on our current production room by saying that it's a 1/3 um, because its still going to be a bay that's 20 x 65 deep, so it, it's going to I've us, so you've got 40 x 65 and 20 x 65, so the 40 x 65 is basically the same size as the building that is on there, so we're adding 25' basically and that's going to be what the business is going to use, so its very similar to how everything is used now, except the one bay is where we'll gain the 25 ...

Mr Pavia- I think what I understand the Chairman saying to you though is, if you want to rethink taking only a third of that building for business and actually take more of it, now is the time to put that before the ZBA and this board for consideration as part of the modified use variance application.

Mr Bailey- okay.

Mr Pavia- otherwise to the Chairman's point if you leave it this way and then the code enforcement officer comes out and starts seeing you know business stuff on the personal side of the storage then you'll be technically in violation of the variance.

Mr Bailey- correct, I understand that.

Chairman Reinhardt- again, for, in my mind if you use the entire building the new proposed building for business purposes potentially there's an argument to be made, you're going to change the character of the neighborhood, but you're putting, you're using the business bigger than um, what you are, are proposing you're going to do. Right, and to Matt's point before asking for 2 employees is far different than asking for 50 employees. That's going to change the character of the neighborhood, now that's you know my look on it if you want to talk to council about it that's fine, um, but let me just go down quick, Matt, do you have any thoughts about them using or putting a condition of 1/3 to 2/3 or if they use the whole thing for business, that's not a, as big a concern?

Mr Nearapss- its not as big of a concern, only because I'm, if you're going to sell the business, I don't, I mean the next person will have to come in front of us then, because I don't see how they're going to, you find the right buyer that's going to say oh I want to use 2/3 of this building for my own personal use and not for the business. So, in my opinion its, irrelevant, I mean we've kind of done all this I think for an extra 1,200 SF. For the business, and we've kind of converted the other square footage into a new, obviously new, newer facility, or newer building right, because you've demolished the old one, I'm okay with, with what they wanted to do under that, under that roof. As long as it was related to the business, I'm okay with it, business or, yea ideally would ...

Mr Bonsignore- I think we're of the same mind that if the board were to impose a condition that only 1 of the 3 bays in the new building is utilized for any kind of business use, we're okay with that condition.

Mr Nearapss- yea because to me the personal storage seems residential, right, I mean its, it's not like you're, it's a, you're in the business of storing stuff, and ...

Ms. Bailey- we own the house, we've owned the house, we bought the house in 2000.

Mr Nearapss- yup.

Ms. Bailey- so that all, all that stuff out there is 23 years old plus, so that barn is falling down so the initial idea was to ....

Mr Nearapss- yea I totally get it, and I'm kind of looking at it ...

Ms. Bailey- and I wasn't bringing anything from my personal house there, that's what I kind of felt like you made me feel like we were juts storing ...

Mr Nearapss- no, no, no, I mean its ...

Ms. Bailey- I mean personal stiff there ...

Mr Nearapss- I mean it's your stuff whether its in your house or stored off site ...

Ms. Bailey- yea. And the reason why we did drop down is we've had, we've talked about some other ideas too of where else we could you know drop the building down, no apartments that kind of stuff so ...

Mr Nearapss- it must be really important stuff because you're building a nice expansion to put it in ...

Ms. Bailey- well, we are locked in there, like you said someone would have to come back to you guys to decide to do another business there, so um you know that was my feeling form the get go too, was building another building that matched that one, it's a whole now. Because when Al, when I divided the land back before Al retired, he gave me some options of what I could do, and same with Adam, we've been talking for years about this really. This is before Al left, so now I'm just finally putting things in plan and trying to get approvals to see what we are allowed to do before we spend money with more drawings, lawyers and all that stuff too, so we went simple, because we think that's the best way ...

Mr Nearapss- to me, I'll, I'm okay if they, as long as its part of the original business use, I'm okay with 100% of the square footage because you know if they come in front of us, we'll have the same discussion, it'll be well there, they're not, unless you're going to add more people, but if we're not adding more people and you're just going to put more business stuff in there, there's, I don't see any incremental impact to anything, my opinion, so ...

Chairman Reinhardt- Alexis?

Ms. Ogra- um, just a question, if you're using 2/3 of the building for personal use, how is this a business expense?

Ms. Bailey- a business expense?

Ms. Ogra- how do you pay for this as a business if you're going to use 2/3 of it for your personal use? I don't ...

Mr Bonsignore- well its, I mean only 1/3 of it would be for the business use, so I mean are you asking how they're going to finance the construction?

Ms. Ogra- it just doesn't make sense as to how you would, yea I guess finance that if you're, you know you say building it all on a you know business property, then having 2/3 of it be for personal use, and the business is the one paying for the building?

Ms. Bailey- that's more of an accounting thing ...

Mr Bailey- yea, yea it is more of an accounting, but its also you know, if we put up a building and we only use part of it, you're still paying for that building as a business use. The accountant can look at it and say they can't write off something but that's going to be their determination of what we can and cannot do according to those laws, so we'll fall back to them when it comes to the accounting part of it, its, you

know we have to pay taxes as the business or however you guys you know do that end of it, but I don't, for accounting reasons um, Ill leave that up to the accountants.

Ms. Ogra- okay.

Chairman Reinhardt- Lya, questions?

Mr Bonsignore- I think I can further answer that question too, from an accounting perspective, I think, we have to take a little bit of a detour and C law, limited liability company law because the Bailey's are the sole members of the limited liability company so the company is effectively from a taxing perspective a disregarded entity and everything trickles down to Kris and Rhonda in event so, its whether, they write a check form the business account or their own personal account, its all the same.

Ms. Ogra- okay.

Ms. Theodoratos- another thing had come up about the lighting around the building because the code says it has to be security lighting.

Mr Bonsignore- yea, thank you for bringing that up, and I apologize I forgot to mention that earlier, there is no proposed change to the lighting, the lighting on the newly constructed building would be code compliant and for security lighting purposes only just as was required by the original modification that we did in 2006.

Chairman Reinhardt- any other questions?

Ms. Theodoratos- yea, that's all.

Chairman Reinhardt- Fred, other questions?

Mr Salsburg- nah, I agree with Matt, I think this is a, been seen by 2-3 boards, they thought it was good, so do I.

Chairman Reinhardt- where are we on SEQR, Adam? I missed the piece then on this board has ...

Mr Pavia- I'm sorry, uh they had submitted a SEAF, next step is for this board to go through Part 2 of that short form EAF, and part 3, and you will as a board need to make a SEQR determination prior to voting on the modified use variance application.

Ms. Downs- Frank, correct me if I'm wrong, but this does have to go before Planning Board also, would that be something that the Planning Board would do ...

Mr Pavia- no, I think the ZBA would typically take the lead agency, lead status, it's an uncoordinated review, so no other involved agencies would need to be required to weigh in on it. This board would just proceed on its own with a SEQR determination, typically when it's use and area variances the ZBA would be the agency that would conduct the SEQR review.

Mr Salsburg- just part 2?

Mr Pavia- you just, the board would have to complete Part 2 and Part 3 ...

Mr Salsburg- and part 3?

Mr Pavia- yea but this is a shirt form its much simpler review than a full EAF.

Mr Bonsignore- and I think this would be an unlisted action if I'm not ...

Mr Pavia- it is, I just unlisted action, uncoordinated review, um which means you don't have to coordinate with any other agencies, this board can proceed on its own and make a SEQR determination on the action.

Chairman Reinhardt- we have to complete that prior to making a decision?

Mr Pavia- yea, the Part 2 um, you know um Adam and I can work together and competing that and getting it to you guys to review and deliberate upon, um again its not like the full EAF, which is a far more extensive review.

Chairman Reinhardt- so the next opportunity we would have then presuming Part 1, part 2 are completed ...

Mr Pavia- part 1 has already been done by the applicant.

Chairman Reinhardt- excuse me, part 2 and part 3 ...

Mr Pavia- yea.

Chairman Reinhardt- once they're completed then we can make our determination.

Mr Pavia- correct, then you can make you SEQR determination, that completes SEQR.

Mr Salsburg- can you rip it off while we're sitting here waiting?

Mr Pavia- I don't have a part 2 and part 3 in front of me.

Mr Salsburg- okay.

Mr Pavai- I think it's, I think the best thing to do is, you're not, this board wasn't in a position to take a vote tonight on this application, or were you?

Mr Salsburg- I was.

Mr Nearapss- I think we were.

Chairman Reinhardt- I think we were because ...

Mr Pavia- well ...

Chairman Reinhardt if they're um ...

Mr Pavia- unfortunately, you can't.

Chairman Reinhardt- right. So that's ...



Mr Pavia- so, I apologize Jim and the applicant but uh ...

Chairman Reinhardt- at least we figure out um ...

Mr Pavia- at the, when is the next ZBA board meeting?

Ms. Downs- September 18<sup>th</sup>.

Mr Pavia- September 18<sup>th</sup>? You can definitely put them on an agenda number item number 1 for the 18<sup>th</sup>, we will have the part 2 and part 3 completed before that meeting, we will have a resolution prepared that will have the SEQR assessment as part of it, uh I think Amber, correct me if I'm wrong, this is your standard resolution? --- We'll just take this and plug in the SEQR part of that and then on the 18<sup>th</sup> the board can consider the part 2, part 3, the board members can consider the part 2 and part 3, deliberate upon it and then consider the resolution for a vote.

Chairman Reinhardt- okay, so I think to let the applicant and council know, um on whether or not um we would have been prepared to make a vote or whether you prefer to send it back up to the county to remove the super majority piece, so Fred are you comfortable then, this would be, we're looking at the number of employees, the showroom as it exists, we don't necessarily know what to call it, and the size of the building and its use, I think that, those are the modifications that are before us ... but you're comfortable as in the facts we've heard so far?

Mr Salsburg- yes.

Chairman Reinhardt- okay, Matt?

Mr Nearapss- yep.

Chairman Reinhardt- Alexis?

Ms. Ogra- I'm not sure.

Chairman Reinhardt- not sure, alright. Lya?

Ms. Theodoratos- yes.

Chairman Reinhardt- you're comfortable? Um, I'm comfortable at this point, alright and this is a holding onto the let's have, let's take a, look at what SEQR is but, so with that in mind, uh are you comfortable then with proceeding forward or sending it off to the county because if you do send it off to the county you're not going to get back here until ...

Ms. Ogra- the 18<sup>th</sup> I thought.

Chairman Reinhardt- November 6<sup>th</sup>.

Ms. Downs- so you wouldn't be on the county meeting until October 11, because we've missed the September deadline at this point, um so you'd be on the October 11<sup>th</sup> meeting for the county, we go back down to one meeting a month so you wouldn't be back before us until November 6<sup>th</sup>.

Chairman Reinhardt- I would even suggest, even if you wanted to talk to your clients tonight and I think if you let us know by tomorrow, um, we can do that, on which way you want to go, just let Amber know ...

Mr Bonsignore- I think based on the smiles and nods I'm getting from these 2, that you're, you'd like to proceed?

Mr and Ms. Bailey- we would like to proceed, yes.

Mr Bonsignore- I, I think based on, based on what you've just told us and the information presented perhaps I can suggest we leave the public hearing open in case there are any other questions that gives us an opportunity to submit anything else that any of the board members need or council might need in terms of making that final determination and then, and then we can proceed to a vote on the 18<sup>th</sup>.

Chairman Reinhardt- that sounds fine.

Mr Pavia- so, I'm sorry I wasn't aware the public hearing has not been closed?

Chairman Reinhardt- yes.

Mr Salsburg- that's all we do is public hearings.

Chairman Reinhardt- anyone from the public want to speak for or against the application? ---

Mr Pavia- we'll close the public hearing on the 18<sup>th</sup> before you proceed.

Mr Bonsignore- that's what I was suggesting, yes.

Chairman Reinhardt- yes, I think all the other, oh I don't know how many times, it was the applicant who had asked for it to be tabled, to sort things out with council. Alright, we're all good, everyone's good? Questions, comments, concerns?

Mr Bailey- one concern, on the 18<sup>th</sup>, are we talking about tabling to the 18<sup>th</sup> now?

Mr Bonsignore- yes.

Mr Bailey- okay, we have a, our daughter's wedding is on the 16<sup>th</sup>, and we have tons of people in town, so the 18<sup>th</sup> is going to be a stressful ...

Ms. Downs- the meeting after that is October 2<sup>nd</sup>.

Mr Bonsignore- yea, that's why I suggested leaving the public hearing opened in case there are any additional questions that we can answer ahead of time and then that way to relieve the stress on the Baileys I can appear on the 18<sup>th</sup>.

Mr Pavia- but it sounds like your applicant is not going to be here on the 18<sup>th</sup>, so are you sure ...

Ms. Bailey- we can, we just ...

Mr Pavia- council, you sure you don't want them to close the public hearing tonight? If they're willing to do so?

Mr Bonsignore- I guess to that end if there's any other questions or information that any of the board members might like, if they could let us know and if there's not then I don't have a problem closing the public hearing ...

Mr Pavia- but just because the public hearing has been closed doesn't mean it forgoes them from asking additional questions ....

Mr Bonsignore- yea, yep. That's fine.

Mr Pavia- and by the looks of tonight it doesn't appear ...

Mr Bonsignore- I don't think we're ...

Mr Pavia- there's been a lot of active public engagement.

Mr Bonsignore- no, I, on that basis, I'm fine closing the public hearing this evening.

Chairman Reinhardt- then that's what we'll do. Board comfortable with that? Yes, yes, yes, sounds like a plan.

Mr Salsburg- and maybe someday this application will go away.

\*laughter\*

Ms. Bailey- it's been since April.

Mr Bonsignore- no, that's why they brought me in from the bull pen.

Chairman Reinhardt- okay, great.

Mr Bonsignore- thank you very much I appreciate your time.

Chairman Reinhardt- thanks for your time. Supervisor Kahovec anything for us?

Mr Kahovec- supervisor? Don't put that on me.

Chairman Reinhardt- no, alright how about ...

Mr Kahovec- Home Town Dyas on Saturday and Babette's presentation on Historic barns of Victor.

Chairman Reinhardt- very good. Adam, you are good, Adam, we're all set. Motion to adjourn.

On a motion made by Mike Reinhardt and seconded by Alexis Ogra the meeting was adjourned at 8:45pm.