

## **Zoning Board of Appeals**

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

### **TRANSCRIPT OF THE BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING HELD JUNE 15, 2020**

PRESENT were ANN CLEMENTE, CHAIRPERSON, MARTIN STEINBACH, E. JOHN SCHMIDT, WILLIAM SHOVER, and PATRICIA CURRAN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Pat Poletto: Good evening. I think you have a quorum.

Chair Clemente: Well let's begin. I shall call this meeting of the Zoning Board of Appeals open. I welcome the public and invited guests. Should begin by saying the Pledge of Allegiance?

**[Pledge recited]**

Chair Clemente: Thank you very much. We'll begin by reviewing the agenda as posted on the website....

Pat Poletto: Before you do that, we're holding this meeting as per Governor Cuomo's Executive Order for us to hold our meetings over the internet. To facilitate that this runs smoothly with as little technical issue as possible, we're asking for the following: when not speaking, please mute your audio, because as you heard a couple seconds ago there was a lot of vibration in the background from somebody's computer. When you speak, before you start, please state your name and for the record if you're talking at a public hearing, please state your address also. You are encouraged to use headphones, in particular with a microphone so that there's really no feedback created. And if there's two of more of you watching the meeting in the same room, make sure one person has the audio on. Those are the rules. Back to you, Chairman.

Chair Clemente: Thank you very much. We'll call roll for the Zoning Board members. John Schmidt?

Member Schmidt: Here.

Chair Clemente: Martin Steinbach?

Member Steinbach: Yes.

Chair Clemente: Bill Shover?

Member Shover: Here.

Chair Clemente: Patricia Curran?

Member Curran: Here.

Chair Clemente: Regarding the minutes, the Governor's Executive Order permitting remote meetings requires that a transcript of the meeting be prepared. This transcript is currently being prepared. When it is completed, it will be sent out. Our first item of business on the agenda is to open a public hearing on the applicant, Kyle Smith, 1692 Route 7.

Chuck Golden: This is the Building Department. We do have a continuation of the public hearing, I wasn't certain when that was going to be put in.

Chair Clemente: So are you talking in regards to the Currier application?

Chuck Golden: That is correct.

Chair Clemente: Right, so I can review the agenda at this time and would you like to do that?

Chuck Golden: That would be fine.

Chair Clemente: So we would start with that public hearing that's still open, that's at 9 Bleakley Avenue, Lynn Currier is the applicant. We have four public hearings after that: Kyle Smith at 1692 Route 7, Frederick Stafford at 681 Farm to Market Road, Usman Rashid, 74 Bellview Road, and then Linda Knight at 559 Lansing Road. We have Blue Sky Towers for a use variance on our agenda tonight, and under new business we have three applicants; Messia/Property Revolution LLC seeking an area variance at 1 Shafter Avenue. Alicea seeking an area variance at 24 Goodman Avenue. And lastly Breen, an area variance at 42 Humiston Avenue. So we can continue with the 9 Bleakley Avenue public hearing that was opened at our last meeting.

Attorney Gilchrist: Just a point of procedure, we did as the Zoning Board, notice the Smith area variance application for public hearing to commence at 6, the Stafford public hearing at 6:15, Rashid public hearing 6:30, and the Knight application at 6:45. We listed the Currier area variance public hearing to be continued thereafter at 7. That's how the agenda was noticed on the Town website.

Chair Clemente: Thank you for that correction. Alright, Mr. Smith.

Kyle Smith: Hello.

Chair Clemente: Hello, welcome tonight. Glad you're here with us. So this public hearing we have a notice. I can read that if you'd like, or Attorney Gilchrist if you would like to read that into the record, that's your prerogative.

Attorney Gilchrist: I'll read the notice of public hearing. Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals at 6:00 p.m. on Monday, June 15, 2020, concerning the application for area variance submitted by Kyle Smith for property located at 1692 New York State Route 7. Applicant seeks approval to construct a new home on property at this location, resulting in an accessory structure being closer to the front lot line than the primary structure. Pursuant to the Governor's Executive Orders, the Town of Brunswick

will be holding the June 15, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the June 15 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. And this was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of properties within 300 feet of the project site.

Chair Clemente: Mr. Smith, have there been any changes or additions to the application materials?

Kyle Smith: No.

Chair Clemente: Could you kindly present a brief overview of the project?

Kyle Smith: Yeah, just looking to build. Currently we're living in a small living space inside of what will become the accessory structure. We're looking to build a full-sized home in the back. We're fortunate enough to have 75 acres, I think you can see it up there. The new home will not be visible from the road, it will not change what anyone sees driving by, just currently in a one-bedroom living situation which is not working for us.

Chair Clemente: Thank you. So right now the Zoning Board will open the floor for receipt of public comment. Asking if anyone would like to speak for or against this application. And if the speakers could kindly identify themselves. At this time, if anyone from the public would like to speak for or against this application, you're invited to do so. I'll ask the Building Department. Is the Zoning Board in receipt of any written comments on this application?

Chuck Golden: There have been no written comments received on this application.

Chair Clemente: Thank you. Are there any questions from any of the Zoning Board members for Mr. Smith?

Member Shover: I have no comments.

Chair Clemente: So hearing no public comment, I would entertain a motion to close the public hearing.

Member Schmidt: I'd like to make a motion to close the public hearing.

Chair Clemente: Thank you, Member Schmidt, may I have a second?

Member Shover: I'll second that motion.

Chair Clemente: Thank you, Member Shover. All in favor of closing the public hearing?

All members: Aye.

Chair Clemente: Thank you, we'll continue. If the Zoning Board members are prepared to deliberate and act on this application. I do want to point out, Chuck from the Building Department, you sent out Chief Drinkwine's driveway recommendations, and was the recommendation that, for a driveway in excess of 500 feet in length which does not exit from a fire apparatus access road or public street, a turnaround must be provided suitable for use by fire apparatus?

Chuck Golden: That is correct.

Chair Clemente: And then also discussed were the dimensions of the turnaround and its construction stability.

Chuck Golden: I will forward a copy of that to Kyle.

Chair Clemente: Also to note before we deliberate on the elements, there was a review by Rensselaer County Planning Department and it was determined that the proposal does not have a major impact on County plans and that local consideration shall prevail. I just want to thank the Building Department for putting that together. Thank you very much. So if the Zoning Board members are ready, we can begin by looking at the first of the five elements. That is, explain how no undesirable change will be produced in the character of the neighborhood nor detriment to nearby properties created by granting this one area variance. And, again, just to state the one area variance being sought is accessory structure that is closer to the road than the proposed new construction on a primary structure. So I guess I'll begin by saying that there would be no undesirable change produced in the character of the neighborhood. This is a residential neighborhood near busy Route 7, it's set back into the property on well-treed lot. I don't believe that there would be any detriment to any nearby properties. OK we can move on then. Our second element is to explain why the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than the area variance. I think that if you look at the configuration of the property and the buildings on the property, it's a location that the applicant has chosen which makes a lot of sense. I don't see any other method at this time that could feasibly be chosen.

Member Shover: And I think if he tried to build in front of the garage, closer to the road, he wouldn't have room without a variance for setback. It would be too close to the road.

Chair Clemente: I agree with that. Also we need to describe whether the requested area variance is substantial. I'd have to say no, there's a lot of acreage here. I think what is being requested is not substantial. Ok and we will explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district. It's construction of a primary home, I'm sure it's being done under all the guidelines and requirements of the Town Building Codes, so I would say no to there being an adverse effect on the physical or environmental conditions. Explain why the difficulty is self-created. Well, sure, the applicant has stated why he's doing this. Of course the consideration is relevant, but does not necessarily preclude the granting of the area variance.

Member Schmidt: It's also self-created because I remember when he built that garage, he came before the Board for a variance to build it before he built his house. So he planned all along to build his house back further than the garage.

Chair Clemente: Right. Well thank you, Member Schmidt, for that historical perspective. If there is no further deliberation by the Zoning Board members, we can consider the balance between the benefit to the applicant as weighed against any detriment to the community at large and the neighborhood in particular, whether or not the Zoning Board should determine to grant the requested variance.

Member Schmidt: I'll make a motion to approve the variance.

Member Steinbach: I'll second.

Attorney Gilchrist: Chair Clemente, before you act on that motion, we will note for the record that this does seek an area variance for residential use and therefore constitutes a Type 2 action under the State Environmental Quality Review Act, and the second thing for consideration is, while not binding on the Zoning Board, the Zoning Board is in receipt of comments from the fire department on the driveway construction. And so the Board may want to consider that as a condition to any action.

Chair Clemente: And how would our consideration be in light of the Planning Board's, I guess because this application is not in front of the Planning Board, this information is for our benefit. Is that correct?

Attorney Gilchrist: That's correct, there's no need for any Planning Board review here. It's simply residential construction on the existing building lot. So the only action by the Zoning Board, well the action by the Zoning Board will be the only action other than Building Department Building Permit review.

Chair Clemente: Right, then just to go over that again, it was from Chief Drinkwine, he sought a consult by the Building Department in regards to the length of the driveway and then how that should be looked at. So, the Fire Chief did recommend a turnaround and for it to be built strong enough to support fire apparatus in all kinds of weather conditions. Are there any questions or concerns by any of the other Zoning Board members in regards to this recommendation by Chief Drinkwine?

Member Shover: I have no comment on that.

Member Curran: I have no comment.

Member Schmidt: I'd like to amend my motion to include the recommendation and have Chuck make sure that they do it before he gives a building permit.

Chair Clemente: So, just to clarify, that would be a condition that you would attach to your motion to grant this area variance?

Member Schmidt: Yes.

Chair Clemente: I guess a question to the Building Department...

Chuck Golden: ...regarding the fire access road? Current standards are that any road over 300 feet is considered a fire access road and when you get above 500, you get into another set of rules. And that is pretty much and you notice the numbers of Chief Drinkwine's email. That is pretty much what it was per their standards. We as a municipality have not adapted those rules for fire access roads so we take each application on its own merit and the final person who has the go or no go on this is the Fire Chief. He knows his equipment better than anybody. So we make sure that there's a site walk through prior to, just during the construction phase there is normally concrete trucks and everything else it has to be safe for, so the roadways put in as the construction access road obviously will double for the driveway to the structure. Usually those, for weight purposes, concrete trucks and fire department tanker are pretty darn close in weight. So, I'm going to say the underlayment of the roadway has to be good from the get go or you have headaches with all of your construction vehicles getting stuck as well. But the final approval is Chief Drinkwine and I will go up and take a look at that.

Chair Clemente: OK, so could we add that to the condition then? That the final approval is based on Chief Drinkwine's recommendation construction of a turnaround.

Chuck Golden: You certainly can do that.

Chair Clemente: And Member Schmidt, is that agreeable to you?

Member Schmidt: Yes, I'm good with that.

Chair Clemente: So we have a motion which has a condition attached to it. Is there a second?

Member Shover: I'll send that motion.

Chair Clemente: All in favor?

All members: Aye.

Chair Clemente: Alright, thank you.

Attorney Gilchrist: We're going to note for the record that, going forward on the votes on the applications, we should do a roll call vote just to make the transcript clear, but I'll note just for the record that all members of the Zoning Board approved the motion to grant the area variance subject to the stated condition.

Chair Clemente: Thank you very much. So, Mr. Smith, congratulations. We just ask you to kindly continue the fine work that you're doing with the hard-working Building Department going forward.

Kyle Smith: Thank you guys very much, I appreciate it.

Pat Poletto: I just want to remind everybody, before you talk, please state your name for the record.

Chair Clemente: Thank you for that reminder. Alright we'll move on to our second item on the agenda tonight, which is a public hearing. Applicant is Frederick Stafford at 681 Farm to Market Road. Attorney Gilchrist would you like to read the public hearing into the record?

Attorney Gilchrist: Yes I will. Notice of public hearing. Notice is hereby given that that a Public Hearing will be held by the Zoning Board of Appeals at 6:15 p.m. on Monday, June 15, 2020, concerning the application for area variance submitted by Frederick W. Stafford for property located at 681 Farm to Market Road. Applicant seeks approval to construct a wood barn to be located closer to the front lot line than the primary structure on this property. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the June 15, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the June 15 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of property located within 300 feet of the project site.

Chair Clemente: Thank you. Mr. Stafford, are you with us?

Frederick Stafford: I am here, can you hear me?

Chair Clemente: Yes, loud and clear. Thank you for joining us tonight. Mr. Stafford, are there any changes or additions to the application materials?

Frederick Stafford: No there are no changes.

Chair Clemente: Could you kindly present a brief overview of the project?

Frederick Stafford: Yes. This is an approximately 40 by 20 wooden structure that I'm going to call a barn because if I called it a garage, I'd feel like I was parking there which I'm not going to do. It's for storage and hobby wood working kind of things. I need a place to put my car out of the rain if I need to do some light maintenance on it. And I need a place to store my lawn tractor and rototiller, etc. to keep them out of view for aesthetic purposes. And that's about it. I don't intend on keeping any animals in there. I was just thinking about that because somebody asked me that. That's it.

Chair Clemente: Thank you very much. I appreciate that overview. The Zoning Board will now open up the floor to receipt of public comment. Anyone from the public want to speak for or against this application? You are invited to do so now.

Alice Busman: I'd like to make some comments if I could. I live next door to the 681 property. My address is 689 Farm to Market Road. I have some concerns and some questions.

Chair Clemente: You're welcome to speak.

Alice Busman: OK, on the application I did not notice what the height of this building was going to be. There's a cupola on top of the roof but is there a total height noticed anywhere?

Chair Clemente: If I'm reading the application materials correctly, I see it's proposed at 15 feet. And I'll ask for the Building Department, Chuck, if you can kindly confirm that, and then also the applicant who can answer that question. According to the submitted application, the proposed height is 15 feet, is that correct?

Frederick Stafford: Was that question directed to me?

Chair Clemente: Yes, if you could answer that.

Frederick Stafford: I don't have the plans in front of me. But they are on record.

Alice Busman: So do we have an estimate what the height is?

Chuck Golden: I will get you a number, Ms. Busman, in just one minute. Actually there was no height noted on the building permit application.

Alice Busman: OK then is there a completion start and end time?

Chair Clemente: So, generally, that's not part of the application, but perhaps we can direct that question to the applicant to find out that information. Mr. Stafford?

Frederick Stafford: That information is unknown at this time.

Alice Busman: Oh. I don't know that I feel comfortable with that. In the past, Mr. Stafford has done quite an amount of work on his property and I'm the one who I believe is most affected by this; I'm just a little bit further down the hill from his property. He has, for example last year, he was doing a lot of chain-sawing and such, which ended up being about 40-50 on average of chain-sawing each week, including weekends. And it could be seven in the morning, it could be all day, it could be until 9 at night, it could be virtually non-stop. I mean he's a hard worker but I had no peace, no quiet, no anything but falling trees and State property being cleared and this has, again, been nonstop and it's troublesome, I mean I live here too and I'd like some peace and quiet and I'm a pretty quiet neighbor. The normal lawn mowing and such but all that noise, all that work, everything and now if Mr. Stafford is going to be building this large building, I can't imagine. I really need to know or have an estimate, no one knows 100% but he's good at what he does and I thought he would have an estimated time of completion on how long, if you hired a professional, for example, a team would come out and put this whole thing together in a short amount of time and they would be done by four in the afternoon because I called people and they wouldn't necessarily work on weekends unless it was absolutely crucial. If Mr. Stafford does this building, I would really really like a promise of stopping at four in the afternoon and not killing every weekend with noise doing this project, which he says is aesthetic to him but it's not aesthetic to the rest of us in the neighborhood. Right now, it's affected the environment and the wildlife and it's a good idea if Mr. Stafford feels he needs it. He has a two-car garage, I just heard him a minute ago say he needs something to work on his car. But he has a two-car garage. But, regardless. Those are two big deals to me; the height with the cupola on top plus the beginning and the completion and the hours working on the project. And will this building take the place of a little shack on the opposite side of his driveway also, closer to my property. I'm wondering if that shack will go because the larger building would give him the space to put the things that were in the shack into the barn. So that was another question. What else was there? I'm also concerned, I mean at the moment in peak spring



and summer with the greenery and the leaves and flowers, whatever is left from not clearing the area, I'm imagining I wouldn't see that barn too much, but I definitely would see it. And if he gets approval for this variance, there's nothing stopping him from then cutting down more trees and then I'd be looking at this building just sitting there. I see two big bay doors, like he said to probably fix his lawnmower and the car or whatever, but I'm going to hear motors and chainsaws and circular saw and hammers and I don't want to live in the city when I've lived here for almost 40 years. It really is affecting the aesthetics of what the property and neighboring properties have been. I'm looking on the map, the sketch map, even with a 25-foot variance, I don't know, might that barn be able to be moved to the east, southeast, of his property which would be closer to his garage and then vehicles would be easier for him to go back and forth and it would be further from my property. There might be more buffer of more trees between the properties that perhaps I could keep a little bit more of my peace and quiet and he can still have his building for his hobbies and motors and whatever. This black and white map isn't exactly current. From what I understand, a lot more of the trees around Mr. Stafford's property, and again I might be reading this incorrectly, but a lot more trees around his home are gone. That tree line is gone more. So perhaps he could have everything he wants, just maybe a little different location and then I could be respected too with peace and quiet whatever. That was just a thought. A number of thoughts there. I don't know, there are other comments and things but I have been monopolizing everything. Any questions or concerns from the Board?

Chair Clemente: So what do you think your buffer is now? Between your house and property and this proposed site.

Alice Busman: Well, I believe that my property line and 25 feet, maybe my property line goes to a certain point. And maybe about another 25 feet I'm guessing past that is Mr. Stafford's driveway. And then on the other side of the driveway would be the beginning of this building. So it's not a huge distance away. And then plus the trees, I mean if any more trees go, even by just weather and age, or if Mr. Stafford needs to cut down more trees for his wood supply, there's going to be no privacy.

Chair Clemente: So you say the privacy issue, you asked about the shack, now you have some questions about the dimensions of the building, you're asking about a time table. Mr. Stafford, is there any information that you could give to us at this time? Could you kindly review from the diagram that you provided in the application, the dimensions of the building?

Frederick Stafford: I don't have the plans in front of me, I'm just looking at what you have displayed on the website and the dimensions of the building are actually displayed right in front of me. I assume in front of everyone else as well.

Alice Busman: Can everyone see that? It doesn't help.

Frederick Stafford: So the dimensions of the building are on record. As I said, there's something around 40 by 20...maybe 44 by 24 or something like that. Again I would refer anyone to look at the documents that have been filed for review by the public. And I didn't bring any plans because I didn't think that I was going to be making any changes to the structure at this point. The location of the structure is positioned with a mind to conceal it as much as possible from my neighbors. It's much closer to my neighbor to the south. And I could easily have put it very close to Ms. Busman's

property, but I wouldn't have considered doing that because I would want the same respect for myself. And so I put it where she has a difficult time seeing it. Perhaps she can see some of it in the winter with the deciduous trees missing leaves. In the summer months, it's quite concealed. Can you give me one second? I'm going to take my dogs out.

Chuck Golden: When Mr. Stafford gets back, I'll ask him about the cupola, but in that the Town takes its building height from the mean of the roof, which is halfway up to the peak. If the cupola was included, the cupola being 4.5 feet high, the height of the structure would be 19.5 feet. If the cupola is not included the height of the structure is 16 feet. Now as for floor area in Mr. Stafford's application, he has no length X width numbers. He simply has 1,152 square feet for storage area. The drawing package submitted is for if we will call this a kit structure. You know, when you have options of whether you're going to be putting a side building on or if you're just going to be doing the main structure. The numbers that I took were for the Applewood garage, which is design 417Y. When Mr. Stafford gets back I'll ask him...

Frederick Stafford: I'm back.

Chuck Golden: Hi. Are you planning on doing the cupola?

Frederick Stafford: I would like to have that option open.

Chuck Golden: It is open and your height would be 19.5 feet at that point. I was explaining to other folks that were listening that the height is taken by the mean of the roof, meaning midway up to the peak. So if you wanted to include the cupola, you would be able to. The physical size, length X width, was never put on the application. You have 1,152 square feet as your gross floor area, with no mention of length X width.

Frederick Stafford: Well they're in the plan. Those dimensions are in the plans that were submitted with the application. I'm not sure what the question is.

Chuck Golden: The question is that the plans I have are a kit, so my numbers that I took off for the cupola and such was the Applewood garage 417Y. Is that one that you are planning on doing?

Frederick Stafford: Yeah, that is correct.

Chuck Golden: OK.

Frederick Stafford: Wait a minute, can you give me those numbers again? You know, I'd rather not answer that unless I have my actual plans in front of me, because I don't want to make any mistakes quoting numbers that are inaccurate.

Chuck Golden: The floor plan shows a 20 by 24 structure, which does not come up to your square foot area.

Frederick Stafford: Um, 20 by 24, that's not...I'm including two shed additions on other end of it. I thought that was clear. And they're included in the plans.

Alice Busman: I thought it said 20-something by 40-something.

Frederick Stafford: Yes, that's correct.

Chair Clemente: So the plans that we have are the cider mill design 417F where it's 24 by 44.

Frederick Stafford: That would be correct. I'm having trouble...I'm just wondering why we need to go through those plans. I thought they were available to everyone, and I thought that was kind of a done business and that we were discussing the purpose or the reason behind the variance.

Chair Clemente: Well I guess my question for the dimensions was regarding the height. So just making sure that the height is within the required 20 feet. And the Building Department has come back and affirmed that with the cupola it would be 19.5. So that was the reason for my inquiry into the dimensions. And then using the submitted applications to find that out.

Frederick Stafford: Well this isn't a variance for the height of the building, isn't that correct?

Chair Clemente: So I guess at this time, in the process of the public hearing on this area variance, it's to gather information, it's to consult with the applicant, just to answer the questions that the Zoning Board members may have on this application. Because we have seen it but this is first opportunity to have to address the questions to you. So that is the reason for the questions that you're sustaining right now.

Member Curran: There is some discrepancy in what was submitted on the application. He's putting in a building that 44 by 24 but if you actually look at the dimensions that are on the plan that's in front of us, that says 24 by 48. So we just want to be clear what to make the corrections and know the exact size of the building that's going in.

Frederick Stafford: It could be 24 by 48. As I said, I don't have the plans in front of me. It's the plans that I submitted. If it says 24 by 48 on the survey, then I would defer to the plans themselves. I may have made a mistake on the survey.

Alice Busman: Because the plan that you submitted was 24 by 44. So you're saying that the dimensions on the site plan in front of us are not correct?

Frederick Stafford: I think I made a mistake. I made it four feet too wide.

Alice Busman: Mr. Golden, so that I understand, you're saying 19.5 feet counting the cupola, 16 feet not counting, but you don't go like in this picture that I have? See this lovely picture that I have?

Member Steinbach: We all have that picture.

Alice Busman: I know, but the 16 feet is counted from the ground up to halfway up the apex? It doesn't go actually up to the point of the roof? I just want to understand, this is new to me.

Chuck Golden: That is correct. This municipality measures it to the mean of the roof.

Alice Busman: Not to the apex. So it's even higher than 19.5 feet.

Chuck Golden: Oh gosh, yes. It has to be if the mean or average is 19.5, then the peak will be higher, yes. And I did it with a 4.5-foot cupola, which I took from the plans that were a quarter scale.

Alice Busman: So then we're talking another half of that, so maybe is it another, and again I'm just seeking to understand, from the mean to the actual apex of the roof, forget the cupola, that's another 7 feet, 8 feet, how much higher is that? Usually, normally.

Chuck Golden: Well it depends upon the roof sketch. This is your variable there. But in the case of the drawings that I measured, I had ten-foot of what you want to call clear attic from floor to ridge. Of course your collar ties come across internally, so that would drop your usable height and side down some, but....

Alice Busman: No, the inside is different. I was just worried about the actual mass of this building coming out of the woods nine months of the year. So from the ground to the apex of the roof, just estimating, would be 26 feet?

Chuck Golden: I had 26 feet, yes.

Alice Busman: And is the cupola copper or what?

Chuck Golden: I don't have anything on fabrication but it sure looks like it's wood-framed.

Chair Clemente: Interesting. OK, well if there are any other additional questions at this time, Ms. Busman.

Alice Busman: I could always come up with quite a number more questions, but rather than keep this meeting going so much longer, I'm wondering if I can go over my notes and what we discussed tonight and maybe get back to the Board at a later date, in a day or so, a couple days. I don't want to hold this up too long.

Chair Clemente: So, generally, the Zoning Board members would have to make that decision on whether or not to close the public hearing tonight and act upon this application, or to hold it open for receipt of more public comments. So I don't know if there's any indication that we've heard so far that the Zoning Board members would like to keep open this public hearing. I just wanted to check out with the public, are there any other members of the public who would like to speak for or against this application at this time, in addition to Ms. Busman?

Alice Busman: Well there were a couple people that were interested but one was specifically not computer savvy so that whole family said that they wouldn't be in the meeting. There were other close neighbors that had questions, and since I was going to be here I said that I would get as much information as I could in case they had concerns as well.

Chair Clemente: OK well thank you. I'm sorry that they couldn't join us tonight but thank you for taking that responsibility for your neighbors. So at this time, I'd like to query the Zoning Board members if they have any thoughts on whether or not they'd like to hold open this public hearing

for receipt of public comments or if they're ready to close it since we haven't heard any other comments from the public and then to proceed to deliberate. So I'm interested to hear what you think, are thinking.

Member Steinbach: I'm interested in continuing the process and reviewing the elements. I don't think we need to continue the public hearing.

Member Shover: I would agree with that.

Member Schmidt: I agree with that too.

Member Curran: I agree with that.

Chair Clemente: Thank you very much, members for your input. And then there also is time for our questions from the Zoning Board if we have any questions for the applicant at this time.

Alice Busman: So the questions that I came up with, like as far as the completion time, or the hours working on the building, the non-stop hours and hours all the time for months and months, I'm concerned about maybe losing another summer here from projects that Mr. Stafford has.

Chair Clemente: OK, thank you, Ms. Busman. I understand your concerns, I have them down. And part of the public hearing for the public to present their concerns and their comments, and I think you've done that successfully. So Zoning Board members have another option that's available to them and they could ask the applicant to respond to the public comments and questions that have been brought up. We could take these questions on ourselves as members asking of the applicant. But hearing a strong support to go forward with the process, I don't see where I would have the support to continue this public hearing and to keep it open for receipt of public comment. But please note that I'll bring up your concerns when the members how have the opportunity to ask the applicant questions.

Alice Busman: Mmhmmm.

Chair Clemente: Alright, so, are there any questions from the Zoning Board members for the applicant at this time?

Member Steinbach: I'd like to know if the applicant is aware that the Town, and the Building Department can correct me if I'm wrong, does have guidelines about hours dictated by the Town with respect to construction?

Frederick Stafford: I was not aware of those guidelines.

Member Steinbach: Mr. Building Department, Chuck, am I wrong? Am I imagining that or what?

Chuck Golden: I have heard times of operation being considered for PDDs and larger developments. We do not have anything in our current Zoning Law that dictates the hours of non-emergency construction.

Attorney Gilchrist: I'll confirm that. In general, Member Steinbach, under the Zoning Law of the Town, that there are no particular restrictions on construction hours. There are, as the Building Department stated, larger projects such as Planned Development Districts the Town has imposed construction hours, but in general there's nothing in the Town Code addressing construction hours on projects.

Member Steinbach: Thank you for clarifying that. Applicant, do you have any intention of working seven hours a day or long hours on this project. I need some clarity on that because I do respect your neighbor's concerns at this point.

Frederick Stafford: I respect my neighbor's concerns as well. And I would only ask her to do what I would want someone to do. I would only expect her to ask of me what I would ask of her. And I had previously contracted with someone to build the structure and I don't know I've made efforts to contact this person. He's a contractor, and he just works regular hours, and I'm assuming he'll work during daylight hours. But in terms of when it will start. It will start as soon as I can get him back on the job, or on the job. He has other work I assume and this was going to be an early summer project but he was under some sort of restrictions where he couldn't work and that was totally out of my control. So I don't know when the construction will start, but it will be standard working hours, whatever those would be for someone you hire to build a garage. And he doesn't work at night, I'm sure of that.

Chair Clemente: Weekends?

Frederick Stafford: He might work weekends, but he doesn't work Sundays. He might work Saturdays. Again, I don't know if I'm going to have this particular person because he hasn't gotten back to me.

Member Steinbach: OK thank you.

Alice Busman: Can we have your word that you wouldn't...

Chair Clemente: Pardon me, Ms. Busman. So right now we're going to allow, you did a fine job at the public hearing getting your message across and your issues across, so right now the Zoning Board members are having their time to ask and I think the applicant is doing a fine job of responding to our questions, so I appreciate your concerns, I've heard your concerns, but let the Zoning Board ask the questions going forward, if you don't mind. So just to confirm with the applicant, this is not a self-construction project, you're hiring a contractor to do the work?

Frederick Stafford: That is correct.

Chair Clemente: Question for Attorney Gilchrist: is it reasonable to put in a condition regarding construction hours of operation?

Attorney Gilchrist: What I'll refocus the Board on is that the application is for a variance on having an accessory structure located closer to the front lot line than the primary structure, and that is really the focus of the inquiry with respect to the requested variance. There are a couple of elements that do give rise to concerns about hours of operation which could include noise impacts or things of that nature, and this is, would the variance create a detriment to nearby properties or an

undesirable change in the character of the neighborhood, and you will need to address whether the variance to allow the construction at that particular location will result in any environmental or physical damage and as you know environmental impacts can include noise or sound impacts. So, your inquiry is relevant to a couple of the standards. If you were to impose any condition, they have to be based off of those standards and based on the record in front of you. Could the Board consider a restriction on hours given the location requested in proximity to neighboring properties? Yes, but you need to have that record in front of you.

Chair Clemente: Right. Thank you. Are there any other concerns by any of the other members or questions of the applicant at this time, from the Zoning Board members?

Member Shover: I had a question. My concern was with the height and the size but that's pretty much been answered.

Chair Clemente: Right.

Member Schmidt: I had none. I was at the property and I talked to Mr. Stafford and I understand everything pretty well.

Chair Clemente: Right.

Member Curran: I don't have any additional questions. I also did a site visit and talked to Mr. Stafford.

Chair Clemente: Right. So I think, through our discussion, we have more information about the dimensions of this proposed building, the height in particular, the timetable was discussed. We understand and appreciate the restrictions that have been put on non-essential construction. The operating hours have been talked about. So at this time, I would like a member to make a motion to close the public hearing portion of this application.

Member Steinbach: I'll make a motion to close the public hearing at this time.

Chair Clemente: Thank you, Member Steinbach. Do I have a second?

Member Shover: I'll second that motion.

Chair Clemente: Thank you, Member Shover. All in favor?

All members: Aye.

Chair Clemente: Thank you, members. All in favor and the public hearing is closed. Since the Zoning Board members are prepared to deliberate and act on this application, I'll remind you that it's a Type 2 residential application and under the State Environmental Quality Review Act, no further SEQRA determination is required. So we'll continue to review the standard elements for the consideration of an area variance. Again, to re-state, it is an accessory structure in front of a primary structure and we're to look and see if it would result in any undesirable change in the character of the neighborhood or any detriment to nearby properties.

Member Schmidt: I was at the property Sunday and I intentionally looked toward Ms. Busman's property and I won't say I couldn't see the house. I could vaguely tell there was something there, but it certainly wasn't obvious that there was something there. I don't think that her view of the building is going to be very good.

Chair Clemente: Thank you, I appreciate that perspective. I also want to note that we're in June and the trees are all leafed out, but taking that into consideration, I appreciate your perspective Member Schmidt. The second element is to explain why the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than this area variance. On my site visit, I would state that the topography of the land and where it's chosen to be placed seems like the best option at this time and I don't see any other feasible method. We are asked to describe whether the area variance is substantial. Again, it's an accessory structure in front of a primary structure.

Member Schmidt: The building will not be able to be seen from the road, so I don't see how it's really substantial in terms of being in front of the house.

Chair Clemente: OK thank you, Member Schmidt. And then to explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district. We did speak in our deliberations about the sound, if historically there's been a sound issue, there is a possibility that Attorney Gilchrist said that it would be reasonable if the Zoning Board would attach a condition of construction hours of operation. I don't know if this is necessary, I think it's something we can consider. Perhaps hours of operation being 9-4 with no weekends, but it's dependent upon the contractor that's being hired by the applicant....I just want to state that considering other physical or environmental conditions, I would not think that there would be an adverse effect, but sound being one of them, I think it's worth willing to consider.

Alice Busman: May I say something for the Board to consider?

Chair Clemente: Thank you, Ms. Busman. The public portion of this application has been closed. I think you did a successful job.

Alice Busman: No, that's fine. I appreciate it, I understand.

Chair Clemente: So a question to the Zoning Board members, does anyone have any strong feelings not to put a condition of construction operating hours on this application?

Member Steinbach: I don't think that's necessary. But the noise issue I think, the building looks like it's going to create normal construction noise which will come and go at the time of completion. The noise issue about Mr. Stafford or what he does inside the structure, I think that's to be determined what kind of noise issue it is. But I don't think the Zoning Board is the venue to, I don't even know if it's appropriate to discuss that, but for common sense purposes there are other venues to talk about those things; neighbor to neighbor, that kind of thing. I don't see the noise issue being something that we should have to consider for the application.

Chair Clemente: Thank you, Member Steinbach for your opinion and your points of view. I appreciate that very much. And then we have to explain if the difficulty is self-created. The consideration is relevant but shall not necessarily preclude the granting of the area variance. And



sure, sure it's self-created, the applicant would like a barn to store his outdoor equipment in, to perform his hobbies and to do light car repair. So if we're then willing to look at the balance between the benefit to the applicant as weighed against any detriment to the community at large or this neighborhood in particular to determine whether or not to grant the requested area variance.

Member Curran: I make a motion that we grant the variance.

Chair Clement: Thank you, Member Curran. May I have a member second that motion?

Member Shover: I'll second that motion.

Chair Clemente: Thank you very much. So with a roll call. This we'll do for all in favor to grant the area variance? Member Schmidt:

Member Schmidt: Aye.

Chair Clemente: Thank you. Member Steinbach?

Member Steinbach: Aye, yes.

Chair Clemente: Thank you. Member Shover?

Member Shover: Aye.

Chair Clemente: Thank you. Member Curran?

Member Curran: Yes.

Chair Clemente: Thank you. Chair Clemente votes in favor as well. Area variance is granted for the wood barn to be closer to the front line than the primary structure on this property. Mr. Stafford if you can kindly continue the work that you're doing with the Building Department, that would be much appreciated. And I appreciate the golden rule that you've laid out, how you feel with your neighbor and I encourage you to continue on that wonderful path. Thank you very much for joining us tonight.

Alice Busman: Thank you.

Chair Clemente: Thank you, goodnight. OK, next up is our third public hearing for tonight. It is address 74 Bellview Road, Usman Rashid. Last time, Mark Danskin was representing the applicant.

Chuck Golden: Chair Clemente, it's 793 Pawling Avenue is the address of the Rashid application and Mark is on board with us right now.

Chair Clemente: Thank you for that correction, and welcome Mark.

Mark Danskin: Can I be heard?

Chair Clemente: Loud and clear, thank you Mark. So what we're going to do is open the public hearing, I'm going to ask Attorney Gilchrist to kindly read the notice of public hearing into the record.

Attorney Gilchrist: Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals at 6:30 p.m. on Monday, June 15, 2020, concerning the application for area variance submitted by Usman Rashid for property located at 793 Pawling Avenue. Applicant seeks approval to construct a new building consisting of an automobile sales and service shop, requiring a rear lot line variance and front lot line variance along Lakeview Avenue. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the June 15, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the June 15 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of property located within 300 feet of the project site.

Chair Clemente: Thank you very much. Alright, to Mr. Danskin, have there been any additions or changes to the application materials?

Mark Danskin: No.

Chair Clemente: Could you kindly present a brief overview of the project for us?

Mark Danskin: I'm here with my client, Usman Rashid, he's currently present at the meeting. The property is located on the southeast corner of Lakeview Avenue and Pawling Avenue, which is Route 66. It's located in a B-15 Zone. It's about 500 feet east of the Troy line and really just west of Jack's hamburgers in Wynantskill. What I've submitted today is a survey of the, what used to be on the land, before the building was razed, a survey that is being shown right now of the proposed building, and the remaining foundation walls, and a sketch plan done by Keith Cramer, architect. My client proposes, as Andrew said, to replace the old apartment site with a three-bay garage, 59 by 36 feet, a 21 by 38 foot office shown as the proposed office with the small connector and storage area in between as shown on Mr. Cramer's plan, the sketch. Mr. Usman currently runs Good Luck Auto at 102 Ontario Street. The property is approximately 25 by 100. He has one big garage for repairs and three-car display. And what he hopes to do is to set up an office and a display and then get the repair garage going as well. Good.

Chair Clemente: OK, thank you for that overview. Right now the Zoning Board will open the floor for receipt of public comment, if anyone would like to speak for or against this application, you're welcome to do so now.

Terry Weaver: I live at 789 Pawling Avenue, right across the way from 793.

Chair Clemente: Welcome, I'm glad you're here tonight.

Terry Weaver: I first want to start with, I encountered several years back when John Krieger was Building Inspector that the former owner one day his son decided he was going to put a car business over there and he did that without any approvals from the Town or going to the Town, and

just the hours of operation were going all night, loud music, air guns, just cars all over the place. And it took me over two years to get them shut down when he opened up the business illegally and just the addition noise. Over here in this area it's predominantly residential and to be honest with you I've lived here 33 years and I'd like to keep it that way. Because many times confronting the previous owner I might have ended up in jail a couple times, I had to walk away because he was just not compliant with the rules and regulations of the Town and I do know how car lots and car businesses can get out of control and if you think that building that was standing there was an eyesore, some of these car businesses are more of an eyesore. And actually the old foundation sitting here, the way the property is now is more of an eyesore than when the building was there. And I have concerns about the left side lot line where he wants to have just three feet of variance, which puts the building right on top of mine. I have a problem with that. I have a problem with the additional traffic in the area coming up Lakeview. Again, the noise, and just the additional traffic and cars all over the place. I've been through this a long time ago and it was very frustrating, aggravating, and very disturbing in the neighborhood. You know it's pretty much quiet around here without a repair shop and to be honest I'd love to see it stay that way. Apparently this man should have done his homework and maybe searched out a bigger lot to put in his repair shop and a sales lot. I don't see how he could do both on this little tiny lot here with. It'll just add a lot of congestion to Lakeview here and again we're predominantly residential over here in this little Brunswick keyhole here.

Chair Clemente: Thank you, Mr. Weaver. Is there anyone else from the public that would like to speak now for or against this application?

Terry Weaver: You're welcome. My first encounter with this gentleman was on a Sunday morning at 5:00am, over chain sawing trees at 5am on Sunday morning. That was my first encounter with this gentleman. So as far as business hours, like I said, I've dealt with it before on the previous car lot and there was all kinds of noise throughout the night, loud radios, and just air wrenches and guns they use create enough noise to begin with. And the type of business like what he wants to operate, I mean that could go seven days a week. We'd have no privacy over here in this residential area. Thank you.

Chair Clemente: Thank you. I extend the invitation again if there's anyone who would like to speak for or against this application, you're welcome to do so now.

Steve Lewis: I live on Lakeview Ave. We are right behind the proposed garage that he wants to do. I, like Terry, have experienced the air guns and what not from the last business. Actually, we have been through many different types of people who have lived in the building, which was not appropriate. And like Terry said, we are residential here. We're not commercial. I do not want a car shop here or a repair shop. Not only with the noise, but our street is very narrow. We have parking on both sides. We also have little children here that live on our street. It's a neighborhood street. It's not a commercial street. And I too have had dealings with the proposed owner. He has actually damaged our property cutting the trees down. And he mentioned, from what I could understand, that he needs an easement on my property. I don't want an easement on my property. I've been here for 25 years. So I am against having this car shop. I know all about this corner thing that has gone on for many years and I am not going to go through the noise and what could possibly come about from having a car shop here.

Steve Lewis, Jr.: If I could add something. As Terry and as Steve Sr. just mentioned, we have four residents on this one single lane avenue who have small children. Two of which play up in the cul de sac at the top of the land. So as I'm sure you guys know, when you're buying a vehicle or purchasing a vehicle you're going to test drive the vehicle. With that being said, there would be vehicles coming up and down the very narrow street. So I feel if do put this vehicle shop there, not only is it disturbing the peace of a residential area, but possibly children as well considering that I think the children are even less than five.

Sharon Lewis: I'm Steve Sr.'s wife and Steve Jr.'s mother. I'd just like to add that the corner of Lakeview and Pawling Avenue is also the children's bus stop. There's at least six or seven children that stand on that corner every morning waiting for a bus. With that being said, I also am against it.

Chair Clemente: Thank you very much. We appreciate your comments. Thank you. At this time are there any other members of the public that would like to speak on this application? Either for or against?

Terry Weaver: My question would be, when they did the demolition, how come they didn't take the existing foundation that was with the property? They left it.

Chair Clemente: So that's your question, and it's one that you need to know the answer for. So when the applicant has a chance, they will answer that.

Chuck Golden: Just from a factual standpoint, just general physics, if you remove the wall the hill would have come down. And the wall's strength was caused by the right angle so you really needed a major portion of the side wall as well to be able to hold the retaining wall up, because it really wasn't designed as a retaining wall and probably didn't have pilasters or proper drainage behind it. So I can't speak for the owner but that is my assumption. The demo was for the upper portion of the structure.

Chair Clemente: Thank you for that information, Chuck. And is the Zoning Board in receipt of any written public comments on this application?

Chuck Golden: There have been no written public comments for this application.

Chair Clemente: Thank you. Well I'll ask the Zoning Board members at this time if they have any questions that they'd like to pose to the applicant.

Member Steinbach: I have a question about auto sales, this is not just a repair shop it's also sales, correct?

Mark Danskin: Correct.

Member Steinbach: OK. So where are the vehicles for sale to be placed? Are they on the Pawling Avenue, because apparently that's the only space available.

Mark Danskin: Yes, if you look at the sketch provided by Mr. Cramer, it would be the third sheet, he's provided like 14 cars shown. The requirement would be on the square footage, I believe

it's above that one. Yeah go to the top. There you go. The cars didn't come out, I apologize. Perhaps with the one that you have in your hand, the cars came out. But there were 14 cars on my drawing. Apparently they didn't scan to the PDF. And they all face Pawling Avenue. I don't know if you can see this. Ann, can you see that at all?

Chair Clemente: I have a great copy in front of me. The drawings of the 14 cars have come out.

Mark Danskin: The requirement based on the square footage and the zone, I believe five would be required. I think Mr. Cramer was just trying to display how many it could hold. Does that answer your question, Mr. Steinbach? All the parking is I guess you would say perpendicular to Pawling Avenue.

Member Steinbach: Thank you.

Member Curran: It's showing the 14 cars on the plan, are those the sales portion of the cars?

Mark Danskin: Five of them would be required, to have five. And I would assume that the display area would probably get confined upon site plan review when the actual Planning Board reviews the site and the drainage and what not is added. You know what I'm saying? This is a wish list right there of possible...

Member Curran: So you have the 14 spots that's supposed take up the five that are required, cars that are on display for the sales portion, employees that are working in the business, and then any customers that are coming for service or to look at vehicles.

Mark Danskin: That would be correct.

Terry Weaver: Hello.

Chair Clemente: Yes, Mr. Weaver?

Terry Weaver: Yeah, with that being said, 14 cars and employee cars, I can just see all the overflow on Lakeview here and because my tenants use parking on the road here. And I can just see with the size of the lot here, 14 cars, the employees' cars and depending on how successful his business is, there could be a lot of cars for repair work that are just stacked up. Where are they going to stack them up? Lakeview. I just personally feel that the lot is too small. This gentleman did not do his homework and he needs to find a bigger lot to do his business. Thank you.

Chair Clemente: Thank you, Mr. Weaver, you said that strong and loud.

Susan Hurley: I also live on Lakeview Avenue and I have children on this street and I definitely do not want this on my street. This is horrible, having cars coming in and out. I do not know which way they would even be coming out; would they be coming out of his business onto Lakeview? Or would they be coming out of his business onto Pawling? Lakeview is a very private residential street and it's very narrow. They have to even back the garbage trucks up to pick up the garbage because they can't go up and down the street. There is not enough room. There are other families on the street also, playing. This is a disaster waiting to happen.

Chair Clemente: Thank you, Ms. Hurley for your comments.

Steven Lewis: Yes, like Sue had said and like Terry had said, yes the parking on Lakeview Avenue is too narrow to begin with, and which has happened in the past, when they need to turn around they'll be turning around in my driveway. Again, and I don't want anybody in my driveway.

Chair Clemente: Thank you. Mr. Danskin, I have a question regarding the flow of traffic on this site. If I understand correctly, there's one curb cut on Pawling, is that correct?

Mark Danskin: Yes.

Chair Clemente: Is there a curb cut on Lakeview Avenue?

Mark Danskin: There isn't a curb on Lakeview Avenue. It's more of an edge of pavement. You know, as they say, it's kind of a residential road so there's no curbing on that in Brunswick.

Chair Clemente: So how does the flow of traffic enter and exit this site?

Mark Danskin: I would say that would be worked out on the site plan review. But currently I would say a few of these cars would need to be eliminated and they would do a K turn on the property and exit onto Route 66/Pawling Avenue. But I really can't answer that question until a site plan is drawn. But that's what I would, from the comments of the neighbors, I would assume that would be worked into the plan to keep the traffic off of Lakeview.

Susan Hurley: Also, how would they accommodate children coming to the end of the street for a bus stop?

Mark Danskin: I don't have a response for that. I don't know what you mean by accommodate them.

Susan Hurley: The children right now wait at that curb where that awful curb is that almost intrudes onto Lakeview. They wait right there. He would have people coming and going there.

Mark Danskin: Do you mean the Pawling Avenue curb?

Susan Hurley: Yes. The bus will not come up the street, it is a small street.

Sharon Lewis: It's a dead end street.

Chair Clemente: Question for the applicant. Mr. Lewis mentioned that an easement was requested of him for this. Why is there an easement requested?

Mark Danskin: I believe it was thought in the beginning before I was brought on the team, that the small encroachment to Mr. Lewis' property by the foundation wall, you can see it on my map if you scroll up and show one of my maps...there you go. You can see it, it's less than a half foot encroaching onto Mr. Lewis', which is called lands now or formerly Mason, the previous owner. Everybody with me? So they were thinking of getting an easement from Mr. Lewis to alleviate the encroachment. I told them that I did not feel that would be necessary because of the long, and

perhaps Mr. Lewis I don't know how long he's been living there or Mr. Weaver, could answer this question, as to when the apartment buildings were built. But as Chuck reiterated, that foundation wall is serving as a retaining wall and we would be removing the support for the Lewis' property if we removed that wall.

Terry Weaver: That should have thought about that when they were demolishing.

Chair Clemente: One at a time please, Mr. Weaver.

Mark Danskin: Excuse me. I'm not an attorney, I'm a land surveyor. But I know that you cannot remove someone's support, lateral support, that would cause their land to erode or move. Do you know what I'm saying? And for half of that wall length, the ground is perhaps a foot below the top of the foundation wall. And then it starts to ride down towards Lakeview. So as Mr. Golden also iterated, the foundation was left to protect the Lewis property, primarily.

Chair Clemente: Thank you for that. So the applicant does not own that part, then.

Mark Danskin: That encroachment? The .4 encroachment? The applicant owns the building, he does not own the land.

Steven Lewis: So, from the retaining wall that was left there, the foundation, where the trees were is actually my property?

Mark Danskin: There's cast iron rods set on your property line that, I haven't been there in a month or so, but they were pretty visible and flagged, and before the June buds came out, you could see down the line. Your rear corner is towards Route 66 of that huge tree. You with me?

Steven Lewis: Yes.

Mark Danskin: And you can probably find the front corner opposite the power pole that I set. I don't know if you've noticed it or not.

Steven Lewis: The pink markers?

Mark Danskin: Yeah.

Sharon Lewis: So what you're saying is that, at any time, that side of our house could hit a mudslide?

Mark Danskin: That side of your property.

Sharon Lewis: Right, with taking the trees down, a part of that side already looks like it washed out.

Mark Danskin: I don't know about the trees, but I know taking the wall down would cause that. Well, I'm not an engineer either. I think taking the wall down would cause that.

Chair Clemente: Are there are any other questions from any of the Zoning Board members?

Member Shover: On the servicing of the vehicles, how are you going to dispose of all the waste oil and that type of hazardous stuff?

Mark Danskin: The normal course of business is that it gets picked up and trucked out. So there's no storage on site, just temporary. Like a temporary container gets filled up and then away it goes.

Member Shover: OK there's no gas, you're not going to sell gas here.

Mark Danskin: No.

Steven Lewis: I just have a question. Isn't our neighborhood zoned as residential?

Mark Danskin: I can answer that question for you and Chuck Golden the Building Inspector can confirm. I believe that it's a B-15 on the southeast side of Lakeview all the way up.

Steven Lewis: What is a B-15?

Mark Danskin: Business 15,000 square feet.

Chuck Golden: That is correct, that is a B-15 district.

Steven Lewis: So this could be any type of business?

Mark Danskin: I don't think it can be any type of business but I know it can be an auto repair and sales business.

Chair Clemente: Maybe this question would be best answered by the Building Department, if you could kindly answer that please Chuck.

Chuck Golden: A car dealership and/or repair shop is allowed in the B-15.

Chair Clemente: Thank you.

Terry Weaver: Yeah, how long has that B-15 been in place? Wasn't the zoning recently changed around here?

Chuck Golden: I have only had three years in this municipality and it's been a B-15 as long as I know. No, I do not have the earlier zoning here in my home office so I cannot be certain what it was previous to June of 2017.

Mark Danskin: I got the previous Zoning Map and could go down and check it, but I'm pretty sure it was B-15. I don't think this was changed. It would just take me a second to go down and grab it. Could Chuck confirm that the B-15 zone runs the length of Lakeview along the east side? I don't believe west side is in a B-15.

Chuck Golden: I'm confirming that.



Chair Clemente: And, while you're doing that, I have a question for Member Shover with your question regarding the storage of fuel or oil on the site. We've worked in the past with applications with a water/oil separator. Is that something that would be reasonable on this site? This is for Member Shover.

Member Shover: I don't know how much servicing they're going to do. How many oil changes, how big of a service area are you going to do, what are you doing to do?

Mark Danskin: Primarily what we've done is the cars are repaired to for sale.

Member Shover: That can be anything from changing the oil to changing the engine.

Member Shover: Absolutely, I guess what I'm saying is that he doesn't take cars off the street to work on them. You know what I mean?

Member Shover: He's only going to repair the cars he's going to sell, correct?

Mark Danskin: Correct.

Member Shover: And he will be doing all types of repairs on them, I would assume.

Chuck Golden: The B-15 zone takes up the entire length of Lakeview. It actually even goes over and takes up the first parcel on Victoria Avenue as well as the parcel internal to Victoria and Billings. So that is how predominant the B-15 zone is in that area. That zone runs all the way up to the end of the road on both sides, east and west.

Mark Danskin: It's also the west side of Lakeview, B-15?

Chuck Golden: That is correct, both east and west sides of Lakeview is B-15. That whole area is B-15 as I said all the way on Pawling Avenue all the way down to Victoria Avenue, the first lots on Victoria Avenue up to actually the corner of Billings and Victoria, all B-15.

Susan Hurley: How do we submit to change it to residential?

Chair Clemente: Perhaps Chuck, you could answer that. Or perhaps Attorney Gilchrist could answer that as well.

Attorney Gilchrist: That's a matter for the Town Board. The Town Board has the jurisdiction to legislate zoning. It's not a Zoning Board jurisdictional issue.

Chair Clemente: Thank you.

Steven Lewis: I just have a couple of questions. Apparently on this drawing or whatever we're looking at right now, it does not have an exit or entrance on Lakeview Avenue. Is it intentional that they're going to print entrance and exits onto Lakeview Avenue?

Mark Danskin: Our intention is not to put an entrance onto Lakeview Avenue.

Sharon Lewis: What about an exit? Is there going to be an exit onto Lakeview Avenue?

Mark Danskin: No. I'm sorry, no entrance or exit. And again, those would be worked out in the site plan review by the Planning Board when we get our traffic pattern and what not. I'm at an early stage at this point.

Steve Lewis: My second....

Terry Weaver: Take it somewhere else.

Chair Clemente: Mr. Lewis?

Steve Lewis: My second question is what is proposed hours of operation if this goes through?

Chair Clemente: Do you know that now, Mr. Danskin?

Mark Danskin: My client is here with me. He's thinking 8-6.

Chair Clemente: Does that include weekends? Or no weekends?

Mark Danskin: Yeah, no Sundays. Saturday, but no Sundays.

Terry Weaver: That's what's being said now but once they get going it's...

Mark Danskin: No, no Sundays he says.

Terry Weaver: Yeah that's what he says now.

Mark Danskin: Well what gets approved is what gets enforced, Mr. Weaver.

Terry Weaver: Yeah I've been down that road before and it didn't get enforced. It took me two and half years to shut the other guy down. Again, just a lot of noise, disturbance in a residential area. Because this man can open his business anywhere but here he's looking for an awful lot of variances to make his business work and he just needs to find a bigger lot. This ain't the place.

Member Steinbach: Chair Clemente, I'm starting to get a little confused. We have an application for rear and front setback situations that needs the Zoning Board's attention. And I am not aware of all these other issues, I think that this was presented to the Zoning Board in the process of possibly establishing this business. We're spending a lot of time talking about things that don't have anything to do with this application. I think, I don't know. I'm confused.

Chair Clemente: Right. Are you confused when they speak about the site plan? Is that the point of confusion?

Member Steinbach: Well I think, yeah, the site plan and the fact that there's no... apparently Mr. Danskin and the owner don't have specific plans at this point. They need to have us addressed to run front and rear setbacks.

Mark Danskin: I agree with Mr. Steinbach, we're here just looking for a variance to move forward before we invent in the plan. Do you know what I'm saying? As far as the comments, and

I mean no disrespect to anyone who spoke tonight, but we're actually trying to propose a building that belongs in a B-15 zone. I assume that the residential is grandfathered in, because it is existing, but we're not looking to put something where it doesn't belong. We're actually looking to put something where it does belong on State highway...

Terry Weaver: It ain't here.

Mark Danskin: ...in a B-15 zone.

Steven Lewis: Because you don't live here. This is our home. We want peace and quiet. We're raising our children here. You don't live here. This does not belong here. And this looks like you want a variance but you don't really have anything firm yet. You have no idea, it just doesn't make sense. I mean, we can't go through this again.

Mark Danskin: To respond to that I think most of the questions would be taken care of at the site plan review. I can be corrected if I'm wrong. But I believe I've prepared for this meeting correctly and I believe...

Sharon Lewis: What choice do we have in those plans?

Chair Clemente: Pardon me, one person at a time please.

Mark Danskin: I believe I've prepared for this and I've prepared the right documents and I filled out everything for a variance for the setback. I don't have a parking plan because I just don't think that's required at this time.

Chair Clemente: So where that would come into play, Mr. Danskin, is when the Zoning Board of Appeals members review the elements to determine whether or not to grant or not grant the requested area variance. These questions that are being brought up are relevant to provide the information that's needed to make that decision.

Mark Danskin: Very good.

Chair Clemente: Any more questions from the Zoning Board members at this time.

Member Schmidt: I have two questions for the Building Inspector. The way I read this, he has to have 15,000 square feet but he only has 9,500 square feet. Does he need an extra variance for that? And the other question is, where the office is located, where it's encroaching the other property, if he builds on that wall won't it encroach the property further yet?

Chuck Golden: For your first answer, I would probably defer to Andy on this because as you head up the hill on Mountain View, there are many residential properties along that hill that are in R-9 district or 9,000 square feet that do not have 9,000 square feet. And we have not been enforcing that there. And for this business being under 9,000 square feet that pretty much just fits with the area because there are many homes along, like I said that Mountain View that's an R-9 which are not 9,000. And the second question again, Mr. Schmidt, what was that?

Member Schmidt: If he builds the office on that wall...

Chuck Golden: That's right. Yes it will, as you come up that will be your exterior wall if you were going to have any sort of roof overhang, it will further encroach into that property, yes.

Chair Clemente: Thank you, Mr. Golden. Thank you, Member Schmidt.

Mark Danskin: If I may address that, it looks like they're thickening that wall to probably prevent any further encroachment of the building line. I can't speak to the eaves.

Chair Clemente: Thank you, Mr. Danskin.

Attorney Gilchrist: Thank you. Member Schmidt had a question about the size of the lot and we should check the Zoning Law. This is an existing lot. If it's below the 15,000 square feet it would be an existing substandard lot. We'll check the Zoning Law to confirm that, but unlike a situation where you're seeking to create a substandard lot, this is an existing lot. We'll just confirm the rules on that in the Zoning Law on being able to move forward with the site plan on an existing substandard lot. The second point is a little bit more involved and it's one that I think the applicant does need to supply some additional information on, and that's the back existing foundation wall, Mr. Danskin. And I think the Board would entertain a submission by the applicant on the fact that there is an existing wall there that does appear to be on or over the parcel property line. It speaks to only one of the requested variances, the rear lot line variance. And the existence of that potential encroachment, I'm not rendering any legal opinion about whether it is or isn't, but it is a relevant issue on one of the requested area variances. And I think the applicant should be entitled the opportunity to submit a position on that. I would advise the Board we've done this in the past, that you're without jurisdiction to grant an area variance that would either result in or maintain an encroachment. So we do need to address that issue on the record from a legal standpoint. I think the applicant should submit their position on that point.

Mark Danskin: If I may, if we look at Mr. Cramer's sketch plan of the proposed building, he's going to line that wall. Not my map, Cramer's. If we go down to the bottom. You just went by it, I'm sorry. See we have a new wall right inside the wall. I do not believe that we are going to be building on the outside of that existing wall. Obviously the building plans would have to be made to confirm that. But as the drawings show, he's actually putting a new wall inside the existing wall.

Attorney Gilchrist: That may be the case and we can confirm that on the record, but nonetheless the map does show an existing structure if I can use that term, the foundation wall, that presents a potential encroachment and you are seeking a rear lot line variance. So I think a submission by the applicant would address that issue. And what your legal position on that point is, is something that the Zoning Board should review.

Mark Danskin: I can address it right now. After completing the survey of the property, we found that the foundation wall was encroaching on the Lewis's property by 0.4 feet. We also found in the public record a map of the Lewis's property done by, it was when the Masons owned it, survey map lands of Mason, and that was filed in 1991. The date of the map is February 28, 1991, and that also shows the encroachment. So I guess what I'm saying, I have at least a 30-year long-standing encroachment here that I don't know what else or how else I could support it. It's on the survey, you know where it is, and it is what it is.

Attorney Gilchrist: Right, you've stated the facts. But that would lead to certain legal conclusions, which I'm not going to render right now but which I think the applicant should take a position on. Which is the fact that this foundation wall may have been there for 30+ years, that's a fact on which to draw a legal conclusion we'd like, or I would suggest to the Zoning Board, that we get the applicant's legal position on that point. Because, again, one of the requested variances is a rear lot line setback variance. And that issue is relevant because the Zoning Board despite maybe not building directly on that foundation wall, it is shown on the plan, is without jurisdiction to approve a rear lot line setback that results in a continued encroachment. So I'm not suggesting it is an illegal encroachment, I haven't rendered an opinion on that but I think the applicant should be afforded the opportunity to state their position legally on the record on that point.

Chair Clemente: Thank you, Attorney Gilchrist. So I'll ask the other Zoning Board members if they're in favor of requesting the applicant to submit a legal position on the point of encroachment because it is related to the rear variance that they're seeking.

Member Curran: I agree with requesting the legal opinion.

Member Shover: I also agree with getting a legal opinion.

Member Schmidt: I agree we should get the legal opinion.

**[inaudible]**

Chair Clemente: One moment, I'm waiting to hear from Member Steinbach, are you with us?

Member Steinbach: Yes I agree with the other members. I think the applicant should get a legal point of view presented to us.

Chair Clemente: So, to Attorney Gilchrist, could be a simple as how can you build into something that you don't own.

Attorney Gilchrist: Well I think the issue is what the applicant's legal position on the retaining wall's location, the fact that it does apparently go over the lot line, it's been there for apparently decades, and what that means legally in terms of the legal ability to maintain it in that position. And we can certainly review that position because again that's the area where the rear lot line setback variance is requested. The result could be a legal conclusion that says we have every legal right to keep that retaining wall in that location, we can review that position, and I can advise you accordingly on the rear lot line setback variance requests.

Chair Clemente: So who would give that legal position?

Attorney Gilchrist: You would start with the applicant. Applicant's counsel, presumably would submit an opinion. And obviously it's going to be based on facts drawn off the survey in the public record. And that can be reviewed. I don't believe it's the Zoning Board's duty or position to render a legal opinion on its own on that. We need to know what the applicant's position is on that so the Board can take that into consideration on the rear lot line setback variance. This is not to suggest that any public hearing needs to remain open. Obviously you've heard a number of comments

tonight. I think the Board has had the opportunity to receive those comments. This is the period of time when the applicants can certainly respond to the comments.

Steve Lewis: I have a question.

Chair Clemente: OK, Mr. Lewis.

Steve Lewis: OK so in other words, the way I understand it just now, is that the foundation that's down there right now that's going to stay there has actually been on my property all these years and I've been paying taxes on it? It's on my property? That's what I just heard.

Chair Clemente: Does the Building Department have an answer for Mr. Lewis.

Chuck Golden: I would assume so. I would not assume it to be part of or called a part of the developed area of the property. It simply probably went into his square footage I would assume. The calculations of what would be 4/10 of a foot, or 1/3 of a foot, I would have to check with the assessor to see exactly what that is in a dollar and cents sort of thing.

Steve Lewis: And that would be for 25 years that I've lived here.

Chuck Golden: Quite possibly, yes. I don't know how long you've been in that residence.

Mark Danskin: Did you own it before 1991?

Sharon Lewis: 1995 we bought it.

Mark Danskin: The filed survey map from 1991 shows the encroachment.

Terry Weaver: So ya'll keep talking about this foundation, it's not a retaining wall, it's part of the foundation of the existing house, and I've been in construction for 45 years and a lot of townships in the City of Troy, when you take down a structure over 50% you have to completely take it down, which means this foundation I don't know what the rules and regulations are in the Town of Brunswick but if that's the case like other townships this foundation has to be removed and the new plan would call for a new retaining wall. It's not a retaining wall, it's part of the foundation. So if they're doing this, they're creating new things so they should go with current zoning and code laws.

Chair Clemente: Thank you, Mr. Weaver.

Sharon Lewis: I want to know, should our insurance company be contacted on this because if that retaining wall or foundation as Terry said becomes part of the plan, we lose the whole side of our property down that hill. That would be an issue for an insurance company, be it our insurance company or whoever would be holding the insurance on that property.

Chair Clemente: So maybe Mrs. Lewis before we get to that point, Chuck from the Building Department, do you have any comment?

Chuck Golden: If you remove that wall, the hill is going to slide down.

Sharon Lewis: Exactly, that's what I'm saying.

Chuck Golden: So, that is the reason why the wall wasn't removed. Mr. Weaver wants to know why the wall wasn't removed. The wall wasn't removed because if the wall was removed, you would have lost your front yard. That is the reason why the wall wasn't removed.

Chair Clemente: So, just to clarify, so we have a foundation that's acting like a retaining wall, is that correct?

Chuck Golden: That is correct.

Mark Danskin: If I may, you have a foundation that is acting as a retaining wall. Just think of the words, retaining wall. We are retaining the Lewis's yard from coming down. We're supporting it. I mean that wall, it has a function, you know, and...

Terry Weaver: Yes, it does have a function, but if you guys get the plan to build there then that foundation should be removed and a proper retaining wall installed.

Mark Danskin: And perhaps, upon the building plans being drawn and the site plan being drawn up, that could be a condition. But without a zoning variance, there will be no site plan drawn up or no development at this stage of the lot. So I mean I can only do one step at a time.

Chair Clemente: Thank you, Mr. Danskin, and to that the Zoning Board before issuing any sort of decision on the variance, would need that legal position on the encroachment. So what we could do if the Zoning Board members would allow, we could entertain perhaps keeping the public hearing portion of this application open awaiting from the applicant more information. In particular, the legal position on the point of encroachment before we can go any further with this decision. Is there any discussion from the Zoning Board members on that way to act? And then also to Attorney Gilchrist, is that the way that we should proceed going forward?

Chuck Golden: I will also include a letter to the members regarding the nonconforming use due to the lot size. I will have that answer for you as well.

Chair Clemente: Thank you, great. And that was the substandard lot size that you're referring to?

Chuck Golden: That is correct.

Attorney Gilchrist: You did ask earlier, Chair Clemente, about procedure and whether that's something the Board should do. That's a procedural option for the Board to consider, which is to keep the public hearing open subject to the receipt of this additional information from the applicant. Another procedural option for the Board is you have heard the public comments raised, you could entertain closing the public hearing and require the applicant to submit the additional information. Both options are procedurally available for the Board.

Chair Clemente: I'm sorry, just to clarify, do you mean to submit the additional and respond to the public comments.

Attorney Gilchrist: Yes, that's a procedural option for the Board. You've heard and entertained comments from the public on the two requested area variances. One procedural option is to close the public hearing and require the applicant to respond to those comments and include the specific issue about the location of that foundation wall on adjoining lot. Another procedural option for the Board that you've raised is to simply keep the public hearing open and request the information from the applicant on the foundation location at this point. Both options are available to the Board.

Chair Clemente: Thank you.

Member Steinbach: I would like to make a proposal that we close the public hearing and postpone our decision-making process until such time as we have the information regarding the rear setback and how it's affected by the encroachment of .4 feet onto this alleged "retaining wall" and deal with it again in the future, possibly next month.

Chair Clemente: Thank you for your input.

Member Curran: I agree with Member Steinbach.

Member Schmidt: Could we also ask to see how the building is going to encroach, not just the foundation, but the roof and the overhang of the roof, how much it's going to or if it's going to encroach?

Mark Danskin: If I may, that would entail making the actual building plans and what not prior to obtaining the variance.

Member Steinbach: That might be putting the cart before the horse?

Mark Danskin: Yes sir, I think it is.

Chair Clemente: Just to interject, it's something that we ask all our applicants to do. If you look at the previous public hearing that we had on Farm to Market Road. There was a set of drawings before the applicant received an area variance to move forward. So I think to request more information and however the Zoning Board members see that information requested, is reasonable. We've asked that of other applicants.

Chuck Golden: Mark, do you remember the width of that wall? Was that a 12-inch wall?

Mark Danskin: Yeah it was at least that.

Chuck Golden: So if you framed two by six to be able to make the insulation code, you could actually have your two inches of airspace thereby giving you, well you're saying your 4/10 of an inch in, you would probably be able to stay with a ten-inch overhang and not encroach on that line any more.

Mark Danskin: I think what Keith has in mind is putting a new wall right inside the wall. That's what he's got drawn anyway, which would gain even more room.

Chuck Golden: If that's another poured wall, yeah you would be gaining 8 inches.



Mark Danskin: But that wall is very thick. It's at least 12 inches I would say.

Chair Clemente: OK so the Zoning Board member have two options in front of them, outlined by Attorney Gilchrist. One is to close the public hearing for the applicant to respond to the comments and then ask for the additional information in particular that legal point of the position on encroachment. Second is to keep the public hearing open with continuation of requesting more information on the foundation. That's what is in front of us.

Mark Danskin: Either way you go, can I respond to the comments other than the legal position this evening? I'll be brief.

Chair Clemente: So, in the past we provide the applicant a transcript or a print-out of the concerns and kind of numerate it that way and going forward. I think it could go on and on. But that's an option if any other Zoning Board members have any thoughts on that.

Member Steinbach: I'm not making a motion but I personally think we should close the public hearing and at the next meeting, Mr. Danskin can give his replies to the concerns.

Chair Clemente: Thanks for your input.

Member Shover: I would agree with that.

Sharon Lewis: I have a question. I would like to know what we should do about this on our end. If that's endangering the side of our property where it could go into a mudslide, should we notify our insurance company? Do they have insurance on the property? I know it may be premature right now, but this is inevitable. Some of it is already gone from the trees that were cut down.

Steven Lewis: And if so, if you close the public hearing, how are we supposed to know what's going on?

Member Steinbach: I'd ask the Board's attorney, Mr. Gilchrist to give us some advice on whether we should be advising members of the Town as to how they pursue their own interests in any decision like the one we're tending to this evening. I kind of have a feeling that maybe the Zoning Board of Appeals shouldn't be entering into providing legal guidance for people who obviously have an interest in our process. I just wonder where we should go with that. Secondly, I really am advocating for closure of the public hearing portion of this process and we continue as the Board sees fit.

Attorney Gilchrist: Member Steinbach, you're correct because I was going to jump in. Certainly if residents of the Town, property owners in the Town, have a concern they should pursue them on their own. It is not for the Town to give you any advice or counsel on that point. And that's certainly not something that the Zoning Board or the Building Department should be doing. If there's a concern on that, then you need to pursue that privately. I'm also going to confirm on the record here and certainly Mr. Danskin you can respond to this, earlier you said you're a licensed land surveyor, you're not an engineer. I don't believe there's any engineers that have been involved in this discussion. There's been a lot of discussion about foundation walls, retaining walls, landslides, and what not. I don't believe there's anything on the record by persons with qualifications to address that point and I don't want the record to suggest one way or the other on that. I don't believe we

have persons qualified that have rendered an opinion on that retaining wall, foundation wall, or any land movement as a result of removing anything. So I want to make the record clear on that. If I'm wrong, someone can correct me. But that's certainly my interpretation on the record thus far.

Terry Weaver: Can I speak again?

Chair Clemente: Mr. Weaver, we've heard your concerns. They're valid concerns. We're looking...

Terry Weaver: I have one more concern though. They're talking about keeping the existing foundation, building walls within it, but yet you're still going to have an eyesore in the back of the property with all these cut stumps and ugly foundation in the back here which in my eyes should have been torn out as part of the destruction of the existing building. Yes I understand it's there to hold the land back now but that should have been addressed, with this process obviously like I said the cart's before the horse here or the horse before the cart, whatever. But again, we're going to be left with an eyesore regardless of how they want to do this.

Chair Clemente: OK thank you. You've made your point clearly. I appreciate it. Thank you very much. So I'm looking for a motion from one of the Zoning Board members to close this portion of the public hearing. I'm going to require the applicant to respond to the comments that were presented by the public tonight. And to provide a legal position on their point of encroachment as related to the rear lot line setback. I just made the motion. Would anyone like to second.

Member Shover: I'll second that motion.

Chair Clemente: Thank, Mr. Shover. All in favor?

All members: Aye.

Chair Clemente: Thank you, the public hearing is closed. Alright, so going forward, we would put this on our next month's business in July.

Mark Danskin: If could respond to the comments from Mr. Weaver and the Lewis' and Susan Hurley in case...

Chair Clemente: We're asking if you could do that at the next meeting after you have a transcript of the comments.

Mark Danskin: That's fine, however if I cannot get a legal position in 30 days, I would have to go to the next meeting.

Chair Clemente: Are you referring to the August meeting?

Mark Danskin: I mean, I'm not an attorney so I have to hire an attorney to get the legal position and I don't know their availability.

Chair Clemente: Right, so kindly keep in contact with the Building Department on how you're proceeding with that and they can schedule the meeting accordingly.

Mark Danskin: Very good. I'd also like to say that when we located that building corner, there was still a building on top of it with the eave and what not, and I may go out and check the shot on that corner now that it is much more clear and more visible and much more easily and readily located.

Chair Clemente: OK I understand, thank you. Thank you to the members of the public who participated in tonight's meeting as well. Thank you. Goodnight. Alright, moving on to our fourth public hearing of this evening, it is for 559 Lansing Road. Applicant is Linda Knight. Similar to what we have been working with tonight, the applicant seeks to position accessory structure closer to the front lot line than the primary structure. Ms. Linda Knight, are you with us this evening?

Chuck Golden: I called Ms. Knight as well as dropped off the access to the meeting, so let me give her another call and see where she is. Chuck from the Building Department. I have the Knights on the phone and she says she is on the phone and I was explaining how we could not hear her and she said that she is not muted and we should be able to hear her. Pat, can you see her?

Pat Poleto: I'm not sure which number it is. Does it end in 26?

Member Steinbach: The applicant's phone number according to our records ends in 69.

Pat Poleto: OK thanks.

Chuck Golden: The last two digits are 26.

Pat Poleto: Unmuted.

Linda Knight: Can you hear me now?

Chair Clemente: Welcome!

Linda Knight: Hi, Linda Knight. 559 Lansing Road.

Chair Clemente: Hello, Linda Knight, we can hear you. Thank you for joining us tonight.

Linda Knight: I've been here for the whole meeting and almost missed it. That would be terrible.

Chair Clemente: Glad it worked out the way it did. Good.

Linda Knight: I'm looking to put an addition onto an already existing garage which is 12 by 30 and add the addition of 12 by 30 on in order to store tractor equipment and lawn furniture. Just to be used as storage.

Chair Clemente: And while we're at it, have there been any changes or additions to the application?

Linda Knight: No, everything is the same.

Chair Clemente: What we're going to do now is we're going to open up the public hearing portion of this application. Our Attorney Gilchrist will read the notice into the record and we'll go from there.

Linda Knight: OK, thank you.

Attorney Gilchrist: OK I will do so in a minute. It was on the screen but let me pull mine out. Here we are, thank you Mr. Poletto. Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals at 6:45 p.m. on Monday, June 15, 2020, concerning the application for area variance submitted by Linda A. Knight for property located at 559 Lansing Road. Applicant seeks approval to construct an addition to an existing outdoor garage structure located on property at this location, resulting in an accessory structure located closer to the front lot line than the primary structure. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the June 15, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the June 15 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing.

Chair Clemente: Thank you very much. This Zoning Board will now open the floor for receipt of public comment. Any members of the public who would like to speak for or against the application, there's time to do so now. Chuck from the Building Department, are there any written comments in regards to this application that was received?

Chuck Golden: The Building Department has not received any written comments on this application.

Chair Clemente: Thank you, are there any questions from Zoning Board members?

Member Shover: No.

Member Curran: No comments or questions.

Member Steinbach: No, nothing.

Chair Clemente: So, hearing no public comment, I'll entertain a motion to close the public hearing portion.

Member Shover: I'll make a motion to close the public hearing.

Member Schmidt: I'll second.

Chair Clemente: Thank you, all in favor?

All Members: Aye.

Chair Clemente: Thank you, the public hearing is closed. The Zoning Board members have shown that they are ready to deliberate on this application. First we'll note that it's a Type 2 action

under the State Environmental Quality Review Act and a residential application so no further SEQRA determination is required. We're to look at our elements. Number one is to explain how the no undesirable change will be produced in the character of the neighborhood or detriment to properties nearby created by granting this area variance. I would say that putting the addition onto this garage will not create any change in the character of the neighborhood as other neighbors have similar out buildings on their property. Nor will it create a detriment.

Member Shover: You also can't see it from the road.

Chair Clemente: That's right. Next is explain why the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than the area variance.

Member Steinbach: I think the applicant made a good argument dealing with this element and the fact that there's a cost factor involved: instead of a new structure, we're adding onto an existing structure and all the utilities and so forth will still be available. So there's some cost savings involved and it doesn't seem to affect anything else.

Chair Clemente: I would agree. Alright, and then we're asked to describe whether the requested variance is substantial. I think relative to the lot size and the requested addition, I would say that no, it's not substantial. Explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district.

Member Shover: Again, you're not going to see it from the road.

Chair Clemente: I was just going to piggy-back onto the comments that Member Steinbach made about how it's going to be just added onto the existing structure so that no, there would be no adverse effect on the physical or environmental conditions in the neighborhood or district. Then we are asked to explain whether or not this difficulty is self-created. Of course they're kind of maximizing the building that they have; the electricity that's run to that building and knowing that this consideration is relevant, but not necessarily precludes the granting of the area variance. So if there's no further deliberation, I ask the members to consider the balance between the benefit to the applicant as weighed against any detriment to the community at large or the neighborhood in particular to determine whether or not to grant this requested variance.

Member Steinbach: I'd like to make a motion that the variance request is granted for the construction of the addition onto the existing garage. I can't imagine any conditions that would apply but maybe some other members might want to jump in.

Member Shover: I second that.

Chair Clemente: Thank you very much, we'll do a roll call. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Steinbach?

Member Steinbach: Aye.

Chair Clemente: Member Shover?

Member Shover: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Aye. Thank you very much. So that area variance has been granted to allow the accessory structure to go in front of the primary structure. Ms. Knight, I would just ask you to continue your work with the Building Department in going forward.

Linda Knight: OK, what is my next step?

Chair Clemente: So if you want to contact Chuck in the Building Department by phone or email, he'll guide you through the next steps.

Linda Knight: OK, thank you very much.

Chair Clemente: Thank you, have a good night. Thanks for sticking with us. Alright, as you see the drawings that are up on the screen, we're moving onto our still open public hearing for 9 Bleakley Avenue. The applicant is Lynn Currier. This applicant is proposing a detached 32 by 30 foot accessory apartment. The size would be 1,944 square feet. There is a covered deck that is 144 square feet. The proposed height is 23 feet. The maximum square feet area allowed for accessory structure is 1,500 square feet. The maximum height for accessory structure is 20 feet. Also, the proposed structure will be positioned ahead of the primary structure. So, to recap, in total there are three requested variances: first is building size proposed at 1,944, max allowed is 1,500; second is building height proposed at 23, max allowed is 20; third is accessory structure ahead of the primary structure. I just have a question for Attorney Gilchrist procedurally. We are in a public hearing that's been carried over from our May meeting. So, should the Chairperson open up the floor to receipt of public comment again at this time? That would be my question to you.

Attorney Gilchrist: You're certainly entitled to do that. You can first ask questions of the applicant if there's any changes, but other than that you're correct. Procedurally it's opening the floor for receipt of public comment.

Chair Clemente: Alright, so I'll ask the applicant. Ms. Currier, are there any changes or additions to the application materials?

Lynn Currier: No there are no changes.

Chair Clemente: OK thank you. So at this time I'll open the floor to receipt of public comment. Any members of the public wish to speak for or against this application, this would be your time to do that. Are there any questions from any of the Zoning Board members at this time for the applicant? The reasoning why we kept the public hearing portion open was to get the clarification of the dimensions of the structure. Everyone is satisfied with that information?

Attorney Gilchrist: One additional note for the record is that this proposes an accessory apartment, and at the special use permit application was submitted by the applicant and is currently pending in front of the Planning Board for review as well.

Chair Clemente: OK. So the Zoning Board can work concurrently with the Planning Board on this application, is that correct?

Attorney Gilchrist: That's correct and on occasions you will review what I could characterize as a larger application jointly with the Planning Board on other occasions the Planning Board and Zoning Board have worked on a dual track and I would recommend that would be appropriate for this application. You've held your procedural, or you're in the middle of your procedural public hearing requirement on the requested variances. If the Board is inclined to move forward and deliberate, certainly one condition to consider is subject to special use permit being issued by the Planning Board for the accessory apartment use.

Chair Clemente: Any questions at this time?

Member Steinbach: I don't have any questions.

Chair Clemente: Alright so I think we need to make a motion to close the public hearing. Hearing no public comment at this time, I'll make a motion to close the public hearing. Would a member like to second?

Member Steinbach: I'll second.

Chair Clemente: Thank you, all in favor?

All Members: Aye.

Chair Clemente: Thank you, the public hearing is closed. If the Zoning Board members are prepared to deliberate and act on this application, we'll note for the record that the applicant seeks an area variance and as a Type 2 residential application action under the State Environmental Quality Review Act, no further SEQRA determination is required. So we can then look at our five elements. Just please note that there was a review by the Rensselaer County Bureau of Economic Development and Planning, and it was determined that the proposal does not have a major impact on County plans and that local consideration shall prevail. And then interestingly, I guess this could be for the Planning Board, the Bureau questioned if the septic system has sufficient capacity for the apartment. And just to ask that question of Attorney Gilchrist, is that true? Is that issue a Planning Board issue?

Attorney Gilchrist: Yes, that will be a Planning Board issue, that's generally inquired on the special use permit application for the proposed use as an accessory apartment. And ultimately it will be a County Health Department determination, but that does get reviewed by the Planning Board during the special use permit review.

Chair Clemente: Thank you.

Chuck Golden: And we don't issue a permit unless we get the certificate of conformance or a certificate to construct more laterals into the existing leach field. I have been told by the P.E. who

did the drawing that there is sufficient room for expansion but the County Health Department has to confirm that.

Chair Clemente: Thank you for that added information. That was very helpful. So we'll look at our first element is to explain how no undesirable change would be produced in the character of the neighborhood or detriment to nearby properties created by granting this area variance. I would start by saying that it's a very well-designed beautifully drawn proposal. It is in a residential neighborhood. The homes there are lovely and well kept. There are outbuildings and garages in that neighborhood. So seeing a building like this would be part of that. There is coverage by the trees from the neighbors and between the houses. I don't think there would be a change in the neighborhood. We are also asked to explain the benefit sought by the applicant and how it can not be achieved by some other method feasible for the applicant to pursue other than this area variance.

Lynn Currier: Is that a question for me?

Chair Clemente: No, thank you though. I'm directing these to the other Zoning Board members.

Member Curran: I think just based on the layout of the property, this is the area where the building fits best.

Chair Clemente: Yeah I would agree, I think it's most convenient to the driveway and the road. Asked to describe whether the requested area variance is substantial. Again, it's an accessory structure. The front line proposed is 25 and the required is 35.

Member Shover: I don't think that's really substantial.

Chair Clemente: OK, and then we're asked to explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district.

Member Steinbach: I don't think this construction is going to have any impact on the physical or environmental conditions in the area. It's a needed garage and I think it's located properly. I don't think there are any obvious physical or environmental condition problems.

Chair Clemente: Thank you, Member Steinbach. Then we're asked to explain whether the difficulty is self-created. Remembering that the consideration is relevant but not necessarily preclude the granting of the area variance. And yes, but again I think they're seeking to put in a beautiful structure to help better their living conditions, and that is that. So if there is no further deliberation, we're asked to consider the balance between the benefit to the applicant as weighed against the detriment to the neighborhood in particular or the community at large in whether to determine to grant or not grant these two requested variances.

Member Steinbach: I don't think there is any detriment to the neighborhood and based on that and our discussion so far, I'd make a motion that we grant the variances as submitted.

Chair Clemente: Thank you, Member Steinbach. Would a member like to second?

Member Shover: I'll second that.



Attorney Gilchrist: I just would propose that, again, the condition on any action on the area variances would be the proposed use as the accessory apartment is subject to special use permit review and action by the Planning Board.

Chair Clemente: Yes.

Member Steinbach Well-stated, sir.

Chair Clemente: Thank you. So we'll amend the motion and add the condition that it's contingent upon the Planning Board granting the accessory structure. So that was the amendment, we have a motion, I believe we have a second to that motion considering that condition. I'll do a roll call vote, to see if we're in favor of that motion with the condition. I'll start with Member Schmidt? Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Steinbach?

Member Steinbach: Aye.

Chair Clemente: Member Shover?

Member Shover: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Aye. Requested variances are granted. One is the front lot line setback and the second is the accessory structure being located closer to the front lot line than the primary structure. So, Ms. Currier, I advise you to continue the work that you're doing with the Building Department going forward.

Lynn Currier: Thank you so much, thank you I appreciate it.

Chair Clemente: Thanks for bearing with us in these unnerving times. It's appreciated.

Lynn Currier: Well I've learned a lot, thank you!

Chair Clemente: Have a good evening. Alright, moving on. On the agenda is Blue Sky Towers for a use variance. We have Mr. Brennan with us.

Dave Brennan: Attorney for the applicants, Blue Sky Tower, Verizon Wireless and AT&T present.

Chair Clemente: Welcome, thank you for being here this evening. I saw you at the beginning. Just if you want to present any updates that you have and then later on this application time we have a question for Attorney Gilchrist, perhaps get an update from the Zoning Board members on the shot clock extension. But, Mr. Brennan if you have an update for us, we're interested in hearing that.

Dave Brennan: Certainly. I, like the Chair, will defer to Attorney Gilchrist in a moment. I had asked to remain on the agenda. Mr. Poletto has put up our response to comments letter dated June 8, 2020 and it's been submitted to Mr. Laberge for his review. But in communications with Attorney Gilchrist last week, I understand and rightfully so that Mr. Laberge has not gotten all the way through the document yet so his comments are not yet prepared. It sounded like he may have them for the Planning Board meeting on Thursday. And so with that, I was not intending to particular at this hour of the meeting go through line by line this letter that you all have just received rather recently and may not have had an opportunity to go through it but I do want to continue the conversation a little bit. On the shot clock issue, there was a shot clock extension letter executed by Mr. Gilchrist, I'll certainly let him amplify that. And the other thing is we were requested by the Planning Board to prepare photosimulations at the 80-foot location of a stealth monopine tree. Those were just completed at the end of last week and I did submit them electronically late this afternoon. I could put those up on the screen and scroll through them quickly but other than that I think this is a short update. If the Board has any questions or need any other materials that they know of if they want to communicate that to me, that would be great. But other than that I think that's the best we can do this evening. With that, I'd ask Mr. Gilchrist, I know he wanted to talk about some of these topics as well.

Attorney Gilchrist: Thank you. Mr. Brennan did correctly review procedurally the applicant's response to the public hearing comments that were submitted to the Town and to Ron Laberge. Recall Laberge Engineers are the review engineers on the application and Mr. Laberge is continuing his review of those responses and has not yet completed. So the discussion is premature on that. Mr. Laberge will have his full review completed, from my understanding, shortly and hopefully in time for the Planning Board meeting on Thursday. The application is on the Planning Board agenda for this Thursday the 18<sup>th</sup>. On the shot clock letter, yes the shot clock letter extending the time for determination through the end of June was executed, as the matter is not yet ready for determination we'll need to address a further extension of the shot clock but that will come. We're currently operating under the existing shot clock extension letter which goes through the end of June.

Chair Clemente: Thank you.

Attorney Gilchrist: I will confirm that the photosimulations of the stealth tower were submitted to us electronically today. I have forwarded them over to Mr. Poletto too late to get them onto the website but we are in receipt of those and Mr. Laberge has those as well.

Chair Clemente: Thank you. Mr. Brennan, I tried to access those photosimulations and I needed to sign in, is that the appropriate way to do it? I need to sign into Young Sommer's account?

David Brennan: It is. It's in a shared file to compress them. So there is a request that you put in your name and your email to access them. I could send them over but I think they were 35 MBs and so my system automatically converts it down. If there's a preference I could try to re-send them in their full size but over time I've observed that people have problems when you get that big with the files.

Member Shover: I was able to sign in easily. If you put your email address in, it downloads them right in and the files work fine.

Chair Clemente: That's good to know, thank you. Any questions or any further information requested by any of the Zoning Board members at this time for Mr. Brennan?

Member Steinbach: I have nothing.

Member Shover: Nothing.

Member Curran: Nothing.

Member Schmidt: Nothing.

Chair Clemente: So, Attorney Gilchrist, kindly advise how we should go forward?

Attorney Gilchrist: I certainly think the Board should put the matter on for discussion for your July agenda. We'll have more information from Mr. Laberge in the interim. The Planning Board will have the opportunity to start diving into the response to comments as well. Hopefully at their June 18 meeting. I'll note for the record that the Planning Board also meets on July 2 and it's likely that the Planning Board will be working on the application both at their meeting on June 18 as well as July 2 that will lead up to your July meeting. I would suggest that the Board consider placing this on your July agenda.

Chair Clemente: And I believe that's July 21. Pardon me, July 20. That's Monday July 20, the third Monday of July. So if that's good for you, Mr. Brennan, we'll put that on the agenda.

Dave Brennan: Sure, of course that's good with me. I'd like to be held on the agenda and we appreciate that opportunity and having gone around the virtual room if there's no other comments from the Zoning Board at that time, that's what I was looking to confirm this evening and we will continue working with the Planning Board and enjoy the first part of your summer. We'll see you back in July.

Chair Clemente: Thank you, yes you too. See you in July.

Dave Brennan: Thank you very much.

Member Steinbach: I have a procedural question for the Chairperson or Attorney Gilchrist. The shot clock expires at the end of this month. I've forgotten, do we need to take a vote to extend it or is the Chairperson allowed to extend it? I forgot how it works.

Attorney Gilchrist: I've been reviewing the shot clock extensions with the Chair of the Planning Board as well as the Chair of the Zoning Board and authorized to execute the extensions. So those extensions have not been viewed or considered by the Board as whole. And again, the shot clock is simply the timeline under Federal law during which the Boards need to review and potentially act on and if a municipal Board does not act within the shot clock timeframe, it allows the applicant then to proceed to Court to force that decision. The applicant certainly has indicated it has no intention of doing so because both the Planning Board and the Zoning Board in Brunswick have been diligently working on this. That's why we've extended that shot clock and I would anticipate the same to happen going into July.

Member Steinbach: Thanks for the explanation. I remember now.

Chair Clemente: Alright. So, we'll do housekeeping at the end. We have three items of new business. We'll start with Messia, Property Revolution LLC. The address is 1 Shafter Avenue, seeking an area variance. Do we have Mr. Joseph Messia with us?

Joe Messia: Yes.

Chair Clemente: Hi, welcome and thank you for being here with us tonight. Would you just like to give us a brief overview of your project?

Joe Messia: This is an existing one-family home that I'd like to do a renovation on. It's been vacant and needs a full rehab. It doesn't meet the setback currently from the road and that's what the variance would be for. There is one change in the drawing that you have up, it shows removing the front porch. After having that reviewed, it looks like the front porch is able to be saved so we can keep that enclosed front porch. But the back is where we would like to make a change in removing the cement steps, removing that back door, adding a slider door where the large window is, and a small deck not to exceed 10 by 15.

Chair Clemente: OK. So the variance is for the front lot line setback?

Joe Messia: That's right.

Chair Clemente: Yes.

Chuck Golden: And the existing nonconforming stature of the property was not going to change with the removal of the porch. So you'll see in the drawings, there was no indication of what the front setback was to the porch in that it was going to be removed. So on the little cheat sheet I sent, it has that porch with it being six feet and I changed the requested variance numbers to reflect the fact that the porch was going to remain.

Chair Clemente: OK. So, it's proposed 19.6 and required 30, is that right?

Joe Messia: Is that a question for me?

Chair Clemente: Or the Building Department, sorry.

Joe Messia: The requirement I guess I wouldn't want to answer that question. I think that's probably somebody else on this call to answer it better than me. The survey is I think 19.6.

Chuck Golden: The 19.6 is to the building and not the porch. So taking the six foot off of the porch...

Chair Clemente: So the application looks complete for purposes of holding a public hearing. I want to note to the Building Department, I appreciate the photos and I speak for the other Zoning Board members as well but I appreciate the photos and a summary of the application, so good work Building Department in the unnerving times for coming out with a good product. So if I understand our schedule so far, we have the Usman Rashid application on our July 20 agenda. And then we

have this as a public hearing, and then we have Young Sommer for the Cellco tower. So is there any way we want to organize that? Do you have any input on how you'd like that done?

Joe Messia: Chairperson, I'm not sure who you're directing that to.

Chair Clemente: I'm not sure either, sorry. How about Attorney Gilchrist, would you want to advise us so we have lined up the Rashid property on Pawling Ave., we have Young Sommer with the Cellco, and it looks like we're going to have a couple public hearings.

Attorney Gilchrist: I will take a shot at that. It's certainly within the Board's discretion to schedule the public hearings when you would like. And one way to control the time since you don't know how long the discussion on Rashid or the cell tower may take, is you certainly schedule your public hearings first and address those, then move on to the previously scheduled items Rashid and the cell tower.

Chair Clemente: Thank you for that good advice. Perfect. So Mr. Messia, we'll see you again on July 20 at 6:00pm for a public hearing.

Joe Messia: OK, thank you.

Chair Clemente: OK does everyone understand that, or would like a little understanding of how public hearings work, or do you already understand how that's going to go.

Joe Messia: I think I understand but an overview wouldn't hurt.

Chair Clemente: Yeah, sure, great. So a public notice will go out. It will be in the newspaper, on the Town website and on the Town signboard. It will also be mailed to the neighbors of this particular property within 300 feet and they'll have the opportunity to come and speak for or against this application in front of the Zoning Board members and yourself. And the Zoning Board members will have the opportunity to ask you any questions and then, based on that information provided to us and the application, we'll go through some elements and weight the benefit of granting this variance to you and to the neighbors and the district. So it's easy, it should...

Joe Messia: I understand. Thank you for the explanation.

Chair Clemente: Thank you very much. We'll see you next month. I'm not sure if it will be on the Zoom forum, we'll see what the state is doing next month for public meetings.

Joe Messia: OK thank you.

Chair Clemente: We have a second application tonight. It's 24 Goodman Avenue. This is a pool which is behind a house. It's proposed to be setback at 33 feet however 60 feet is required. The applicant is looking for relief of a 27-foot encroachment. I'm going to ask if the applicant if they are with us this evening.

Pamela Alicea: Yes.

Chair Clemente: Welcome.

Pamela Alicea: Thank you.

Chair Clemente: Thank you for joining us tonight. May I kindly ask the pronunciation of your last name?

Pamela Alicea: Yes, it's Al-is-SAY-ah

Chair Clemente: Oh that's beautiful, thank you. Now I know how to say it correctly. Thank you. So just to confirm, this one variance that's being requested and that's for a front lot line setback. Is that right?

Chair Clemente: Yes.

Pamela Alicea: Alright, would you want just give us a little overview of the project?

Pamela Alicea: Basically we had a 20-foot pool there and now we're just putting a 28-foot pool to go around it. I'm just going to put it right over the same area that it was.

Chair Clemente: I just have a question either for the Building Department or for your, Ms. Alicea. And that is the drawing that we received in the application materials packet on the back, the last page. There's a drawing of the house and the pool and the garage. I'm wondering where Goodman Avenue is on this drawing. Is it to the left, does Goodman Avenue run along the left side of this drawing? Is that correct?

Pamela Alicea: If you're coming up the street from Ted's Fish Fry, it would be on your left side, the same side as Price Chopper.

Chair Clemente: OK, and to help me further understand the drawing that I have, your garage is on the opposite of Goodman Avenue?

Pamela Alicea: Yes.

Chair Clemente: I thought so. OK thank you I understand very well, thank you. So if there aren't any other questions at this time, the application looks complete for the purpose of scheduling a public hearing, which we'll have at our next month's meeting in July. The Zoning Board of Appeals will meet again July 20 and since this is the second public hearing on our scheduled agenda, we'll say it will begin at 6:15pm.

Pamela Alicea: OK.

Chuck Golden: Excuse me, Chair Clemente. But I can see where the confusion was. I was labeled the top of the page 24 Goodman. That is not the street. The street is actually on the long side of the page on the bottom. The front setback being 33 feet. In the aerial photo that I submitted to members, you see that the Price Chopper plaza is directly behind where the garage and the leach field are. And Goodman Avenue was not where written on the page, it does run over the long side of the page. So I can see where the confusion was and I'll make an note of that next time I write the address down so that it doesn't make it look like a street.

Pamela Alicea: I'm sorry, I wasn't looking at anything. I was just taking it off the top of my head. But the [inaudible] is in that corner and the fence is in the back part of the yard.

Chair Clemente: OK, right. Yeah I appreciate the clarification. Thank you, Mr. Golden and thank you, Ms. Alicea. So that's what we'll do. We'll hold a public hearing. The public notice will go out, it will be printed in the Troy Record, it will go on the Town website and posted on the Town signboard. Your neighbors within 300 feet of you will be noticed of this. They will have the opportunity to come and speak for or against this application. And we'll take it from there. So we'll see you next month. And at 6:15.

Pamela Alicea: Thank you so much. Have a good one. Will it still be this Zoom platform?

Chair Clemente: We'll see! We'll see. I mean things change so quickly around here in the great ol' State of New York, so we'll see how things open up. We'll see what the Governor says about public meetings, but this was very successful, you were able to convey your information and we were able to ask you the question so if we are on Zoom again next month I think it'll run just fine.

Pamela Alicea: Yes that's perfect. Thank you have a good night.

Chair Clemente: Thank you, you too. Bye. OK and our third new application tonight is for the address 42 Humiston Avenue. And this is for a variance to build a garage. Is the applicant with us this evening?

Denise Breen: Yes, I am.

Chair Clemente: Hi, Denise Breen. Welcome and thank you for being here with us tonight. Would you kindly give us an overview of the project?

Denise Breen: We wanted to build a garage that would be able to house our three vehicles as well as give us the ability to house a small boat as well as an airstream that needs to be re-finished and be able to have those under cover. And also the design gives us the roof area that would adequate to put solar panels on so that we could charge the two electric cars as well as to provide some solar power to our house.

Chair Clemente: Thank you. It's a very interesting lot size.

Denise Breen: It is. Very long.

Chair Clemente: So just to clarify, you're seeking two variances: the building size where 1,920 square feet is proposed where the max allowed is 1,500 and then also to confirm you're seeking a variance for building height where the proposed is 25 and the max allowed is 20. Is that correct, you're seeking two variances?

Denise Breen: Yes.

Chair Clemente: I just want to note that Chuck from the Building Department, you had a concern about the wetland buffer being affected and you requested a consult from Bill Bradley of the Water Department. Is that still pending?

Chuck Golden: That is correct. I did speak with Mr. Bradley today but it was on a different matter and I will have to remind him again tomorrow.

Chair Clemente: Alright, no problem. I understand. Thank you Denise Breen. If you don't have any other questions for us, this application seems complete...

Member Curran: I did have one question. It appears there's a second floor, or like a loft area. I was just wondering what the square footage of that area is.

Denise Breen: That's a good question. I apologize. I can check the information I have and see if I can get you that information.

Member Curran: OK thank you.

Denise Breen: It seems as if it should be around 960 square feet.

Member Curran: So that changes the request to 2,880.

Chuck Golden: Van, is it running that whole distance on the one side?

Van Phung: Yes, that's the length of the garage.

Chuck Golden: OK so you're **[inaudible]** times the length.

Van Phung: I apologize. I put down I think 20, that was 40, the footprint I was thinking along.

Chuck Golden: As was I.

Chair Clemente: So, I have a different question then. In the application, where maximum height is 22 feet but then I believe in the summary page was 23.25. So is there one number we should be looking at?

Van Phung: I would probably hope that 23.5. The 22 was something I came up with as an estimate. So probably my mistake.

Chair Clemente: No problem, the 23.25, we'll take that as the proposed height. Thank you.

Van Phung: Thank you.

Chair Clemente: So if there are no other questions at the time, we'll put this application on our July 20 meeting agenda and that would be at approximately 6:30pm for a public hearing.

Denise Breen: OK thank you.

Chair Clemente: OK do you have any questions regarding the public hearing process at this time?



Denise Breen: No thank you, I heard your description before to the other applicants. But thank you I appreciate that, I think we're all set.

Chair Clemente: Alright, very good. Well thank you very much, I appreciate it and we'll see you next month.

Denise Breen: Thank you very much.

Van Phung: Thanks everybody.

Chair Clemente: Goodnight.

Member Schmidt: I missed what the second variance was. It was height and what else?

Chuck Golden: It was oversize 1,500 and that number that was requested just ballooned by 1,020 square feet which, taking up the loft area of 60 by 17.1, so I will come up with a new number for that variance.

Chair Clemente: OK thank you. Did you hear that, John?

Member Schmidt: Yes I did.

Chair Clemente: OK so if there aren't any other new issues at this time...

Michael Bergen: Ms. Clemente? This is Michael Bergen.

Chair Clemente: Hi, Michael. How are you?

Michael Bergen: Doing well, yourself?

Chair Clemente: Fine, thank you.

Michael Bergen: I sent you a letter about two weeks ago looking for a status on the Rensselaer Land Trust variance applications. I haven't heard from you so I enjoyed this evening's hearing waiting for the opportunity to ask the question whether or not you received the letter and whether or not you could advise me of any responses to the questions that were included in the letter.

Chair Clemente: Right, so I would like to ask what address did you use when you sent me that letter?

Michael Bergen: I sent it to the Town Office of the Zoning Board of Appeals.

Chair Clemente: So, at this point I have not yet received the letter. I understand that there's a lot going on in the Town recently. The building I'm not sure is even open or in quarantine or how that goes but unfortunately I have not yet received that letter. At this time I'm not able to update you on the status or provide the answers to the questions in the letter. I could possibly defer if you have questions, if it's permissible, to Attorney Gilchrist at this time. I look forward to perhaps getting that letter in the near future.

Michael Bergen: I assumed by sending it to the Town office address that it was the proper address to send something to you as the Chair. I could send it to you some other way if that was of interest.

Member Steinbach: Can I stick in my two cents? Tell this gentleman that the mail probably got sorted and is in a bin waiting in the Town office for Chair Clemente to pick it up but the Town office is closed, sir, so she's not able to pick up the letter.

Michael Bergen: So there's no provisions in the operation of Town government to distribute correspondence to members of the Boards?

Member Steinbach: Well I would imagine there's not for these circumstances.

Michael Bergen: Well it's been going on for several months now, so it would seem appropriate. But can I send it to you another way, Ann?

Chuck Golden: I don't know if Mr. Bergen knows this but we had a Covid-positive test on an employee and we were all in quarantine and the Town Hall was closed down. We don't expect to come off quarantine until the 18<sup>th</sup>. So that has been a really big problem. So the other thing is if the mail was not in the mailbox and the mail was in the office somewhere, the office currently was Covid cleaned and all of the documentation in that office is in three piles. It will take us a while to find things.

Michael Bergen: So, is there a more expedient way, or can you answer the question on the status of the Rensselaer Land Trust application? Anyone?

Chair Clemente: Before that I'll answer your first question on how to get the letter to me in an expedient manner and perhaps you can call Chuck Golden at the Building Department tomorrow and I would give him the permission to give my home address if you are so inclined to send me the letter that way.

Michael Bergen: If it's the same address as when I coached your daughters in soccer I probably can send it to you directly.

Chair Clemente: It is, we're at the same location.

Michael Bergen: OK, I thank you for that and I'll send it along.

Chair Clemente: Thank you, and regarding your question about the status of the Land Trust application, I would perhaps ask the input of Attorney Gilchrist if he has anything to add.

Attorney Gilchrist: At this point I don't. It's been some time since I've looked at that issue so we'll take the inquiry under advisement and we'll take a look at that and I'll review that with the Chair.

Michael Bergen: The last piece of ZBA minutes that I was able to find relative to this was in December of 2019 where you were discussing the possibility of a special meeting that did not seem

to occur and that you were looking for concurrence from the applicant to get their permission to extend the review. So those things are outlined in my correspondence.

Attorney Gilchrist: Thank you, we'll take a look at that and review that with the Chair. Thank you.

Michael Bergen: That's all then, thank you. Goodnight.

Chair Clemente: Thank you. Goodnight. If no one has any other concerns at this time I would entertain a motion to adjourn tonight's meeting.

Member Shover: I'll make a motion to adjourn tonight's meeting.

Chair Clemente: Thank you, Member Shover. Would a member like to second?

Member Curran: Second.

Chair Clemente: Thank you, Member Curran. We'll do a roll call I guess or we can just say all in favor.

Attorney Gilchrist: I think it would appropriate for all in favor.

All Members: Aye.

Chair Clemente: Thank you very much. Thank you, Mr. Poletto for facilitating this meeting. We'll assume your expertise is needed next month. If it is, I look forward to that. If not, thank you for all that you've done. We appreciate it.

Pat Poletto: Thank you. Goodnight everyone.