

**Town of Southeast
Zoning Board of Appeals
Minutes of April 18, 2016**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Kevin Sheil	Present
Roderick Cassidy	Present
Debra Keiser	Present
Greg Wunner	Present
Carla Lucchino	Present
Willis Stephens, Jr., Town Attorney	Present
Victoria Desidero, Secretary	Present
Cathy Chiudina, Assistant Secretary	Present

Brewster Ford, 1024 NYS Route 22 – This was a Public Hearing to review an application for the following variances:

1. 16% Building Coverage where a maximum of 15% Building Coverage is permitted;
2. 79% Lot Coverage where a maximum of 45% Lot Coverage is permitted [NOTE: the existing site is pre-existing non-conforming with 76% Lot Coverage];
3. 21% Open Space where a minimum of 55% Open Space is required [NOTE: the existing site is pre-existing non-conforming with 24% Open Space];
4. 15 ft. front yard parking variance is required for new parking spaces. The existing site has pre-existing non-conforming parking within the 15 ft. front yard parking setback;
5. 0 ft. side yard parking where 10 ft. side yard is required;
6. 19% outside storage where 5% outside storage is permitted [NOTE: the existing site is pre-existing non-conforming with 17% outside storage];

Jamie LoGiudice was sworn in and the mailings were verified to be in order.

Chairman Froessel: You were here last month. I think we know your application fairly well. The two outstanding issues were County Planning approval which we now have and the other issue, which we were curious about, was that drainage issue that was going to require some sort of plan with the DOT (Department of Transportation).

Jamie LoGiudice: That would require a Use and Occupancy Permit and a Highway Work Permit with the DOT which we are working with the DOT right now to procure. It is a somewhat lengthy process and unfortunately we were not able to be done within the last month.

Chairman Froessel: Has the process been started yet?

Jamie LoGiudice: Yes it has. We've had several conversations with the DOT. We wanted to attempt to do the drainage maintenance as just that and basically just get it done and over with so that the neighbor would be satisfied and the DOT doesn't want to do it that way for insurance purposes and it's on their property type deal.

Chairman Froessel: I can understand that. I think we were all here last month so we're familiar with the application. Does anyone have any questions that anyone thought of over the last month regarding this application?

Boardmember Lucchino: When do you think you'll resolve everything with the DOT?

Jamie LoGiudice: As I said, it's a lengthy process. We are looking to submit to them a full application for both permits within the next week and I would like to say that I can hopefully get that approved within the next month and a half to two months but it depends on their review and responses.

Chairman Froessel: You're presently on hold with the Planning Board?

Jamie LoGiudice: Yes. We are currently before the Town Board and we recently submitted to the ARB (Architectural Review Board) as well.

Chairman Froessel: What are you before the Town Board for?

Jamie LoGiudice: A Special Permit for a Motor Vehicle Dealership. We've been to every Board possible.

Boardmember Keiser: Did you not have that permit before?

Jamie LoGiudice: No, as it wasn't required in the NB-1 Zone but now with the new Zoning it is required.

Chairman Froessel: The Planning Board will have to handle that drainage issue, correct? That has to be part of your site plan?

Jamie LoGiudice: Yes, it will be part of the site plan.

Chairman Froessel: I am satisfied we can move forward this evening. Just to recap, there were six separate variances that the applicant is seeking. They are seeking a variance for 16 percent Building Coverage on the lot where a maximum of 15 percent is permitted so they will be exceeding by 1 percent. They're looking for 79 percent Lot Coverage where a maximum of 45 percent is permitted. Their pre-existing non-conforming Lot Coverage is 76 percent so it's only increasing 3 percent. They're looking to have 21 percent Open Space where a minimum of 55 percent Open Space is required and not coincidentally the current pre-existing non-conforming on that Open Space is 24 percent. A 15 ft. front yard parking variance for new parking spaces is requested. The existing site has pre-existing, non-conforming parking within the 15 ft. front yard parking setback. They're looking for a 0 ft. side yard parking where 10 ft. side yard is required. That's the part by the High Ridge Plaza correct?

Jamie LoGiudice: Yes, correct.

Chairman Froessel: They're looking for 19 percent outside storage where 5 percent is permitted but the existing site has a pre-existing, non-conforming for outside storage of 17 percent so it's only a 2 percent increase. They are looking for fairly minimal increases over the pre-existing, non-conforming Lot Coverage issues. Is there anyone in the audience that has any comments or questions about this application? No? Okay. Does the Board have any questions? No? Okay. We can close the Public Hearing and take a vote but before we do that do you have any final comments you wish to make?

Jamie LoGiudice: No.

Chairman Froessel: Do you feel you've had a fair and adequate opportunity to present your case?

Jamie LoGiudice: I do.

Chairman Froessel: We will close the Public Hearing. I don't know if anyone has any questions or comments for deliberation amongst the Board but I will tell you my general view is that the increases over what is already there are fairly minimal and I think that, based on what I know about this application and other car dealerships and the way they work, they're at a point where they have to make some improvements in order to keep their franchise and that building hasn't been updated in the 20 years I've lived in this Town. I think it will be an improvement to the property and probably be an improvement for the business. Does anyone else have any views they wish to express? Does anyone have a view on whether we should take these variances one by one or do them together as a package?

Boardmember Cassidy: I would say the package approach is probably best and I assume you need all the variances and not just one or two of them.

Jamie LoGiudice: We do need all of them.

Chairman Froessel: That was my view as well. We will take them all as a package. I will entertain any motion anyone cares to make with respect to the application that's before us. I will make a motion to grant the following variances to the application: A variance of 16 percent Building Coverage where a maximum of 15 percent is permitted. A variance to permit 79 percent Lot Coverage where a maximum of 45 percent is permitted. A variance to allow 21 percent Open Space on the lot where a minimum of 55 percent Open Space is required. A variance of 15 ft. for front yard parking for new parking spaces. A variance for 0 ft. side yard parking where 10 ft. is required so that's a 10 ft. variance. A variance to permit 19 percent outside storage on the lot where 5 percent outside storage is permitted.

The motion to grant the requested variances was introduced by Chairman Froessel, seconded by Boardmember Cassidy. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
No, I don't think it will be an undesirable change. In fact, I think once you're done, I think it will be a desirable change. As far as the nearby properties are concerned the changes in some of the density on the property are minimal over what was pre-existing, non-conforming and I don't think they're really going to affect the neighbors at all. In fact, as a byproduct of this, the High Ridge Plaza is going to get improved drainage and I think there is going to be landscaping done in the front that's going to improve the appearance of the property as well so I don't think there will be any undesirable change.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No, I don't think there is. The lot you have is the lot you have and it's not getting any bigger. It is an odd-shaped lot. There's no nearby property that they could acquire because there are commercial operations all around them so I don't think that there is any other feasible method by which the applicant could do this.
3. Whether the requested variance is substantial.
Clearly some of them are substantial, in particular, the Lot Coverage and Open Space, however, I think that those things are mitigated by the fact that there were pre-existing non-conforming property densities that were only slightly less than what the applicant is proposing so, in terms of an overall change, it's not very great. In some aspects it's really just legalizing what was going on there anyway.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There's been no evidence of that and, in fact, I think there will be a positive effect once that drainage issue is taken care of.
5. Whether or not the alleged difficulty was self created.
No, I don't think it is self created. They're running a business there and it's a longstanding business in this Town. There are some improvements that they have to

make to maintain their dealership franchise and I think that's what's driving this. They're trying to maintain their business and make it a desirable business in this Town.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	In Favor
P. Vink	Absent
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent. (Boardmember Vink had not yet arrived at the meeting.)

Dennis and Kimberly Santucci, 5 Shady Lane – This was a Continued Public Hearing to review a request from the Building Inspector for an interpretation of the Town Code in order to determine how and where to measure the height of a stone garbage pail enclosure.

Chairman Froessel: As I mentioned earlier this application has been adjourned to next month.

Scott Rhodes and Suzanne Cercena, 5 Shady Lane – This was a Public Hearing to review an application for a fence for a residence that has two front yards, which requires an east front yard height variance of 3 ft. where 6 ft. is proposed and 3 ft. is permitted; and a south front yard height variance of 1 ft. where 4 ft. is proposed and 3 ft. is permitted.

Scott Rhodes and Suzanne Cercena were sworn in and the mailings were found to be in order.

Chairman Froessel: Please tell us about your application. I know you have a corner lot so that's an issue.

Scott Rhodes: Correct. Lincoln Road and Tanager, actually Lincoln is a very high-traffic area. That's another issue that needs to be addressed at a different time but we're just worried about our child's safety. We have an autistic daughter. She can't really play in our front yard much because of the traffic issue and we're worried about accidents and what have you so we are looking for a variance to push the fence back a little bit towards the road. Currently the way we are zoned for fences, it puts the fence almost in the middle of our yard so it really allows no access to play, hence the reason we're looking for the variance. I do have pictures of the property if that would be helpful. I could pass those around.

Chairman Froessel: Sure that would be good.

Scott Rhodes: This is actually just from Tanager. This is Tanager Road and this is coming in from Lincoln. This is from our driveway looking out at Lincoln. That is Eagle's Ridge behind us and this is a high traffic area. I took this from Lincoln Road. This is the corner portion of the property where we're looking to put the fence so it would be from here all the way around. It kind of wraps around. This is another view from that side. This is looking down Lincoln, which is the traffic area that comes up, and this is Tanager going this way. This is the backside along our neighbor's property where we're going to add a fence as well but this, more importantly, is coming down Tanager Road towards Lincoln.

Chairman Froessel: Are you going to fence the entire property including the front yard?

Scott Rhodes: Correct.

Chairman Froessel: How high will the fence be?

Scott Rhodes: It's 6 ft. along Lincoln and 4 ft. along Tanager so it's going to tier down to 4 ft.

Boardmember Cassidy: Why the height difference?

Scott Rhodes: Just because of safety reasons, we don't want her climbing over the top of the fence and the State recommended that we shoot for 60 because as she grows and gets taller, there's going to be a hazard of her getting over.

Boardmember Cassidy: Why not 6 ft. all around?

Scott Rhodes: Because of visibility on Tanager Road. We would like to be able to actually see and have a view.

Boardmember Lucchino: What will the fence look like?

Scott Rhodes: It's going to be white vinyl fencing, stockade fencing.

Boardmember Lucchino: I thought I saw a white picket fence, was that a neighbor's?

Scott Rhodes: No that was ours. It's on the side of our property.

Boardmember Lucchino: So it won't look like that?

Scott Rhodes: No it won't look like that. The State won't allow it.

Suzanne Cercena: The State won't do picket.

Scott Rhodes: The State feels with the slats, they think she can get her toes and feet in and climb over so it has to be a straight stockade fence.

Boardmember Lucchino: Like you would have if you were fencing in a pool?

Scott Rhodes: Correct.

Boardmember Lucchino: That's why there's a visibility issue because you can't see through it. It will be white so it matches?

Scott Rhodes: Yes, correct.

Boardmember Lucchino: Any of your neighbors have any comments?

Scott Rhodes: I don't think so but I do have a gentleman who is actually here who I just saw on the way in from the condo complex. I don't know if you want to speak on that sir?

Blake Hall of Eagle's Ridge Condominium Development was sworn in and addressed the Board.

Blake Hall: Where I live in Eagle's Ridge, I have a direct view of their property so from an aesthetic standpoint a fence would not bother me in any way, shape or form. If you simply went two houses down from where they're located there's roughly a 7 to 8 ft. fence already there. Aesthetically it would not bother me and when you bring in the safety aspect of Lincoln Road, to me it would be unjust to deny them to build that fence. From a personal standpoint, the speed by which people drive down that road, you're more likely to see someone driving 50 mph rather than the speed limit of 30. I have been in multiple verbal confrontations with people regarding that when I've brought my daughter or dog walking.

Chairman Froessel: I understand. I spent nine years walking my dog through that neighborhood, I am very familiar.

Suzanne Cercena: I tried to get a Stop sign and they denied it.

Blake Hall: I am not saying anything against the State Troopers but I had a State Trooper stop by my house, I think it was last year, regarding a car that was vandalized in Eagle's Ridge and I just mentioned to him about the speed that people drive down this road is absurd and very dangerous. He said he would make a concerted effort to get people up here more often patrolling to monitor that and I'm not saying they haven't done that but the problem still exists. Again, I'm not saying it's their fault. I am not sure how thin they're running.

Chairman Froessel: I lived there for nine years and I used to walk the dogs and it's dangerous for people walking.

Suzanne Cercena: It really is, just on that one road. The other roads are pretty good.

Blake Hall: The side roads aren't typically as bad but that one road is literally like a speedway. It's crazy. From a safety perspective I think to deny them would be unfair.

Chairman Froessel: Okay, thank you. I appreciate your comments. Mr. Rhodes, could I just ask you to take a look at this to clarify my understanding here. You have existing fence here and your adding fence on all these dotted lines here and you have a stone wall here. You're not going to put any fence on top of the stone wall?

Scott Rhodes: The fence actually is going to go along the stone wall because she can climb up over the wall so it's going to be completely fenced in.

Suzanne Cercena: The picket fence is going to go. That was when they were little and now it's not enough.

Boardmember Lucchino: You're going to remove that?

Suzanne Cercena: Yes, because the fence is going to go across the front now so that's unnecessary. So I don't think aesthetically it would look ok.

Boardmember Lucchino: So this new fence will be on two sides of your property and not the whole property?

Suzanne Cercena: We are already fenced in at the back.

Boardmember Lucchino: So when this is done the whole property will be fenced in?

Suzanne Cercena: Correct.

Chairman Froessel: Is this where it goes from 6 down to 4?

Scott Rhodes: It will be 6 here and 4 along here and across here as well. We were thinking about going 6 here but the fence would block visibility.

Chairman Froessel: Okay that's fine. I just wanted to understand the perimeter. How high is the stone wall here?

Scott Rhodes: I believe 3 ft. but there's also a little grade here.

Chairman Froessel: So you're looking for 6 ft. all around here and just 4 ft. through here.

Scott Rhodes: Yes, 6, 6, and 4.

Chairman Froessel: Okay, everyone understand that?

Boardmember Lucchino: 4 ft. high in the front right?

Scott Rhodes: Correct, along Tanager, yes.

Suzanne Cercena: It's so that when we back out of the driveway we can see and for whatever reason it's just more of a visibility thing than anything. I think it's safer.

Boardmember Lucchino: And when people are going to turn on Tanager or Lincoln, your fence won't block their view, correct?

Scott Rhodes: That's why we tiered it down to 4 to take away that blind spot so that you can really see down Tanager.

Boardmember Lucchino: So there's no accidents at that intersection.

Scott Rhodes: Correct, that's one of the reasons we went down to 4 as well.

Boardmember Keiser: I was up there to look at the place but I don't remember, is there a Stop sign on the corner?

Suzanne Cercena: No. I came here five or six years ago and it was denied to put a Stop sign there.

Boardmember Keiser: It seems like that would be a good idea.

Scott Rhodes: We asked for speed bumps but speed bumps weren't put in because it's not a private road.

Boardmember Lucchino: What was the reason for denying the Stop sign? Do you remember?

Suzanne Cercena: I do, money. They said that if we wanted one there that there are a lot of different roads that run parallel so everyone would want a Stop sign. I said no one else is going to really want a Stop sign because where they're located it's not really necessary. I think maybe one other road did want one, it's probably necessary but they said no.

Boardmember Lucchino: Who denied it or who did you apply for it with?

Suzanne Cercena: It was about five years ago, I don't remember the judge who it was. It was a Town Board meeting.

Chairman Froessel: They have a corner lot and with the front setback you're only allowed a 3 ft. fence and they have two front setbacks because it's a corner so that's why a section of the fence they want to be 6 ft. high needs a 3 ft. variance and the section that will be 4 ft. needs a 1 ft. variance.

Ms. Desidero: If you are denied for a Stop sign by one Town Board can you ask a different Town Board?

Chairman Froessel: I would think you can.

Suzanne Cercena: It's definitely necessary there. I should probably do that.

Chairman Froessel: Do you have a question about this application?

Jose Sala: I do want to make a positive comment if I may.

Jose Sala was sworn in and addressed the Board.

Jose Sala: I work for the Brewster Central School District as a mechanic and I also work as a driver and there are many runs that I've done in their area and what they're saying is completely true. Being in a school bus and sometimes we have the larger buses, people drive around there like crazy. We have a lot of autistic children and a lot of special needs runs. I have personally driven many of them and it's sad to hear and read articles of autistic children running away so I do hope that this works out for them.

Chairman Froessel: Okay, thank you very much.

Suzanne Cercena: Thank you.

Scott Rhodes: Thank you, I appreciate that.

Chairman Froessel: I think we understand the application. Does anyone have any other questions of the applicant? No? Okay. Do you have any questions for us or any final statement you would like to make?

Scott Rhodes: No, I just hope and pray we get approved for the variance.

Chairman Froessel: Do you feel you've had a fair and adequate opportunity to state your case?

Scott Rhodes: Yes.

Chairman Froessel: I will close the Public Hearing. I think this is pretty straightforward. I think they have a demonstrated need for this fence and I think that, under the circumstances, this is the least amount of relief I think that they can seek. Having lived in Brewster Heights for nine years, I can tell you that my view is that it would not change the character of the neighborhood. Unless anyone else has any comments I will entertain any motion anyone cares to make.

Boardmember Cassidy: I will make a motion to grant the application for a 3 ft. variance on the east front yard and a 1 ft. variance on the south front yard.

The motion to grant the requested variances was introduced by Boardmember Cassidy, seconded by Boardmember Sheil. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
I don't think there will be an undesirable change. Many of the houses in the neighborhood have fencing and the fence that was described sounds like it will actually make the property look even more attractive than it does now.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
I think not and the fact that the applicants are minimizing their request instead of maximizing their request speaks to the fact that they are only asking for what they need.
3. Whether the requested variance is substantial.
In some instances it is substantial but overall not really and again it's only what they need to protect their exceptional daughter.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There has been no testimony to that effect.
5. Whether or not the alleged difficulty was self created.
No, it wasn't self created. This is a matter of trying to protect the safety of their daughter.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	In Favor
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 7 to 0.

Jose Sala, 115 Putnam Avenue – This was a Public Hearing to review an application for an addition to a pre-existing, non-conforming residence in a GC Zone.

Jose Sala was sworn in and the mailings were found to be in order.

Chairman Froessel: Please tell us about your application.

Jose Sala: My home is a pre-existing, non-conforming use in a Commercial Zone. I brought some paperwork here for everyone in the hopes that it would be a little easier to understand what I am trying to do. The house was built in 1932 and it doesn't have any proper front yardage. It's an old farmhouse. Everything has been grandfathered in. It's always been used as a residence. My wife and I purchased the home and it has a patio all grandfathered in. The patio is in poor shape and needs to be repaired. I do apologize for the small print and the quality of my printer with some of the images on there. I did the best I could. What I am moving towards is reconstructing the patio. The patio is adjacent to the kitchen and the kitchen is in the basement of the home. It's a very small home. It's a cottage. It has very small living space. It's a two bedroom home and it will continue being a two bedroom home. I am simply proposing to reconstruct the patio with proper foundation, proper walls, insulation and everything all energy efficient thus connecting the existing kitchen, opening up the wall (load-bearing and everything) to what would be now part of the kitchen also. I would be maintaining the same footprint I have, building on top of it and expanding the livable space and relocating one of the bedrooms that's there to the empty space above the patio. It will

continue being a two bedroom house and I'm just giving it a proper living room because the living room and foyer area is very, very tiny. I'm trying to grow a family and everyone likes to run around and play in the living room and that's awesome.

Chairman Froessel: Was this property before us a couple years ago?

Jose Sala: Yes, well a couple months ago. I believe it was September or October. We did the Work Session together and nothing has changed with my proposal. I just got everything architecturally drafted up.

Chairman Froessel: I knew it looked familiar.

Boardmember Lucchino: When you relocate the bedroom, what happens to the current bedroom?

Jose Sala: I'm going to open up one of the walls. It doesn't even have a closet anyway but it's considered a bedroom so I'm going to open it up and use that as a den/exercise type area. It's going to be a 6 ft. wide opening.

Boardmember Lucchino: I'm a relatively new resident and I know there are like septic concerns and things if you have too many bedrooms.

Jose Sala: The number of bedrooms is going to stay the same but I did have the septic inspected and its currently 1250 gallon tank which is good enough for a four bedroom home based on the Zoning Codes.

Chairman Froessel: Okay, this is a pre-existing, non-conforming residential use.

Jose Sala: Yes.

Chairman Froessel: The issue here is expanding a non-conforming home.

Jose Sala: Any change I have to come here but I'm not increasing the footprint of the lot. It's going to stay exactly the same and the architect actually blew up a portion of the survey and signed off on it, showing exactly where it would be located showing that the plot is going to stay the same.

Chairman Froessel: You're going to take down that porch that's there and reconstruct that whole corner?

Jose Sala: Yes, the whole thing is going to be redone with a proper foundation and everything. The architectural plans for it are there.

Boardmember Wunner: Are you adjacent to the well driller on the right?

Jose Sala: Yes.

Boardmember Lucchino: The addition will match the rest of the house?

Jose Sala: Yes ma'am.

Boardmember Lucchino: You have vinyl siding?

Jose Sala: It is currently aluminum siding.

Boardmember Lucchino: So this will also have aluminum siding?

Jose Sala: No, they will use exact paint color to match the vinyl siding and the addition is going to have proper egress windows and everything up to Code.

Boardmember Lucchino: May I ask also what you have around you? I didn't go and take a look at where your house is located.

Jose Sala: As in what other lots are around me?

Boardmember Lucchino: Yes.

Jose Sala: This is the tax map. The green box represents where my home is and the pink I highlighted as all the residential homes around me. So there are a lot of neighbors in front and the one currently next to me, who was also owned by the same landlord. He and I were both zoned as GC-1 and everyone else is residential.

Boardmember Lucchino: So the front of your house is here?

Jose Sala: Yes, the front of my house is right butted up against the road.

Boardmember Lucchino: What's in front of you? What do you look at?

Jose Sala: Behind me is just the woodlands.

Boardmember Lucchino: Got it. Woods on these two sides.

Jose Sala: Well on this side right here is the Mills Drilling Company. It's a commercial spot there.

Boardmember Lucchino: Got it. These are homes and these are homes?

Jose Sala: Yes.

Boardmember Lucchino: Any neighbor concerns? It sounds like it's going to look great frankly.

Boardmember Keiser: Is Mills Drilling still operating?

Jose Sala: I do see some movement but I'm not sure.

Boardmember Wunner: They're fading out. The Dad isn't well.

Chairman Froessel: I just want to take a look at the letter from the Building Department. It's a one-time allowance to expand a residence by an amount not to exceed 20 percent of the existing livable space of that residence and not to exceed the maximum allowed percentage of coverage for any lot for that Zone. However, this property is Zoned GC. Therefore, prior to our review, you must obtain a variance from the Zoning Board of Appeals for the proposed extension of the building structure. So what are we doing here? The Building Department can grant the one time allowance, we don't need to do that. At least that's my understanding.

Boardmember Lucchino: I think it's the area variance.

Boardmember Cassidy: In order to proceed with the application as submitted, you will need to obtain variances from the Zoning Board.

Chairman Froessel: So, I think the issue is with the setbacks of the existing house: there is no front setback, it's 0 ft. My impression is we have to grant variances for the various setbacks to legalize the dimensional requirements and then he can go to the Building Department and get his permit that allows him the 20 percent. Am I understanding that correctly?

Ms. Desidero: That's my understanding but I'm looking at the letter and he hasn't given you the distances.

Chairman Froessel: Yes, I know and he usually does.

Ms. Desidero: Now I remember what he said. The paragraph that he put in there is that he is pointing out to the ZBA that in two other Commercial Zones you're allowed to have this one time, but not in this Zone, so he's saying would the ZBA consider granting him that same consideration because it's a pre-existing, non-conforming house in this Commercial Zone. He is staying within the footprint basically.

Chairman Froessel: So he basically needs a variance from 138-11C.(1)(a) which says that the building or structure shall not be enlarged or extended once the use is changed to a conforming use.

Ms. Desidero: And he's letting you know that it's permissible in two other Commercial Zones but not in GC.

Chairman Froessel: Okay. We used to do a lot of these back in the Ron Harper era. In order to have a residence in a Commercial Zone, as long as it is designated as office park or economic development, may secure a one-time allowance but he's in GC so he can't do that. Okay, so you don't need the dimensional variances but you do need a variance from 138-11C.(1)(a). Do we agree as a Board that's what we're doing here?

Boardmember Cassidy: That's what we're doing here.

Chairman Froessel: Is there anyone in the audience that has any questions about this application? It doesn't look like it. I think we understand what you want to do. Do you have any final statements you'd like to make in support of your application?

Jose Sala: No sir.

Chairman Froessel: Do you think you've been given a fair and adequate opportunity to present your application?

Jose Sala: I do.

Chairman Froessel: What he basically wants to do is redo the corner of the house without expanding the footprint, but will slightly enlarge the square footage of the house because there will then be a second floor above it, and he needs a variance from the section of the Code that prohibits a pre-existing, non-conforming structure from being enlarged or extended unless the use is changed to a conforming use, but he would like to continue his non-conforming use of the property as his residence. I am closing the Public Hearing. Unless anyone has any questions, comments, deliberation I will entertain any motion that anyone would like to make.

Boardmember Vink: I'll make a motion to grant the applicant an exception from Section 138-11C.(1)(a) enabling him to expand the non-conforming use in the current Zone.

The motion to grant the requested variance was introduced by Boardmember Vink, seconded by Boardmember Cassidy. The Criteria:

There are not pertinent criteria for this application but in support of the application it just seems, particularly in light of the fact that the Code allows it in two Commercial Zones, that in this particular case it wouldn't seem to be reasonable to deny the applicant the right that he would have in another Zone when you are surrounded by other residential uses.

Ms. Desidero: The Motion is to grant the exemption is from 138-11C.(1)(a) but should it also be to stay within 138-11.E?

Boardmember Cassidy: Which is the 20 percent?

Ms. Desidero: In other words, he can't really go beyond what's allowed in 138-11.E.

Chairman Froessel: I would assume we are granting it for him to be able to build what he has shown us, as depicted.

Ms. Desidero: Okay, thank you.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	In Favor
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 7 to 0.

Victor Velasquez and Brunilda Colon, 142 Milltown Road – This was a Public Hearing to review an application for an addition to a single family home, which requires west side yard setback variance of 10.32 ft. where 19.68 ft. is proposed and 30 ft. is required; and total side setback variance of 17.64 ft. where 57.36 ft. is proposed and 75 ft. is permitted.

Victor Velasquez and Architect Robert Cameron were sworn in and the mailings were found to be in order.

Ms. Chiudina: Chairman, this requires County approval and we have not received it yet.

Chairman Froessel: Okay thank you. Good evening. We will open the Public Hearing. Just to let you know Milltown Road is a County road. We can't approve a variance until it's been submitted to the County and we have an approval from County Planning as they have the right to say yea or nay beforehand. They almost always say yea, but we nevertheless have to respect that process, so we can't vote on your application tonight but we can at least open it and get the process started and then once that approval comes in, then we can vote on it.

Victor Velasquez: Is that something new?

Chairman Froessel: No it's not. It's County Law Section 239.

Town Attorney Stephens: It's actually General Municipal Law 239m.

Robert Cameron: You will take care of sending it to the County?

Ms. Desidero: It's been sent but we don't generally get them back in time for the meeting.

Chairman Froessel: Why don't you at least start to tell us about your application?

Robert Cameron: I'm the architect. Victor is the owner. Let me kind of explain what we have here. We have a very small lot, 0.45 less than half an acre located on Milltown Road. He has two neighbors on either side of him and the cemetery across the street. What we want to do is add a decent size bedroom and a garage. The previous bedroom was where the dining room is now. It is just a tiny house. It is 28 ft. by 45 ft., your typical 1950s, 1960s ranch. There's really no place to expand to give my client the quality of life that he'd like. He'd like a decent size bedroom where you can have a chair or two, a TV, a walk-in closet, have a master bath. That just cannot be done in the existing footprint. The only way to do that is to expand the property, expand the building.

Chairman Froessel: What's the dimension of the existing master bedroom.

Robert Cameron: If we could call it a master bedroom, 12 by 14 maybe something like that. There's no place to expand except to go to the side yard. The septic fields are behind the house so we can't go to the back and there's a deck back there. We can't go to the front because we'd need a variance and if we went to the other side we would need the same variance and that really doesn't work with the layout of the building as you can see. We have the bedrooms to one side so it would make sense to have the master bedroom, as you're looking at it, to the right side of the building. There is an existing driveway over there, which is another reason I wanted to locate it there, because underneath he would like to put a garage. Both the master bedroom width and the width of the garage are part of the determining factors as to why we arrived at 20 ft. because when you have a garage, he wants to get two cars in there. The reality is you really should have 20 ft. so you can get two cars in the garage. That also works well for the master bedroom above it. I mean to go any less just really doesn't accomplish the goal. You can't go 16, 18 ft. with the garage because it's just too tight to get stuff in there and, as we all know, we like putting lots of stuff in our garages. The appearance of the building is going to be the same. We're going to keep the same roofline. We're going to move the proposed addition farther from the front to set it back a little bit to give it a little more of a setback. That also diminishes its bulk appearance as well. We're going to put a gable roof and a nice window. We're going to match the siding material. It's going to be the same. We have vinyl siding and we're going to match the vinyl siding. We're going to keep everything very consistent. As I said, the roofline is the same with the exception of having a gable on there to dress it up a little bit. We'll match the windows. I just drew a basic window in there but we'll match the window style and all that. He wants his house to look good and I'm here to help him accomplish that goal.

Boardmember Lucchino: Are you going to match the roof too?

Robert Cameron: Yes, the roof shingles will match too.

Boardmember Lucchino: You have a decorative window. You're not going to put that decorative window in there, your going to match the window?

Robert Cameron: Yes, meaning the color and trim and such. If it has a 1-1/4 in. trim, we're going to match the 1-1/4 in. trim and such.

Boardmember Lucchino: Got it.

Robert Cameron: But because he wants the higher ceiling in here I wanted to take advantage of that with the arched window. Screening: there is a significant amount of screening between him and his neighbor. I don't know if you did a site walk or not. We have the pictures there in the application. There are a lot of trees that are very narrow, tall evergreen Pine trees along the side yard so I don't feel there's any issue that this is going to be too big or too bulky in appearance to the neighbor because he really cannot see it. There are some existing deciduous trees back here and this is all Pine trees along here.

Chairman Froessel: Well there's no one here to complain so that's a good sign.

Robert Cameron: I mean, obviously we want a garage underneath, so I mean that where the driveway is, so there's just no other location where you could put this addition. His hardship really is that he wants to stay in this area, he has a tiny house, and he wants to expand it so he can have a decent quality of life in this place that he wants to stay in and the only way to do that is to expand. Unfortunately, on these tiny lots when they designed them and they set the Zoning back at the time, by modern Zoning you really don't have a whole lot of space to do anything unless you come to the Zoning Board and get a variance for a setback and that's his situation. There's no place else that he can go. He can't go up as it's just prohibitively expensive and then you have a flight of stairs and all of that to go up and down to get to a bedroom. This really is the best plan to suit his needs.

Boardmember Vink: If you go up you still don't have a garage.

Boardmember Lucchino: Can I ask a question about the driveway?

Robert Cameron: Yes.

Boardmember Lucchino: Just in this picture here. So this is where the addition will be on this side, correct?

Robert Cameron: Yes it's on the driveway.

Boardmember Lucchino: So there will no longer be this part of the driveway, right? And he will come in his driveway and pull into his garage in the front of the house.

Robert Cameron: Correct, absolutely, yes and this elevation shows the garage door.

Boardmember Lucchino: To the right of where you were pointing?

Robert Cameron: That's the existing house. You are looking at the side of the house in that picture and then the addition is here and you pull into the garage.

Boardmember Lucchino: So I guess what I'm trying to determine is to the right of the garage it will be part of the driveway.

Victor Velasquez: Yes, probably my property will continue another 19 ft.

Boardmember Lucchino: Okay so you'll pull straight in but there will be a little driveway to the right.

Robert Cameron: Yes there will be a little pad there and we're just going to leave that because it's already there.

Victor Velasquez: There will be driveway between the ending of the addition and the Arborvitaes that are there now.

Boardmember Lucchino: So how wide will that be? Do you know?

Victor Velasquez: Well I have 19 ft. to the end of my line. If we get the 20 ft. I will still have 19 ft. so to the Arborvitaes I believe would be another 9 ft.

Boardmember Lucchino: Between the right side of the addition and the Arborvitaes, 19 ft.?

Victor Velasquez: Correct.

Robert Cameron: No, probably 9 ft. of pavement.

Boardmember Lucchino: Okay so 9 ft. of pavement to the right of the house, then grass, and then Arborvitaes.

Robert Cameron: You can see the dashed line, that's the paving line and close to that are the Arborvitaes so we're just going to leave that paving and landscaping in there.

Boardmember Lucchino: So there will be like a little pad there. This is the picture you're talking about with the dotted line, right?

Robert Cameron: Yes, exactly.

Chairman Froessel: The dimensions I think are pretty straightforward so we can deal with that next month. Do you have anything else you want bring to our attention? You are going to have to come back next month, unfortunately ,because of the County issue but if there's anything else you want to tell us now feel free.

Robert Cameron: No, basically it's the situation that he's in. He wants to improve his quality of life, wants to stay in that house and the only way that we can figure out how to do that is to put an addition on and because of the current setback requirements we just need a variance.

Chairman Froessel: We will leave the Public Hearing open. You will be number two on the agenda next month after the Santucci's so that's going to take a while but you will be next on the agenda after that and the County should have chimed in by then.

Robert Cameron: I'll speak to Victoria or Cathy in the meantime and find out.

Chairman Froessel: Okay and then we'll move forward then.

Robert Cameron: Regarding the 30 day timeframe, we don't have to hear from the County if they don't respond?

Chairman Froessel: No, if they don't respond within 30 days, Will, am I correct that it's automatically an approval?

Mr. Stephens: Yes that's correct.

Robert Cameron: And you sent that to the County so that by the next meeting the 30 days will have elapsed?

Ms. Desidero: Absolutely.

Robert Cameron: Okay, thank you very much for your time.

The motion to approve the Meeting Minutes of March 14, 2016 was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed 7-0.

The motion to close the meeting was introduced by Chairman Froessel, seconded by Boardmember Sheil and passed all in favor.

Respectfully submitted,
Cathy Chiudina
Victoria Desidero