

**Town of Southeast
Zoning Board of Appeals
Minutes of June 13, 2016**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Absent
Kevin Sheil	Present
Roderick Cassidy	Present
Debra Keiser	Present (8:10pm)
Greg Wunner	Present
Carla Lucchino	Present
Willis Stephens, Jr., Town Attorney	Absent
Joseph DePaola, Special Counsel	Present
Victoria Desidero, Secretary	Present
Cathy Chiudina, Assistant Secretary	Present

Worksession

Winwater of Carmel

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; and

a Continued Public Hearing to review a request for an Administrative Appeal of the Building Inspector determination, as well as a request for Interpretation of application of Town Code.

Attorney Donald Rossi: Good Evening Chairman Froessel, members of the Board. Don Rossi from Hogan & Rossi standing in for Mike Liguori who's been here at least once I guess for these applications. Dennis Santucci is here, also Ron Gainer. Dennis and Ron have obviously been involved in the project a lot longer than I and are here to answer questions as they might arise with regard to the specifics of work that's gone on at the Santucci property but recognizing, we certainly all recognize, that your Interpretation is a pretty limited function tonight on the specific sections of the Code that have been referred to you by the Building Inspector and also come before you in connection our own Appeal of his Determination with regard to the garbage enclosure. So, I don't think I'm going to be saying anything new to you tonight but as has been submitted and proposed both from our office and Ron's office. Ron is engineer to several local municipalities including Patterson so he has a lot of experience in dealing with Municipal Codes that the Southeast Code, unlike many others does not provide specific instructions as to how the heights of fences are to be measured if placed on top of a retaining wall. So the Code exempts retaining walls from the definition of fences and we believe that, as on the instant property, that if a wall constitutes a retaining wall then you can place a fence on top of that retaining wall, which is consistent with the three feet limitation for fencing. Now, when I first started looking at this I thought it was kind of unusual to have a fence on top of a wall but when you look at this in connection with retaining walls in general I don't really think it's too unusual to have a fence on a retaining wall or immediately adjacent to it. And I think here that the Code, by being silent on measurement should be interpreted in a way that's most favorable to the landowner, which is a tenant of Zoning Law. So, I think that it's kind of straightforward when the Code takes the position that retaining walls are exempted from the definition of fence, that that retaining wall does not get included in the height determination and, to funnel

it down even further, that when you measure the height of the fence above the wall you measure that from the earth that's being retained by the retaining wall. Now, that's been our position throughout this and we also propose that even that is a bit of a concession on the landowner's part because going from the dirt is probably not the way that's most favorable to the landowner because retaining walls don't necessarily stop at the level of the dirt that they retain. It would be common to have the retaining wall extend further above that to account for protection of runoff or other type of erosion of the bank behind it but we have from the outset, and Dennis has done his work on his property with the idea that the level of the dirt would be used for measurement of the fence on top of the wall. So I think the whole set of circumstances here speaks for an Interpretation by your Board which is based on the strict reading of the Code. You all know, and I apologize in advance if I am sounding as if I'm kind of dictating these things to the Board but you're charged with interpreting the Code as it's read, as it's written. You can't insert words into a Code. You have to go by the literal language and, unlike as I said any other Codes, there is no provision for this. This is something that is not provided for and quite frankly if your Board feels strongly enough or if Mike Levine in the Building Department feels strongly enough, it's a suggestion that could be made to update the Code to provide for this. So that's the essence of our position on this and I think it applies equally to both applications because what's been called the garbage enclosure, in our opinion, still constitutes a wall or a fence above a retaining and the measurement also should be from the level of the earth that's behind it. So that's our position. I'm not aware of any or if there's been any further writings or opinions from the Building Inspector. I don't think there have been. I did ask Victoria for any. So that the essence of our position on the applications. It applies equally to both.

Chairman Froessel: Thanks Don. One of the things you mentioned was suggesting that the Code be updated is probably going to be a result of this, which is why we obviously want to make sure that we consider it appropriately and come up with an Interpretation that works for everyone in the Town. It's not just centered around Mr. Santucci but something that can be applied broadly because you folks could go away and next month we could have another application that's the same and we want to have something that's uniform. You also mentioned any new submissions. Mr. Liguori should have received an additional submission from Mr. Skalaski.

Donald Rossi: We did receive it. Victoria sent us a copy of that and I think we have the thorough...there were pictures accompanying the email.

Chairman Froessel: I think most of my questions from last month were pretty sufficiently addressed, although I had one question: was the wall on the Heinecke side constructed at the same time as the wall in the front along the Skalaski's driveway? Roughly the same timeframe?

Dennis Santucci: Yes same timeframe.

Chairman Froessel: When was that?

Dennis Santucci: 2014 from August until it got cold. It was when the walls were being built.

Chairman Froessel: Okay. Along the property line of the Heinecke's, was any fill used over there?

Dennis Santucci: No.

Donald Rossi: Some of the filling graphs that we have show that the Heinecke side of the property was at level with the top of the wall so if there was fill, it would have been deposited by Mr. Heinecke, the owner of the property. Also, and I'll confirm it by asking Mr. Santucci as I just asked him five minutes ago, that all of the walls were constructed pursuant to Building Permits that were issued.

Chairman Froessel: Yes, I don't think there has been any doubt about that. Anyone on the Board have any additional questions?

Boardmember Lucchino: I do. Which walls are front yard and which are side or back?

Donald Rossi: Sure. Have you been out to the property?

Boardmember Lucchino: I have only seen the garbage enclosure. I haven't really seen the rest of the walls.

Donald Rossi: So if you're coming into the common driveway area, if you made a hard left, that's the front yard.

Boardmember Lucchino: Okay.

Donald Rossi: Okay, that's the stretch that runs to the Skalaski property, actually along the Skalaski property.

Dennis Santucci: This is Mr. Skalaski's driveway but it's also considered my front yard. This is Mr. Heinecke's property. Actually his front yard is my side yard.

Boardmember Lucchino: Okay, right. You're kind of tucked back in there.

Dennis Santucci: Yes.

Boardmember Lucchino: Because I think the rules are a little different if the walls are in the front or side.

Donald Rossi: Yes. The front yard height is up to three feet on the property line and once you get further back in you can go up to six feet. Along the side yards and rear yard you don't have that three foot limitation.

Boardmember Lucchino: Right. It says actually and I'm just reading from the Zoning Code, you're right, 'three feet in the front' and then 'no more than six feet along that part of any lot line behind the required front yard. A fence or wall over six feet in height is permitted to a maximum of 10 feet.'

Donald Rossi: Yup. I did not say passed the front yard. The front yard is the limitation.

Boardmember Lucchino: Right, got it.

Chairman Froessel: Is there anyone from the audience that has any public statement to make?

Jerry Skalaski of 3 Shady Lane was sworn in and addressed the Board.

Jerry Skalaski: I'll keep this brief. Just a point of reference, that setback on the side property goes back 30 ft. and then it goes to 6 ft. but that first 30 ft. has to be 3 ft. high, just a point of clarification.

Boardmember Lucchino: Got it.

Jerry Skalaski: With regard to the retaining wall, it's not a retaining wall. I've sent pictures. Did everyone get a copy of the pictures I sent? I have extra copies if you would like to see them again. Before, during, after. I also want to submit a copy of my survey that shows the walls surrounding my property are stone walls, not stone retaining walls. They are classified as stone walls. I have about 1500 ft. of stone walls surrounding my property. They're all historic farm walls, not retaining walls. They were never made to be retaining walls. So what happened? A wall was built. Fill was added behind the wall. Mr. DePaola, just a question for you: I still have open complaints with the Building Department, are those still valid? With the fill to the property line.

Town Attorney Joseph DePaola: Well, there have been a lot of complaints...

Jerry Skalaski: I'm talking specifically about filling within the ten foot setback to my property line.

Joseph DePaola: On the stone walls that...

Jerry Skalaski: On the stone walls on my side.

Joseph DePaola: Yes but you have...

Jerry Skalaski: The front and the side were both filled.

Joseph DePaola: Well as to the front area, that's an open issue right now.

Jerry Skalaski: So it's still open, it hasn't been closed.

Joseph DePaola: There was an application to the Planning Board for a Permit that related to some of those areas you're talking about. That was withdrawn. So now, the way it stands is it's an open question to the Planning Board on the Building Inspector's referral to that Board as to whether it's a questionable project requiring a Special Permit under Chapter 69 or not.

Jerry Skalaski: Gotcha so where that garbage structure is, that's in question then. It's built into the front stone wall. There's fill behind it.

Joseph DePaola: It's within the first ten feet of the property line from the stone wall that is adjacent to the right-of-way.

Jerry Skalaski: Yeah so it's still an open issue.

Joseph DePaola: That's an open question before the Planning Board at this time.

Jerry Skalaski: Okay. Fill was also added to the side of my property. I have clear pictures. You can see at the start of construction you can see the old stone wall. Now the new stone wall is maybe about that high off the ground. So, how do you take a measurement right? That's the question. I mean we talked about how do you measure a stone walls. Do you measure from the wall? Do you measure from the ground? Well, really what happened here he violated Town Code when he added fill. There was no Permit, there was no Site Plan put in, there was no thing where the Building Department had a point of reference. Michael Levine has been out there many times. He knows there was fill added. No question there was fill added. So, now I've got a wall/fence that sits 10 feet high on my property. It's just not right. Mr. Santucci went to the Board last year, the Zoning Board, you denied his request for a variance for a 10 ft. fence. He built it anyway. I'm tired of coming here. That's all I have to say and I appreciate your time and listening to me but you gotta get to the facts.

Chairman Froessel: Thank you.

Donald Rossi: Mr. Chairman, if I could...

Chairman Froessel: You would like to reply.

Donald Rossi: Please. First off obviously, the issues and the facts with regards to whether it's fill or not is really irrelevant to your Board's decisions tonight. It's obviously an important part of the overall picture but I ask that you all focus on the issue before you and also, for the record, we categorically disagree with all of Mr. Skalaski's comments. Our engineer has reviewed the pictures that were submitted to your Board. We have many comments on it but again have chosen not to respond in writing to your Board with regard to it because frankly it's a matter for us to address and resolve with the Planning Board.

Chairman Froessel: Anyone else in the audience have any comments? No? Okay. Does the Board have any more questions? No? Okay. What I would like to do Don (Rossi) is, it's Mr. Skalaski's issue but for me this is a Town Law issue because we need to do something that works universally. I would really like to do a Resolution in writing on this so that there's some clarify so in the future the Building Inspector has some frame of reference and whether the Town Board wants to make it a part of the Code or not, that's up to them. My intent tonight is that we're going to close the Public Hearing and then I'm going to work out a written Resolution that we can vote on next month. There will be no deliberation, no comments from the neighbors, nothing. I will just come up with a written Resolution and we'll vote on it, something that works for everyone.

Donald Rossi: A couple of comments if I may. Just again for the record, while your Board might suggestion revisions to the Code that the Town Board would take into consideration, we

would consider ourselves as having vested rights based on the current Code so while... and it's arguable as to whether you need to have a Zoning Code amendment on this, that's up for your Board to decide but, just for the record, we believe we have vested rights.

Chairman Froessel: I'm not disputing that.

Donald Rossi: So that's one.

Chairman Froessel: I'm trying to be a little bit more forward-thinking, that's all.

Donald Rossi: Secondly, and despite the fact that this has been a contested matter for a number of months now, that if your Board does... if you do want to what you stated 'do a written Resolution' that it's customary in some towns to circulate that in advance so that comments could be elicited from the interested parties and I'm not suggesting that it only be limited to the applicant but anyone else who has made an appearance on the matter so just for a suggestion, something for Joe (DePaola) to consider with the Board.

Chairman Froessel: Okay and Joe (DePaola) will...

Joseph DePaola: We'll take the request under advisement and I think we'll discuss it after the meeting.

Chairman Froessel: Okay, that's fine.

Donald Rossi: Which effectively it's almost as if it's briefing a proposed decision in advance if the Board might find it helpful.

Chairman Froessel: Okay. Before I close the Public Hearing do you have anything you want to say before we close the Hearing? Any final comments? I think we understand the issues.

Dennis Santucci: Just that it's been an awful long time. This is two years going now and we really need a Resolution. I respect the fact that you need another month but it's been two years going, two and a half years.

Chairman Froessel: I want to make sure we do this right. I understand that you're in a hurry to get a Resolution.

Dennis Santucci: But it's not (inaudible) Mr. Chairman, I'm sorry. Two and a half years is quite a long time.

Chairman Froessel: One more month I don't think is going to kill anyone and I think it enables us to come up with something that, like I said, can be applicable to not only your situation but also going forward. With that we will close the Public Hearing. Okay, Public Hearing is closed and we will see you back next month for a vote.

Frank and Moira Tolan, 35 Vail's Lakeshore Drive – Public Hearing to review an application for an addition to a single family home, which requires the a north side setback variance of 3.76 ft. where 21.24 ft. is proposed and 25 ft. is required; and total side setback variance of 37.87 ft. where 32.13 ft. is proposed and 70 ft. is required.

Frank Tolan and Moira Tolan were sworn in and the mailings were found to be in order.

Chairman Froessel: Why don't you tell us what your application is.

Frank Tolan: We live in Vail's Grove on 35 Lakeshore Drive and we would like to push our kitchen out the back of the house. There's an existing deck right next to where the kitchen is going to be and we would like to go out just a little bit past the end of the deck. Where the deck is we would like to make that into a porch and put a roof on it. We would replace the deck obviously but put a roof on it. The kitchen would be next to the porch.

Moira Tolan: The pictures there, when I say from the left side, that's at the front of the house and you're actually looking at the back of the house so I am saying the left neighbor from the front of the house.

Chairman Froessel: Okay.

Moira Tolan: One side is pine trees.

Chairman Froessel: So this photograph is the rear of the house?

Moira Tolan: Yes that's that part of the house.

Frank Tolan: And where the deck is that's going to be the porch and that area just next to the deck is going to be the kitchen.

Chairman Froessel: How far out from the house does the deck currently extend?

Moira Tolan: 13 ft. It's a little bit too small to have a table with chairs all around it and be able to move in and out so we kind of wanted to move it out so we could do that.

Frank Tolan: We are going out 2 or 3 ft. so that's what we're asking. The house next to us I think is 33. You've already approved plans for them to go out even further than our house but they are putting in a modular in the Fall and their house is going to come out even further than ours.

Chairman Froessel: And you are on the lake front?

Moira Tolan: Yes.

Chairman Froessel: We've seen a few of these.

Moira Tolan: This is nothing compared to our neighbor's. This is very minute.

Boardmember Lucchino: So your neighbors are close to your property?

Frank Tolan: They're relatively close, yes.

Boardmember Lucchino: So will your changes in the back be visible to them?

Frank Tolan: Well yes but they're going back even further than us. We've already proved that so they're going to be about 5 ft. past our addition going out.

Moira Tolan: Where you see there are pine trees on the one side for privacy? They do it down the other. The neighbors are on board.

Boardmember Lucchino: Yes it's good for your privacy but also so that they don't have to see what, you know.

Moira Tolan: Right and they're going to have to do something. They are going to have a much bigger house than ours.

Boardmember Lucchino: So that way you don't have to see what they're doing. It's a privacy issue.

Frank Tolan: Yes.

Boardmember Lucchino: And how close will you be to the water?

Moira Tolan: Pretty far.

Chairman Froessel: It looks like 93 ft.

Frank Tolan: Yeah I think the thing is 50 ft. but Vail's Grove already approved us.

Boardmember Lucchino: Okay.

Frank Tolan: You know they deal with the DEP and the environment.

Boardmember Lucchino: Thank you, that's good to know.

Moira Tolan: Do you want to see some of these plans that I can't really read.

Chairman Froessel: If you have any that have dimensions on it I would love to see it. I'm looking for dimensions on here. The one dimension that's missing is the distance out from the corner of the house to the lake. You said the current deck is 13 ft. and you're going a little bit passed it. Oh wait, it says 14 ft. by 15.6. I have a 14 ft. or 16.6 ft.

Frank Tolan: Well if it's 14 ft. now we're going out 16.6 ft. It's either two or three feet.

Moira Tolan: So if our deck is 14 ft. now we would like to make it 16.6 ft. and then bring our kitchen out to match it.

Boardmember Lucchino: So they will both be the same distance?

Moira Tolan: They'll be the same.

Chairman Froessel: So it looks like on what you're calling the left side you have an 11 ft. setback and that's not going to change, the side setback. On the right side...

Moira Tolan: Neither setbacks will change.

Chairman Froessel: Right side might change a little bit because you're coming further out and it's angled.

Moira Tolan: Okay, the side with the pine trees.

Chairman Froessel: Yes, so it's a decrease in the setback but not a lot.

Moira Tolan: You spend your whole life turning this into a house from a cottage. We've been here before.

Boardmember Keiser: This is one story?

Frank Tolan: Yes, one story. There's just the kitchen...yeah. That was the other reason we had to come out there the 2 ft. to get the pitch for the roof. The architect did that.

Moira Tolan: We had a leak problem because years ago when we did an addition somehow it happened and the architect said this would straighten it all out.

Boardmember Lucchino: Oh, meaning it wasn't pitched properly?

Moira Tolan: Meaning it wasn't pitched properly.

Frank Tolan: The neighbor on the right where the kitchen is going to go, it won't block his view at all. The kitchen is going to go behind the pine trees, probably like right there.

Boardmember Lucchino: Okay, it will be inside the pine trees?

Frank Tolan: It will be on the other side of the pine trees.

Boardmember Lucchino: So they cut the angle so he's not going to be looking in your kitchen?

Frank Tolan: Not at all.

Moira Tolan: And the other side is going to see what they see now, the deck, which will be closed in.

Frank Tolan: They will see 2 ft. longer of our deck.

Moira Tolan: But it will be closed in so they won't even see us anymore.

Frank Tolan: This is our house. The kitchen is going to go behind these trees right there. They're not going to see it at all.

Boardmember Wunner: And you've already been in front of the Board?

Moira Tolan: We have that. I think that letter is in your packet.

Frank Tolan: And the neighbor on the one side, they've already been approved. They're putting a big modular home, a couple thousand square feet. This lady is going to tear down their house and they're going to put in a modular because they're looking to do the same because their cottage is like...it really can't be renovated. They'll be coming to you. We are probably going to put pine trees here too so it will give us privacy and the neighbor privacy.

Boardmember Lucchino: So do you know, Mr. Levine said (inaudible) side setback, which side did he talk about?

Frank Tolan: That's the other side. We are very far from that neighbor.

Boardmember Lucchino: I see.

Moira Tolan: Very far by Vail's Grove standards. Yes that a three foot variance and the other side is a bigger variance because we're close.

Boardmember Lucchino: You have the shield of the pine trees, right?

Frank Tolan: Yes.

Chairman Froessel: I'm having a little bit of trouble figuring out the Building Inspector's letter and reconciling that with the sketch on the survey that you've given us. He's says you have a proposed setback on the north side of 21.24 ft. I'm assuming the north side is the side with the pine trees?

Frank Tolan: Okay, yes that's the north. That's supposed to be 25 ft.

Chairman Froessel: It actually shows 26.6 ft. Mike (Levine) must have had a reason for this. Maybe he scaled it off the drawing or something like that. I don't know. I want to make sure we grant you a variance that actually works for you're doing.

Moira Tolan: It's looking like, I heard you saying, we're within the limits on that side and we don't need a variance.

Chairman Froessel: Yes, if that's the north side you have 26.6 ft. and only 25 ft. is required so you wouldn't need a variance.

Frank Tolan: I think the variance is for the other side.

(multiple people talking – inaudible)

Chairman Froessel: Yes, why is that not listed on here?

Moira Tolan: That's in my writing, I wrote the 11 ft. What's the date? On my initial application I wrote that.

Frank Tolan: Right here? Is the other side 25 ft.? That can't be.

Boardmember Cassidy: Did you submit an earlier plan maybe?

Moira Tolan: No.

Ms. Desidero: Didn't you ask for a variance for the same thing some number of years ago?

Moira Tolan: Yes and they had said to me we probably have a variance here but we can't find it in our files from the last time we put the addition on top six years ago.

Ms. Desidero: So my understanding from the Building Inspector was that the Tolan's had applied for a variance for the same thing they just never did it, right?

Moira Tolan: No we did it. They couldn't find it. They said you've already gotten a variance probably for this same thing.

Ms. Desidero: But you never did the addition.

Frank Tolan: No we did. We added a second floor and we had to get a variance to do that.

Moira Tolan: We've had two variances in the past and they thought they were very similar when I spoke to Bonnie (Colombo) but she said 'we can't find them.' He looked for them because he said 'you shouldn't even have to pay if you've done it.' We did this six years ago, we added...

Ms. Desidero: It was the wrong distances.

Chairman Froessel: Oh really?

Ms. Desidero: Whoever wrote the denial letter at the time did not write it up correctly so even though the Tolan's got that variance, there's no record of it anyway so they would have had to have gotten it again, but the numbers were wrong. The only reason I'm bringing that up is because that may be why the numbers are not jiving right now.

Chairman Froessel: That's probably why the numbers are not jiving now. But now who's numbers do I use? Do I use Mike's (Levine's) numbers? Do I use numbers that were handwritten onto the survey?

Ms. Desidero: Well, the survey is part of the application and I would think this is the same survey you submitted to Michael (Levine) when he wrote the denial letter, correct?

Frank Tolan: Correct. That comes from Vail's Grove.

Moira Tolan: No, that comes from our architect.

Frank Tolan: Oh from our architect? Yes but we got it from Vail's Grove, the numbers.

Ms. Desidero: But you gave something to Michael (Levine) before he wrote the denial letter so I'm not sure Mr. Chairman.

Frank Tolan: Yes.

Boardmember Lucchino: So did Michael (Levine) maybe not kind of account for the previous variances that you can't find and just get it all in one package so it's documented and official?

Chairman Froessel: I don't know. It seems to me there should be a variance requirement on the south side because there's only 11 ft., maybe or maybe not a variance on the north side and then a total.

Ms. Desidero: I have to say I definitely agree with Boardmember Lucchino just said that I believe he was trying to make the whole thing right.

Chairman Froessel: Okay.

Ms. Desidero: But I also understand what you're saying that there may be something missing. I would go with what you guys think it needs.

Chairman Froessel: Oh here's why, this is what's written on here. On the first page of the application the north side setback proposed 21.24 ft. Total side setback proposed 32.13 ft.

Moira Tolan: Yeah but that came after the letter. When I came to you I filled it out from this letter.

Chairman Froessel: Got it, okay.

Boardmember Cassidy: This doesn't jive with the denial letter.

Moira Tolan: Oh it doesn't jive with the denial letter? Then I wrote it wrong.

Boardmember Lucchino: Yes it does.

Chairman Froessel: What you wrote on the application is the same as what's in the denial letter.

Boardmember Cassidy: It doesn't jive with what's on the map.

Ms. Desidero: We direct people to use their denial letter to fill out the application.

Boardmember Wunner: Did you write the dimensions in on the map? The survey?

Moira and Frank Tolan: No.

Moira Tolan: A surveyor did that, someone in our neighborhood.

Frank Tolan: Our architect but he got that from Vail's Grove.

Boardmember Wunner: So Vail's Grove supplied you with this...

Moira Tolan: With the survey, yes.

Boardmember Wunner: Okay. And they had the dimensions on it when you got it.

Moira Tolan: They had the dimensions on it and he just filled in what we're going to add.

Frank Tolan: Because the other thing with this, we had a fire road on that side of the house between us and our neighbor but Vail's Grove, to generate income, sold those fire roads. They just got the two neighbors and said you could just split it right down the middle.

Boardmember Wunner: That's on the south side there?

Frank Tolan: Yes. They went through and surveyed everyone's land again when they did that. That was maybe 10 years ago.

Ms. Desidero: Would it be safe to say that these surveys did not exist the first time you came in for your addition?

Frank Tolan: Oh probably not.

Ms. Desidero: Because that was a long time ago.

Moira Tolan: 25 years ago.

Frank Tolan: Probably not. The surveys have changed.

Moira Tolan: We did an addition 25 years ago and one 6 years ago.

Frank Tolan: Yes, the surveys have changed because they let us buy that land.

Chairman Froessel: Do you have an architect for this project?

Frank Tolan: Yes, JR Miller.

Moira Tolan: John Miller.

Chairman Froessel: Did he write these setback distances on this sketch?

Moira Tolan: Probably, we wouldn't have done that.

Frank Tolan: We didn't do it.

Moira Tolan: We didn't do it and Vail's Grove wouldn't have done it. He did it.

Boardmember Keiser: I have a question as to why on this north side it's 26 ft. and you need a variance but what is required is 25 ft. You wouldn't need a variance for that.

Moira Tolan: Okay so we don't need a variance for that.

Chairman Froessel: Well you would need one for the south side. I hate to do this to you but I don't think we can vote on this tonight. We need to get this sorted out with the Building Department so we know exactly what you need. I don't want to grant an unnecessary variance on one side. I don't want to leave out a variance you might need on the other side so that once you start building you're not going to get a Stop Work Order and you'll be able to do what you need to do. I just want to make sure we get this right and I don't understand these distances.

Frank Tolan: Who do we go to in order to get it straightened out?

Chairman Froessel: You don't need to go to anyone. I think that I need to talk to Michael Levine and find out how he came up with these numbers and ask him why he thinks you don't need one on the south side. It sounds like there may be some history with your prior applications that might be relevant.

Moira Tolan: There's a full set of plans at the Building Department, right? I gave them a full set of plans.

Chairman Froessel: Those never make it to us when you apply for a Building Permit which initiates this process but we only get what you submit with your variance application.

Moira Tolan: Okay. Would that help if you saw those?

Chairman Froessel: Maybe I can just have Mike (Levine) tell us what's on those because perhaps Mike took the distances from...no?

Boardmember Cassidy: Well, because the variances that you seem to be asking for don't appear to be what you need so if we grant them to you tonight you may not be able to build and then you'll have to come back again.

Frank Tolan: Okay.

Chairman Froessel: And I'd rather save you another application fee. It's going to cost you a month but save you.

Moira Tolan: We definitely need a variance.

Chairman Froessel: I think you definitely need a variance, yes. I'm just not sure...

Boardmember Wunner: It looks like the south side is where they need it. The north side will comply.

Ms. Desidero: This is the lake, right? This is Lakeshore Drive. So this is the north side and this is the south side. You're absolutely right. I know the house. I would just say, these are the surveys that Mike (Levine) uses. The building plans, I don't know what they show in terms of the outside, but he does use these surveys Vail's Grove did.

Chairman Froessel: Okay, and that's fine but...

Ms. Desidero: But I can see what you're saying, it's not clear.

Chairman Froessel: I think we're going to have to hold you over until next month and I apologize for that but I just want to make sure we get it right.

Frank Tolan: Okay. Do you know what night that meeting is going to be?

Chairman Froessel: That will be July what?

Cathy Chiudina: July 18th.

Moira Tolan: No, we're out of the country. Can we send someone for the verdict?

Chairman Froessel: You can.

Frank Tolan: Are they going to have to answer questions?

Chairman Froessel: My guess is we'll probably have all the answers we need once we get the verification from the Building Inspector.

Moira Tolan: Can we speak to you before the meeting maybe to find out what we're going to be hearing?

Ms. Desidero: You can call me.

Chairman Froessel: You can call Ms. Desidero. It's tough for us because of the Sunshine Laws we have to convene meetings and take minutes and all that stuff.

Ms. Desidero: Would it be possible to just let the Board ask any other questions that the Tolans might know the answers to or do you feel like that's...

Chairman Froessel: It's a pretty straightforward application. I don't really have a lot of questions. I just want to make sure we get the distances right.

Moira Tolan: So if we send someone it wouldn't be...

Chairman Froessel: I don't think it would be a problem.

Frank Tolan: Just so I understand: what needs to get added to this is a south side variance?

Chairman Froessel: Quite possibly. I want to find out if we need to add the south side variance and if so what's the measurement and do we need the north side or not. Both of those things will have an impact on what the total side setback variance is. We just need to get the figures right.

Frank Tolan: Okay.

Chairman Froessel: Before you go, is there anyone in the audience that has any questions or comments about this application? Okay, it doesn't look like it. We will continue the Public Hearing until next month and we'll confer with the Building Department about this and we'll have an answer for you.

Cynthia and Franklyn Thomas, 63 Prospect Hill Road – Public Hearing to review an application for a two existing sheds on a property with a single family home, which require the following variances: Shed 12 ft. x 12 ft.: a north side yard setback variance of 70 ft. where 30 ft. is proposed and 100 ft. is required; and a west side yard setback variance of 63 ft. where 37 ft. is proposed and 100 ft. is required. Shed 12 ft. x 18 ft.: a north side yard setback variance of 70 ft. where 30 ft. is proposed and 100 ft. is required and a west side yard setback variance of 46 ft. where 54 ft. is proposed and 100 ft. is required.

Cynthia Thomas was sworn in and the mailings were found to be in order.

Cynthia Thomas: Can I turn in these letters? These are the letters from neighbors that live on my road that I went to and told them along with the letters that I sent out I also went and told them what was happening.

Boardmember Lucchino: Did they have any objections?

Cynthia Thomas: Absolutely not. They actually had known about the sheds as like I thought I was covered when I got my CO. They said 'Cindy, we know those have been there, under the circumstances what happened when you were building the house.' They knew why they were put there and I'm finding out 17 years later.

Boardmember Lucchino: They were there when you bought the house?

Cynthia Thomas: We built the house. In building the house, the day that we had our front door put on the house, the house that used to be located at the top of the hill, the son was in trouble and he broke into our house that night. I went there the next morning with my grandmother, who was 82 years old at the time, to stain the boards that were being put on the house and when I pulled up the driveway I noticed that my front door was kicked in and everything was broken. Everything that was inside the house, the builders and carpenters tools

were all open and they said at that point 'Cindy there's something we need to do to make this so that this stuff is safe.' We put these two sheds there and had a truck backed up to it or a backhoe that was there building the house and clearing the property so they could not get into it because the garage doors were not on at that time, there was only plywood on the garage doors.

Boardmember Lucchino: So they were going to store building materials?

Cynthia Thomas: Yes their tools were all in there for building. We built the house, we bought the property and built the house and this is 17 years later and I'm finding this out.

Boardmember Lucchino: So it wasn't included in your original site plan.

Cynthia Thomas: Right, exactly but I was under the assumption that when I got my CO because we have done pools, decks and everything. I have everything for that and now I'm finding out I didn't have it for that.

Chairman Froessel: And your lot is over 5 acres?

Cynthia Thomas: It's 5-1/2 acres and I am led to believe that the Zoning changed also and if this would have been done in the beginning, these sheds would have been fine where they were without a variance but because all this time has passed...

Boardmember Keiser: And how is it you're discovering now that you need the permit?

Cynthia Thomas: I wanted to make sure I have everything in order for when I go to sell my house. I haven't lived in the house and I want to make sure I have everything in order so I have gone to the Town to make sure that all decks and everything is okay. Mike (Levine) went over things and we came up with this so I am trying to do the right thing. People that live on the road can't even see the sheds. Nobody knows that they are even there.

Boardmember Lucchino: I went by there. It's hard to see them from the road. That's why I asked you about the neighbors.

Cynthia Thomas: Originally the house that closest to it is the house that I also built and my sister lived there. The neighbor who has purchased the house since then, he signed the letter and he said he had absolutely no problem with it. Where you can see through there's a stone wall and he says it gives him a little bit more privacy when he's out on his back deck.

Boardmember Lucchino: It's pretty wooded too.

Cynthia Thomas: It's very wooded. The two pictures that I have of the sheds are from the front and the one side. If not I would have to go into the woods and I'm not a good woods person so I tried to get back as far as I could. Taking it from the other person's property, you couldn't see with the trees there and everything, you couldn't see anything. The two pictures that I provided were close to and then you can see where the woods are and it goes to another I don't know how many acres before the Wittenberg property and I have a letter from them also. They own that property also.

Boardmember Lucchino: They own their property.

Cynthia Thomas: Yes we actually had bought it from...that property was theirs before it was put into a subdivision.

Chairman Froessel: I'm just reading my Code because I had a recollection and I may be incorrect but I thought that there was a...

Boardmember Cassidy: Only one shed?

Chairman Froessel: Only one accessory allowed structure on a lot so I just want to double-check and see if that's in here.

Cynthia Thomas: With mowing that much property, our mower deck on our mower was 72 inches wide which would not make it through the one door on the one shed so the other shed we had to make the doors wider to get the clearance to get the mower in there to mow all the property.

Boardmember Keiser: These surveys are from when?

Cynthia Thomas: When we started building the house. I actually think that we moved in around 1999.

Boardmember Keiser: I remember that you said before that the sheds were on the survey but...

Cynthia Thomas: They're not on the survey. That's why they said it wasn't included. I had to draw them and then they went up and looked where they were.

Boardmember Keiser: I understand.

Cynthia Thomas: So yes I had to put them...

Ms. Desidero: Does anyone else need a copy of the Code?

Chairman Froessel: Okay, I'm not seeing it.

Ms. Desidero: I feel like this question came up a few months ago for an application in Vail's Grove and there were two sheds and I think we couldn't find it then either.

Chairman Froessel: Does anyone feel the need to go out and look at this? No? Okay. Is there anyone in the audience that has any comments or questions about this application? Okay, there are none. Everyone feel we can vote on this evening?

Boardmember Keiser: I think so.

Boardmember Cassidy: Yes.

Chairman Froessel: I don't have any additional questions unless anyone else does. Any final comments you would like to make before we close the Public Hearing?

Cynthia Thomas: No, I'm just trying to do the right thing.

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

Cynthia Thomas: Yes.

Chairman Froessel: We will close the Public Hearing. I'm pretty familiar with this Prospect Road. I know several people who live down there and a couple people who have commercial property down there at the end. These sheds are not really too visible. They're kind off the beaten path and they've been there for 17 years and no one has complained about them so I don't know how anyone else feels but I will entertain any motion that anyone would like to make tonight with respect to this application?

The motion to grant the requested variances was introduced by Boardmember Lucchino, 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.
I don't think that's the case. As Chairman Froessel just said the sheds have been there 17 years. No one has complained and the applicant produced several letters in support of the variance request.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
I don't think so. Those sheds have been there a long time so there's really nothing else that can be done.
3. Whether the requested variance is substantial.
I think it's reasonable considering how long those sheds have been there and the purpose that they were originally put there for.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

I don't think that's the case. Again, they've been there 17 years and nothing is changing so I don't think there's any adverse effect.

5. Whether or not the alleged difficulty was self created.

I don't think there is any difficulty there. They were purposely put in place. They thought they were part of the original CO but it turns out they were not. The applicant is trying to legalize it for a future sale of the property.

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.

Michael and Amy Corvino, 19 Shore Drive – Public Hearing to review an application for a proposed deck which requires a 14 ft. south rear setback variance where 21 ft. is proposed and 35 ft. is required.

Tim Proctor was sworn in and the mailings were found to be in order.

Tim Proctor: I'm new to this whole process. I own a small construction business in Putnam County. I was approached by Michael and Amy Corvino a few months ago in regards to the condition of their deck on the property. In the packet I submitted I also included pictures with the current structure that's there. If you flip halfway through the pictures, preferably the third picture, which should show a picture of the main support beam of the deck. You can see that that is rotted away and cracked along with a temporary support that I put just for the time being to keep it from falling down. The fourth picture includes that support beam and it will also show you the footings of the deck that is currently there with them not meeting Code currently. What's there is roughly 4 inch pads supporting a 4x4 piece of wood that's in direct contact with the concrete, which does not meet Code as well. In the fifth picture you will see a 4x4 supporting the outside of the deck which is cantilevered. It's a 2x8, 4-joist deck that's cantilevered over 4-1/2 ft. and it's not a continuous 4x8 floor joist from the rim joist of the house to the furthest point of the deck. The reason I'm pointing these out and the reason I was approached was to either fix the deck in question or replace it. I went to Mr. Levine about a month and a half ago, explaining the situation we're currently in and told him about the safety concerns on the deck. After submitting the application we noticed that the current setback for the property, in order to meet new Code, even though this deck has a CO, in order to repair or replace I would have to meet current Code which is 35 ft. from the rear property line. The house is 33 ft. from the rear property line. The current deck is 20 ft. out from the rear of the house and the new proposed deck is 12 ft. out from the house. In an effort to repair the existing deck or make it safe, it's a safety concern at this point in regards to replacing

it and obviously making it look a lot better than it currently does, we're requesting a 14 ft. variance to be within the rear property line and build a new structure.

Boardmember Lucchino: The new deck should be smaller?

Tim Proctor: Yes ma'am. That is what I brought to Mr. Levine before I even submitted the building permit, the new dimensions of the deck. He tried the best he could going through the current Code to see that even though there was a CO on the existing deck, if there was a way that we could say 'you know what, let's see if there was a way for repairing or just updating but based on the footings, obviously the main support beams, everything that I showed in the pictures, there's really not much left to save there. There are plans in the rear of the package also that I made a copy of. There are two plans actually: one is the dimensions of the existing deck, each square obviously being a foot. There's one set of plans of the existing deck that's currently there, the 17x20 and there's another set of plans with the proposed deck of the new 12 x 20 along with footing diagrams and flashing for water runoff.

Chairman Froessel: Is there anyone in the audience that has any questions or comments about this application? I didn't think so. I don't think I have any questions. It's pretty straightforward. Anyone feel the need to go and look at this if they didn't already? No? Okay. Do you have any final comments you'd like to make before we close the Public Hearing?

Tim Proctor: No, I have given all the information.

Chairman Froessel: Okay. Do you feel that you've had a fair and adequate opportunity to present your application?

Tim Proctor: Yes sir.

Chairman Froessel: We will close the Public Hearing. I think this is a pretty straightforward application and I will entertain any motion that anyone would like to make.

The motion to grant the requested variance of 14 ft. on the south rear setback was introduced by Boardmember Cassidy, seconded by Boardmember Wunner. 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 absolutely not. It's consistent with the neighborhood and it's been there for a number of years already and no one has complained.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No because they have a deck already and they're actually making efforts to make the deck smaller.
3. Whether the requested variance is substantial.
It is substantial but again they're actually making the proposed deck smaller than it already is and it's been there for quite some time.
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 suggestion that that is the case.
5. Whether or not the alleged difficulty was self created.
It's always self-created to the extent that they want the deck but again the applicant is reducing the size of the deck from what they have a Certificate of Occupancy for.

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.

Alphonse and Madeline Tarantino, 135 Foggintown Road –Public Hearing to review an application for a proposed detached garage which requires a 7.7 ft. west side yard setback variance where 12.3 ft. is proposed and 20 ft. is required.

Alphonse Tarantino was sworn in and the mailings were found to be in order.

Chairman Froessel: Tell us about your application.

Alphonse Tarantino: I want to put a garage at the end of my driveway. I have pictures here to show you. This is the house and there are three pictures.

Boardmember Lucchino: Will this be freestanding or attached to the house?

Alphonse Tarantino: It would be freestanding. It's 16 ft. away from the house.

Chairman Froessel: That's good because it's supposed to be 15 ft. away.

Alphonse Tarantino: The wife wants a new car so I need a garage.

Chairman Froessel: And I'm guessing that these stakes I'm looking at around the car shows the boundaries.

Alphonse Tarantino: Right. Two are from the driveway and one is from my deck.

Chairman Froessel: What are the dimensions of the garage?

Alphonse Tarantino: It's 12x24.

Chairman Froessel: Okay. That's a pretty standard size. Have you had any conversations with your neighbors about this?

Alphonse Tarantino: Yes, no problems. Especially since it's going to be about 120 ft. back from the road and behind me is all woods.

Boardmember Lucchino: So these are the pictures of what the structure will look like?

Alphonse Tarantino: Right, that's what it's going to be.

Boardmember Lucchino: This is the front elevation?

Alphonse Tarantino: Yes.

Boardmember Lucchino: So the front would be the door, correct?

Alphonse Tarantino: Right that's where the doors will be.

Boardmember Lucchino: It just looks like siding. It doesn't look like a door to me. Am I missing something?

Alphonse Tarantino: I think I have a picture of what it looks like.

Chairman Froessel: These companies that do these prefab sheds and garages have a standard size and they can outfit the orders in different ways and I think what you're looking at here is one with a different door configuration that what he is going to use.

Boardmember Lucchino: I think the look is important to understand. Will it be the same color as the house?

Alphonse Tarantino: Yes it will be the same color as the house. It's basically this is what it's going to look like. That shape. It will have two windows and a double door on the end.

Boardmember Lucchino: That's nice. So this is where you're going to get in. This is going to be the front. One car, right?

Alphonse Tarantino: Right, a one car garage. When you are looking from the end of the driveway up that's what you're going to see. It's the red one. They do a nice job when they build these.

Boardmember Lucchino: So your house looks like brick and aluminum or vinyl siding?

Alphonse Tarantino: Right is vinyl siding.

Boardmember Lucchino: And this will be vinyl siding as well? It will match?

Alphonse Tarantino: Yes, it will match. It's the same exact color and everything.

Chairman Froessel: Are you going to do a concrete pad for a foundation?

Alphonse Tarantino: No, what they do with this is they put stone in and they come in and set it right on there.

Chairman Froessel: So a wood floor?

Alphonse Tarantino: Yes, it's a wood floor, a regular garage.

Chairman Froessel: Some advice: prime and paint that floor.

Alphonse Tarantino: Yes I was thinking about that too, especially in the wintertime. They do have an option of the double floor but I don't know if we need that.

Chairman Froessel: I would ask the manufacturer if they think that's necessary.

Alphonse Tarantino: I already did and they said no.

Chairman Froessel: Is there anyone in the audience that has any questions or comments about this application? No? Okay. So you are going to need 12.3 ft. from the west side property line.

Alphonse Tarantino: Right. That way it's right up even with the driveway. It will look a lot better than being offset either way.

Chairman Froessel: You're R-60 so it's only 20 ft.

Boardmember Lucchino: You have a lot of trees on that side.

Alphonse Tarantino: They're all arborvitaes up the whole driveway so it's secluded, it's not bad.

Boardmember Lucchino: It will be seen from the road though.

Alphonse Tarantino: Only from the road. You only see the front.

Chairman Froessel: How close is your neighbor to the right side? The side that the garage will be on.

Alphonse Tarantino: To the right? He's about 100 to 150 ft. away. My house is all the way to one edge because of the rock. When they built it they couldn't build it on...especially in Putnam County, that's all we have is rock up here.

Boardmember Lucchino: He's okay with the garage?

Alphonse Tarantino: Yes. In fact he won't even be able to see it because there are also trees on the other side.

Boardmember Lucchino: You already have a garage in your house?

Alphonse Tarantino: Yes but she wants a new car and I said okay.

Boardmember Lucchino: A car is a big investment. You want to protect it.

Alphonse Tarantino: Right and especially with the winters up here.

Chairman Froessel: You don't want to be scraping the windshield every morning in order to go to work like I do. Does anyone feel the need to go and look at this? I'll confess I didn't go and look at this but the pictures are excellent and tell the story. Anyone have any other questions of the applicant? No? Okay. Do you have any final comments you'd like to make before we close the Public Hearing?

Alphonse Tarantino: No.

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

Alphonse Tarantino: Yes.

Chairman Froessel: We will close the Public Hearing. Again, I think this one is pretty straightforward. The neighbors don't have a problem with it. I will entertain any motion anyone would like to make on this application.

The motion to grant the requested variance of 8 ft. from the west side property line for the construction of a one car garage as depicted in the documents submitted with the application 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.
Surely there will be no detriment to the nearby properties since it's pretty heavily wooded along the property line. It is not an undesirable change to the neighborhood. It's a one car garage, which is a very common structure.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
Really no it can't because it makes all the sense in the world to have the garage right at the end of the driveway and if the applicant were to move it into the property, outside the setback would put it out of alignment with the driveway so I don't think that's feasible.
3. Whether the requested variance is substantial.
Arguably it's substantial but I think it's mitigated by the density of the foliage between the two properties and the fact that the neighbor's house is a good distance away.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There is no evidence of that.
5. Whether or not the alleged difficulty was self created.
It's self created in that the applicant wants to have a garage but again I don't think that's an uncommon request in a residential area such as this.

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.

John Hernandez and Djanila Gahar, 73 Cooleedge Drive – Public Hearing to review an application for a proposed front entrance for a single family home, which requires a 15 ft. front yard setback variance where 20 ft. is proposed and 35 ft. is required.

Chairman Froessel: I was advised that your mailings were not done.

Kevin McSpedon: Yes we did miss sending them the 10 days prior but we would still appreciate it if you could hear us out tonight.

Chairman Froessel: We can't. We can't do that because State Law says we can't do that. There has to be proper Public Notice. The Sunshine Laws apply to everything we do here. What you will have to do is re-notice in a timely fashion, 10 days prior to the next meeting, which would be no later than July 8. Do the mailings return-receipt.

Ms. Desidero: He will do the same process. I suggested that maybe if he comes to the office we will give him a new letter to make sure that the right date is on it before he mails it and he will need to do his affidavit again.

Kevin McSpedon: I would also like to ask: if we get a letter from each one of these neighbors stating that they agree with us building this overhang in front of the front door, if that would be acceptable to bring to the Building Department.

Chairman Froessel: To bring to the Building Department? No. Bring them here.

Kevin McSpedon: Bring them here, okay.

Chairman Froessel: Bring them here because one of the criteria we have to consider is the character of the neighborhood and if the neighbors are all saying 'hey it's great, go ahead and do it.' That tells us that this is probably in line with the character of the neighborhood so if you want to do that and bring those to the next meeting next month that's fine but we can't start tonight because the mailings aren't in order.

Boardmember Cassidy: And if you can bring a picture.

Kevin McSpedon: Yes, I have pictures.

Chairman Froessel: So stop and visit Ms. Desidero or Ms. Chiudina, get your new letter, sign your new affidavit and do your mailings and we will see you next month.

Glickenhau Brewster Development, Inc., 130-150 Deans Corner Road – Public Hearing to review an application for a proposed tennis court with fence and swimming pool, which require the following variances: Swimming Pool: north rear yard setback variance of 24 ft. where 76 ft. is proposed and 100 ft. is required. Tennis Court: north rear yard setback variance of 71 ft. where 29 ft. is proposed and 100 ft. is required.

Robert Sherwood, landscape architect, Brookfield, CT and Chris Munch of Brewster Development were sworn in and the mailings were found to be in order.

Robert Sherwood: We're in front of you tonight as we are applying to get a Zoning variance to construct a tennis court and a swimming pool at 150 Deans Corner Road, which was part of the Fortune Ridge Subdivision. As you all might know the property, it is in an R-160 Zone. We do have 100 ft. rear yard and side yard setbacks. We are impacting the rear yard setback with both structures, if you call them structures: the tennis court and the swimming pool. The tennis court being approximately 30 ft. off the rear property line and the swimming pool itself is approximately 76 ft. off the property line. The adjacent property owners were all mailed too. The property is sloping uphill.

Chairman Froessel: It looks like you are your own adjacent property owners.

Chris Munch: That's correct.

Chairman Froessel: Except for Mr. Ward.

Boardmember Lucchino: You can't see it from the road.

Chris Munch: No not at all. It's probably a 40 something foot elevation change.

Boardmember Lucchino: I live close by there so I went by to take a look.

Chris Munch: From Deans Corner Road you won't be able to see anything at all.

Robert Sherwood: The castle is here and it's going to be up in the...

Boardmember Lucchino: The castle is that stone building.

Chris Munch: Correct.

Boardmember Lucchino: So where is the pool and the tennis court in relation to the stone building?

Robert Sherwood: This is the entire property. The driveway comes up to the property here. This is residence, the maid house. There carriage house was built over here. The tennis court sits approximately behind, up on the slope and then the pool is kind of in between these two structures but down lower.

Boardmember Lucchino: So is this part of Fortune Ridge or no?

Chris Munch: It is not.

Boardmember Lucchino: It is not. So it's not available to those residents?

Robert Sherwood: Correct.

Boardmember Lucchino: This is a private residence?

Robert Sherwood: This is a private residence.

Boardmember Lucchino: And that stone castle, where is that on that map?

Robert Sherwood: It's right in here. This is the front turret and here's the building.

Chairman Froessel: That was a part of Fortune Ridge. Did they sell it off?

Chris Munch: No that actually, to be perfectly technical, it is Lot 77 of the Fortune Ridge Subdivision. It is not part of the property owners association so therefore it's not connected to the recreation facilities provided there. It is a 7.9 acre piece and it has remained in the same ownership as Fortune Ridge and will remain as such.

Chairman Froessel: Okay. What's behind you on the rear property line?

Chris Munch: If you come up the new road, Stone Hollow Drive, as you can see there's a retention basin here. This elevation between lots 6, 7 and the retention basin technically 8 too, is probably a 40 ft. elevation change. That road climbs and so if you actually had gone into the back of this there is a natural plateau that goes just like this behind this property and that's why we set them there because they're set right into what's existing. Behind it will be a new home at some point in time, lot 7, 6, and 5.

Boardmember Lucchino: Is there landscaping behind the pool and tennis courts?

Chris Munch: It's naturally occurring. It already is a wooded area.

Boardmember Lucchino: So those new Fortune Ridge homes, will they be able to see the pool and the tennis court?

Robert Sherwood: I don't think so.

Chris Munch: They are going to overlook the castle.

Boardmember Lucchino: Nice views.

Chris Munch: Beautiful.

Robert Sherwood: They're up 40 ft. from the tennis court elevation, easy. Their lots drop off and then this kind of plateaus and drops off again. The pool elevation is even lower than the tennis court, 8 feet lower than that so they kind of terrace down the slope.

Chairman Froessel: Okay, and other than the space for the tennis court and pool themselves, do you plan to take out any vegetation?

Chris Munch: No.

Chairman Froessel: I see your plan LP 2.0 shows the tennis court with a setback of what looks like 30 ft. but the Building Inspector says 29 ft.

Robert Sherwood: It was 30 point something so he wrote 29. I can make it more parallel so they are both 30 just to make it easier.

Chairman Froessel: We can do 29. One foot is not that big of a deal.

Robert Sherwood: Whatever way you want to go we can slide it.

Chairman Froessel: Is there anyone in the audience that has any questions or comments on this application? No? Okay. Does anyone else have any questions? No? Okay. Does anyone feel the need to go and look.

Boardmember Lucchino: I looked. You can't see much from the road but it's a beautiful area.

Chairman Froessel: I drive by there all the time and couldn't tell you what's behind there. You can see the castle but you won't be able to see this.

Boardmember Cassidy: It gives the air of exclusivity then.

Chairman Froessel: Are we okay with voting on this this evening?

Boardmember Cassidy: I think so.

Chairman Froessel: Do you gentlemen have any final comments you'd like to make to support your application before we close the Public Hearing?

Robert Sherwood and Chris Munch: No sir.

Chairman Froessel: You feel like you've been given a fair and adequate opportunity to present your application?

Chris Munch: Yes sir.

Chairman Froessel: Very good. Thank you. I think this one is also fairly straightforward. These distances are what they are and I would think, unless anyone sees it differently, we could probably just do these with one motion for both the pool and the tennis court as opposed to doing two separate motions. Everyone onboard with that?

Boardmember Cassidy: I'm onboard with that.

Chairman Froessel: In that case I will entertain any motion anyone would like to make with respect to this application.

The motion to grant two setback variances: one for the swimming pool of 24 ft. and one for the tennis court of 71 ft., was introduced by Boardmember Lucchino, 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.
I don't think so. I think this is right along with the character of the neighborhood and neither the pool nor the tennis court is going to be visible from the road and apparently the neighbors behind won't see it.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
I don't think so. The size of the pool and the tennis courts are fairly standard and so I think a variance is required.
3. Whether the requested variance is substantial.
It is substantial but I think there is plenty of land there to do this. I think it's in line with the whole area. I think it fits right in. It's not an eyesore. It's in line with what the neighborhood looks like.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

I don't think so. There hasn't been any evidence produced to that effect. I think, again, it will be right in line with the neighborhood.

5. Whether or not the alleged difficulty was self created.

It is because it's desired by the property owners but again I think there's plenty of room to do this. It's in line with the property and the neighborhood.

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.

The motion to approve the Meeting Minutes of May 16, 2016 was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed 6-0 with 1 absent.

Respectfully submitted,
Cathy Chiudina