

**Town of Southeast  
Zoning Board of Appeals  
Minutes of November 21, 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 – 8:15pm

**Worksession:**

**Regular session:**

**Brewster Retail Outlet, 1224 Route 22** - Public Hearing to review an application referred by the Planning Board for the following variances:

1. The proposed canopy would be a new structure within the front yard setback. A setback of 4 feet is provided where 100 feet is required. Therefore the Applicant is seeking a variance of 96 feet;
2. The proposed project would increase the pre-existing non-conforming lot coverage. Lot coverage of 80.6% is proposed, where a maximum of 45% is permitted. Therefore the Applicant is seeking a variance of 35.6%;
3. The proposed project would reduce the pre-existing non-conforming open space on the site. Open space of 19.4% is proposed where a minimum of 55% is required. Therefore the Applicant is seeking a variance of 35.6%;

The proposed project would reduce the rear parking setback on the site. A setback of 16 feet is proposed where 100 feet is required. Therefore the Applicant is seeking a variance of 84 feet.

Engineer Kathy Bunce-Delfay of J.R. Folchetti and Associates was sworn in and appeared on behalf of John Folchetti before the Board in reference to this application.

**Ms. Bunce-Delfay:** This project is an existing service station located about a half mile down Route 22 South from here. It's an existing service station and the owner is proposing a 24-hour gas station and retail center. It's currently a gas station and they are proposing a four pump station with parking for the retail outlet. For the parking for people coming into the retail center it will be here and then they will exit around the back of the building and out to reduce congestion in front. People coming in to fill up for gas will just pull directly into the pumps. We are looking for the following variances: front yard setback and also the rear setback, for building coverage and for open space. They did go in front of the Architectural Review Board so I think there is a rendering from the architect.

**Secretary Desidero:** Chairman, I just want to mention that because of the timing on this and being put off for month they were allowed to go to the ARB but the approval that they got was conditioned on the ZBA (Zoning Board of Appeals) not making any changes that would affect how the building looked.

**Chairman Froessel:** Very good. Is the existing building remodeled or is the existing building being knocked down and rebuilt?

**Ms. Bunce-Delfay:** Remodeled.

**Chairman Froessel:** What's the size of this lot?

**Ms. Bunce-Delfay:** It's a half-acre lot.

**Chairman Froessel:** Let's go through the various variance items one at a time. First is a proposed canopy. That's what is depicted in the picture there?

**Ms. Bunce-Delfay:** Yes. It's needed for fire suppression.

**Chairman Froessel:** How tall is the canopy?

**Ms. Bunce-Delfay:** Oh boy that I am not one hundred percent sure about.

**Chairman Froessel:** From the picture it appears that it is not as high as the peak of the roof of the building.

**Ms. Bunce-Delfay:** I'm trying to picture it on the basis of other gas stations. I would say it's about the height of the...this one again if you look at this one here it looks like it is the height of the...this here looks like the same height as the...the double line...

**Boardmember Lucchino:** What's the color of the canopy?

**Ms. Bunce-Delfay:** They're typically white.

**Boardmember Lucchino:** From here it looks like it might be two-toned?

**Ms. Bunce-Delfay:** I think it's the shading of this rendering on the architect's drawing but that I would have to check on as I'm not one hundred percent sure.

**Boardmember Lucchino:** Is it lighted?

**Ms. Bunce-Delfay:** Excuse me?

**Boardmember Lucchino:** Is it lighted?

**Ms. Bunce-Delfay:** Yes they're typically lighted. All the fire suppression is up on the ceiling of the cavity.

**Boardmember Lucchino:** The lights are directed down onto the pumps or out into the parking lot?

**Ms. Bunce-Delfay:** No they're down.

**Boardmember Lucchino:** Are there other lights?

**Ms. Bunce-Delfay:** I think there are lights on the building. That's a good question.

**Chairman Froessel:** I think there is one light pole on the existing...there are the ones at the pumps, the smaller ones, but I think there is one at the northern corner of the property. Honestly I've always thought that property could use better lighting.

**Ms. Bunce-Delfay:** It's very dark. You can't tell if it's open or not.

**Boardmember Keiser:** I have a question about the height of the canopy: is there a standard? There probably is a standard...

**Ms. Bunce-Delfay:** Yes is all standard per Fire Code.

**Boardmember Keiser:** So then the height is probably not something that you could change.

**Ms. Bunce-Delfay:** No.

**Boardmember Cassidy:** What are you doing for signage?

**Ms. Bunce-Delfay:** I think that was one question that came up at the Architectural Review Board. They wanted to see signage, which would be...there is an existing sign which is down on the corner of this property and that would be something that they would again go in front of the Architectural Review Board once the plans are approved.

**Ms. Desidero:** They would have to apply for a Sign Permit separately. If they need a variance they'll be sent here. If not, they will go directly to the ARB.

**Boardmember Lucchino:** Is it Sunoco or Shell?

**Ms. Bunce-Delfay:** Sunoco. Shell is up.

**Boardmember Vink:** Is the footprint of the building changing or just remodeling the existing building?

**Ms. Bunce-Delfay:** That's correct just remodeling.

**Chairman Froessel:** So the increase in lot coverage we're including the dimensions of the canopy as the lot coverage?

**Ms. Bunce-Delfay:** The variance for the canopy was offset from the front property line. That's above grade so that's...what's underneath it is already impervious so that's the coverage but coverage is more of the back. All this is new now and everything around the back of the building increases the coverage.

**Chairman Froessel:** So is there some paving that is being done?

**Ms. Bunce-Delfay:** Yes. That little back area is new.

**Boardmember Vink:** This whole section back of the building...

**Chairman Froessel:** Okay so these pervious pavers count as part of the lot coverage.

**Ms. Bunce-Delfay:** For parking?

**Chairman Froessel:** Yes.

**Ms. Bunce-Delfay:** Yes.

**Boardmember Vink:** There's a second sign. I know I raised this at the last meeting but there is a second sign post on the north corner of the property that there was a variance for when they were putting a different business in, the auto repair portion of the premises. They were granted a variance on that. My question last month was: what was the intention with respect to that sign pole and can it be removed as part of this new site plan?

**Ms. Bunce-Delfay:** Is there a sign on it now or is it just a pole?

**Boardmember Vink:** It's just a pole with an empty square but it's approved for a sign and I think the circumstances of that have changed which is why I raised the potential of taking it down and out as part of the application.

**Ms. Bunce-Delfay:** I don't...I'm not familiar with that, sorry. I'll have to ask John (Folchetti) that question. Oh it's right here. There's a light on the north pole.

**Boardmember Lucchino:** Kathy, the existing...when you pull in that gas station now...not behind but in front there is pavement and it's kind of busted up. Is that going to be fixed?

**Ms. Bunce-Delfay:** Yes they have to...when they...underneath the canopy it has to be concrete. Most of the pads if you look at any gas station...it's going to be totally re-paved.

**Boardmember Lucchino:** The whole thing? The whole front part?

**Ms. Bunce-Delfay:** Yes.

**Boardmember Lucchino:** You are going to create a road essentially around the back, correct?

**Ms. Bunce-Delfay:** Yes. They're putting on...that's for the parking here. They don't want people coming and parking and then exiting from the front. It's too congested and it's a danger so it's all going to be around the back. These are the pervious pavers they are putting in the back.

**Boardmember Lucchino:** There is a pretty sharp drop-off in the back.

**Ms. Bunce-Delfay:** Yes there are some proposed retaining walls.

**Boardmember Lucchino:** Are they bringing in fill?

**Ms. Bunce-Delfay:** They would have to bring in some fill, yes.

**Boardmember Lucchino:** Do you think you could pass? Maybe you could walk around back. I didn't think you could. I didn't think there was enough area to drive.

**Ms. Bunce-Delfay:** Well if you look at the previous architectural it shows you...it's easier to see on this one. You can see it's filled off in the back and then cut down. It's easier to see

with this one. You can see that these are the two retaining walls so it's up and in, up and in so this is the back filled in here.

**Boardmember Lucchino:** I see and so they will drive like that, correct?

**Ms. Bunce-Delfay:** Yes.

**Boardmember Lucchino:** So my question was: back here, are they going to need fill to create this?

**Ms. Bunce-Delfay:** Yes I will show you...I don't have a topo on this but it has to get leveled off and then they have to fill it, they have to compact it in order to have the retaining walls secure.

**Boardmember Lucchino:** Okay so they are going to fill all that. So the whole surface will all be re-paved? Front and back?

**Ms. Bunce-Delfay:** Well they're pavers. They're proposing pervious pavers around for the parking and for around the side. That's for watershed regulations.

**Boardmember Lucchino:** And these pavers: are they like tiles? What are they?

**Ms. Bunce-Delfay:** No, they're actually concrete. I think they're 5-sided concrete and they're filled with gravel. Cameron's Deli is a good example.

**Chairman Froessel:** They have them over by the bike path.

**Ms. Bunce-Delfay:** Yes, that's beautiful over there. They did a nice job on that.

**Boardmember Lucchino:** I thought Cameron's Deli had to do that because of water restrictions over there or something?

**Chairman Froessel:** Well they're not too far from the reservoir over there.

**Boardmember Lucchino:** Right. They couldn't pave so that's why they had to do that.

**Ms. Bunce-Delfay:** Yes their sidewalks are like that too with pervious sidewalks.

**Boardmember Lucchino:** There's just a little landscaping I saw on the front corner...

**Ms. Bunce-Delfay:** Existing?

**Boardmember Lucchino:** No proposed because you're going to decrease the open space, correct? That's about the best you can do right?

**Ms. Bunce-Delfay:** There are planters. In the spring you could...

**Boardmember Lucchino:** Are they going to do that?

**Ms. Bunce-Delfay:** That I'm not sure of. I'd have to ask John about that.

**Boardmember Lucchino:** I don't know that there's a lot of open space...

**Ms. Bunce-Delfay:** Around the back...it's all impervious out in the front. You can see as you come in the corner where the sign is.

**Boardmember Lucchino:** Yes that's what I saw on the plans.

**Ms. Desidero:** If they're not shown on there they weren't approved by the ARB. I don't think they were.

**Boardmember Lucchino:** Okay.

**Ms. Bunce-Delfay:** Isn't that the preference of the owner to put planters out or no?

**Ms. Desidero:** The ARB tries to make everything look as nice as they can but I think they recognize that on this lot there's not much space as you said.

**Ms. Bunce-Delfay:** There's not a lot of grass.

**Ms. Desidero:** They could have required it but they didn't talk about it.

**Boardmember Lucchino:** Okay, thanks.

**Boardmember Keiser:** (inaudible)

**Ms. Bunce-Delfay:** (inaudible) might have seen the ones underneath are the new...you get a better idea how the back how it's going to look on this side.

**Boardmember Keiser:** Right. That just seems like such a steep drop off the back.

**Ms. Bunce-Delfay:** Well that just the retaining wall. I'm not one hundred percent sure that the height of that is to be honest with you.

**Boardmember Vink:** It has to be at least 10 ft. because your drop off there is from 460 to 450.

**Ms. Bunce-Delfay:** Yes, they have the top of the wall 62, bottom 60 here so that's hitting grade and then back here it's 50, 52, 62 so it's like 10 ft.

**Boardmember Lucchino:** What's behind it? Is it just woods behind the gas station?

**Ms. Bunce-Delfay:** I think that's the Highway Department actually...

**Boardmember Lucchino:** I think you're right. I don't remember seeing any other building.

**Boardmember Cassidy:** The Jehovah's Witness are right behind it to the side.

**Ms. Bunce-Delfay:** Here's the aerial. This is a good one. This shows the Jehovah's Witness and then the back is wooded.

**Boardmember Lucchino:** Who owns the property right behind the gas station?

**Ms. Bunce-Delfay:** Is that DOT property? Is this the DOT building?

**Boardmember Lucchino:** But it's just woods I think, correct?

**Ms. Bunce-Delfay:** Correct.

**Boardmember Lucchino:** Does anyone object to your bumping up against the property line in the rear? When that road goes in, that roadway around the back...

**Ms. Bunce-Delfay:** Right. I think that's why they're trying to get the variance...

**Boardmember Lucchino:** Right, exactly. You will be so close to the property line that's why I was curious if anyone said anything.

**Ms. Desidero:** If they were going to object they would be here, right?

**Chairman Froessel:** Right. This would be the time for it.

**Boardmember Lucchino:** You would think.

**Ms. Desidero:** No one has come to the Planning Board.

**Boardmember Lucchino:** With respect to the canopy: is the canopy is going to be very close to the road?

**Ms. Bunce-Delfay:** Yes. Above grade but that was I think 4 ft. from the property line.

**Boardmember Lucchino:** That's a big variance; 96 ft. is a long distance. I'm trying to think. There's a CITGO gas station a little further down on the road and I believe they also have a canopy that's pretty close to the road.

**Ms. Bunce-Delfay:** Well the one at the intersection...there's another good indication at the intersection of Drewville Road and Route 6 by the bottom of Brewster Heights, that canopy...they're all required now for fire suppression and it hangs over so it's closer to the road.

**Boardmember Lucchino:** I'm just trying to determine whether your canopy is close to the road and that's what everyone else is or is it dramatically different than what already exists along that road.

**Ms. Bunce-Delfay:** It depends on where the pumps are.

**Boardmember Vink:** Carla, I think what you're seeing is it's close to the property line but the property line is set back. There's a large right-of-way between the property line and the road so I think on the plan it looks really close because it's close to the property line but I don't really think it's close to the road.

**Ms. Bunce-Delfay:** Right. Here's the edge of the pavement, the white line of the pavement, so to the property line you have about 30 ft. and then from that 30 ft. is another 4 ft. into the property.

**Chairman Froessel:** If you scale that it's probably more like 30-35 ft.

**Boardmember Lucchino:** That makes sense.

**Chairman Froessel:** The setbacks plan is fascinating because under the current zoning you literally could not build on this piece of property because you can't meet the setbacks.

**Boardmember Cassidy:** Couldn't even have a flagpole.

**Chairman Froessel:** No, nothing. Is there anyone in the audience that has any questions about this application? No? Okay. Do we have any more questions of the applicant? Are we ready to vote on this tonight?

**Boardmember Lucchino:** I think the first time it needed County approval?

**Chairman Froessel:** We got it and I am assuming the County said okay?

**Ms. Chiudina:** Yes.

**Chairman Froessel:** Very good. Before I close the Public Hearing do you have anything else you would like to state or add to your application?

**Ms. Bunce-Delfay:** No.

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

**Ms. Bunce-Delfay:** Yes.

**Chairman Froessel:** Thank you. We will close the Public Hearing. I don't know if you want to deliberate on this at all. It's a pretty tough piece of property. It's been a gas station all along and they're not changing the use other than adding the minimart aspect, which is par for the course these days. Quite frankly, as far as character of the neighborhood is concerned, I've always thought that was the dingiest property in Town and I would love to see someone improve the character of that neighborhood. I will entertain any comments from any of the board members or alternatively any motion that anyone would care to make.

**Boardmember Lucchino:** Just one thought about the pavers, you know the Cameron's Deli kind of surface: do you think that's a problem in terms of those stones going into the road or anything like that?

**Chairman Froessel:** From the site plan it looks like the closest ones are back from the property line about 50 ft.

**Ms. Bunce-Delfay:** They're not above the paver. They don't come up to the top of the paver. There is a little lip...you're talking maybe 0.5 in. between the top of the paver and where the gravel is.

**Chairman Froessel:** I think they're kind of meant to be like that because then the water that comes in would just drain down through it.

**Boardmember Lucchino:** I would kind of feel better if it was just going to be plain old paving.

**Chairman Froessel:** I actually prefer the pervious pavers.

**Boardmember Lucchino:** Do you?

**Chairman Froessel:** Yes. I think aesthetically they're pretty nice. The places I have seen I think they're okay.

**Boardmember Cassidy:** I think they slow drivers down too. They slow them down when they are driving through the parking lot.

**Chairman Froessel:** There's a substantial environmental benefit from having those there because instead of having water come down and wash out all in one place in some low spot it can all seep in gradually and then it doesn't affect the reservoir as much.

**Boardmember Lucchino:** That's a good point.

**Boardmember Keiser:** I just wonder: is anyone else concerned about the drop off in the back? It's a 10 ft. drop off. Is there any fence?

**Chairman Froessel:** They have a guardrail.

**Ms. Bunce-Delfay:** There will be a safety fence.

**Chairman Froessel:** Anyone care to make a motion? Unless anyone feels the need to split them up I think we can do them all in one motion.

The motion to grant the requested variances was introduced by Chairman Froessel, seconded by Boardmember Vink. The variances granted are as follows:

1. A variance of 96 ft. for the canopy over the gas pumps in the front as depicted in the site plans that were provided to the Board.
2. An application to increase the pre-existing non-conforming lot coverage to 80.6% thereby granting a variance of 35.6% from a lot coverage requirement.
3. A variance of 35.6% for the open space requirement on the property. The applicant is proposing open space of 19.4% where a minimum of 55% is required.
4. A variance of 84 ft. for the rear parking setback where the applicant is requesting a setback of 16 ft. where 100 ft. is required.

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.  
As I stated before, I think this would be a highly desirable change in the neighborhood. That property has been kind of rundown and neglected-looking for quite some time, even when it was a working station it was pretty rundown looking. Based upon the renderings we've seen I think this will be a substantial improvement in the character of the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
No it is absolutely impossible. The setback plan that was included with the applicant's site plan drawings show that there is literally no envelope on which to build on this property or do any type of improvement on the property without the benefit of a variance.
3. Whether the requested variance is substantial.  
Arguably they are but I think that it is mitigated by a couple things: 1) By the distance of the front property line from the actual pavement on Route 22. 2) This always was a gas station on a non-conforming lot and it will continue to be a gas station on a non-conforming lot.
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 and I will also note that the applicant's use of the pervious pavers may actually improve the environmental conditions on that lot.
5. Whether or not the alleged difficulty was self created.  
I don't think it is self created because literally there is no buildable envelope on that property whatsoever so I don't think these hardships were self created.

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** - Public Hearing to review an application for an addition to a single family home, which requires a revision to the existing variances:

1. West side yard setback variance of 14.32 ft. where 15.68 ft. is proposed and 30 ft. is required. (Variance approved previously on May 16, 2016 for 10.32 ft.);
2. Total side setback variance of 21.64 ft. where 53.36 ft. is proposed and 75 ft. is required. (Variance approved previously on May 16, 2016 for 17.64 ft.)

Architect Robert Cameron was sworn in and appeared before the Board in support of this application.

**Chairman Froessel:** Okay, so my understanding of this application is: first of all we had to put this over from last month because Milltown Road is a County road that needed County Planning approval. The note on my agenda says that approval has been received so you are free to go forward tonight and my understanding is you were granted a variance that turned out to be a little bit off and now you're back because the garage addition comes a little closer to the property than was anticipated.

**Mr. Cameron:** Yes. He really wanted to get the two cars in there and he didn't want to have to tear up a retaining wall where his fuel tank is and all that would entail so it's an economic hardship. It was easier just to...well from our perspective it was easier just to move the building up four more feet so that he can get straight into the garage.

**Boardmember Lucchino:** Are you asking for two variances or one?

**Mr. Cameron:** Ummm...

**Chairman Froessel:** Technically it's two: it's the west side and then total.

**Mr. Cameron:** It's a side yard variance but it equates to two variances.

**Chairman Froessel:** How much of a variance did we give him the last time? Do you have those numbers?

**Mr. Cameron:** Yes. It was actually 4 ft. less on each one because he's asking for four feet more so whatever that...

**Chairman Froessel:** We gave him roughly 18 ft. on the west side.

**Ms. Desidero:** It's actually on the agenda.

**Ms. Chiudina:** Yes, on the agenda if you look in the parentheses.

**Boardmember Vink:** We used exact numbers last time?

**Mr. Cameron:** Yes. In March (actually May) you gave him 10.32 ft. and a total setback variance of 17.64.

**Boardmember Vink:** And now we're getting four feet closer? You've turned the garage, correct?

**Mr. Cameron:** Well it's just with this now he won't have to take out the retaining wall and fuel tank.

**Boardmember Keiser:** Can you explain again why he didn't know this last time? Why it has changed? I'm not sure I really understand why.

**Mr. Cameron:** He didn't consult with me before he did the first variance application. He just decided that 20 ft. was going to be good enough. I got involved as the architect after the fact. I said 'you're only going to get space to drive one car in this garage because of how your driveway is unless you want to tear all this stuff out.' I guess if he would have hired me in the beginning we wouldn't be back here again but it is how it is.

**Chairman Froessel:** Anyone in the audience have any questions or comments about this application? No? Okay. Anyone have any questions? I think this is pretty straightforward.

**Boardmember Lucchino:** It's just the addition of the garage, correct?

**Mr. Cameron:** Yes and the second story above it.

**Chairman Froessel:** It's the same addition we talked about back in May. Do you have anything else you want to add before I close the Public Hearing?

**Mr. Cameron:** No.

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

**Mr. Cameron:** Yes, two times around.

**Chairman Froessel:** Thank you. We'll close the Public Hearing. I don't think there needs to be much deliberation on this one.

**Boardmember Lucchino:** No but are we going to...he has these variances to a tenth of an inch. Don't we usually round those?

**Chairman Froessel:** Yes I would suggest rounding these up to 15 ft. and 22 ft. That's my suggestion because that way if he is off by a couple of inches he doesn't have to come back for a third variance. I will entertain any motion anyone would like to make on this application.

The motion to grant the requested variance of 15 ft. from the west side yard setback where 30 ft. is required and 15 ft. is proposed and a 22 ft. variance from the total side yard setback where 75 ft. is required and 53 ft. is proposed was introduced by Boardmember Vink, 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 believe there will be any change to the character of the neighborhood and I think it's in keeping with the character of the neighborhood in that area.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
Based on the way this property is situated, no. In order to expand the garage a variance is needed and he had already received a variance for the side yard setback with no objection so moving it 4 ft. can only be done with a variance.

3. Whether the requested variance is substantial.  
Not particularly in the scheme of this property or with the way the houses were built in that area.
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.  
No it's not self created based on the existing conditions of the property.

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.

**David and Maria Rodriguez, 28 Forest Lane** - Public Hearing to review an application for an existing side deck, which requires a south side yard setback variance of 12 ft. where 8 ft. is proposed and 20 ft. is required; a total side setback variance of 16.14 ft. where 33.86 ft. is proposed and 50 ft. is required; and an east front setback variance of 9.64 ft. where 25.36 ft. is proposed and 35 ft. is required.

David and Maria Rodriguez appeared before the Board in support of their application.

**Chairman Froessel:** Were you both sworn in at the last meeting?

**Mr. and Mrs. Rodriguez:** Yes we were.

**Chairman Froessel:** Okay, you're still under oath. We adjourned this one so we could go take a look at it. I went and took a look at it. This existing side deck, in my own personal view, I don't know how it could bother anyone. I had to hunt to find it so I honestly don't think it's a huge issue. Correct me if I am wrong but that deck or some variation of that deck was there when you bought the house?

**Mr. Rodriguez:** It's exactly the same and we've been there 17 years.

**Chairman Froessel:** The variances you are looking for are: south side of 12 ft., total side setback variance of 17 ft., and an east front setback variance of 10 ft. Did everyone have a chance to go look at this if you wanted to?

**Boardmember Lucchino:** Yes I did and I agree with you.

**Chairman Froessel:** It's actually in a pretty secluded little spot down there.

**Boardmember Keiser:** It was hard to find your house.

**Mr. Rodriguez:** Yes every time we get a delivery it's an explanation.

**Chairman Froessel:** Yes it was a wonderful adventure trying to find it. I spent about an hour just looking for it. Do you have anything else you want to add regarding anything else on your application?

**Mr. Rodriguez:** No not at this time.

**Chairman Froessel:** Okay and you're not looking to expand that deck?

**Mr. Rodriguez:** No. If anything eventually it will come down and we'll make something smaller because we don't even really use it. When we come outside we go out on the top deck in the back.

**Chairman Froessel:** Okay. Does anyone else have any questions? Obviously there is no one here with any comments or questions because there is no one left. I think with the Board members having seen it I think we're prepared to go ahead and vote on it. Do you have anything else that you want to add or let us know before we close the Public Hearing?

**Mr. Rodriguez:** No.

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

**Mr. Rodriguez:** Yes I do.

**Chairman Froessel:** Unless the Board wants to talk about this at all I will entertain any motion anyone would care to make about this application.

The motion to grant the requested variance of 12 ft. from the south side yard setback, a variance of 17 ft. for the total side yard setback variance, and a 10 ft. variance from the front setback 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 either one of those things have happened. I and other board members went and looked at it and all agreed that it is sitting in a pretty secluded location and doesn't affect the character of the neighborhood at all.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.  
It can't. The side setbacks are what they are and I don't think the applicant could do anything over there without getting a variance.
3. Whether the requested variance is substantial.  
It's borderline but again to the extent that it could be considered substantial I think it's mitigated by the fact that the applicant's property is really in a kind of secluded location and there is a fair amount of foliage there also that blocks the view.
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.  
I would say no it's not self created because the deck was present when the applicants bought the property.

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.

Boardmember Lucchino requested three changes to the October 17, 2016 minutes, which were complete. The motion to approve the Meeting Minutes of October 17, 2016 as amended by Boardmember Lucchino was introduced by Chairman Froessel, seconded by Boardmember Vink and passed all in favor.

Respectfully submitted,  
Cathy Chiudina