

**Town of Southeast
Zoning Board of Appeals
Minutes of February 17, 2021**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Roderick Cassidy	Present
Greg Wunner	Present
John McNeill	Present
Steve Corozine	Present
Andres Gil	Present
Ashley Ley, Town Planner	Present
Will Stephens, Jr., Town Counsel	Absent
Victoria Desidero, Board Secretary	Present
JoAnne Ciralli, Assistant Secretary	Absent

Work Session:

Regular Session:

Pledge of Allegiance.

Chairman Froessel: OK. Good evening, everyone and welcome to the February 2021 Public Hearing of the Town of Southeast Zoning Board of Appeals. My name is Tim Froessel. I am the Chairman. The Vice Chairman Paul Vink is present as well. In order to comply with the Governor's executive order for doing these meetings remotely, I want to just go around and have a... do a roll call of all the Board members and say 'present' when I call your name. (Roll Call Taken. Results above.) OK. We have a full Board this evening. All seven Board members are present. We have our... our pared down agenda for tonight only has four items on it. The first two items were both continued to next month's meeting so those will not be on. So, the first applicant tonight will be Christopher and Jennifer McGuire. The second application will be Brewster Ford. The third application will be Claudia Kaplan & John-Etal Lahart, and the fourth application will be Mathew Luccarelli.

1. Christopher & Jennifer McGuire, 60 South Drive, Tax Map ID 46.77-1-39

Public Hearing to review an application for a deck that requires a variance for the east side setback of 8 ft. where 12 ft. is proposed and 20 ft. is required.

Christopher and Jennifer McGuire were sworn in.

Chairman Froessel: So, without further ado... further ado, is anyone here on Christopher and Jennifer McGuire?

Christopher McGuire: Yes, there is. Right here.

Jennifer McGuire: Right here.

Chairman Froessel: Hi. How are you?

Mr. & Mrs. McGuire: Good. How are you?

Chairman Froessel: Just fine. Thanks. Before we start the Public Hearing, I just ask you to raise your right hand and we're going to have the Vice-Chairman swear you in.

Boardmember Vink: Do you swear the testimony you're about to give is the truth to the best of your knowledge?

Mr. & Mrs. McGuire: Yes.

Boardmember Vink: Thank you.

Chairman Froessel: OK. Thanks very much, and Victoria, I assume the mailings were in order.

Secretary Victoria Desidero: Yes, sir.

Chairman Froessel: OK. Great. OK. So, we're ready to get started with your application. Why don't you folks just... just give us a rundown of what it is you're looking to do?

Mr. McGuire: So, we had installed a pool back in 2018 and with that pool, we had originally went with a ladder but I am not a ladder pool person. I'm 6 ft. 6 in., 360 lbs., so that ladder is horrible getting in and out of the pool. So, I built a small deck. It's just a set of steps to get into the pool. Then I have steps in the pool because there isn't a pool ladder that I trusted. So, when I put the pool... when I put the steps on to get into the pool, I guess I have to come for a variance because it's 8 ft. too close to the property edge on the one side.

Chairman Froessel: OK. So, this is... so, you've already built the deck we're... we're talking about here?

Mr. McGuire: Yes. It's already there. I've... I attached photos in the package, so, yeah.

Chairman Froessel: Yeah. OK.

Mrs. McGuire: There's no snow in that picture.

Mr. McGuire: So... yeah.

Chairman Froessel: There will be tomorrow.

Mr. & Mrs. McGuire: Yeah. (Laughter.) So, you can see the stairs in the back. Those go in the pool and obviously, it's... the stairs are literally there just because I can't... I'm not using a ladder. I'm too big for ladders, so...

Chairman Froessel: OK. How long has that... has the deck been present there?

Mr. McGuire: It's been present there pretty much a good year or so.

Mrs. McGuire: Yeah. I would say it was a year.

Mr. McGuire: Yeah. We put the pool in then the ladders were bowing. Like I said, as soon as we put the pool in, a few months later I had to construct the deck because I couldn't get in and out of the pool.

Chairman Froessel: OK. And in the time it's been there, have any of your neighbors objected to having it there?

Mr. McGuire: So, the neighbors that prop... border that property line are my daughter's godparents and my wife actually uses it to talk because she's only 5 ft. tall. So, she stands on the deck to talk to the neighbors over the fence.

Chairman Froessel: All right. So, I'm guessing maybe they don't object.

Mr. McGuire: No, not at all. (Laughter.)

Chairman Froessel: OK.

Mr. McGuire: I know... I know a couple of my neighbors that I sent the mailings to had said they were mailing letters to the Town. I don't know if it made it to you guys, but they didn't have any objections at all to it either.

Ms. Desidero: I did forward those to the Board. They came in very early. I don't know if you remember.

Chairman Froessel: Yeah. I... I do remember it.

Mr. McGuire: Yeah. As soon as the mailings went out, they were all calling because there... they wanted to know what everything was about. The reason why we had to put the stairs over

there is because you can see on this side of the pool is the filter and everything with it. So, I mean, and actually that's to put the solar cover on so it comes off the pool, so...

Chairman Froessel: OK.

Boardmember Gil: Is there any plans to make a bigger deck or anything like that?

Mr. McGuire: No. No.

Mrs. McGuire: No, that's it.

Mr. McGuire: That's... that's it. That's it, just so I can get my big butt in and out of the pool.

Mrs. McGuire: That's it.

Chairman Froessel: Any of the other Board members have any questions for the applicant?

Boardmember McNeill: I... I do have a... just a quick question. Who constructed the... the deck and the stairs and everything? It looks like it was done professionally but...

Mr. McGuire: I did it.

Boardmember McNeill: Oh, OK.

Mr. McGuire: Listen, I'm a big guy so I build everything so I can dance the jig on top of it, so... (Laughter.)

Boardmember McNeill: Gotcha.

Mrs. McGuire: And he did, by the way.

Boardmember McNeill: There was no... there was no permit required to do the... the stairs then?

Mr. McGuire: No. I guess 'cause it's not tall enough... cause the pool... so the pool's sunk in the ground. The pool's buried 3 ft. into the ground.

Boardmember McNeill: I gotcha.

Mr. McGuire: So, yeah, so...

Boardmember McNeill: OK. Are there footings... are there footings underneath the posts that are in the corner or no?

Mr. McGuire: Yes. Yeah.

Boardmember McNeill: Oh, there is. OK.

Mr. McGuire: Yeah. I did that just because... because it would make it good and solid so nothing moved.

Boardmember McNeill: Right. Sure. OK. Thank you.

Mr. McGuire: Yeah.

Chairman Froessel: Is... is there any member of the... of the public that's on this Zoom conference that has any questions or comments about this application?

Ms. Desidero: Can we have the screen back? Thanks. (Pause.) I don't think there's anyone.

Chairman Froessel: No. I don't see anyone. I don't see any raised hands or anything. So, I think... I think we're good. OK. Let me just ask the Board members. Is everyone comfortable with... with voting on this application tonight?

Multiple Boardmembers: I am. Yes.

Chairman Froessel: OK. All the heads are nodding. That's good. OK. OK. So, Mr. and Mrs. McGuire, the... the procedure is we close the Public Hearing and then we deliberate and vote, but before we do that, do you have any final comments or statements you'd like to make in support of your application?

Mr. McGuire: No. Just that without the deck where it is, I wouldn't be able to use the pool at all that I put in.

Mrs. McGuire: And... and you know what, we have a 10- and 11-year-old and they love it when Daddy goes in the pool. So, they're... he's like a play toy. (Laughter.)

Chairman Froessel: That's a good Dad.

Mr. McGuire: Yeah.

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

Mr. & Mrs. McGuire: Yes. Absolutely.

Chairman Froessel: OK. Great. Thank you. OK. So, with that, we'll close the Public Hearing. I don't know that there's really much deliberation required on this. It's pretty simple. So, if... if anybody has any comments, we can... we can deliberate. If anyone wants to make a motion, I'll entertain that.

The motion to grant the variance for the east side setback of 8 ft. where 20 ft. is required and 12 ft. is proposed for a deck was introduced by Boardmember Gil and 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 will be created by the granting of the variance.
After a thorough review of the application, which includes a statement and a site plan and also the pictures and photographs and doing a Google satellite video of it and the garage behind it, it's pretty clear that the actual yard itself is fenced in with stockade wood fence. Therefore, there is no undesirable change to the neighborhood because you can't see the actual deck itself from the roadway or from the neighbor's property.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the area variance.
I don't think so simply because of where the pool is situated, and also looking at the... the section photographs... Looking at the contour of the property and the placement of the deck and stairs compared to where the mechanicals for the pool are placed and the solar cover and how everything kind of functions with the side of the yard, I don't think it could be obtained... or it's feasible to obtain it without the variance.
3. Whether the requested variance is substantial.
I don't believe it's substantial in the sense that it's a 12 ft.... it's a 20 ft. required and 12 ft. is proposed, therefore the variance requires 8 ft. Given the size of the actual deck itself and the testimony that the applicant does not plan on expanding the deck more than what's really required for a small platform to enter and exit the pool with a set of stairs to rise to the level of elevation.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
Most... being a resident of Brewster in this part of the actual Town itself, there... Most properties in this part of Brewster either have a pool or a fenced in type of yard or structure. I don't think it really changes the character of the neighborhood or has a negative or adverse effect on the environmental conditions.
5. Whether the alleged difficulty was self-created.
So, I mean, yes it was self-created in the sense that they created... put a pool in. However, there hasn't been (inaudible) to climb in and out of the pool. Moreover, this criteria is not necessary... would not necessarily preclude the granting of the area variance. With that said, Mr. President, I believe we've met the criteria to grant the variance of 8 ft. where 20 ft. is required and 12 ft. is proposed.

Roll Call Vote:

A. Gil In Favor
S. Corozine In Favor
G. Wunner In Favor
J. McNeill In Favor
R. Cassidy In Favor
P. Vink 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.

Chairman Froessel: So, the variance is granted, 7 votes to 0. Just to let you know, the... the procedure here, if we were... Back in the days when we used to meet in person, I'd sign the variance right on the spot and hand it to you and you could take it to the Building Department and it'd be legal.

Mr. McGuire: OK.

Chairman Froessel: Because we're doing this remotely, Victoria will prepare it. She'll email to me tomorrow and I'll get it back to her and within the next day or two, you'll... you'll have the variance.

Mr. & Mrs. McGuire: OK. Great. Thank you very much.

Chairman Froessel: You're welcome. Have a good night.

Mr. & Mrs. McGuire: All right. You, too. Thank you.

Chairman Froessel: Thanks.

Mr. McGuire: Do we stay on or can we leave?

Chairman Froessel: No. You're free to leave. (Laughter.)

Mr. McGuire: OK.

Chairman Froessel: Unless you want to stay. (Laughter.) You're more than welcome.

Mr. McGuire: All right. Thanks.

Mrs. McGuire: Being a high school teacher, I'm on an awful lot of Zoom's all the time. That's OK. Thank you very much for the invite. (Laughter.)

Chairman Froessel: All right. Thought I'd extend the invite.

Mr. McGuire: Thank you, guys. Have a great night.

Chairman Froessel: OK. Thanks. You too.

2. Brewster Ford, 1024 Route 22, Tax Map ID 68.5-2-32

Public Hearing to review an application for the proposed addition of a dumpster enclosure and a shed that requires multiple variances. For the dumpster enclosure, a 30 ft. front yard setback variance where 5 ft. is proposed and 35 ft. is required and a 14 ft. front yard setback variance where 21 ft. is proposed and 35 ft. is required. For the shed, a 1 ft. west side setback variance where 34 ft. is proposed and 35 ft. is required.

Jamie LoGiudice of Insite Engineering was sworn in.

Chairman Froessel: OK. Next agenda item is Brewster Ford. Who's here for that?

Ms. Desidero: We have Jamie LoGiudice here from Insite Engineering.

Jamie LoGiudice: Hello.

Chairman Froessel: Hi. How are you?

Ms. LoGiudice: I'm good. How is everyone?

Chairman Froessel: Doing well.

Ms. LoGiudice: Great.

Chairman Froessel: Before we get started, can I ask you to raise your right hand so the Vice Chairman can swear you?

Ms. LoGiudice: Yes.

Boardmember Vink: Jamie, do you swear the testimony you're about to give is the truth to the best of your knowledge?

Ms. LoGiudice: Yes.

Boardmember Vink: Thank you very much.

Chairman Froessel: OK. I've reviewed the application. I think I know what it is that you want to do, but why don't you just go ahead and just explain it to the Board.

Ms. LoGiudice: Great. Thank you. Can I share my screen?

Ms. Desidero: Ashley, do you want to do it?

Town Planner Ashley Ley: OK. I had it ready to go.

Ms. LoGiudice: I'm looking at your screen?

Ms. Ley: Yes.

Ms. LoGiudice: OK. OK. Great. Thank you. Again, my name is Jamie LoGiudice from Insite Engineering, Surveying, and Landscape Architecture here on behalf of the Brewster Ford applicant. The... the... as the Board may recall we were before you before with this project way back when during the original approvals. We did get Site Plan approval on February... in February of 2017 and then we recently completed construction in September of 2020. Now, during the 'as built' review of the project and submitting for the bonds to be released, it was brought to our attention that there's a shed that is... yup, adjacent to the existing... proposed... recently constructed service bay. This shed is... it's a very... it's a small shed. It happens to be located 1 ft. into the side yard setback. Now, the side yard does slope uphill, up to the Harvest Plumbing property so they don't necessarily see the shed. It's not something that's even really visible from Argonne Road. So, we are requesting a 1 ft. variance for the shed itself. We can't really change the configuration of how the shed is located due to the cars that are parked where you can see the 'R's' in the... right there... there's... there's parking spaces right in front and really the only access to the shed is right where the shed label is for the doors. So, we can't really turn it. You wouldn't be able to get into it. So, we're kind of stuck.

Chairman Froessel: Just to... just to clarify for the record, we're talking about the clouded area toward the bottom of the document that's in the... it's the red block number 15 in the triangle, correct?

Ms. LoGiudice: Yes.

Chairman Froessel: OK.

Ms. LoGiudice: I have it as black but... but, yes, in... in the 15. Yes.

Chairman Froessel: Yeah.

Ms. LoGiudice: So, that is the first variance. We do have photos that we can go to. Those... right there, the next sheet. So, that is the shed itself right there. (Pause.) So, just adjacent to... yeah, exactly, right there. So, that is the shed. It has been matched in color to the new addition, so it's... it kind of blends in and looks like it should be there and it's within the existing pavement lines that they have onsite. So, that's the easy one. The... the little more stringent one... if you could go to the smaller... two sheets up... sheet 11. So, the... the little more difficult one is... is the dumpster enclosure. So, this... the applicant decided after... or during construction that where the original location of the approved dumpster didn't really work for his operation... being able to get in to get the... have the dumpsters come in, get the... the garbage, and then leave. He'd essentially have to move the parking spaces that are north... in

this image, north of the... down page... of the dumpster enclosure. So, these... these rectangles are... are delineated parking spaces. So, he'd essentially have to move 10 cars every time the dumpster would come in to grab... the garbage truck to come in to... to access the dumpsters. So, we actually found a more suitable location for him not... you know, basically we had sketched it out and not realizing it was under construction before we got any approvals for it. The dumpster enclosure is now seated into the hill a little bit. So, the grey lines here are rectangles... there's the retaining wall and then there's a stockade fence that goes around the front of it... image would help. So, it... it fits into the hillside a little bit. You have the dumpster... the panels actually go around the fence... the retaining wall and the landscaping in the back of it as well. So, it is a little bit screened from Argonne Road. That's the view from the interior. So, it does sit lower than Argonne Road. It's a full height below Argonne Road and it works a lot better with his... his business operations. So, the configuration of where the property lines are really come into play on this. It would appear... if you're sitting on site that... that Brewster Ford owns more property than they really do and, in this instance, the property lines end up being 5 ft. off of one front yard setback and then the other one is 13 feet off of... I'm sorry 21 ft. off of... So, we'd be looking for a 30 ft. front yard setback request and then a 14 ft. front yard setback request, and those are highlighted.

Chairman Froessel: For the Board members... for the Board members benefit, this is because they're on the corner of... of Route 22 and Argonne Road. This is the two front yards scenario because they're on a corner. So, they've got the more stringent front yard setback on the two sides.

Ms. LoGiudice: Right. Right.

Chairman Froessel: It's also kind of a... I wouldn't have expected the lot was shaped the way that it is. By its appearance from the road, you wouldn't imagine that that... the one... the one lot line that's only 5 ft. off the dumpster enclosure is only 5 ft. off the dumpster enclosure. I would've thought it was 50 ft.

Ms. LoGiudice: Right. Right. Yeah. It's... it's very deceiving, especially when you're out there. You know, it... it feels like the property line should be past where all the cars are and then... and then some, you know, to where the drive aisle actually comes onto Argonne Road, but I know that the Brewster Ford does have Use and Occupancy Permits with the Department of Transportation for use of that area. They do... they do occupy it legally. Those are the three variances that we are requesting at this time.

Chairman Froessel: Oh, and also for the Board members, just... if you didn't notice, this is a referral from the Planning Board. It's... it's for an Amended Site Plan, so.

Ms. LoGiudice: I think we... we're doing this as a Field Change.

Chairman Froessel: Oh, as a Field Change? OK.

Ms. LoGiudice: Yes.

Chairman Froessel: All right. Any of the Board members have any questions? (Pause.)

Boardmember Gil: Yeah. I have... I have a question for you. So, the... the dumpster issue kind of makes sense. I mean, that... that one kind of makes sense, I mean, where it's at... in and out, you know, it's... it's not really... the variance seems to be... the number of the variance seems to be larger than what it actually is when looking at the Site Plan. But the shed, to me... the shed... the shed is... seems like an afterthought. You know what I'm saying? Like, it's like you guys did all this work on this building and it looks beautiful except for this little shed and I need a variance for the shed that is more like an afterthought. I don't know. I mean, from a... a 'does it change the character of the'... looking at the criteria, I mean, the... of the... of the... of the variance... I don't know. You have a beautiful building then there's like this little shed that like is something that... can you explain the need for the shed more, I guess? I might be a little

off the wall here or something, but I'm just... I don't know. I... the dumpster issue seems like it makes sense. It's easy, got it, understand the layout of that lot, but the shed thing just seems like... I don't know. It just seems like an afterthought.

Ms. LoGiudice: I completely understand what you're saying. The shed, to my surprise, kind of appeared on our 'as built' drawing when we had gotten it back. I... I didn't know that it was staying. It was something that they had originally before construction started and it was kind of always assumed that it was not going to be there when construction was done. Then... I believe, during... as they were trying to close everything out, and... and close out the building, figuring out what was going where, the need for this shed has remained. I honestly don't know what they put in the shed. If it's the tires that are not in there yet. It just is a small storage shed but it... yeah, I... I fully understand what you... what you're saying now as it... as it being more of a... an afterthought and if it... It's one of those things where if we'd known about it before... before we finished the design process, we would've made sure it wasn't in the setbacks or made a smaller shed.

Boardmember Gil: Yeah. I mean, it might be out of our lane a little bit but, I mean, just kind of looking at the criteria, I mean, it might've been easier to just bump out that wall a couple... few feet (inaudible.) You would've got the same amount of space but it would've been more appealing. I mean, it just looks like, you know, I don't know. It kind of looks like something that doesn't belong, I guess. I don't know. So, I... I think it changes the characteristic of the... of the whole structure but maybe I'm just being crazy.

Boardmember Cassidy: No. My... my question goes along with Andres', that is... is this a new shed that was just added on or is this a pre-existing shed that you expanded out to?

Ms. LoGiudice: No. So, this is... this is an existing shed that was relocated after the addition was put on. So, they originally had this, I guess, if you look at the bottom left photo. So, looking at the side of the shed, if you were literally to take the addition off and just slide it straight toward that overhead door, it was originally located there.

Boardmember Cassidy: The same shed has been relocated from one area of the property to the other, to 25 ft. or something, to another part of the property?

Ms. LoGiudice: Essentially, yes.

Boardmember Cassidy: OK.

Boardmember Wunner: I would... I would just ask is that shed on footings or just gets slid around? Is it considered temporary?

Ms. LoGiudice: I believe it is considered temporary. It... it could be shifted if need be.

Boardmember Cassidy: I don't think it can be shifted because it's got all the power, I think, from the side of it, it looks like... It looks like that's where all the meters are, but I could just be...

Chairman Froessel: Actually, I thought the same thing, Rod. I think those are just the signs.

Boardmember Cassidy: On that side, it's... those are signs. Yeah.

Chairman Froessel: Yeah.

Boardmember Cassidy: Oh. OK.

Ms. LoGiudice: Yeah. Those are signs that are in concrete (inaudible.)

Boardmember Cassidy: OK.

Chairman Froessel: Yeah. They're signs.

Boardmember Wunner: It's... it's not in... it's not in view of the road, right?

Boardmember McNeill: Do you know what's inside of this shed? I mean, they have a vent on it and everything, you know, on the roof. There's a roof vent.

Ms. LoGiudice: Right. I... I do not know what is inside the shed.

Boardmember McNeill: OK.

Boardmember Wunner: (Inaudible.)

Boardmember McNeill: In that view, it does not look attached to the... to the structure.

Ms. LoGiudice: It is not. No. I believe it has... it has just been painted to match to the existing... the new addition, and it... there was a lock on it at the time, and I have not gotten confirmation of what is in it.

Boardmember McNeill: OK.

Chairman Froessel: And... and it's not anchored to the ground? It's... it's just sitting on the asphalt?

Ms. LoGiudice: Correct.

Ms. Ley: It almost looks like it could be picked up with a forklift.

Boardmember Wunner: Do you... do you have the dimensions? Do we have the dimensions of that shed?

Chairman Froessel: I think it says it's 8 ft. by 6 ft.

Boardmember Wunner: Eight by... that's pretty small.

Ms. LoGiudice: Yes.

Boardmember Wunner: OK.

Boardmember Vink: I will say that if you look at Google Maps, Google Maps has a picture from 2018 that shows that shed in what looks like it's shipping materials, like it got delivered to the site in 2018 and was still wrapped and it was kind of thrown next to the building by the door and not in use at that time. So, I don't know how long it's actually been on the... on the property and what kind of use it had in the past, but it doesn't look like it's been more than a couple of years.

Chairman Froessel: And 2018 is after we granted the variances for the latest... the last Site Plan.

Boardmember Vink: Yes.

Chairman Froessel: The revisions that they did to the property.

Ms. LoGiudice: Right. Those were for the original... the original approvals.

Boardmember Cassidy: Would you say it detracts... it detracts from the rest of the building?

Ms. LoGiudice: Are you... you're asking me if it detracts from the rest of the building?

Boardmember Cassidy: Yes. I think the building that you designed is... is really nice and this, you know, this is a bit of a sore thumb.

Ms. LoGiudice: I, you know... short of it being a very small feature stuck on the end with a roof line going the opposite direction of the building... having not designed the building or the shed, I... and not being an architect, I can only give you my personal opinions that probably don't coincide with the applicant's, but I believe it's... it is... it's just an intended use that they desire and... and would like to maintain at this point. I do want to point out though that where this is located it is tucked down in essentially a hole. Argonne Road and the adjoining neighbor do sit up above the addition fairly significantly. From Argonne Road, you're looking at the roof of the addition. So, you'd really have to like tuck down and look in to... as you're driving down Argonne to be able to see this.

Boardmember Wunner: I... I think if we knew what the use was, it may be considered a piece of equipment if there's waste oil or... or compressor maybe is inside. It may be a piece of equipment rather than a structure. (Pause.) In light of the fact of its size and the fact that it's movable, it may be... it may be able to be called a piece of equipment.

Boardmember McNeill: I... I see also behind the shed it looks like... I don't know if that's salt or something, and you know, it just... it just seems odd to me that such a small shed would... would have ventilation on the roof like that. There's obviously an intended purpose for this thing for something.

Ms. LoGiudice: I would... I would agree with you, yes. There are ways there would be an intended use. I just... I don't know what that would be to give you a clear definition. I did reach out to the applicant to see if he had an answer. I think the... the bags behind... I'm not sure if they're salt or if they're leftover concrete from the construction.

Boardmember McNeill: Right. I just know if it... if it served a purpose. Well, obviously, it does in some respect but just to, you know, is there salt in there? You know, are there tires in there? You know, used tires? Maybe... maybe that's where they store the used tires? It's just hard to see without, you know, a picture of... with the door open.

Ms. LoGiudice: Right. I completely understand. (Pause.)

Boardmember Vink: I'm... I'm actually with you guys on that. I'd like more information about the use of the shed. I'm perfectly happy voting on the... on the dumpster enclosure today but I would like more information on the shed before I vote on it.

Chairman Froessel: The other Board members, it sounds... it sounds like there are... there are a few folks who would like to know more about what the shed is... is used for. Are we all okay with voting on the... on the dumpster enclosure?

Multiple Board members: Yes.

Chairman Froessel: Yes. OK. Heads are nodding. OK. The Board members have had their say but is there any member of the public on this Zoom conference that has any questions or comments about this application? (Pause.) And I'm not seeing any raised hands so I guess the answer is no. OK. So, so, Jamie, it sounds like the plan for us is we'll vote on the dumpster enclosure tonight and I think we'll... we'll keep the application open with respect to the shed, and maybe you can report back to us next month with some more information about what... what the use of that shed is.

Ms. LoGiudice: Absolutely.

Chairman Froessel: OK.

Ms. LoGiudice: Thank you very much.

Chairman Froessel: You're welcome. OK. Any of the Board members have any additional questions before we close the Public Hearing? (Pause.)

Boardmember Vink: Close it with respect to the dumpster aspect of the application?

Chairman Froessel: Yes, yes. It looks like the answer's no. OK. Before I close the Public Hearing, do you have any final comments or statements you'd like to make in support of the application?

Ms. LoGiudice: No. I... I think... I think we went through the three variances we are looking for. We appreciate the... the Board reviewing the dumpster and we will gladly get additional information about the shed.

Chairman Froessel: OK. Very good. Do you feel you've been given a fair and adequate opportunity to present your application on the dumpster enclosure?

Ms. LoGiudice: Yes.

Chairman Froessel: OK. Very good. Thank you. OK. So, with that, we'll close the Public Hearing. We've done our deliberating on the dumpster enclosure. Bear in mind, it's... there's two variances on that and they're both technically front yard variances because of the location of the... the dumpster. It's on a corner. I'll entertain any motion that anyone would care to make on that application.

The motion to grant the variances for the dumpster enclosure as follows: 30 ft. front yard setback variance where 5 ft. is proposed and 35 ft. is required and a 14 ft. front yard setback variance where 21 ft. is proposed and 35 ft. is required was introduced by Boardmember Vink and 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 will be created by the granting of the variance.
No, I don't believe there will be any change at all. The dumpster enclosure is shielded down off Argonne Road and is actually fairly far-ly set off distant from Route 6 although that's the closer to the property line. It is visible... visibly further from Route 6... from Route 6 there. I don't think that that would be a change. I think in closing the dumpster in... in that area in this fashion is... is probably an improvement to just having the dumpsters laying about on the property somewhere.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the variance.
Given the... the nature of this plot and the layout, no, it...it... it can't really be put anywhere without a variance that doesn't substantially interfere with the other uses set for the property.
3. Whether the requested variance is substantial.
Yes and no. I think it's... it's substantial when you look at the gross numbers, but the fact that the biggest setback variance is really the least impactful one I think makes the request not substantial in its totality.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
I believe it will improve the environmental conditions by enclosing the... the dumpster in a safe manner.
5. Whether the alleged difficulty was self-created.
I don't believe so. I believe it's created by the nature of the layout of the... of the lot and the buildings already existing on the plot.

Roll Call Vote:

A. Gil	In Favor
S. Corozine	In Favor
G. Wunner	In Favor
J. McNeill	In Favor
R. Cassidy	In Favor
P. Vink	In Favor
T. Froessel	In Favor

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

Chairman Froessel: So, the variance with respect to the dumpster enclosure is granted and we'll hold the Public Hearing open on the shed until next month and you can get us the information we're looking for and then we'll vote on it next month.

Ms. LoGiudice: Sounds like a plan. Thank you very much for your time. We appreciate it.

Chairman Froessel: You're welcome. Take care.

Mr. LoGiudice: Thank you. Have a good night.

Chairman Froessel: Good night.

3. Claudia Kaplan & John-Etal Lahart, 54 Dingle Ridge Road, Tax Map ID 69.13-1-18

Public Hearing to review an application for an addition to a single-family dwelling that requires multiple variances. For the west front setback, a variance of 42.4 ft. where 57.6 ft. is proposed and 100 ft. is required. For the south side setback, a variance of 33 ft. where 67 ft. is proposed and 100 ft. is required. For the total side setback, a variance of 11 ft. where 189 ft. is proposed and 200 ft. is required.

Roger Provey, agent for owners, and Claudia Kaplan were sworn in.

Chairman Froessel: OK. Moving right along. Next item on the agenda is Claudia Kaplan and John-Etal Lahart, 54 Dingle Ridge Road. Anyone here on that?

Roger Provey: Yes. Can... can you hear me?

Chairman Froessel: Yeah.

Boardmember Vink: Yes.

Mr. Provey: I am Roger Provey, agent for Claudia Kaplan and John-Etal Lahart, and I am here tonight to make the application.

Chairman Froessel: OK. Mr. Provey, if I can ask you to please raise your right hand and... and let the Vice Chairman swear you in please?

Boardmember Vink: Is... is this... before we do it, is this Claudia who is with us also?

Claudia Kaplan: Yes.

Boardmember Vink: Are you going to be making any statements with respect to this?

Ms. Kaplan: Not unless I need to. (Laughter.)

Boardmember Vink: Well, you know what, just for the sake of efficiency, why don't I just swear you in at the same time?

Chairman Froessel: Good idea.

Ms. Kaplan: OK.

Boardmember Vink: Will you raise your right hands for me please? Do you swear the testimony you're about to give is the truth to the best of your knowledge?

Ms. Kaplan: Yes.

Mr. Provey: Yes, I do.

Boardmember Vink: Thank you.

Chairman Froessel: Great. Thank you. We've read your application. Why don't you go ahead and... and fill us in on what it is you're looking to do on the property.

Mr. Provey: OK. What... what we're proposing is an addition on an existing house that was probably built in the 1930s. The... the lot probably was created in the 1930s but without... I don't have documentation of that. The only documentation I... that I do have shows that the lot existed in 1973. So, we carefully tried to design the addition so that it would be as conforming as possibly... as it possibly could be. We are proposing to take down a portion of the existing house. There was an addition that was added to the rear of the main structure, and we're removing that for a variety of different reasons and adding the... the addition which I'm... I'm hoping that all the Board members have a copy of. The addition primarily is a single-story, which is creating a rear entry, a den, and a bedroom, a pantry that... that will be serviced off the kitchen and a full bath, with a set of stairs that go down to a basement. The structure that's being taken down is rather small and in it has a... a rear entry into the... into the existing house and also has a small bedroom upstairs. So, the... this... this particular property seems to have gone on... or has gone through various Zoning changes and presently is an R-160, which is a

far cry from this 2-acre piece, which really is... is... created a very unfair hardship for Claudia and John. Having said that, if the Board would consider this application in a favorable way, most of the proposed addition conforms to side setback on... on the north side of the house. The front of the house, obviously, is a non-conforming building, can't do anything about that and we have built... or proposed the addition to be to the rear of the house. So, from the streetscape, I... I don't think this really impacts in a negative way the streetscape of... of the neighborhood. I'd like to also point out that to the north of us, which I guess is primarily an old subdivision and many of those houses are on smaller lots... lot sizes, I believe that's what Tito... Tulip Road. To... to the south side is a fairly large tract of land which is the neighbor who Claudia was able to contact and she gave a favorable review of... of what they're proposing to do. They had no objections, felt that it would be in keeping with the neighborhood and...

Chairman Froessel: If I remember correctly, I think the neighbor's gotten at least one variance from this Board, so...

Mr. Provey: The... the adjacent neighbors, yes.

Chairman Froessel: Yeah. I think they put up a deer fence.

Mr. Provey: OK. Let's see. So, in 1991, this particular area was changed from an R-60 to the present zone which is R... R-160, which as I said, the setbacks are partially met but obviously this is a very difficult thing to improve this house and...

Chairman Froessel: I'll... I'll cut you off just for a second. Two... two of the three variances you need are simply to correct existing non-conformances. They have nothing to do with the construction you're doing, correct?

Mr. Provey: Oh...

Chairman Froessel: On the... on the west side and... the west side which is the front of the house and the south side, there are pre-existing non-conformances essentially...

Mr. Provey: Correct. Yes.

Chairman Froessel: ...that... that you're just seeking... you've got to legalize those in order to do this project.

Mr. Provey: Correct.

Chairman Froessel: OK.

Mr. Provey: Well, the... the structure that's there is a legal non-conforming structure and the proposed addition is not, and that's what we're seeking the variance for. So, I don't know if the Board has questions. I did... I did a rendering of roughly what the structure would look like to the rear. That was included in the application.

Chairman Froessel: That's in... that's in our packet. That's correct.

Mr. Provey: Yes. And you can see the dormer that's... that's being showed... shown in that particular rendering is to get a closet to service the upstairs bedrooms, or one... There's one bedroom upstairs but primarily, the structure that we're proposing is a single-story. We're not adding any volume other than that closet which is primarily in the eaves space of the new roof structure.

Boardmember Gil: Mr. President, I... I have a question.

Chairman Froessel: Sure.

Boardmember Gil: So, Mr. Provey, this is... your rendering actually looks really nice. I think one of the hardest parts of... that doing a remodel job is how do you bring it all together with the new versus old. (Inaudible.) It looks very nice.

Mr. Provey: Thank you.

Boardmember Gil: And... and, you know, I think that the, you know, with... looking at everything, it's almost like we really are just kind of correcting some of these issues that were pre-existing non-conforming uses with the exception that now this new addition really kind of

comes into there. So, absent the... absent the pre-existing non-conforming things, we're really looking at an 11 ft. variance for the new stuff is what we're kind of looking at. Is that... that's pretty much what we're kind of talking about here. So, that's all... that's all I had. But Mr. President, I'd be ready to vote on this this evening.

Chairman Froessel: OK. And... and for the record, I agree with you. Any of the other Board members have any questions or comments for the... for the applicant? (Pause.) No. Is there any member of the public that's on this Zoom conference that has questions or comments about this application? (Pause.) OK. It doesn't appear that there is anyone with any questions or comments. For the rest of the Board members, are we comfortable voting on this this evening? OK. Very good. So, Mr. Provey, we can... I'll... I'll close the Public Hearing and we'll... we'll take a vote tonight on the application.

Mr. Provey: OK.

Chairman Froessel: Before I close the Public Hearing, do you have any final statement you'd like to make in support of the application?

Mr. Provey: Other than what I've already said, no, not really.

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

Mr. Provey: Yes, I have.

Chairman Froessel: OK. Thanks very much.

Mr. Provey: Thank you.

Chairman Froessel: OK. We'll close the Public Hearing. For the Board members, I... I don't think there's a lot of deliberation to be done on this. I... I think actually the applicant's done a pretty good job of minimizing the variances required here and two of the three are really just to legalize existing dimensions that are pre-existing non-conforming. So, if anyone would care to make a motion on this, we'll entertain that.

The motion to grant variances for an addition to a single-family dwelling as follows: for the west front setback, a variance of 43 ft. where 57 ft. is proposed or existing and 100 ft. is required, for the south side setback, a variance of 33 ft. where 67 ft. is proposed or existing and 100 ft. is required, and for the total side setback, a variance of 11 ft. where 189 ft. is proposed and 200 ft. is required was introduced by Boardmember Gil and seconded by Boardmember Corozine. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by the granting of the area variance. I don't think so. Looking at the purpose of why we're here, they're actually improving the property which would have the second effects of improving (inaudible) within the neighborhood and actually providing a positive change.
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance. That's not the case here simply because two of the actual variances are to correct the legal status of the property and bring the property in compliance with today's Zoning laws and also, the fact that it is an addition and this variance seems... it's actually required to complete this project.
3. Whether the requested area variance is substantial.

I don't think it's substantial. In essence, really what we're asking for is an 11 ft. in addition to what's actually there already, and it's 11 ft. on two... on a two... 11 ft. where 200 ft. is required. There's going to be 100... still 189 ft. The other two variances are really just to bring it into compliance what's already existing and, from the testimony, have been existing since the 1930s. So, I think we meet that criteria.

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

I don't think so. If anything, it's really kind of looking at everything that's coming into play. What it's going to do is have a positive impact in... in the neighborhood. Thinking about the environmental conditions, here's now a home that's going to have updated insulation. It's a home that's going to have updated energy and heating sources. It's a home that's going to come into compliance with today's standards.

5. Whether the alleged difficulty was self-created.

I think part of it was in the sense that we are doing an addition so the 11 ft. is self-created, but the remainder of the two variances... they were in existence... They've been in existence for as long as the house has been there for as long as we know. So, if anything, the applicant is really trying to, in essence, having the effect of... of bringing legal marketable title to the property going forward. So, I think we meet... meet the criteria and I'm in favor of granting these three variances.

Roll Call Vote:

P. Vink	In Favor
R. Cassidy	In Favor
J. McNeill	In Favor
G. Wunner	In Favor
S. Corozine	In Favor
A. Gil	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.

Chairman Froessel: So, the variance is granted seven votes to none. Mr. Provey, we'll... we'll... it takes a day or two to do the paperwork because we're all remote, but you'll have the variance in the Building Department within a day or two.

Mr. Provey: OK. Great. Well, thank you very much for your time and I... I know my client really appreciates it.

Chairman Froessel: Well, you're very welcome.

Mr. Provey: Have a good night.

Chairman Froessel: Thank you. You too.

Mr. Provey: Thank you.

4. Mathew Luccarelli, 11 Hilltop Lane, Tax Map ID 79.-1-40.-66

Public Hearing to review an application for the addition of a garage that requires a north side setback variance of 10 ft. where 10 ft. is proposed and 20 ft. is required; and a variance for the spacing to the principal dwelling of 5 ft. where 10 ft. is proposed and 15 ft. is required.

Richard Vail and Mathew Luccarelli were sworn in.

Chairman Froessel: OK. Let me do some housekeeping for one second. (Pause.) OK. Our final applicant for this evening is Mathew Luccarelli, 11 Hilltop Lane. Anyone here on that application?

Richard Vail: Yes. Hi. It's Richard Vail.

Chairman Froessel: Ah, Mr. Vail.

Mr. Vail: Hi.

Ms. Desidero: May I just ask, Rich, is... is Mr.... is MDL... is that your client?

Mr. Vail: Yes. That's... I believe it is.

Ms. Desidero: OK. We'll unmute them as well.

Mr. Vail: OK.

Ms. Desidero: Thank you.

Chairman Froessel: OK. Before we get started, I'll ask both of you to represent to me that, since I can't see you, that you're raising your right hands and we'll have the Vice Chairman swear you in.

Boardmember Vink: Do you have your right hands raised?

Mr. Vail: Yes.

Boardmember Vink: Mathew?

Mr. Luccarelli: Mine is as well.

Boardmember Vink: All right. Do you swear the testimony you're about to give is the truth to the best of your knowledge?

Mr. Vail & Mr. Luccarelli: Yes. I do.

Boardmember Vink: Thank you.

Chairman Froessel: OK. Very good. Thanks. As... as Mr. Vail's presence is... usually signals to us, this is a Vail's Grove variance application. Mr. Vail, why don't you go ahead and... and fill us in on what your client is looking to do.

Mr. Vail: OK. Yes. So, we're... my client Mathew Luccarelli is proposing... we're proposing to add a detached garage, a single-car garage off the rear of their property, 10 ft. off the back of the house. So, it would be totally free... freestanding and it's... it'll... there's no garage on the property now so this will allow them a place to house his car. So, that's the reason it's a prefabricated structure that's coming up from Pennsylvania and it'll be installed in that location.

Chairman Froessel: The old Amish shed.

Mr. Vail: Yeah.

Chairman Froessel: I have one in my backyard.

Mr. Vail: Oh, do ya?

Chairman Froessel: Yeah. They build... they build them well.

Mr. Vail: Oh good. That's good to hear.

Chairman Froessel: Yeah. My really only question that I have on this is one of the variances you need is for the... the spacing between structures. Is there a reason why you...? I mean, from looking at the survey, it looks like there would be room to move it another 5 ft. away from the house. Is there a reason why you placed it where you did?

Mr. Vail: I... I guess we... we could. It... it's not a huge yard. I guess we... our concern was that the further out... You know, I guess, ideally, we would've liked to have made it even closer but the further it goes out, the more it feels like it's in the middle of the yard and that was kind of what we were trying to avoid if possible because... it... you know, 15 ft. kind of...

Chairman Froessel: It's taking away... taking away what yard space you had?

Mr. Vail: Yeah. Taking away the yard space. It just kind of looked a little... I'd say a little awkward out... out there because it was so detached but... but kind of... more like... yeah in the middle... it just felt like it was in the middle of the yard at that point so we're trying to... You know, we know we have to... 10 ft. is probably the closest we could get it without physically attaching it but that would've been, you know, a pretty expensive proposition and a difficult thing to do to justify the roof lines and...

Chairman Froessel: Oh, oh, you should see some of the junk we've seen where people try to connect the... the accessory structure to the main structure. I have one in my neighborhood. I think it's a 2 x 4 that's connecting them. (Laughter.)

Mr. Vail: Yeah. Right, right. Yeah. So, we're trying to avoid that, too.

Boardmember Cassidy: Is the distance... is the distance a fire safety issue?

Mr. Vail: I... that's what I heard from Mike Levine. It's a... I think it's a... I think it was a Fire Code issue. Yeah. I'm not sure why 10 ft. versus 15 ft. is... why that's the magic number.

Boardmember Cassidy: I'm sure... I'm sure it's... you know, if you plot the distance that the fire has to jump, so if there's a garage fire, it doesn't burn your house down.

Mr. Vail: Right.

Boardmember Cassidy: Which is why the Chairman's thought about moving it 5 ft. more would certainly make me feel more comfortable because if it's a fire safety issue...

Mr. Vail: Yes.

Boardmember Cassidy: I don't... I don't want to be the good guy tonight and the bad guy later when bad things happen, God forbid.

Mr. Vail: Right.

Boardmember Cassidy: So, just a thought, if it's possible.

Mr. Vail: Yeah. I... I think it's more just trying to get better use of the yard space and that's the issue. One... one thought, I guess, to throw out is... is if we, you know, and I haven't... haven't talked to my client about this so I'm not sure if he would agree, but there are materials, you know, at least on... on the side that faces the house that could, you know... there are cement board materials that are, you know, non-combustible materials that could be, you know, applied as the siding. I know... I think... I believe it comes with the wood siding, but just an option that... that we might be able to do on the side that faces the house or something, use the (inaudible) siding.

Chairman Froessel: Is the garage going to have electricity in it?

Mr. Vail: I... I believe it is. Correct me if I'm wrong on that, Mathew? Are you planning on putting a light in there?

Mr. Luccarelli: It's a possibility. I mean, for right now, it's just for storage for the car so, I'm not 100% sure if I'm interested in doing that, so, I don't...

Mr. Vail: Right. So, it might just basically be... basically like a storage shed or something.

Boardmember Wunner: Is this... is this a prefab garage?

Mr. Vail: Yes.

Boardmember Wunner: So, it's going to be dropped... dropped in place?

Mr. Vail: That's right.

Boardmember Wunner: Is it going to be sheet rocked?

Mr. Vail: I don't... I don't think it is. Were you planning on sheet rocking it, Mathew, or?

Mr. Luccarelli: Coming from the manufacturer, no, but there's a possibility that just to make it more, you know, visually appealing for myself to sheet rock the inside of it, at least half of it.

Boardmember Wunner: I was trying to address the fire-resistant construction to get you back... to get you back to that 10 ft. Actually, the existing structure would have to be the one that would more than likely have the fire-resistant siding on it rather than the garage. If the...

if the fire was contained in the garage, it wouldn't travel over to the wall. That's why... that's why I was asking could it be sheet rock.

Mr. Vail: Right. As you're saying, so if we were to sheet rock it, I guess, to that... I guess, the... raising the... maybe allow the 10 ft. (inaudible.)

Boardmember Wunner: I would... I would say it's a recommendation to make the rest of the Board more comfortable, allowing that 10 ft. separation.

Mr. Vail: Right.

Mr. Luccarelli: I mean I'm comfortable in saying that, if that's what's necessary. That's not a problem whatsoever. That could be done within a week of the garage being dropped on the property. You know, it's really quick to do the sheet rock. o, I have no problem with doing that.

Boardmember Wunner: That's just a... it's a recommendation. So, I don't think it would have to be a condition, but it's... at least on my part it would be a recommendation.

Mr. Luccarelli: Sure.

Boardmember Wunner: You going to have (inaudible.)

Chairman Froessel: Garage (inaudible.) Is the garage going to be set on a concrete pad?

Mr. Vail: It's... yeah. I think it's... it's... it actually can sit on a gravel footing.

Chairman Froessel: OK.

Mr. Vail: I think... I think probably down the road... I'm not sure if the concrete pad would go in now but I think it's something that could be added, right, right, Mathew? Or is that... would you do upfront?

Mr. Luccarelli: Well, for the time being, the shed's going to be placed on the gravel pad according to like Code. I think it's like $\frac{3}{4}$ inch gravel. Then, down the road, as I think you and I discussed, Rich, we're doing like a 2-inch or 3-inch pad inside the garage on the floor but it's not going to be coming that way. It's something that we would be doing down the road possibly.

Mr. Vail: Right.

Chairman Froessel: OK.

Boardmember Vink: Mathew, how steep is the hill there that that's on? I did... I did not drive by this property. I'm not familiar with it.

Mr. Luccarelli: The elevation of the property is actually pretty flush throughout the... when you come down Maple Lane if you're looking on the drawing, as far as my backyard is concerned and my side yard. There could be a 6-to-8-inch difference, if that, if I would have to guesstimate it.

Mr. Vail: Yeah. It's a gradual... gradual slope away from the house.

Boardmember Vink: OK. OK. (Pause.) Do you... it's going downhill from the house to the garage, downhill towards the lake but it's... it's not a steep drop off at any point? Does it become steeper as you go farther away?

Mr. Luccarelli: No, sir. It's just a rather small little change.

Boardmember Vink: OK. OK.

Mr. Luccarelli: And then the plan, by the way, I think by law, the pad... the gravel pad has to be 1 ft. and 1 ft. We're actually going to be doing a little more than that, maybe like 2 ft. or so for it, not even to worry about any water but just... of course, it helps. So, we're going to be doing that underneath the structure. (Pause.)

Chairman Froessel: While I've got a few minutes of silence, is there anyone on this Zoom call from the public that has any questions or comments about this application? I don't think there's anyone left besides the Board members and the applicant and his architect, but I have to ask the question. That said, I think the answer is definitely no. OK. So, we've got no comments from the public. I don't know. What does the Board think? Are we okay voting on

this tonight? I... I... I have the sense that perhaps we should separate the two variance applications into two votes; the one from the north side then the other for the spacing. I'm... I'm getting the sense from some of the Board members that the... that the spacing is really the issue here, not so much the... the garage itself.

Boardmember Corozine: Is the applicant or the architect willing to move on the spacing? Have we concluded that yet?

Mr. Vail: I... Yeah, I guess our preference would be to keep it there. I mean, I think ideally, we would've rather be even closer to the house, but it's kind of what...

Mr. Luccarelli: If I also may add? If you look at the drawing, the issue is if the garage has to be 15 ft., which didn't really work because the garage would have to be 15 ft. and then the total width of it is 14 ft. So, that brings us to the middle if not most of the backyard, and then the curvature going down Maple Lane would result in us having to pull into the garage on a turn basically. So, the reason why it would be most... best fitted 10 ft. from the house is for that, for the driveway purpose, for ease of access, and I think Vail's Grove discussed that as well. So, that's kind of why 10 ft. worked better than the 15 ft.

Chairman Froessel: Is there already a driveway entrance in that location?

Mr. Luccarelli: Technically, no, but apparently years ago that was the driveway years ago. And also there's some remnants of gravel there. So, it must've been used for that. It was just way before my time.

Boardmember Cassidy: Well, since... since we're stuck on not moving it any further over, are you... we had discussed putting some kind of boarding on the inside of it to make it more fire-resistant. Do you have any issue with doing that, whether or not we make it a condition?

Mr. Luccarelli: No, sir, not at all.

Chairman Froessel: All right, because we could... we could condition the variance on the... on the installation of sheet rock on the inside walls to make it more fire-resistant.

Boardmember Cassidy: Would you have any objection to that, Mr. Luccarelli?

Mr. Luccarelli: No, I do not. I would prefer it actually. So, the entire inside would be sheet rocked.

Chairman Froessel: OK. Then I think we have a path forward, which is good. OK. Before we close up the Public Hearing, do any of the Board members have any additional comments or questions?

Boardmember Wunner: I... I have one last question.

Chairman Froessel: Sure.

Boardmember Wunner: The spacing to the principal dwelling. Is that a Town requirement or a Building Code requirement?

Chairman Froessel: I believe that's a Town requirement, Greg.

Mr. Vail: Yeah. I don't think... I'm pretty certain that's a Town requirement.

Boardmember Wunner: OK.

Boardmember Corozine: It is. Yeah. It's 138-32 in the Code.

Boardmember Wunner: Very good. Thank you.

Boardmember Vink: I don't... I don't think we would be able to give a variance on the Building Code aspect of it if it were a Building Code consideration.

Boardmember Wunner: That's... that's where I was going.

Chairman Froessel: Yeah. OK. Any other comments or questions from the Board members? (Pause.) Mr. Vail, Mr. Luccarelli, before we close the Public Hearing, do you have any final statement you'd like to make in support of the application?

Mr. Vail: No. I'm... I think I'm all set.

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

Mr. Vail: Yes.

Chairman Froessel: OK. Thank you. OK. So, we'll close the Public Hearing and I will entertain any motion that any member of the Board would care to make.

The motion to grant variances for the addition of a garage for the north side setback of 10 ft. where 10 ft. is proposed and 20 ft. is required and a variance for the spacing to the principal dwelling of 5 ft. where 10 ft. is proposed and 15 ft. is required with the understanding or the condition that the applicant will install fire-rated drywall on the inside of the structure once it's been placed on the lot was introduced by Boardmember Gil and seconded by Boardmember Vink. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance.
I don't think so. I've been looking through everything and with experience of Vail's Grove, it seems like every time there is a project in that area, there is a requirement for a variance because of the small size of the lots. But I would like to note that included in the packet is an actual memorandum from Vails' Grove Cooperative stating that the Board of Directors of Vail's Grove has approved the application to install the 15 ft. by 24 ft. prefabricated garage in the backyard 10 ft. off the west side of the house pursuant to the plans submitted and approved by the Board of Vail's Grove, thus giving us the indication that it's not creating an undesirable change to the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the actual variance.
Given the size and placement of the garage on the lot and due to the fact that it is... we're not talking about a two or three car garage really, I mean... We're talking about a minimal garage that they can kind of put on the lot to have a garage. I don't think the variance of itself... I don't think he can achieve what's he trying to achieve without the... without the actual variance.
3. Whether the requested variance is substantial.
I think the only variance that we thought was somewhat substantial was the setback off the house, but I think that's mitigated by the... or the concerns or the intent of creating that statute, is mitigated by having the fire-rated barrier between the garage and the... and the home or the combustibles between the garage and the home.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
I'm once again going to rely on the Vail's Grove Cooperative memorandum and the fact that the Board has reviewed this project there. And we don't believe that, looking at the section view and the size of the garage, that it's actually going to have an adverse impact on the environmental conditions in the neighborhood or district. And also the applicant's testimony that... with drainage... with respect to the drainage for water, that... that's going to mitigate any runoff from the garage.
5. Whether the alleged difficulty was self-created.

Again, this... this criteria in and of itself is not... will not necessarily preclude the granting of the area variance. I think, you know, this is a new structure in and of itself. So, I mean, in essence it is self-created but at the same time it seems necessary. It's the only way he's going to have a... a covered garage in the... at that home, which is again providing positive impacts to the neighborhood because there's not things are going to be exposed in the yard and would actually be more hidden from plain view as people are walking through that lakefront community.

Roll Call Vote:

P. Vink	In Favor
R. Cassidy	In Favor
J. McNeill	In Favor
G. Wunner	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variances with the condition applied as stated in the motion passed by a vote of 7 to 0.

Chairman Froessel: So, with that, the variance is approved with the condition concerning of the... of the drywall, and we will... we... we have to do everything remotely so it'll take us a day or two before the... the piece of paper gets signed, but you'll have your variance within a day or two, and then you can... you can get to work.

Mr. Luccarelli: Thank you, sir. I appreciate it.

Chairman Froessel: You're welcome.

Mr. Vail: Great. Thank you.

Chairman Froessel: Great. Take care. Have a good night.

Mr. Vail: Take care. You too.

Mr. Luccarelli: Everybody, thank you.

The motion to approve the Meeting Minutes of January 20, 2021 was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed all in favor.

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

Respectfully submitted,
Victoria Desidero
JoAnne Ciralli

FULL VIDEO RECORDING OF THIS MEETING AVAILABLE AT: <https://www.southeast-ny.gov/335/Zoning-Board-of-Appeals-Audio-Files>