MINUTES

Town of Wappinger
Zoning Board of Appeals
June 11, 2019
Time: 7:00PM

Town Hall
20 Middlebush Road
Wappinger Falls, NY

Summarized Minutes

Members:

Mr. Casella Chairman Present
Mr. DellaCorte Member Present
Mr. Galotti Member Present
Mr. Haas Member Present
Mr. Shah Member Present

Others Present:

Mr. Horan Town Attorney
Mrs. Roberti Zoning Administrator
Mrs. Ogunti Secretary

SUMMARY

Public Hearing:

Joan D. Sanford Variance granted
Claudia Levesque & Joseph Shaffer Variance granted
Nicole & Travis Clarke Variance granted
Kevin & Lynne Anstee Variance granted
Donald F. Ross Variances granted
Red Cedar Arborist & Landscapers, Inc. Variances granted
E&C Espicoz Properties Variances granted
May 28, Minutes will be accepted at the June 25th meeting.

Public Hearing:

Appeal No. 19-7675 (Variance)

Joan D. Sanford: Seeking an area variance Section 240-30B of the District Regulations in an R40 Zoning District. 
-Where no more than two accessory structures shall be permitted in any 1-Family Residence District. The applicant has three (3 existing) structures and is proposing to allow for the construction of a new 10’x16’ shed, thus requesting a variance to allow all four (4) structures to remain.

The property is located at 131 Ketchamtown Road and is identified as Tax Grid No. 6157-03-294263 in the Town of Wappinger.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. Galotti: Motion to open the Public Hearing.

Mr. Haas: Second the Motion.

Vote: All present voted Aye.

Ms. Sanford: Hello, my name is Joan Sanford. As you know when you came to the house on Saturday, I have 5.5 acres, a garage, a small shed and another shed in the back. I have one neighbor who is physically behind my house and the other neighbors won’t even see the shed. I do not have an attic in my home and I want to consolidate and clean it out and start organizing. I would like to take stuff out of my basement because it has dirt floors. I would like to have everything in one spot that is dry. I did everything that you had asked me to do. I have paperwork for you so let me bring it up.

Mrs. Ogunti: You want to give that to me Joan.

Ms. Sanford: It’s from the Southern Dutchess News and it’s the paid receipt.

Mrs. Ogunti: What’s about the green cards?

Ms. Sanford: Here are the green cards. Do you want these ones or the other ones?

Mrs. Ogunti: The green and white receipt showing proof of mailing. I need to make sure you mailed it to everybody.
Ms. Sanford: I have no proof of that.

Mrs. Roberti: Joan, you have the white receipts?

Ms. Sanford: You want the small ones then?

Mrs. Ogunti: Yes.

Ms. Sanford: Nobody signed. I have the list you gave me.

Mrs. Ogunti: Joan, I have a meeting to run. You should have given these to me prior to the public hearing. I’ll just take these from you so you can continue speaking.

Ms. Sanford: Can I get them back?

Mrs. Ogunti: Yes.

Ms. Sanford: After you met with me, I saw Simon on his property and I asked him if he would write you a letter. I can give it to you so you can read it.

Mr. Casella: Sure. Is there anything else?

Mr. Sanford: No, Sir.

Mr. Casella: Does anybody have any questions for Joan? Right now you have three existing and you are going to put a fourth one there. We talked about this when we were at your house taking the smaller one down. Again, we would like to keep it at three structures if you can. We don’t want to set a precedence that you have four and everybody else has three. I was wondering if you would consider taking down the smaller shed.

Ms. Sanford: Like I explained to you when I bought that house 40 years ago I have horses and that little shed looks like a barn and I’m keeping the country club. I don’t want to get rid of that shed. I like how it looks and it is yellow the same color as my house. The new shed is going to be painted yellow. I’m going to put a courtyard between the new shed and the old shed. From the road they are not going to even see the new one.
Mr. Casella: So you do realize that you are asking for four structures and we don’t necessarily have to grant that.

Ms. Sanford: I understand that but I’m hoping that you do since you know how big my property is. It is fully landscaped, it is always neat and clean. My neighbor didn’t have to write a beautiful letter like that.

Mr. Casella: Anybody have question?

Mr. Shah: The new shed you are planning to put there, what size will it be?

Ms. Sanford: The new shed will be 10’ x 16’.

Mr. Shah: What’s about the little shed?

Ms. Sanford: You saw it. It is like a little barn and it’s real cute.

Mr. Shah: The new shed will also look like a barn?

Ms. Sanford: No, the new one is just a straight shed. It has double doors in the front and the two windows have window boxes. I bought it at a fair in New Paltz and as I said it is paid for and I cannot get my money back. I didn’t realize it is this difficult to get a shed honestly. I’ve done everything by the books in the Town for 40 years. I’ve kept my house beautiful for 40 years and I’ve kept my lawn beautifully landscaped and it is very nice.

Mr. Casella: We are not here to talk about your property. It is the variance you are here before the board to get.

Mr. Galotti: Are there any other structures on your property that you would be willing to remove?

Ms. Sanford: I have storage at my house. I rented one of those storage pods from Arnoff. That shed will go. That was the box.

Mr. Haas: That has to go anyway.

Ms. Sanford: No, I could keep it there forever if I wanted. I would just have to get a permit for it.

Mrs. Roberti: We don’t give permits to cargo containers or pods.
Ms. Sanford: Okay, so it would go anyway.

Mrs. Roberti: If you had taken it out when you first got it since we allow 9 months for people in transition that’s getting ready to move.

Mr. Casella: If the variance is granted that would be one of the things that would have to be removed.

Ms. Sanford: Yes, that would go. I believe I said that to you on Saturday.

Mr. Casella: Are there any other questions? Bea, are all of the paperwork in order?

Mrs. Ogunti: Yes.

Mr. Casella: Is there anyone in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.

**Mr. Galotti:** Motion to close the Public Hearing.

Mr. Shah: Second the Motion.

Vote: All present voted Aye.

**Mr. Haas:** Motion to grant the applicant the variance with the condition that one of the three existing accessory structures is removed. So eliminating the accessory structures to three total.

Mr. Shah: Second the Motion.

Roll Call Vote:

- Mr. Shah: YES, with condition of only three structures
- Mr. Galotti: YES, with stipulation of only three structures
- Mr. DellaCorte: YES, with condition of only three structures
- Mr. Haas: YES, with condition of only three structures
- Mr. Casella: YES, with condition of only three structures

Mr. Casella: The pod has been there for quite some time. So the small shed and the pod have to go.

Ms. Sanford: It’s your rule so I guess it has to be.

Mr. Casella: Thank you.
Appeal No. 19-7674 (Variance)
Claudia Levesque & Joseph Shaffer: Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District. No accessory structure is permitted in the front yard, the applicant is seeking a variance to allow for an 18’ above ground pool and deck to be placed in their front yard. The property is located at 188 Osborne Hill Road and is identified as Tax Grid No. 6156-01-418560 in the Town of Wappinger.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. Galotti: Motion to open the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. Casella: Good evening.

Mr. Shaffer: Good evening. We live on a flag lot right off Osborne Hill Road. Our property doesn’t touch Osborne Hill and you all have seen the property. The way our house is situated on the property it’s in the back and everything we have is front yard. The unique thing about our property you can’t see any of our neighbors and we are surrounded by trees. We share a driveway with Mr. Bettina and the house is facing that driveway. The reason for the variance is the only place we have to put the pool is in the front. That’s the only option that we have.

Mr. Casella: We did look at your property and where you are going to put the pool is the best location and your only option.

Mr. Shaffer: There is the furthest away from all of the other properties.

Mr. Casella: Right. Are there any questions from the board? Is there anybody in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.

Mr. Galotti: Motion to close the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.
Mr. Galotti: Motion to grant the applicant the variance. Your property is very unique. I don’t believe the benefit can be achieved by any other feasible means and there is no undesirable change to the surrounding area. The request is substantial however, there will be no adverse effect on the environment as well.

Mr. Haas: Second the Motion.
Roll Call Vote: Mr. Shah YES
Mr. Galotti YES
Mr. DellaCorte YES
Mr. Haas YES
Mr. Casella YES

Mr. Horan: Note for the record: This lot does not have frontage on the Town road. Pursuant to Town Law 280A the building permit can be granted notwithstanding it does not have a frontage.

Appeal No. 19-7676 (Variance)
Nicole & Travis Clarke: Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.
-Where 35 feet is required to the front lot line, the applicant can provide 30 feet, thus requesting a variance of 5 feet for the construction of an 8’ x 5’ front porch.
The property is located at 47 Robert Lane and is identified as Tax Grid No. 6158-04-920143 in the Town of Wappinger.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. DellaCorte: Motion to open the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Ms. Clarke: We are just looking to replace our front porch. It is existing on the property so we are just replacing what’s already there with TREX construction.

Mr. Clarke: I don’t know if you guys were out there.
Mr. Casella: Yes, we were there. So basically it’s almost the same footprint but you are going to make it wider. Is that what you are going to do?

Ms. Clarke: Right.

Mr. Casella: Are there any questions from the Board? Is there anybody in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.

Mr. Galotti: Motion to close the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. DellaCorte: Motion to grant the applicant the variance. The requested variance will not produce an undesirable change in the neighborhood. There will be no substantial detriment created to nearby properties and there is no other feasible means available to pursue the benefit. The requested variance is not substantial because you are actually putting it in the same spot. There will be no physical or environmental effect to the condition of the neighborhood. The alleged difficulty is self-created and not detrimental.

Mr. Haas: Second the Motion.
Roll Call Vote: Mr. Shah YES
Mr. Galotti YES
Mr. DellaCorte YES
Mr. Haas YES
Mr. Casella YES

Appeal No. 19-7677 (Variance)  
Kevin & Lynne Anstee: Seeking an area variance Section 240-37 of the District Regulations in the R20/40 Zoning District.
-Where 10 feet to the side property line is required, the applicant can provide 4 feet, thus requesting a variance of 6 feet for the legalization of an existing shed.
The property is located at 7 Heather Court and is identified as Tax Grid No. 6256-02-605769 in the Town of Wappinger.

Mr. Casella: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.
Mr. DellaCorte: Motion to open the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. Anstee: Hi and thank you for your time tonight. We are here for a variance. We have an existing shed that was placed on our property in the early 2000 before we bought the property in 2016. We are seeking a variance of 6 feet and 4 feet off the property line and it’s an 8' x 8' shed.

Mr. Casella: How long have you owned the property?
Mr. Anstee: We’ve owned the property since 2016.

Mr. Casella: In the process of selling you found that you need to legalize the shed?
Mr. Anstee: Correct.

Mr. Galotti: So Barbara I just want to make sure there’s no amnesty on this shed?

Mrs. Roberti: The amnesty was only offered for a year in 2003.

Mr. Casella: You missed out on that. Are there any other questions from the Board? Is there anyone in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.

Mr. Haas: Motion to close the Public Hearing.
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

Mr. Galotti: Motion to grant the applicant the variance. I don’t believe the benefit can be achieved by any other feasible means. It does not create any undesirable detriment to the neighborhood. The request is substantial however, it has no adverse effects on the environment. Whether it is self-created is questionable but you didn’t put it there.

Mr. Haas: Second the Motion.
Roll Call Vote: Mr. Shah YES
Mr. Galotti YES
Mr. DellaCorte YES
Mr. Haas YES
Mr. Casella YES

Appeal No. 19-7679 (Variance)
Donald F. Ross: Seeking an area variance Section 240-37 of the District Regulations in the R20 Zoning District.
- Where 20 feet to the side yard property line is required, the applicant can provide 14.7 feet, thus requesting a variance of 5.3 feet for two (2) existing decks.
- Where 20 feet to the side yard property line is required, the applicant can provide 17 feet, thus requesting a variance of 3 feet for a new 10’ x 24’ deck.
The property is located at 50 Top O Hill Road and is identified as Tax Grid No. 6359-03-004014 in the Town of Wappinger.

Mr. Casella: I just want to make a statement that Mr. Ross is my neighbor and it will have no adverse effect on my decision. Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

Mr. Galotti: Motion to open the Public Hearing.
Mr. DellaCorte: Second the Motion.
Vote: All present voted Aye.

Mr. Ross: Thank you. My name is Don Ross, 50 Top O Hill Road. Thank you for your time, I appreciate that and thanks for coming out on Saturday. I have an existing deck and it is 14.7 feet from the property line. I’m asking for a 5.3 feet variance for an existing deck. The new deck that we want to build is 17 feet from the property line so we are requesting a 3 feet variance for the new 10’ x 24’ deck. So those are the two variances that I am requesting.

Mr. Casella: We were out there and you had it staked out and we saw the outline where your boundary is. In fact your property is on the other side of the fence. Is there any question from the Board? Is there anyone in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.

Mr. Galotti: Motion to close the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.
Mr. Haas:  Motion to grant the applicant the variances. The benefit is not achievable by any other means and it is not an undesirable change in the neighborhood. The request is substantial and it won’t have any physical or environmental effect on the rest of the neighborhood. It is self-created but I still recommend we approve it.

Mr. Shah:  Second the Motion.

Roll Call Vote:  
Mr. Shah  YES
Mr. Galotti  YES
Mr. DellaCorte  YES
Mr. Haas  YES
Mr. Casella  YES

Appeal No. 19-7678 (Variance)  
Red Cedar Arborist & Landscapers, Inc.:  Seeking an area variance Section 240-37 and 240-30B of the District Regulations in the HB Zoning District.

-Where 75 feet to a State or County Road is required, the applicant can provide 42 feet, thus requesting a variance of 33 feet for an existing barn and new arbor.

-Where no accessory building height in excess of 20 feet, the applicant can provide 25 feet height (existing), thus requesting a variance of 5 feet to legalize existing height on non-conforming barn.

-Where 20 feet to the side yard property line is required, the applicant can provide 8 feet, thus requesting a variance of 12 feet to allow building on right side of the property.

The property is located at 185 New Hackensack Road and is identified as Tax Grid No. 6158-02-999951 in the Town of Wappinger.

Mr. Casella:  Bea, are all of the mailings in order?

Mrs. Ogunti:  Yes, they are.

Mr. DellaCorte:  Motion to open the Public Hearing.

Mr. Galotti:  Second the Motion.

Vote:  All present voted Aye.

Ms. Zerfas:  Good evening. Michele Zerfas from Berger Engineering. Most of the requested variances are existing around the building. There is a new one to add to the front of the building. It’s just a cover over the door and an arbor to dress up the building which the Planning Board liked and they gave us the architectural last week.

Mr. Casella:  Basically, the bottom line is you have to redo the whole building because it is close to the doctors’ office. They are really going to rejuvenate the whole thing and make it look nicer. I don’t know if the Board can see what it looks like before and now it is a significant improvement. Most of the
The variances you are requesting is to get you in compliance and the only new one is the wood structure in the front?

Mr. Relyea: Yes, the rest is already there.

Mr. Casella: Any questions from the Board at all?

Mr. DellaCorte: I heard something about a Neg. Dec. that was issued?

Mrs. Roberti: The Planning Board issued a Neg. Dec. at their May 6th meeting.

Mr. Haas: I am confused about the height variance. I was looking at the code and it is 35 feet setback.

Mrs. Roberti: That's for the primary structure. This is an accessory structure and it's to the medium.

Mr. Haas: He still needs the variance.

Mrs. Roberti: Yes, 5 feet. While we are talking about it, the other building is existing but it is 8 feet from on the right side. This is basically cleaning up some deficiencies.

Mr. Casella: He's going to put a berm in the back for the noise and trees to make it aesthetically looking and also to help out the tenants to the right.

Ms. Zerfas: There’s going to be a berm going across and on the side along the fence.

Mr. Haas: How high is the berm?

Ms. Zerfas: The berm here is 3 feet.

Mr. Casella: You are also going to plant the trees and the berm, right?

Ms. Zerfas: Yes, and because it’s an airport zone we cannot have tall trees.

Mr. DellaCorte: We did take a look at the site on Saturday and it's kind of run down.

Mr. Casella: Is there anyone in the audience who would like to speak for or against this variance? If not, I will entertain a motion to close the public hearing.
Mr. Galotti: Motion to close the Public Hearing.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Mr. Galotti: Motion to grant the applicant the variances. He is going to improve the property substantially. I don’t believe the benefit can be achieved by any other feasible means. It is not going to create any undesirable change to any nearby properties. Some of the requests are substantial in nature. It will not create any adverse or physical effects to the neighborhood.

Mr. Haas: Second the Motion.
Roll Call Vote:
- Mr. Shah YES
- Mr. Galotti YES
- Mr. DellaCorte YES
- Mr. Haas YES
- Mr. Casella YES

Appeal No. 19-7680 (Variance)
E & C Espicoz Properties:
Seeking an area variance Section 240-37 and 240-30B of the District Regulations in the R20 Zoning District.
- Where 35 feet to the front yard property line is required, the applicant can provide 15 feet, thus requesting a variance of 20 feet for the expansion of an existing building.
- Where no more than two accessory buildings shall be permitted in any 1-family residential district. No such accessory building shall have a footprint greater than 600 square feet nor a height in excess of 20 feet. The applicant is proposing a 30’ x 60’ feet for a four-bay garage (1,800 sf.), thus requesting a variance of 1,200 square feet.

The property is located at 20 MacFarlane Road and is identified as Tax Grid No. 6157-04-720271 in the Town of Wappinger. (Badey & Watson)

Mr. Casella: Bea, are all of the mailings in order?
Mrs. Ogunti: Yes, they are.

Mr. DellaCorte: Motion to open the Public Hearing.
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

McManus: Good evening. My name is Margaret McManus with Badey and Watson. We are here requesting two variances. One is for an existing nonconforming condition in the front yard setback. It’s about 15 feet and we need to get the variance if
there is going to be any change or improvement on the building. The variance is to construct a garage that is 1,800 square feet which is more than allowed for an accessory building in this zone. The site is used for commercial and received a Use Variance. Their requirement is to meet zoning that’s why we are seeking the variances for property.

Mr. Casella: Is there anyone on the Board with any questions?

Mr. DellaCorte: We did visit the site last Saturday and Al met us there. We just have a question about the side of the building that it’s not going to be a drive through for vehicles. Is it? Now it’s cleaned out and it looks nice.

Ms. McManus: It doesn’t necessarily have to be a drive through traffic lane. Right now it is gravel and it can stay that way. We could put grass there or we could pave it. It hasn’t been decided at the Planning Board level. That would not require a variance.

Mr. DellaCorte: I was just concerned why it was cleaned out.

Mr. Casella: How many vehicles he’s going to have there?

Ms. McManus: He has equipment that cannot be stored outside but obviously this time of year it can be stored outside. In inclement weather it has to be stored inside because there’s water in the equipment and has to be in heated environment so it doesn’t freeze. Those vans are presently store at a different location.

Mr. Casella: How many are they going to store inside?

Ms. McManus: All of the ones that have interior systems.

Mr. Casella: What about the trailers in the back?

Ms. McManus: Are they not in the parking area?

Mr. DellaCorte: They are in the back of the lot.

Ms. McManus: You mean in the parking area?

Mr. DellaCorte: Yes.

Mr. Casella: What is he doing with those? Are they for more storage?
Ms. McManus: I wasn’t there. Are they contractor trailers?

Mr. DellaCorte: They are like closed box trailers.

Mr. Haas: No, they look like camping trailers. Like pop up campers.

Mr. Cappelli: I didn’t even pay attention.

Mr. Haas: I was wondering if he was renting parking spaces.

Ms. McManus: I don’t believe he is. I know that the boat trailer is his personal boat trailer. Unfortunately, Mr. Espinosa is not here tonight.

Mr. Haas: I don’t think we ever addressed that he can rent out. It wasn’t in the Use Variance.

Mr. Cappelli: Correct.

Mr. Haas: It wasn’t approved or denied in the Use Variance.

Ms. McManus: Mr. Espinosa was not the owner of the property when the Use Variance was granted to the previous owner.

Mr. Casella: How many were allowed outside?

Mr. Haas: Outside storage of materials.

Ms. McManus: They can park vehicles there.

Mrs. Roberti: Personal vehicles or commercial vehicles?

Mr. Casella: Equipment is fine but these are not equipment.

Mr. Haas: Maybe they are part of the cleaning business but the concern was that he was renting parking spaces. That was my concern when I saw those trailers.

Ms. McManus: I do not believe he is renting spaces.

Mr. Casella: Can we put the stipulation that he cannot rent spaces?

Mr. Haas: You can’t put that in an Area Variance. I don’t think so.

Mr. Horan: You can do it but it’s also subject to site plan approval and can also be a condition of the site plan.
Mr. Haas: I think it was an oversight. It was a hard thing to define the Use Variance and what it was going to be used for.

Ms. McManus: Right.

Mr. Shah: There was a lot of parking spaces that need blacktop. I don’t know how the rain water can be contained.

Ms. McManus: The existing condition is that it has existing blacktop that’s double the blacktop that’s going to be removed and anything that’s encroaching on the neighbor’s property. Actually we will have a net reduction in impervious surface. You can tell that this is not in good condition so it’s going to be repaved.

Mr. Shah: We need to know that you will not increase the space between the front neighbor and the building.

Ms. McManus: There is green space be here between the building that will become greener. Right now it’s pretty much muddy.

Mr. Casella: Are there wetlands on this property?

Ms. McManus: There is wetlands in the back of this property. Part of the site plan will be mitigating the encroachment that happened within there.

Mr. Cappelli: He will respect his bounds a little bit because he was too aggressive when he was doing some earth moving over there. Hence bringing in the experts to help him out of those jams.

Mr. Galotti: I got it. The impervious isn’t being increased.

Ms. McManus: Correct, it’s actually being decreased.

Mr. Casella: Is there anyone in the audience who would like to speak for or against this variance?

Mr. Bollen: Hi, my name is Doug Bollen, 23 MacFarlane Road, Wappingers Falls. I’m here to get a clearer position of what we are talking about. I see a site plan over here but I don’t see anything about the building changes. Are you coming 20 feet to the road?
Ms. McManus: No. They are going to stay exactly the same. The existing setback is 15 feet and the requirement is 35 feet. In order for us to improve this building is to enclose this concrete and make that part of the building. We will make the outside look better.

Discussion continues.

Mr. Bollen: My concern is that I'm on the other side of the road and the devaluation of my property.

Ms. McManus: It is not.

Mr. Bollen: I want to know what’s going there and will it affect my property.

Mr. DellaCorte: Did you say you were across from that property?

Mr. Bollen: Yes, I am.

Mr. Casella: It’s going to be a cleaning service.

Mr. Bollen: Is it going to be subject to environmental stipulation? I don’t know what chemicals he will use there. We all have wells in that neighborhood.

Ms. McManus: What's going to happen is what is already happening since September. The building is used as a storage facility for his products. They are just office cleaning products. The cleaning products are similar to products that you use in your house.

Mr. Bollen: Any specific names?

Ms. McManus: I don't know exactly what products he uses but they clean inside office buildings.

Mr. Bollen: That sounds very vague. Again, I don't know how it will affect my health and the neighborhood’s health.

Mr. Galotti: The products are going to be in vans and they are not stored in the parking lot.

Mr. Bollen: People who use chemicals for commercial use are subject to DEC regulations.
Ms. McManus: If there is anything that is listed with the DEC he would have to have people work on that and subject to DEC regulations. That’s not subject to the Town’s regulations.

Mr. Bollen: Hazmat regulations?

Ms. McManus: If they had.

Mr. Bollen: Nobody knows what kind of chemicals.

Mr. Horan: The Town does not regulate hazardous materials.

Mr. Bollen: The State does.

Mr. Horan: The State and Federal Government does.

Mr. Bollen: Those materials cannot be moved in and out without property documentation.

Mr. Horan: Correct.

Mr. Casella: Barbara, doesn’t this go back to the Planning Board?

Mrs. Roberti: This variance is for Area Variance and this will go back to the Planning Board and they will also hold a public hearing and these are the questions you can ask there. They will address drainage.

Mr. Casella: This is an Area Variance so the questions that you have will apply to the Planning Board.

Mr. Bollen: The letter that I received says Please take further notice that the Zoning Board of Appeals has not made a determination of significance pursuant to the State Environmental Quality. You have it addressed in one letter. I have questions and I would like them answered. That is all that I am asking.

Mr. Horan: For purposes of SEQRA, a setback variance is a Type II action subject to SEQRA. The Planning Board action is subject to SEQRA. With respect to the site plan approval, that’s one of the questions of whether or not there are any hazardous materials stored on the site. I believe that was no.

Mr. Casella: Jim, I just want to make sure this gentleman’s questions are answered and that we are here for the variance and the
Planning Board will address his concerns. I don’t want him to think that we are putting him off.

Mr. Horan: For purposes of the variance that’s being requested is not subject to environmental regulations because it’s a Type II under SEQRA and because it’s for a setback variance. In that case there is no SEQRA State Environmental Review Act. The review for the site plan is subject to SEQRA determination. To your question as far as whether or not there are any hazardous materials on site, the SEQRA documentation that was provided to the Planning Board was checked as “No”. As far as I’m aware I do not believe that DEC regulates the materials that a cleaning business has. For purposes of OSHA there are some materials, data statements have and certain handling equipment like Clorox bleach. Those are not hazardous materials.

Mr. Haas: Will volumes enter into that? Household different from commercial?

Mr. Horan: We can look into that. One of the requirements in order to get a building permit under the NYS Fire Code there are regulations as far as the hazardous materials.

Mr. Shah: Bleach is less hazardous but from environment and drinking water point of view it is a concern. Here at the Zoning Board we are talking about the distance and not what to store and not to store. I believe your concerns will have to be taken up at the Planning Board when they have their open meeting. I don’t think the Zoning Board has jurisdiction on that. Your questions are certainly valid.

Mr. Bollen: The property location at 20 MacFarlane Road is it zoned residential or commercial?

Mr. Horan: There was a Use Variance that was granted. It is zoned as a residential use and the prior owner of the property came before this board and requested a Use Variance. The Zoning Board granted a Use Variance because of the historical and commercial use of the property going back to Sloper Willen.

Mr. Bollen: Sloper Willen Ambulance was there. Where did the property go after Sloper Willen?

Mr. Horan: It was owned by a number of private owners.
Mr. Bollen: The Town never owned it?

Mr. Horan: The Town never operated it. The Town had an ambulance contract with Sloper Willen Ambulance.

Mr. Bollen: So right now it is zoned as residential piece of property that is going to be used for commercial in a residential neighborhood.

Mr. Horan: It was granted a Use Variance which allowed a limited use of the property.

Mr. Bollen: I am a tax paying resident and I've been on MacFarlane Road for 35 years. People in the neighborhood have been there longer than I have and some not as long. I don't understand why I pay taxes for a residential neighborhood that I moved into and has become commercial. People are allowed to do business on my block.

Mr. Horan: The property has been commercial prior to zoning. The ambulance business that was there was prior to zoning. The County Player has a warehouse next door.

Mr. Bollen: These are things we never noticed that were there before but this is something new. Now that I know that chemicals are being used. I have further questions maybe I'll raise them at the Planning Board. Thank you for your time.

Mr. Shah: His concern are the chemicals.

Mr. Bollen: If my well gets poison, then what? Who pays for it then?

Mr. Shah: With wells around I can see your concerns but that's not part of the Zoning Board of Appeals.

Mr. Haas: I think it's good that you brought these concerns forward and it's on the record. It will be addressed at the Planning Board. We can't do it here but what we did look at with the Use Variance was the traffic flow. His guys clean at night when they pick up their trucks late in the afternoon and bring them back in the morning. So there's not traffic in and out all day long. That's what he said and that was the basis we granted the Use Variance. We didn't want to see truck traffic all day long in and out of there either.
Mr. Casella: The residents don’t want to see that all day long as well. Anybody else want to speak for or against this variance?

Ms. Braun: My name is Meg Braun, 22 MacFarlane Road directly in front of the property. Where they excavated, I understood there should be a 5 feet easement from the property line. He took 12 feet from the building which I believe is part of my property. I don’t know that and I can’t prove it. Trucks do go in and out a lot of the time during the day. I wouldn’t say more than 6 a day maybe. They do park vehicles in that easement some times. They don't use it as a driveway. My concern was where they are going to put the garage.

Ms. McManus: This is the existing garage and they are just going to replace it.

Discussion continues.

Ms. Braun: I was concerned because I’m two houses away from them.

Ms. McManus: We are proposing trees here.

Ms. Braun: I think he put some there.

Ms. McManus: We would love to put them here but they would be on your property.

Ms. Braun: I don’t want them there.

Mr. DellaCorte: Ms. Braun, you said that Mr. Espinosa’s workers are parking in the easement?

Ms. Braun: Some of the times. He doesn’t always.

Mr. DellaCorte: In that little spot that was cleaned up?

Ms. Braun: Yes, it was about 5 feet between the building and it’s a lot of rocks.

Ms. McManus: That will also alleviate the drainage problem along his building.

Ms. Braun: I think his problem was the down spill. I have a back porch on my house and I can see what goes on there every day. He seems like a very nice man. I have concerns that it had being used for commercial and it is zoned that way but as
time goes on is someone else going to request a variance in the same area?

Ms. Braun continues.

Mr. Haas: Part of the Use Variance they had to allow the Building Department to come in and inspect every year I think. The Use Variance is such an unusual thing in a residential area so we put that in so the Building Department can make sure they are not doing anything that they shouldn't be doing. It’s commercial so I believe they do fire inspection ones a year too.

Mrs. Roberti: I don’t think it’s every year but there’s different criteria.

Mr. Horan: The way the code is drafted if you have an existing building that’s already in the setback if you are going to put a pitch roof on the flat roof, this case it’s considered to be an expansion to nonconformity. They are not looking to move the front line of the building anymore. Is there any way to put grass or vegetation in that space?

Ms. McManus: Not really. It was there before he excavated and they used to mow it.

Mr. Horan: Some sort of buffer will do probably.

Ms. Braun: There is a buffer because my property is pretty high. I can see his roof from my porch.

Ms. McManus: It will look nicer.

Ms. Braun: I can see from the picture.

Mr. Haas: If you are sitting on your porch, what are you going to see with this new roof?

Mr. Cappelli shows what will be seen.

Mr. Casella: Anybody else?

Ms. Glickman: Cheryl Glickman, 21 MacFarlane Road. As Doug has his concerns about the water, I do as well. I will come to the next meeting for that. My concern is the tractor trailers now that it is bigger. I actually helped a tractor trailer back into
his property. A tractor trailer should not be on MacFarlane Road.

Mr. Haas: When was that?

Ms. Glickman: It was in April. I had to tell the driver to go down to Beechwood, turn around and come back up so he can back in that way. It should never ever happen. I had such a tough time on that road as it is. Now that we have Adams they don’t want to stop at that light so they go through. My neighbor’s dog got killed in front of my driveway a month ago and the car just took off. I’ve been there 26 years and my property goes downhill so whatever spills from his property go onto my lot and I’m going to consume it. That’s all that I have to say.

Mr. Galotti: These are very legitimate concerns and I appreciate you folks bringing it to our attention unfortunately they are all Planning Board issues.

Mr. Horan: A water main was put on MacFarlane Road and at some point in time the water main will be expanded.

Ms. Glickman: When I’m dead and gone.

Mr. Bollen: We know it’s there. We were there when they put it in.

Mr. Horan: Right now the well fields don’t have enough capacity to supply all of the properties. The Town is in the process of expanding the well fields to permit the residents to tap it at a future date.

Mr. Bollen: We do have that option to do that now. I don’t think that’s necessary for us to do that since we have plenty of water in the ground.

Mr. Casella: That a very expensive option.

Mr. Bollen: Exactly. The price is going up.

Mr. Casella: I was concerned when that lady talked about tractor trailers. We were told there would be 6 vans there. If that’s truly the case then there’s a concern.

Mr. Bollen: I’ve seen it maybe a couple of different times. I don’t really know what goes on at that property.
Mr. Horan: Are these deliveries type of trucks?

Mr. Bollen: Yes, I believe.

Mr. Haas: I guess he backs up on MacFarlane Road?

Ms. Glickman: The way he was trying to do it is he passed the property and was going to back in that way. Where my house is there’s no way to go forward.

Mr. Haas: I think it’s a planning issue with tractor trailer and it can be resolved there.

Mr. Casella: We just want to make sure their concerns are heard at the Planning Board meeting. If we are not there somebody can be their spokesperson. Someone needs to do it.

Mrs. Roberti: We will and we will make sure that Bea’s Minutes are sent to the Planning Board members on this topic.

Mr. Cappelli: The applicant’s engineer should be proactive and have the information prior and make that part of the submission. We’ve done buildings with toxic chemicals where we were asked where they are going to be stored and protected. I don’t think that’s unreasonable. I imagine they were delivery vehicles and not their vehicles but for them to limit it.

Mr. Horan: A list of the materials and the class will be appropriate. List and volume.

Mr. Cappelli: That might be on the list of questions that the Planning Board might ask anyway.

Mr. DellaCorte: If we do decide to grant the variance, I would like to put a condition on that side property like Jim said to put grass or something.

Mr. Horan: The suggestion was a planter.

Mr. Cappelli: You could put a fence or bollards to prohibit that traffic. Why it was dug out is beyond me.

Ms. McManus: He told me he dug it out because when it rains the water was coming through the floors. He did it for drainage.
purposes but it did not help and it was not the problem. He had to address the drainage problem somewhere else.

Mr. Casella: Anybody else would like to speak? If not, I will entertain a motion to close the public hearing.

**Mr. Galotti:** Motion to close the Public Hearing.
Mr. DellaCorte: Second the Motion.
Vote: All present voted Aye.

**Mr. Haas:** Motion to grant the applicant the variances. The benefit cannot be achieved by any other means. The architectural renderings of the changes to the buildings will be a benefit to the neighborhood. The request is substantial and it does not appear that these variances will have physical or environmental effects on the neighborhood. The difficulty is not self-created. **CONDITION:** No vehicle access in the spot between the building and the berm that the property abuts.

Mr. Galotti: Second the Motion as amended.

Roll Call Vote:

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<td>Mr. Shah</td>
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<td>Mr. Galotti</td>
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<td>Mr. DellaCorte</td>
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<td>Mr. Casella</td>
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**Mr. Galotti:** Motion to adjourn.
Mr. Haas: Second the Motion.
Vote: All present voted Aye.

Respectfully Submitted,

Adjourned: 8:21 pm
Bea Ogunti
Secretary
Zoning Board of Appeals