

MINUTES

**Town of Wappinger
Zoning Board of Appeals
March 26, 2019
Time: 7:00PM**

**Town Hall
20 Middlebush Road
Wappinger Falls, NY**

Summarized Minutes

Members:

Mr. Prager	Chairman	Present
Mr. Casella	Co-Chair	Present
Mr. DellaCorte	Member	Present
Mr. Galotti	Member	Present

Others Present:

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

SUMMARY

Public Hearing:

NERP Holding Tractor Supply Company
& Retail Store

Public Hearing adjourned to May 14, 2019

Theodore Mourges &
Melissa Anzovino

Public Hearing on April 9, 2019
Site visit on April 6, 2019

E & C Espicoz Properties

Adjourned to April 23, 2019

Mr. Casella: Motion to accept the Minutes from March 12, 2019.
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

Adjourned Public Hearing:

Appeal No. 19-7670 (Variance)

NERP Holding Tractor Supply Company & Retail Store: Seeking an area variance Sections 240-96(F) and 240-97(B) of the District Regulations in an HB Zoning District.

-Where it is required that undeveloped parking area be maintained as additional landscaped area, the applicant can provide banked parking area to be asphalt, thus requesting a variance of landscaping requirement to allow undeveloped parking area to be used as fenced outdoor display area.

-Where **128 parking spaces** are required, the applicant can provide **77 parking spaces**, thus requesting a reduction of spaces under 240-96(F) to allow for a reduction of **51 spaces**.

The property is located on **Route 9** and is identified as **Tax Grid No. 6157-04-539374** in the Town of Wappinger.

Present: Jim Cassidy – Engineer
Matthew Darling – NERP Holding Acquisition
Alec Gladd – Attorney

Mr. Prager: I know I asked this at the last meeting. Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Mr. Prager: Good evening, sir. Could you kindly state your name for the record?

Mr. Gladd: Good evening. My name is Alec Gladd an attorney with Cuddy & Feder. I'm joined tonight by Jim Cassidy the engineer and Matthew Darling the applicant. First before we get started I would like to thank the board for coming down two weeks ago to adjourn the public hearing for us. I am glad to be here and before I turn this over to Jim for a presentation of the plan, I just wanted to get some clarification as to what exactly we are requesting from this board. We had initially applied for a variance Section 240-96(F) and a reduction in the

number of parking spaces from 240-97(B) but when we went back and looked at the code specifically Section 240-96(F), the waiver of improvement, we read it as in either or relief. When you go to the Planning Board you request a waiver in the reduction of the number of parking spaces or you come to this board for a variance. Only if you go to the Planning Board requesting waiver only then you are required to landscape or land bank parking. We are not asking the Planning Board for a waiver we are here before the Zoning Board of Appeals asking just for a straight number of reduction. That's our interpretation of the code. I would love if your consultants could weigh in their thoughts.

Mr. Horan:

My understanding was either the straight reduction of spots which would then make the land banking issue moot that they would have shown a sufficient number of spots on the plan. Or in the alternative they were seeking relief to permit the land bank spots to be used as paved area rather than landscaped. Those were the two options on the table. Either way you get the same results because of the way the code is written. I would agree with the applicant that the straight forward way would be to reduce the number of spots.

Mr. Horan continues.

Mr. Gladd:

Thank you Jim.

Mr. Prager:

Thank you. Is there anyone in the audience who would like to speak for or against this variance?

Mr. Gladd:

If the board would allow for the benefit of the board and the public and your consultants to give a site plan presentation first I think that would be best.

Mr. Prager:

When you are ready just state your name for the record.

Mr. Cassidy:

Good evening, my name is Jim Cassidy an engineering principal with the firm of Hallisey, Pearson & Cassidy here tonight representing NERP Holding and Acquisitions. The prospective purchasers of the piece of property located on Route 9. The first photo that I have here is an existing site photo and the property itself is outlined in yellow consists of about 5.9 acres of Highway Business land. Route 9 is located on the right, to the

north is ACURA dealership and to the northwest there's a vacant piece of property. To the south portion are 7 existing residence along Fowlershouse Road. We have about 302 feet of frontage along. The site is heavily wooded there was a former house and if you go into the woods you will find the remains of the house that's still out there. The typography of the property rolls to the front and in the back is pretty steep.

:

As Alec had mentioned we are seeking reduction in the number of parking spaces. We are proposing for the site is a tractor supply retail store. The definition of tractor supply is that they like to be in rural communities where they can supply products and support to small general farmers. In a tractor supply you can find clothing, work boots, pet food, implement for tractors but you can't actually buy a tractor. On this site plan the building has a footprint of 1,097 sf. There is an area against the building is a sidewalk display area where we display seasonal items such as lawnmowers and snow blowers.

Mr. Cassidy continues to give an overview of the property.

Currently being proposed are 11 parking spaces across the front of the building, four of them being handicap, two being dedicated for veterans and another two would be dedicated for online orders. There will be another 49 spaces for a total of 16 in the front of the store and they are primarily being used for customers. There are an additional 16 spaces in the back of the site and they are either being used for employees and customer parking. We are looking at a total of 77 parking spaces. We are requesting a total of 128 parking spaces and we are asking for a reduction of parking spaces. Typically Tractor Supply does not require that many spaces.

A couple of other things I would like to review just because members of the public are here and just want to put everyone at ease. I would like to talk about drainage. I've heard that there have been drainage issues out there and in taking a look at the site I can understand it. If you look at the typography it slopes and if you look at where the house was there's a slight depression near Route 9. In the driveway there's a

trench drain that picks up water from the highway. A portion of this driveway discharges in front of our property comes down to that low area and down along the back of these lots and eventually down. As part of the development of our property we are going to have to construct an extensive drainage system. This drainage system consists of a number of catch basins in the parking lot. Those catch basins are within low points and any of the paved areas that water would run off it to those catch basins. There will be a series of pipes conveyed through a system and eventually down this access drive to the stormwater management basin. The stormwater basin is designed to treat the quality of water before discharging off site. It's also designed to attenuate the rate volume of flow post development.

Again, the purpose of this hearing is to reduce the number of parking spaces. Based upon the packet we handed out to you we feel based upon the other Tractor Supply Store we've developed over the years, we have adequate parking. In the event Tractor Supply does move out there is adequate area to provide additional parking to meet the requirement of a residential store. With that I conclude my presentation and I'll gladly answer any questions you may have.

Mr. DellaCourte:

Is this your first one in Dutchess County?

Mr. Cassidy:

Yes. An important thing to know is Wappinger has a population of 27,000 and when you take a look at all of these town, majority are at 20,000. In the packet that Alec had given you, these are Tractor Supply that were done in shopping centers.

Mr. Prager:

There is one in Amenia.

Mr. Cassidy:

I believe there is. I understand and not being familiar with that one I wanted to make sure I'm comfortable representing. What I was getting at is that there are a number of town that are in the population of Wappinger.

Mr. Casella:

I'm looking at the zoning regulations and 4 space per 1,000 square feet. How many spaces do you have per square feet?

Mr. Cassidy:

We are at 1 space of 250 square feet.

- Mr. Galotti: The retaining wall along the back side of the property, how high is that?
- Mr. Cassidy: There is a point at this corner that's going to be about 20 feet and on average it's about 16 feet on the back and tappers down to nothing at the end.
- Mr. Galotti: Are you going to have some landscaping?
- Mr. Cassidy: I was going to take advantage of it and put some evergreen and canopy trees.
- Mr. Prager: Is there anybody in the audience who would like to speak for or against this variance?
- Mr. Peiffer: Dwight Peiffer, 4 Fowlerhouse Road. Should my question pertain to only parking and no other issues?
- Mr. Prager: No, that's okay.
- Mr. Peiffer: They talked about decreasing the parking lot spaces having it paved. What I would like to propose is rather than it being paved to have some type of vegetation or something.
- Mr. Prager: Mr. Cassidy maybe you want to respond to that.
- Mr. Cassidy: Do you want me to answer as we go?
- Mr. Prager: I know you had mentioned it but I'd rather you respond.
- Mr. Cassidy: We don't need 128 parking spaces so we are therefore requesting a reduction. We have a pad to the rear of the building that's a concrete pad that we place products on. If for some reason tractor moves out and another retailer comes in there that has a more intense use, they can provide those parking spaces and utilizing this concrete pad. If we didn't have the concrete pad and we had to get a variance, the code says I need to have 128 spaces. We would be looking at expanding and paving somewhere else.
- Mr. Peiffer: Thank you very much.

- Mr. Casella: Are there other places you could put this display area rather than there? If down the road someone else say they need that space down there they can always make it a parking later on. That's really why you need to reduce the number of spots.
- Mr. Prager: Is there anybody else with a question?
- Mrs. Wickers: Christine Wickers, 12 Fowlerhouse Road. Will there be lights and cameras on the parking at night? If there are and they are pointing toward our residences that won't be good. I can see ACURA from my backyard. I'm out there are 5:30pm with my dog and I can see the lights. The other night I had to bring the blinds down because of the flood lights from ACURA were shining into the bedroom. Also cameras.
- Mr. Cassidy: The parking lot would be lit. Within the front parking lot right now we have three poles with lights that will direct lighting away from the residence. In the rear of the property there's only one light pole at the edge of the outdoor display area. It has a three headed fixture on it that shines into that display area. There's no other lighting proposed on the perimeter of the site but would be a couple of wall mounted lights for safety along the building.
- Mr. Prager: I believe the Planning Board is familiar with this?
- Mrs. Wickers: What about cameras?
- Mr. Cassidy: No cameras to the rear of the building.
- Mr. Darling: My name is Matt Darling, I represent the development company for Tractor Supply. As far as cameras are concerned I really can't speak to that because Tractor Supply has their own because any retailer has to have security. I will get you answer for the planning meeting and I'll do my best. I can pretty much assure you that if there are any cameras they are going to be in this area here or maybe covering the front lot. There's no parking lot here so I see no need why they have to point the cameras towards any of the neighbors.
- Mrs. Wickers: I know they need it for security and that's important.

- Mr. Darling: I think that I have seen cameras throughout the stores. I don't install the cameras and they do their own security. What I've seen are little things and I don't know their capability. I just want to make sure you are aware.
- Mrs. Wickers: I just want to make sure it's not pointing at my backyard.
- Mr. Casella: So you are not going to have any cameras in the light gray area where your display units are?
- Mr. Darling: I think she was concerned about cameras facing the neighborhood, correct?
- Mrs. Wickers: Right.
- Mr. Darling: If the tenant has cameras facing this area I don't think it would be a concern.
- Mrs. Wickers: As long as we don't have lights and cameras pointing to us.
- Mr. Darling: I made a note to find out for you about the camera installations.
- Mrs. Wickers: Thank you.
- Mr. Peiffer: My concerns are the hours that the lights will be lit. Is to 24/7?
- Mr. Cassidy: It is one hour before they open and one hour before they close.
- Mr. Peiffer: So how will that work?
- Mr. Cassidy: One hour earlier in the winter months before the employees come in to open and one hour after they close.
- Mr. Peiffer: I am also concerned about the positioning of the lights.
- Mr. Prager: I'm sure the Planning Board will address that. Again, we cannot make a decision right now because the Planning Board has an environmental declaration. Until they get the answers to the EAF, we cannot make a decision. We will have to adjourn this to at least the second week in April.

Mr. Casella: Can we close the public hearing tonight?

Mr. Horan: I think we should probably keep it open because there's an issue if you close it there's a 62 day clock that starts. The problem is I don't know if the clock starts without a negative declaration or a positive declaration. We can push this over unless the applicant wishes to waive the clock.

Mr. Gladd: I understand with the SEQRA coordination we would be find with waiving the clock if the board would be willing to close the public hearing.

Mr. Horan: It's the board's call as far as keeping it open.

Mr. Prager: I think we should just adjourn it and I think that would be the proper way of doing it. I would like to close it but I don't know how long it's going to take to get the negative declaration from the Planning Board.

Mr. Horan: If we adjourn it to the second week in April.

Mrs. Roberti: That won't work. They are coming back to the Planning Board on April 15th so no answer is going to happen at that point. Couple of things have to happen to resubmit so I recommend the second meeting in May.

Mr. Prager: In May?

Mrs. Roberti: We can always move it up or at least until May 14th.

Mr. Prager: Okay, May 14th.

Mr. Gladd: That's okay with us. We don't want to take any more of the board's time and I'm unfamiliar with this board's practices. We would like that the next time we are before you when you close the public hearing and also have a resolution ready on this matter.

Mr. Prager: I would like to put into the record that we did get a letter addressed to Mrs. Ogunti from Sarah Suarez.

Mr. Prager read Ms. Suarez's letter.

Mr. Casella: Motion to adjourn the Public Hearing to May 14, 2019.
Mr. Prager: Second the Motion.
Vote: All present voted Aye.

Discussion:

Appeal No. 19-7671 (Variance)

Theodore Mourges & Melissa Anzovino: Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **40 feet** is required to the side property line, the applicant can provide **21 feet** for the installation of an above ground pool, thus requesting a variance of **19 feet**.

The property is located at **27 Dennis Road** and is identified as **Tax Grid No. 6258-01-112632** in the Town of Wappinger.

Mr. Prager: Good evening. Please state your name for the record.

Mr. Mourges: My name is Ted Mourges, 27 Dennis Road in the Town of Wappinger. I thank the board for letting me speak tonight.

Mr. Prager: Looks like you need a pool.

Mr. Mourges: In front of you should be a plan that I drew up and a copy of the survey. Mr. Rick Rhinheimer that lives behind me were the previous owners of my property. They did a property swap years ago because his property went up the corner of my foundation. The new property line on the survey is the one that's in question. When they did the swap it made a corner that comes in my backyard and goes back into the woods. There's nowhere else in the yard that I can put the pool. The only other spot would be to put it to the left side of the property would be too close to the neighbor's house.

Mr. Casella: What's the typography like down there? Does it slope down?

Mr. Mourges: It slopes up to the property line and a sharp drop off into the woods on the other side of my property line. From my house to the property line is roughly 4-5 feet. There's no drainage issues.

Mr. Galotti: It seems like the surveyor had a lot of property lines on the survey.

Mr. Mourges: Whoever comes to see it, it's pretty straight forward.

Discussion continues.

Mr. Prager: We will schedule at site visit for April 6th and the public hearing for April 9th.

Mr. Casella: Full disclosure, I do know Ted personally and it will not have any effect on my decision.

Mr. Prager: Thank you.

Appeal No. 19-7672 (Intepretation)

E & C Espicoz Properties:

- Seeking an Interpretation of Section 240-107(B) of the District Zoning Regulations in an R20 Zoning District. The applicant is seeking an interpretation of the Zoning Board of Appeals decision of a Use Variance dated December 27, 2017 M & C of Dutchess, Inc., Application No. 18-7637 for the ability to expand the present approved use under the Use Variance received for the site on December 27, 2017. This Use Variance was granted to utilize the existing 2,500 sf. commercial structure built in 1950 as a contractor's shop and storage in a Residential Zoning District with no anticipated change to the site.

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

Present: Margaret McManus – Engineer

Mr. Prager: Hi there. Please state your name for the record.

Ms. McManus: Hi there, I'm Margaret McManus engineer with Badey & Watson.

Mr. Prager: So tell me a little bit about what you need for the interpretation.

Ms. McManus: I know that the previous owner came before the board and sought a use variance because the site had basically been utilized as commercial property since the 1960s. It was determined by your board that a residential wasn't finally viable on the site because of the existing infrastructure. There were discussions about what type of use that would have the least amount of impact on the surrounding residential uses. You came up with the contractor storage and the use variance was granted. The owner went to the Planning Board and at that time the owner had a

buyer who is my client now. My client has a cleaning business which is similar to the contractor's yard. He utilizes the building for his cleaning business and storage for his equipment that is used by the personnel. He parks cars, vehicles and vans. Some of these vehicles have products in them because they do commercial cleaning of carpets inside so those have to be kept in a heated building. He has those in another facility in Poughkeepsie. He would like to combine these facilities into one place. He would like to make the garage larger to accommodate parking several vans in the garage. What also transpired before we got here once he took ownership of the property he wanted to clear some of the property and to make more lawn area? In the process of doing that he overstepped his bounds and pushed dirt around the property. Right now any activity has stopped in November before it got too cold so there was still time to plant some seeds on the area that was disturbed. The site is in an under-construction condition. At this point they want to be able to move forward with the restoration of the project site but we need to know what that's going to look like. Are we able to expand the use and size of the building or are we sandwiched into the size of the buildings that were historically on the site? That's where we are with the interpretation. We know that the use variance was granted and with that are we allowed to expand the use?

Mr. Casella: It is 2,500 square feet now, are you asking to expand the size?

Ms. McManus: This is the existing building and this is the concrete patio. We would like to enclose that concrete patio to make it one building and there's an existing garage here which is not in very good shape. We would like to take down and build a new garage.

Mr. Casella: Same footprint?

Ms. McManus: A larger size.

Mr. Casella: How much larger?

Ms. McManus: Double. It's a 2-car garage and we would like a 4-car garage. Although it says 2,500 square feet, it is

closer to 2,800 square feet for the existing building and we would like to increase it another 7,500 square feet for the garage. We would like to increase the 2,800 square feet to 3,437 square feet and they would like a second story if they can get it in there. The new garage is 5,037 square feet.

Mr. DellaCorte: Did you say the size of the footprint is going to decrease overall?

Ms. McManus: Not the size of the buildings but the impervious surface on the property will decrease.

Mr. DellaCorte: By removing or not removing some impervious surface?

Ms. McManus: By removing some impervious surface mostly parking lot area and restoring that to grass area. So there would be a reduction in impervious surface.

Mr. Prager: You said something about a second story?

Ms. McManus: If it's possible because right now we are asking for everything that we want. Right now there's a flat roof on the existing structure has a partial roof on it so we would like to take this and make it a peaked roof. Down the middle of the peaked roof there's enough to stand up inside of a building. We would like to be able to utilize that area.

Mr. Prager: Use for what?

Ms. McManus: For either additional storage.

Mr. Horan: So that would be a one and a half story building.

Ms. McManus: Yes, it would be like a one and a half story building. This area would be closed and become an office building space and we can have more additional storage.

Mr. Casella: The square footage goes from 3,275 to 3,700? Is that what you said? There's 2,475 sf. then you said 3,437 sf. and then a 4-car garage and then 2,800 sf.? So you want to increase it roughly 2,000 sf.?

Ms. McManus: Yes, it's about 2,000 sf. total floor area.

- Mrs. Roberti: If he gets the garage and you increase the front building, the first floor will increase to 5,037 sf. with an additional 2,700 sf. for the second floor?
- Ms. McManus: That's the plan. If you look on your plan there's a chart that has all these numbers on it. So the existing footprint right now of 2,811 sf. and the existing 1-story garage is 474 sf. which gives you a total floor area of 3,285 sf. We would like to propose to increase the main first floor building to 3,437 sf. That takes into consideration the concrete pad that already exists and brings that into the building. We anticipate approximately 1,800 sf. on the second floor. We would like to increase the garage to 1,800 sf. which is basically 30' x 60' garage and it's a 4-bay garage.
- Mr. Prager: So that's about doubling the size.
- Mr. Casella: If you do that does that consolidate everything and I understand that you have another facility.
- Ms. McManus: Yes, we would consolidate our vans onto this site.
- Mr. Casella: Everything completely?
- Ms. McManus: Yes.
- Mr. DellaCorte: How big is your garage?
- Mr. Espinosa: It will be a 4-car garage.
- Mr. DellaCorte: What's going to be in this 4-car garage?
- Mr. Espinosa: Hello, my name is Carlos Espinosa and I'm the owner of the cleaning business. The reason for the 4-car garage is that right now we are renting a space in Poughkeepsie. We have commercial trucks and vans and they carry \$70,000 equipment in it. The problem that we have is that we don't have the space to put these vehicles in a garage in the winter. I am paying over \$3,000 to have the 4 vans in storage over the winter. I need your help because when I tried to purchase the property we never thought it would be that much work for everybody. We are requesting this because we want to make sure that we have

everything that we need in order to put all of my business in one place. I have my trucks in Poughkeepsie, I do my conference and training for my employees in Middletown. This will allow me office here. Right now my office is in my house. When I purchased this my ambition was to have my office here also. When I tried to do something they said I can't build anything because the variance is only used as it is. You can't do anything more. All my equipment and everything else is packed in there and now I don't have room for my trucks.

Mr. Casella: How many vehicles do you have there today and how many more are you going to have?

Mr. Espinosa: On a normal day, we have 4 vans not equipped with anything. They are there for my guys at 4:00pm to pick the supplies and get in the vans and go to work. Then they come back the next morning at 5:00am and park the vans and then they leave.

Ms. McManus: It's an overnight operation. They come to work at night, pick up the vans, leave the site and get whatever supplies they need. They work overnight and they come back leave the vans and then they leave the property. There's not a lot of traffic, there's no sign outside, there's no retail space, there's no customer that come to the site.

Mr. Galotti: Just 4 vans for your cleaning business.

Ms. McManus: Yes. Those vans have water so they need to be in a heated space.

Mr. Espinosa: If we get this I can put more equipment in there. Thank God my business is growing but I got tired of paying a lot of storage. I was paying over \$4,000 a month for storage. I purchased this place and now I'm paying \$2,500 for mortgage and now it's packed and I don't have any room and I need to put everything in one place. So I need help to see what we can do.

Mr. Prager: Thank you.

Ms. McManus: We did go before the Planning Board and presented the plan and they said they cannot vote for or against

it. We determined at the meeting that our next step was to come here because no one was really sure about the procedure of whether or not the use variance allowed for an expansion of the use.

Mr. Prager:

Okay, so that's what the interpretation is for.

Ms. McManus:

Yes.

Mr. Prager:

This is what I'm trying to figure out why you are doing all this talking and why we need an interpretation but now I understand.

Mr. Horan:

There was some discussion was anything contemplated and the prior owner who came in more or less wanted to just flip the property. It was contemplated about doing any kind of work to the building. In retrospect since the building was 50+ years old there should have been some discussion. To that point what's being suggested here is to remove the smaller frame garage totally and replace it with a new building. From a 2-bay garage to a 4-bay garage.

Ms. McManus:

It is in the center of the property the farthest away from the other side.

Mr. Horan:

In some respect the use variance contemplates the replacement of the buildings that are there arguable within the setback. I don't think the use variance can be views as simply requiring that the buildings that are on the site remain on the site in the existing configuration.

Mr. Prager:

That's what I really thought it was going to be.

Mr. Horan:

The owner of the property would have the ability to replace building.

Mr. Prager:

That's different now that they are doubling the size and it's not quite the same as the use variance.

Mr. Horan:

The use variance also contemplates outdoor storage which is basically a small building with a large area for outdoor storage. The applicant is proposing to close

what would have been outdoor storage to close with a garage.

Mr. Casella: I don't know if we can make that leap of faith on that and that's exactly what they are proposing. The garage is 66% of the size of the building.

Mr. Horan: An outdoor storage yard for commercial purposes is not permitted in the zone. The question here is rather than have outdoor storage is it permissible to make a garage rather than outdoor storage.

Mr. Galotti: So it's basically taking that outdoor storage and making it indoor storage.

Ms. McManus: Right.

Mr. Horan: In some respect you can treat it as an amendment to the use variance that was previously granted. The variance is simply for the use. There was no variance granted for building coverage, setbacks or anything else related to the site. The prior variance that came before the board was limited to use.

Mr. Prager: Use for that building?

Mr. Horan: No, use for that site. There were conditions regarding outdoor storage but there were no conditions placed on the buildings themselves.

Mr. Casella: I thought what we said was the storage for the use variance was to be in the back of the building so it wasn't visible to the neighbors or people driving by. Now what you are saying is that the use variance allows them to do pretty much anything they wish on that site regardless whether it is adding structure to it?

Mr. Horan: No, I'm not saying that at all. What I'm saying is that there were screening requirement and things of that sort. What was contemplated was storage on the site.

Mr. Prager: It was also use of that building and that had a lot to do with it.

- Mr. Horan: The uses of the building are consistent with the previous approval.
- Mr. Prager: You are talking about office and a second story.
- Mr. Horan: I believe there was an office previously there. We have garages and an office which was previously there.
- Mr. Prager: She's saying a peak roof.
- Mr. Horan: If this was a residential use you could go from a flat roof to a peak roof.
- Mr. Prager: Maybe we should have left it residential.
- Mr. DellaCorte: What we are struggling with is the added space in buildings and are you saying that we shouldn't be looking at that? We shouldn't be thinking in our heads that they are doubling this and doubling that? So all we should be looking at is the type of use which was storage?
- Mr. Horan: You are looking at the overall use at the site. Whether a van is parked in the garage or in a parking spot, does that necessarily have any impact on the neighbors? They are really just talking about indoor storage versus outdoor storage.
- Mr. Casella: So you are saying because the impervious area is roughly the same 200 sf. less it is immaterial?
- Mr. Horan: No, it's because of the type of use that was contemplated. What was contemplated here was outdoor storage. That goes to the issue of impervious surface. As far as going from a flat roof to a peak roof and picking up space inside, I don't think that necessarily violates the use variance at all.
- Mr. Galotti: The use for all of the other accessory buildings is for storage versus parking.
- Mr. Horan: Right.
- Mr. DellaCorte: Jim, so you are saying you can take that whole site and cover it and that would be storage. So we are not

changing anything other than the configuration of the storage.

Mr. Horan: We haven't looked at the building coverage in the zone.

Ms. McManus: We are way under.

Mr. Horan: Obviously, you can't just enclose the whole site.

Mr. Prager: What Tom is saying is a good point is as long as you don't get the building bigger than what is allowed.

Ms. McManus: There's an existing nonconformity with the setback to the front of the building.

Mr. Prager: Also the size of the building. You can only increase it a certain amount.

Mr. Horan: Again, it's no long a nonconforming use. It's a use permitted by variance. One of the things the variance says is that any prior nonconforming use is no longer allowed.

Ms. McManus: So with a flag lot this is still considered a front yard? The front yard setback is to the center of the street.

Mrs. Roberti: We took that out of the code. We just have front line of other street, County, State highways. This would be 35 feet from the property line.

Ms. McManus: So we are at 15.7 feet but that's an existing nonconformity.

Mr. Horan: Right.

Mrs. Roberti: They are increasing it.

Mr. Horan: They are not increasing it. The question is if they change the roof.

Mrs. Roberti: They are going with a second floor.

Mr. Horan: Again, it's not a second floor. It's a half story.

Mrs. Roberti: They are going to gain 1,800 sf. up there.

- Mr. Prager: Is it 1,800 sf. or 900 sf.?
- Mrs. Roberti: The garage is 900 sf.
- Ms. McManus: That was a rough estimate for me just taking off the middle half of the building. Does the eaves count as setback?
- Mrs. Roberti: If it's just the roof line with nothing above it but if you are putting habitable space you will need a variance for the front yard.
- Mr. Horan: If you are changing that building you will need a variance. That seems to be the only variance that would be required.
- Mr. Galotti: So if you increase the square footage to a half story, you are not going any closer to the road.
- Mrs. Roberti: So if the first floor is a legal nonconforming, it's fine. If you put a second floor on.
- Ms. McManus: There is a partial second floor on this building.
- Mrs. Roberti: You are increasing it to 1,800 sf.
- Ms. McManus: If I'm increasing the second floor I would need a variance for setback. I'm increasing the first floor too but not on that side of the building.
- Mr. Horan: Right.
- Ms. McManus: So the two things are the interpretation of whether or not we can increase and then if we do increase we would need a variance for the existing nonconformity.
- Mr. Prager: Okay.
- Ms. McManus: Our question is what's the next step?
- Mr. Horan: I think the next step would be getting proposed elevations to us.
- Ms. McManus: We will have elevations as quickly as you need it.

- Mr. Casella: Isn't the first step us deciding whether they going to get the variance to do the building? They have to decide what they want to do before we can do a ruling on the interpretation?
- Mrs. Roberti: You need to decide on the interpretation of the use variance.
- Ms. McManus: Right, we need to know whether or not we can do it before we ask you.
- Mr. Prager: Do we need any more information before we decide on the interpretation?
- Mrs. Roberti: No.
- Mr. Prager: Do you want to set a public hearing
- Mr. Horan: I don't think you need a public hearing for this. I would like to put it over to two meetings because I want to see if there are any case laws on use variances.
- Mr. Prager: I would like to see that myself.
- Mr. Horan: There are basically two ways to proceed, the straight interpretation as to whether or not what's proposed is permitted under the existing variance? The second one would be considered an application to amend the prior use variance which is also permitted. There's nothing that says that prior variance is set in stone. It can always be amended. In which case it would be different conditions of that nature.
- Mr. Prager: So we will put off to April 23rd for the interpretation.
- Ms. McManus: In the meantime can we make an application for the area variance?
- Mr. Horan: Yes.
- Ms. McManus: That would be an area variance for an existing nonconforming because we are changing the structure.

Mr. Horan: Correct. If you would supply the elevations for that.

Mrs. Roberti: Would you like to hear the variance for the building on April 9th and a public hearing could be set in conjunction with the first one. You can hear the public hearing on April 23rd.

Mr. Prager: What public hearing?

Mr. Roberti: The public hearing on the variance for April 9th.

Mr. Horan: I don't think we need to bring them in on April 9th.

Mr. Prager: Let's make the decision first. We don't know because it may not go in your favor.

Ms. McManus: I understand.

Mr. Prager: On April 23rd will be the decision on the interpretation only.

Ms. McManus: Thank you.

Mr. Casella: **Motion to accept the Minutes from March 12, 2019.**
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

Respectfully Submitted,

Adjourned: 8:37 pm

Bea Ogunti
Secretary
Zoning Board of Appeals