



**Town of South Bristol**  
6500 Gannett Hill Road West  
Naples, New York 14512-9216  
585.374.6341

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## **Zoning Board of Appeals Meeting Agenda**

Wednesday, May 24, 2017

7:00 p.m.

### **Call to Order**

### **Pledge of Allegiance**

### **Minutes**

Approval of March 22, 2017 Zoning Board of Appeals Meeting Minutes

### **New Business**

#### Area Variances:

Application #2017-0002  
Tax Map #195.05-1-18.000  
Canandaigua Marina LLC  
7099 State Route 21

#### Area Variances:

Application #2017-0003  
Tax Map #195.05-1-24.000  
Donna Faatz  
State Route 21, vacant land

### **Old Business**

### **Other**

### **Motion to Adjourn**

## **Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, May 24, 2017**

**Present:** Robert Bacon  
Thomas Burgie  
Albert Crofton  
Carol Dulski  
Jonathan Gage

**Absent:** John Holtz

**Guests:** Mike Hiller  
Francisco and Vicki Garza  
Bill Kenyon, Esq.  
Donna Faatz  
Chris Catoggi  
Keith English  
Steve Cowley

### **Call to Order**

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:10 p.m. followed by the Pledge of Allegiance. There was a roll call of board members present except for John Holtz.

### **Minutes**

Chairman Burgie called for a motion to approve the March 22, 2017 meeting minutes. Albert Crofton made a motion to approve the meeting minutes which was seconded by Jonathan Gage. The motion was unanimously accepted by all board members present.

### **New Business**

The Rules of Order were read by Robert Bacon.

### Public Hearing:

Diane Graham read the official newspaper legal notices of public hearings.

### **LEGAL NOTICE, TOWN OF SOUTH BRISTOL, NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Town of South Bristol Zoning Board of Appeals will hold a public hearing on the following application:

Application #2017-0002 for property owned by Canandaigua Marina LLC located at 7099 State Route 21, Tax Map #195.05-1-18.000 is looking to demolish a two-story customer service facility and build a one-story facility. Area variances are needed for front yard, side yard, and lake side setbacks.

SAID HEARING will take place on the 24th day of May, 2017 beginning at 7:00 p.m. at the South Bristol Town Hall, 6500 Gannett Hill Road West, South Bristol, NY.

All interested parties may appear in person or by representative.

LEGAL NOTICE, TOWN OF SOUTH BRISTOL, NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town of South Bristol Zoning Board of Appeals will hold a public hearing on the following application:

Application #2017-0003 for vacant land owned by Donna Faatz located at State Route 21, Tax Map #195.05-1-24.000 is looking to build a garage for vehicle and storage. Area variances are needed for front yard and side yard setbacks.

SAID HEARING will take place on the 24th day of May, 2017 beginning at 7:00 p.m. at the South Bristol Town Hall, 6500 Gannett Hill Road West, South Bristol, NY.

All interested parties may appear in person or by representative.

Canandaigua Marina LLC Application #2017-0002

Chairman Burgie: We will hear the variance request from the Canandaigua Marina LLC first. Would the applicant like to present your case?

Mike Hiller: I would. First I would like to thank the board for their time. Some of you I had the chance to meet today. Others I would like to give you brief introduction of who I am and what I do. I am the general manager of Smith Boys Marine. My name is Michael Hiller. To give some background on Smith Boys we are a marina that sells, rents, services, stores and dock boats for the local community. The property has been operated as a marina for over fifty years. We provide a valuable service to the community. We are the only such marina to service the lower half of Canandaigua Lake. To give you some background. We have a sheer cliff one side of Route 21 the road and very minimal land up to the lake. This project we are proposing was brought about through concerns over safety, traffic flow, and improved customer service. To give you some insight into the nature of the project and safety concerns that prompted this project I would ask you to please refer to exhibit 1A in the packet that was provided. You will see Route 21 running along the western side of the exhibit. On the north side of the exhibit you will see the marina yard where a majority of the boats are parked. To the south of the marina yard you will see the existing customer service facility that we are proposing to demolish. To the south of that existing facility you will see a launch ramp where we launch the boats. South of that you will see an outline of our proposed new customer service facility. Currently we trailer boats with a tractor from the marina yard where all the boats are pointed out on the northbound lane of Route 21 then we back trailers against incoming traffic around our existing facility around the corner back down into the launch ramp. This creates safety hazards for both traffic and employees. We routinely resort to stopping traffic to allow us to back the boats down in the launch ramp which impedes traffic flow and creates safety hazards. We actually had an accident once where someone actually ran into a boat while we were driving it into the ramp. By demolishing the existing facility we will establish a straight path on the marina from the actual boat yard to the launch. This will allow us to trailer boats directly to the boat launch and reduce the need to be on Route 21. This will drastically improve safety and traffic flow and as a side benefit allow us to improve customer service.

Chairman Burgie: I see that you have addressed a number of the concerns that we have to consider in doing this in your cover letter here. So we can look at those a little bit later as we are trying to determine

each of those factors we need to consider. CEO is not in here but it is pretty obvious that the reason for refusal was for the three setback variances required for this. Does anybody need to talk to the CEO he is in the building? Visitation reports was anybody able to visit?

Albert Crofton: I did. It was some time ago. Probably two months ago as I recall. This has been delayed at least about a month. It looked pretty reasonable to me nothing to complicated.

Chairman Ely: As far as the request?

Albert Crofton: Yes.

Chairman Burgie: Okay.

Jonathan Gage: I went down today and met first with Mr. Hiller and he took me around and showed me what he planned to do which he's just mentioned here and then I went over to meet Mr. and Mrs. Garza and we looked at their property and they were able to express their concerns and we viewed that at that point. I am sure all of these will come up later and we can talk about it at that time.

Robert Bacon: I also went down and met with both the marina Mike and the neighbors. I think it was on Tuesday morning no it was Saturday and Tuesday morning two separate visits. Got to see some of the infrastructure issues with the property both buried gas tank, septic tank and existing gas pumps that are on the property which makes a location for the building challenging. The one question I had after talking with you, Mike, is have you considered putting the building to the east of the existing service facility? So it would be south of the gas pump but east of the existing building. Does that make sense to you?

Mike Hiller: Yes. We have.

Robert Bacon: It is closer to the lake. Yes. It would be sandwiched between the boat launch and the gas pump.

Mike Hiller: The boat launch and the actual gas pumps? We have entertained that it is just a small area there. It really does not improve anything. I just want to clarify we do not have a septic tank. We have holding tanks.

Robert Bacon: I am sorry that is correct. There is a holding tank. You did tell me that.

Carol Dulski: I went down Saturday night and nobody was around and just looked around. Pretty much the same concerns you have.

Chairman Burgie: I did get the opportunity to drive by and did not meet with anybody. It is a very congested area obviously. There are not a lot of options as he is saying. One concern that I have is all the parking of boats and trailers on the other side of the road is really a traffic hazard along that whole area. Obviously, they are not yours and not out of your control but they are using that boat launch facility and then going over and putting all their trailers on the edge there. That is a traffic concern.

Mike Hiller: Just to clarify you are talking about the western side of Route 21. That piece of property right there we use during the spring and fall to stage boats as they are coming out of storage. Our plan

once we demolish the existing facility is we will now be able to put them in that row to bring the boats through. We will have less boats on the road.

Chairman Burgie: So it will reduce the traffic impact to the parking out there on the road?

Mike Hiller: Yes. Absolutely. By demolishing that building we will now have more room there for us to stay on the eastern side of 21.

Jonathan Gage: I was curious your showroom in there, past that you have got several bays in there, they have backed the boats in there to work on them too?

Mike Hiller: In the past they have done that. It becomes very unsafe trying to get a boat out of there.

Jonathan Gage: There was in there today when I went by the gate was open.

Mike Hiller: We do have boats in there. They are for sale in general. We put them in there once and they sit in there. We tried using it as an actual going in and out getting out of the range trying to electrical job in there. It just became very hazardous to try to get a boat in and out of there multiple times throughout the day. So generally we put a boat in there and it stays in there until it is sold and it's taken out.

Chairman Burgie: Okay we will talk about other options here if there aren't any other options once we get into it. Any other comments or anything to add?

Jonathan Gage: Not at this point.

Chairman Burgie: SEQR status (State Environmental Quality Review Act) that is a requirement in each of these applications. Looking at the type I or type II. It is not a type I action. I could not find anything in there that indicated a type I action which would require a full SEQR environmental study. It appears to me that this would qualify under two different paragraphs of the type II actions one is construction or expansion of a primary or accessory appurtenant nonresidential structure or facility involving less than four thousand square feet of gross floor area and not involving a change in zoning or use variance and is consistent with local land use controls but not radio communication or microwave transmission facilities. This is not requiring a change in zoning. This is requiring a variance to the setback requirements and it is not a use variance. It is less than four thousand square feet so I believe it qualifies under the section 617.5 type II actions which 617.5 (c) (7) and further section 12 granting of individual setback or lot line variances. Any discussion on that? Do you see a need for more than an acknowledgement under a type II action?

Robert Bacon: I agree with what you are saying.

Chairman Burgie: Okay then when we make our findings we will make that our first finding that this is a type II action and no further study is required on that.

Okay here is where we open it up for public hearing and later we will add any related public or municipal officer's documentation which we have received some.

Public hearing opened at 7:27 p.m.

Bill Kenyon: My name is Bill Kenyon and I live up the road in the Town of Canandaigua. I practice law in Canandaigua and interestingly enough I was the attorney for the Town of South Bristol for a period about seventeen years in the late eighties and nineties and so I have been in this building a few times in the past. I represent Mr. and Mrs. Garza who sit behind me and their property is immediately to the south of the marina and the property that the Garza's own has been almost exactly the same configuration for decades. The building preceded the construction of the marina property which was probably done sometime in the fifties. I am here to express the opposition of Mr. and Mrs. Garza to the application and I have prepared a written presentation which I will give to Diane and she can hand it out or not hand it out at her convenience but I would like to sort of give it and not read it and have you read while I am trying to give it. I will give this to Diane. I appreciate the opportunity to make this presentation. I also would like to thank you for allowing me to sit. It will help me a great deal. This is an application by the marina operator to ask the board for three variances to allow them to build a building one foot from the south line, 2.1 from the road, and 3.5-3.6 feet from the lake. Those variances are 88% for the variance from the lake, 95% for the variance from the south line and 96% from the road. The required setbacks, as you know, are from the road 50 feet this will be 2.1 feet; from the south line 20 feet this will be one foot, and from the lake 30 feet this will be 3.6 feet. One of the criteria under the state law relative to the granting of variances is whether or not the requested variances are substantial. I would suggest for your consideration that a 95% variance request to 96% variance request or an 88% variance request is pretty substantial. Another thing I'd like to point out to the board or at least inquire of the board relates to this particular location, this particular lot. The uses to which the property is being put and the timeframe. The reason I am bringing this up has to do with pre-existing non-conforming use. This property is zoned C-1 as I understand it from the application. C-1 again as I understand from the application has a one acre minimum lot size. The map that is attached to the application and the SEQR form suggests that the property size is approximately 4900 hundredths of an acre or about half an acre in size. So from a pre-existing non-conformity perspective if this particular property did exist prior to the enactment of the zoning code it is perfectly okay but because it is a pre-existing non-conformity there is some pretty strict rules in the Town of South Bristol code relating to what an owner of a property that is pre-existing non-conformity may do and specifically in the Town of South Bristol your code says that the footprint of the structures on a non-conforming lot may not be enlarged or expanded. If you take a look at the square footage of the footprint of the building that they would like to raise it is about 985 square feet. If you take a look at the footprint of the building that they would like to build on my client's north line, it is about 1260 square feet. That's the footprint. It is not the aggregate square footage of the building it's the footprint that I am concerned about and because there is a 30% increase in the footprint of the buildings on this pre-existing non-conforming lot I am suggesting that code in the Town of South Bristol does not allow for the enlargement of pre-existing non-conforming situation like this. The application as I read it does even address the question of pre-existing non-conformity and, in as much as, I am suggesting that it is subject to all of those rules dealing with pre-existing non-conformity that the board cannot grant the variances simply because of the non-conformity.

Chairman Burgie: Do you have reference to the paragraph in the code that would make it easy for us to find it?

Bill Kenyon: Yes. Chapter 170 which is your zoning code. Then article VII in the non-conforming uses. Then §170-80 and the following sections there's about a half a dozen sections dealing with the whole concept of how does the municipality deal with an attempt to enlarge or extend a non-conformity. I would offer the thought to you folks to take a look at the whole idea of pre-existing non-conformity because that has been mentioned in a bunch of times in this application this is a real tight site. The whole geographic constraints because of the cliff on the west side, the width of the road, the configuration of the

parcel, it is a tight site. So its development has to be extremely carefully monitored in light of the language of the code both as to the types of the criteria that must be met in order to have a variance granted number one and number two is it properly before the board because of the non-conformity. Non-conformity is designed to keep something from enlarging that is already in violation of the bulk requirements of the code. Now clearly because this project predates zoning you can't stop it and nobody wants to stop it. What we are trying to do is keep it the way it is because that's what monitoring pre-existing non-conformity is all about. You can enlarge or extend pre-existing non-conformities. The other question that I would ask that you consider is the question of another bulk requirement in your code dealing with your percentage of lot coverage. This particular parcel is about 4900 hundredths of an acre about 22,000 square feet. C-1 code requirement on your little chart says that maximum percentage of lot coverage is 50%. So the question arises then what will this new building do to the question of percentage of lot coverage. Now nothing that I have seen in the application and the documents that have been presented even deal with the question of percentage of lot coverage but if you look at the assessment records, the buildings and the docks and the decking, etc. that's about 5,000 square feet of existing right today. If the 985 square foot building is torn down and the 1250 square foot building is built, that square footage goes up, the percentage of lot coverage goes up. Not only that the mapping shows that a portion of this property is paved which another component of the percentage of lot coverage. When we were at the county, the question was asked what is the real surface of the parking other movement areas, and he stated that it is gravel that a significant percentage of the surface is gravel. The lot is very narrow road to lake very long south the north. I am sure if you visited the site you see that there is very little grass and lots of gravel and lots of buildings and lots of lot coverage so if the code requires that the percentage of lot coverage may not exceed 50% the issue needs to be addressed. What is percentage of lot coverage? Where the map says between the two buildings is paved parking. I do not think that is correct when I looked at it, it is gravel. The question is how impervious are those gravel surfaces because the whole point of percentage of lot coverage is to prevent excessive storm water runoff from the property onto other properties in this case the lake. There are two questions I think that need to be answered, in my judgment anyway, before the board can even address the question whether or not the applicant has provided adequate proof of the necessity under the law for these variances to be granted. It has to do with pre-existing non-conformity and the percentage of lot coverage. Once you get past those threshold questions you get into the whole bit under both the town law 267b I think of the town law and your code has the five criteria that must be met in order for the variances to be granted. In my letter to the board, that I hope you will spend a few minutes to read before you make your findings, I suggest that this application fails to meet any of the five criteria. Certainly the criteria that asks the questions how substantial are the requested variances I have already addressed (95%, 96%, 88%). That's a pretty big deal. I am used to seeing a variance request for seven percent or five percent or one and half feet closer to the lot line that is typically required not forty-nine feet closer to the lot line than the code requires. That is a pretty substantial difference. Will the over character of the neighborhood be changed? I think the most significant change to the character to the neighborhood, in this particular application, is the actual location of the proposed building is one foot off my client's north line. Three feet off the lake. So from their front porch, from their front deck, from their living room when they look north they can now see the lake will see a side of the building. They will not have any view to the north any view whatsoever. Their view will be substantially cut off. The other question that I ask with respect to the location of the building on the south line of their property and the north line of Mr. and Mrs. Garza's property is how do you manage, maintain, and erect a foot off your property line without encroaching in some manner on your neighbor's property. How do you build something that's a foot off your lot line? How do you wash the windows? How do you clean the gutters? How do you manage storm water runoff on your property from the storm water that is created because you have increased the pervious surfaces if there is a foot between the property line and the building? I think that the whole question of maintenance and repair and construction

of something that close to a neighbor's property line is really significant, and for the life of me cannot figure how they are going to do it unless it is all done by crane and shoreline and skyhooks and stuff. It just does not seem to me, possible. Will the construction of the building where they want to put it negatively impact the environment? I think the biggest question is site lines. When you look into the SEQR application one of the things that is called a view-shed, and if you cannot see something that you used to be able to see your view-shed has been destroyed and I am suggesting that the elimination of the north line as a view-shed is substantial and will have a significant detrimental effect on the environment as it relates to that aspect of the environment. The second thing is storm water management between the building edge and the property line. How do you manage the storm water runoff in a foot? So those are environmental issues. Is there a viable solution other than the requested variances? I think the viable solution there is two. The first is do not do anything. It is a pre-existing building that's still in use and it serves its function. If it becomes economically unrealistic to maintain it in its current location, it certainly can be built slightly to the east and slightly to the north. Get it off the right-of-way but keep it in its essential location. When you look at the non-conforming use stuff that I mentioned a little while ago you will see a whole section on dealing with a building may be voluntarily removed and rebuilt in essentially the same location provided that there is enlargement or extension of the pre-existing non-conformity. So they could build a new building almost exactly where the existing building is. Same height, same footprint, and not have all of the unwanted affect at the other end of the property where my clients situation will be so negatively impacted. I think that may be enough you may be tiring. I would hope that in your deliberations when you are dealing with the question of the non-conformity and the percentage of lot coverage you will take a look at my letter and see that in our judgment the five criteria have not been met. The last criteria that I would just like to mention quickly whether or not the problem is self-created. The statute says if the problem is self-created that's not necessarily determinative of the viability of the application. Some situations are self-created, but that doesn't necessarily mean for that reason alone that the variance needs to be denied. In this situation they have admitted that the building is usable. They are using it now. They are going to voluntarily take the building down and move to a location that we think is inappropriate. So clearly they are creating a need to move the building. The fact that it is on the right-of-way is a fact that's got to be dealt with. If it has been on the right-of-way for 63 years, the State has not come in said move it. If they want to build a building farther east by three or four feet and farther north by three or four feet whatever is underground doesn't necessarily matter. They can solve the problem that they have got about in the same location that the building is now. I would be happy to entertain questions. Mr. and Mrs. Garza are here and if you have any questions of them. I do want to point out one thing. I think some place in one of the documents that I saw there was inference that the Garza had been approached and that they were fine with this proposed location of the new building. That is not okay.

The principal function of the pictures is to show you what the view is now and how it would be eliminated because the new building would essentially come up to where these concrete blocks are because that is about three and half feet from the lake and it would be about the edge of their driveway. One of the safety issues that would become exacerbated by this move is the site distance to the north from the Garza's driveway if the new building is only 2.1 feet from the road they would essentially have to be into the road before they could see to the north to see if whether they were going to get clobbered from some vehicle going north to south on 21. That problem is not the same if the building as located is simply moved to the east. That building does not have the site distance problem that the new building would create. So that would be a significant safety issue for my guys. The end.

Chairman Burgie: A lot to balance. Anyone else like to speak during the public hearing?



Vicki Garza: Yes. I would like to. My name is Vicki Garza. I am one of the ownerø with my husband Francisco at the home. When I first saw Under the Freedom of Information Act, I was able to see the applicantø application and noticed that the first thing he said was no one lives there and it is being leased out and people do not live there. People do live there. We live there six months out of the year. We are here now and we will be here until mid-October. Every six months we live in Texas. I grew up in North Cohocton. My parents had a cottage on Sunnyside thatø where I grew up between Sunnyside and North Cohocton. It was very important to us when we were able to buy something to buy something on the lake. It was a dream I had all my life and it was also our dream to be able to retire and be able to live there. This is actually the first year. Last year we did quite a bit of remodeling inside so this year we could live there. The other thing that I wanted to tell you no one has talked about the kind of noise that comes from a barn like the one they are going to construct. My father was actually was the owner of Robert Miller Company in North Cohocton which is a farm implement dealership. My sister, Luanne, had a house right next to it. I can tell you because I spent a lot of time at her house that there was a lot of noise weekends, nights and all during the day she was always dealing with the problem of noise. We have five children and fifteen grandchildren. Our fifteenth is coming and they are all planning on spending time at the lake and enjoying it as a vacation getaway for our family so this is really important to us. We pretty much made it our major investment in our portfolio to have this place for ourselves as we age. So I just want to let you know we are real people. We really live there and this would really affect us adversely.

Chairman Burgie: Thank you. Are there any other statements during the public portion of the hearing? Okay. Then the next is to close the public hearing and we will relay any public of municipal officerø documentation as appropriate to the case.

Public hearing closed at 7:51 p.m.

I am sorry go ahead.

Mike Hiller: Is there a way I can clarify a couple of things for the board?

Chairman Burgie: Go ahead.

Mike Hiller: It was stated that the building is going to be two feet off the road. We are actually 34 feet from the centerline of the road. Not two feet from the road.

Chairman Burgie: We are not so interested in the centerline of the road. We are interested in the edge of the road.

Mike Hiller: Okay. The edge of the road. We are not two feet from the edge of the road.

Chairman Burgie: How far are you?

Mike Hiller: The actual road itself. The existing building right now encroaches nine feet into the right-of-way. The actual road itself has a 33 feet from centerline so we are one foot off of that. Give or take nine feet I think at least from the road. We are a lot farther than two feet from the road.

Bill Kenyon: The variance request says two feet from the road.

Mike Hiller: So you have 33 feet from the DOT and the actual I have the notes here. We are requesting a 47.9 foot variance.

Chairman Burgie: What is the required setback?

Keith English: I am the code officer. Thirty-three feet is from the centerline to the town's right-of-way and that is where the right-of-way starts and then from there fifty foot.

Mike Hiller: Okay. My apologies. The other point I wanted point out the proposed building is actually six feet from the lake edge of the property to the lake. The property shows three feet on the actual survey but if you look on the survey you will see that it is actually there is land up to six feet. It is actually six feet from the actual water.

Chairman Burgie: From the water or the mean high water mark?

Mike Hiller: From the actual edge of the property where you basically have land and then water. It is actually six feet. Also I just want to touch on the fact that the view right now we always have boats that always get stacked right there at the property all the way up to the edge of the actual property. This building is going to be six feet back. It will eliminate a view obstruction for the neighbors. Also this proposed building will also act as a sound buffer. We close down at 5:00 p.m. We will not be doing heavy mechanical work inside this building so it will shield the neighbor from the noise at the marina. As far as lot coverage goes, I understand that we have a two story building that's a certain square foot we are trying to replace it with a smaller building with less square foot.

Chairman Burgie: Less total square foot but more footprint?

Mike Hiller: Yes.

Chairman Burgie: Significantly more footprint because it is all on one level.

Mike Hiller: Yes.

Chairman Burgie: When I looked from the road just to drive by where you want to put the building, it looked like there was a significant drop down into that area from the road. You are saying that you park boats on trailers there.

Mike Hiller: We do. We have several of them there now.

Chairman Burgie: On that big drop down in?

Mike Hiller: We use that every day to launch boats.

Chairman Burgie: Okay. Is there a reason that you can't instead of building the building there you can't put the parking over there in that area and move the building?

Mike Hiller: If we put parking in there it would obstruct every aspect of the flow of the marina. We need to be in there every day launching boats. To actually have customers park in there.

Chairman Burgie: I am talking about the footprint of where you want to put the new building. You obviously do not want to put the building where the boats are going to be backed into the water.

Mike Hiller: Sure.

Chairman Burgie: Could you use that for the parking of the trailers and boats where you want to put the building and leave the building over on the other side?

Mike Hiller: That is what we do now. We store boats in there because the property is at such an angle there is not much to do down there. We cannot have parking for customers. The hill itself is tough getting out and in is very dangerous. You cannot see left you can't see right. The neighbor's houses are right on up the road. So you can hardly see anything. Coming up that hill you have even less of a view. As far as using that for anything we have tried to use it for many purposes to get down there to store boats. It is such a tight angle that if you try to get a bigger boat down in there you just hit ground. We came up with this idea out of safety if we remove the building in the middle of the property we now have a straight shot through it will make the best use of the land we have available for us. No longer have to go down that hill. No longer have to have people guessing whether they are going to have a car coming at him going 50 miles per hour in a 30 mph zone.

Jonathan Gage: One thing I did notice today it would be a traffic issue but I was thinking across. I was looking at different options trying to find other options to go for the building. One I thought which probably would be a traffic problem but if you took where those pontoon boats are on the other side and you put a building with north and south entrance you can pull the boat through there and then pull back across and it wouldn't create any more of a traffic problem than already exists there. Then you can also eliminate the building at that point. You would have a good storage facility. It would be across the road and it should fit within the guideline I was trying to look at the map here to measure it. So I am trying to create other options for you, at this point, so you can accomplish what you want to accomplish but that you do not accomplish it where you got it.

Chairman Burgie: Understand we are trying to balance your needs to have a viable facility and viable enterprise there with the neighbor's rights and the town's rights to make sure that nobody feels stumped on it, if that's possible. We are just looking for options to that.

I would like to read in the public documentation received from the Ontario County Planning Board. This is in our referral to them of the site plan and area variance requests.

*The project summary of the surface of the entire 0.783 acre lakefront portion of the parcel is either pavement or building. The 0.716 acre upland portion of the lot is comprised of significant steep slopes and exposed bedrock. The existing structure has minimal setbacks from State Route 21 and the lakeshore. The proposed new metal pole barn will be located at the south end of the lakefront portion, over an existing paved area. It will have similar setbacks to the lakeshore and State Route 21 as the existing. The south lot line setback will be reduced to 1'.*

Comments:

*1) Given how close the proposed structure is to buildings on the adjoining property, the Town should be sure that the proposed location and type of construction complies with NYS Building Code fire separation requirements.*

Chairman Burgie: I do not see that addressed in here. We will need that addressed.

*2) The referring board is encouraged to have NYS DEC and the Watershed Program Manager of the Canandaigua Lake Watershed Council comment on the potential impacts the demolition of the existing building will have on the lake, given the close proximity.*

Chairman Burgie: This is a demolition issue not so much a variance for the building issue. That one thing is of major concern to the county.

*3) In addition to the comments listed above, the referring board is encouraged to grant the minimum variance necessary.*

Chairman Burgie: Which is a requirement that the state puts on us. We need to grant the minimum variance necessary to accomplish the purpose that you have while taking into account the rights of everyone else around here.

Do we have any other documentation? That is the only thing we received. We did not receive a response from the DEC.

Diane Graham: Or Kevin Olvany.

Chairman Burgie: Okay. No other documentation then this is the time to open it up for discussion.

Albert Crofton: The only thing I can think of to say right at the moment. It is very difficult, clearly very difficult situation for all parties concerned. I understand that. I am not sure it is going to be resolved to everybody's satisfaction.

Jonathan Gage: I think I would like to see Mr. Hiller be able to improve his place and do options for it but I can also see where the Garzas, from their perspective, it's a very negative impact for them and would like to be able to reach a compromise that would keep the character of the area and help to make it agreeable to everybody.

Robert Bacon: The only thought I had as I drove by the area, I think it was this morning, there is a restaurant to the south of the you that I believe is not in operation and I believe there was a vehicle in their from either the marina or Fields Construction, I do not remember which, but I wondered if you thought about purchasing the property to the south of you just for the maintenance aspect. Your traffic would be visible from both the north and south bound lanes and you could potentially use the state launch and leave your existing property just for sales and showcasing of the new boats. That's another option I think you would like to consider. I do not know anything about the economics. I understand that we are both between a rock and a hard place between the neighbor and your business. I certainly would want to encourage especially small businesses to be successful. That is another suggestion on the table.

Carol Dulski: I think we all feel the same way. This is a tough one. We want to keep your view and we want to see the marina.

Chairman Burgie: Are there any potential options that you have not looked at that could be pursued and not shut you down and not be able to do what you want to do but also not step on their rights and their view of the lake? I think we are all in agreement that this is one that whatever decision we make given

what you want to do or what they don't want you to do is a loser for somebody. So looking for a compromise solution here is what we are really try to do. If we go through the process of making findings against the things that we do need to address, we are going to have to address some significant issues. It is a substantial variance, three boundary variance that is required here. That is a substantial variance that we are going to have to weigh whether or not we can justify that. Some concerns from the code standpoint were raised percentage of lot coverage, the increase of the footprint, and the non-conformity. Those legal issues we are going to need time to take a look at and see if we even have the authority to do it based upon the issues that have been raised. I guess what we are saying is there another way or are we going to be forced into one or the other in making a decision in doing that? We definitely would like to support both of you, if possible.

Albert Crofton: How often do you launch or retrieve boats? How difficult would it be to use the state launch facility and forget about launching boats at your location? You are hundred yards away from state launch facility.

Mike Hiller: We launch every day. I would say more than ten times on average days. The problem with the state launch is it would be economically unfeasible. We go down there and take a boat and we would sometimes wait an hour just to launch a boat. When we have customers demanding their boats we can't spend time, an hour each time we bring a boat down.

Albert Crofton: I live on the lake. I have launched a boat there. I have never waited for more than one boats launch. Admittedly, I am only doing it twice a year one to put it in and one to take it out. No more than five minutes.

Mike Hiller: On the occasion I totally agree with you but when we tried doing it in the past, when we actually were taking them down there, we ran into quite a problem. On occasion you are talking an hour. It is just congested. People have trailers parked everywhere and there is a line. It did not become feasible. We actually tried that.

Albert Crofton: My experience has been the opposite. Admittedly a lot less than yours.

Jonathan Gage: And your response to Mr. Kenyon's statement about moving the building a little to the east and the north are there factors that precluded you from doing that?

Mike Hiller: Yes. I would like to address. You have asked if we searched out any other options. We did search out the options. Your suggestion again was?

Robert Bacon: I think it may be easier if I were to try to describe the location using the map.

Mike Hiller: I think you are talking about the diner across from the west side there?

Robert Bacon: Okay. There is two different options that I was talking about. I was originally talking about the diner across from the boat launch.

I was asking if this space would be an option where the question mark is. So this is south of the gas pump and east of the building that you are planning on demolishing.

Mike Hiller: Okay. So referring to the putting options out there for the property located down at south diner. This isn't a servicing facility this is a storage facility. This a customer service storage facility. We store a lot of our rental gear in there and our tools in there. We would have to be running down there to get all the rental gear out. We need this to be close to the marina where we can walk it. We cannot be driving down all day. It would not do any benefit for the marina. It would not help us out on safety concerns. You had mentioned putting across the road. The problem with that is where a majority of our customers park. If we put a building over there, we would not really obtain that much parking. The reason why is because NY 21 is up here and our lot where the existing building is and where the proposed building is very far down. We are not going to make up a lot of parking if we were to put a building across the road and try to use the proposed building site as parking. That is one of the reasons we did not get into that. The actual putting the building on just like you said here on the eastern side of existing building. We did look at that idea. The main issue was we have a lot of dock slips, customer's boats on there. We like to have any open view and surveillance to keep safety. We like to have a view of the actual boat launch and a view of the actual lot. If we put a building in there we are now taking off a lot of the view so we cannot see if the boats are secure. That is another major issue of that. The issue was it is very close to the lake right there. We are really pushing it. That really was not an option for us.

Chairman Burgie: You cannot be any closer to the lake there then where you are proposing putting it?

Mike Hiller: That property over there is right on top of the lake. It is more of a built dock wall if you will than the piece of land down where the existing building is. That is more of a solid surface. When we are getting into the piece up by the gas docks, I am assuming that right there is going to be a lot less land. You only have 43 foot total or 51 foot total. It is something we looked at and it did not work for multiple reasons. Number one being safety concerns of no longer being able to the see the docks. We have surveillance that watches at night/day.

Jonathan Gage: Cameras andí

Mike Hiller: We have cameras.

Jonathan Gage: Screens and everything would not accomplish the same thing? They would not be able to accomplish the same thing by having the camera system there?

Mike Hiller: We do have a camera system. The building would block off the whole entire dock. You are saying put more cameras on the back?

Jonathan Gage: Yes. Make it so you can see that from your office. That is pretty much the way a lot of places are going now.

Mike Hiller: Absolutely. It certainly could.

Jonathan Gage: Okay.

Carol Dulski: We've talked about the larger footprint. Is there a need for that size building? Can you make it smaller?

Mike Hiller: We absolutely could.

Jonathan Gage: How much farther up would it have to go to still allow you to have your view, I wonder?

Francisco Garza: Well our garden is sixteen feet and mostly the houses are in line. He would be like way in front. If he can stay within sixteen feet.

Vicki: It is not even just our cottage. There are other cottages other residents down the line that would also have their view blocked.

Francisco Garza: So if he could set back a little bit.

Chairman Burgie: Sixteen feet from the lake line?

Vicki Garza: We are sixteen feet from the lake.

Francisco Garza: Right. If he could stay ten feet from the property line.

Vicki Garza: We are not going to suggest that.

Jonathan Gage: I wonder how much you have to reduce to accomplish a compromise like that. Would it be too small for you then? Would that be a consideration that you might be able to look at?

Mike Hiller: Our number one reason for this project was safety concerns. At the same token we are not trying to take someone's view away. As the board is, we are trying to come up with something that helps everyone. If we could scale the building back from the lake to a certain degree to try to make a compromise, we would certainly be willing to do that.

Chairman Burgie: And from the neighbor's lot line? That is a significant variance that you are asking us to make there also.

Mike Hiller: Yes. The number one issue we have to get that proposed building away from the lot line is the boat launch and the tight area we have.

Chairman Burgie: You have gone to a one story versus a two story building. You could still have the same square footage having a two story building there in the same footprint. Is that true or is there a reason that would not work? You have a two story building right now.

Mike Hiller: Okay.

Chairman Burgie: You are talking about replacing this building.

Robert Bacon: That wouldn't satisfy the safety concern that he trying to address.

Chairman Burgie: You have an expanded footprint that is one of the issues that have been addressed here. As far as whether or not non-conforming we even have the authority to grant that variance on an expanded footprint. Can you reduce the footprint by making it two story and have the floor space that you need for in here but then gaining setbacks from the lot line and the lake by doing that?

Mike Hiller: We could. The reason for making it a one story building it was going to be slanted on the neighbor's side so that would reduce the amount of view impedance. Making it a two story does not improve the view of the area. We are trying to eliminate having a two story building right in the middle of the good natural view. We are certainly willing to try to work scaling the building back.

Chairman Burgie: From your standpoint where you are going to be looking is a one story even helping you have any view versus two story?

Vicki Garza: Not at all. We live on the first floor of our house. The upstairs is really more of a loft area. Our bedroom, bathroom, living and dining room everything is on the first floor our porch everything is right there. You might want them to look at the pictures to see what we are talking about. This is obviously pictures from our living room what we see.

Francisco Garza: Whatever you see is going to be a wall.

Vicki Garza: Yes. It will be a wall.

*The board members, applicant, and attorney gathered in front to review and discuss photographs of the neighbor property to the south and there were multiple conversations.*

A motion was made by Robert Bacon to postpone the voting of this matter and give us additional time to research the issues at hand and bring it back to our next regularly scheduled meeting. It was seconded by Jonathan Gage.

All in favor.

Aye: 5 (R. Bacon, T. Burgie, A. Crofton, J. Gage, C. Dulski)  
Opposed: 0

Donna Faatz Application #2017-0003

Chairman Burgie: Okay we have already read the applicants newspaper notice, therefore, it is your opportunity to present your case.

Chris Catoggi: I am Chris the owner of Wabos Construction. I am going to build the building for over across the street. It is a 21 x 24 building two small garage doors. She has a sports car that she is going to be storing in it over the winter which she pays for it to be stored every winter. She just sold two houses that were up on the hill so she needs a place. She has to get all her stuff out. She needs a storage unit to put these places in. She has no room on her property than anything smaller than a tote or something. She don't have room on her property so we are going to do it across the street. She owns two vacant lots across the street so that the only lot that this building is going to be close to it is going to be too close to the front centerline of the road. We are going to be 33 feet off so we are going to need 17 feet for that. The other one is six feet to the south but that's her property anyways and she is going to rezone that property so that it is all one property eventually.

Chairman Burgie: So we are talking about a single variance then from the road.



Chris Catoggi: It does show that I am asking for two variances but the one variance that we asking for is also her property. They are two different lots but she owns both of them. So we are coming close to anyone else's property. It is her own property.

Keith English: It is not rezoning you are combining the lots.

Chris Catoggi: Combining the two lots. Okay. That is a miss-spoke.

Robert Bacon: A little bit of clarification I want to ask. You know you stated that Donna sold two pieces of property up on the hill.

Chris Catoggi: Yes.

Robert Bacon: She currently owns two parcels to the west side of 21.

Donna Faatz: Right.

Chris Catoggi: Correct.

Robert Bacon: Which are titled today vacant lots but you have a storage shed, you have a little mini cabin, and you want to put a garage on it.

Donna Faatz: Right.

Chris Catoggi: Correct.

Robert Bacon: I believe Donna you still own a partial on the east side of 21.

Donna Faatz: Right.

Robert Bacon: Correct?

Donna Faatz: Yes.

Chris Catoggi: It is actually split into two but it is all one big property. She owns both of them and she is planning on owning both of them. She is not planning on selling any of them. So there is nowhere close to the building that I am building we are close to anything. We are too close to the road and we need 17 more feet to meet your 50 foot minimum.

Robert Bacon: So the point is if you were to join the two parcels on the west side of 21 you would eliminate the south setback issue?

Donna Faatz: Right.

Chris Catoggi: Correct.

Robert Bacon: So that is the only setback you are asking for

Chris Catoggi: Is the variance close to the road. Yes.

Chairman Burgie: The numbers being thrown around and I am still confused. In the grounds for relief for variance application you are asking for a 50 foot front setback where 50 foot setback is required.

Jonathan Gage: It is wrong on that.

Chris Catoggi: It was a wording on mine. That was my fault I do not do a whole lot of variances so I knew that we needed the fifty foot we were not within the fifty foot. We really need 17 foot variance.

Chairman Burgie: So a 33 foot setback requiring a 17 foot variance.

Chris Catoggi: Correct.

Donna Faatz: Right.

Diane Graham: It is actually 33 feet from the centerline of the road which is a state road and then from there it is supposed to be 50 feet.

There was a discussion about the centerline of the road and property line setbacks with clarification needed.

Robert Bacon: Where does the setback start? Is it the centerline or is it the right-of-way?

Keith English: Fifty feet is measured from the right-of-way. What did Phil say?

Diane Graham: From the property line.

Keith English: From the property line which is the right-of-way. So front setback is 50 foot so if they you are measuring it from the centerline then is 83 feet off the centerline.

Robert Bacon: To meet the requirements?

Keith English: He is asking for a full variance.

Chris Catoggi: I understand what you are saying. I get it. Yeah I guess. I cannot go back anymore without going into that shale mountain. If I start tearing about that shale mountain, we are going to have a hell of a problem. There is a road/driveway that goes above it to her old property. The closest I can come to that building is where the buildings already are. I am going to go right in line that are already there. It will be 33 feet what we are asking. I guess I am asking for 100 percent. We were told 33 feet and then we were told 50 and I understood that but I did know that we have to be 83 feet from the centerline. Actually nothing down there is 83 feet from the centerline.

Keith English: I agree 100 percent. So if they measured 50 foot from the centerline then you are 17 variance. You have to go by what the right-of-way is because that is what the state has for a right-of-way.

Chris Catoggi: I will go by whatever you tell me to do. I just know from the centerline is where I was going to start building the building is 33 feet. That is the only answer that I know. I cannot back it up

because there is a mountain there. It is all I can do. I can elongate but now you are going to be encroaching on the east side. I cannot elongate it too much because we are only at 21 foot already.

Keith English: So you cannot turn it this way?

Chris Catoggi: I am already the short way. Then that would be 24 foot. The only reason that I have to have it so long is because her car has to go in there.

Keith English: I was down there a couple of times.

Chris Catoggi: I know. I did go the shortest way but the mountain is there. I only have so much.

Albert Crofton: It is pretty clear that I do not understand what the drawing is but right now the road is going to be right up against the building as it is shown here.

Jonathan Gage: The right of way.

Chris Catoggi: The right of way.

Albert Crofton: If the door opens outward as it is supposed to you are going to be into traffic.

Chris Catoggi: No. I have seven or eight feet there.

Albert Crofton: That is not what you are showing here.

Donna Faatz: Maybe that is wrong but if you open the doorí

Albert Crofton: It would be a lot helpful if it were right. It would be damn helpful if the drawing was right. Why are we looking at drawings that are not correct?

Donna Faatz: No one else is having an issue with it.

Chris Catoggi: I did not draw the drawing. They gave us the drawing and I put the drawing on there. It is not right on the wall. Maybe that line is not showing the road itself. Is it showing that line that invisible line that you are telling me that is 50 foot off the wall. I know it is not right on the road. We got like seven foot ó six and a half.

Keith English: Because the shed that is there.

Chris Catoggi: Right. The shed is there. I am not going any closer to the road than that shed. I am going to be the exact same line of the shed and the carport.

Keith English: A tape drawing with a survey instead of you plotting it yourself. Have a surveyor do it.

Chris Catoggi: Yes.

Keith English: I do not know if that will help the board.

Chris Catoggi: I will do whatever you want me to do.

Keith English: I am talking about accurate measurements.

Chairman Burgie: The accuracy of the measurement is certainly questionable at this point as far as what are we talking about and the setback. Reading the state documentation this was from DOT, Greg Trost which we will enter later in this discussion but it says:

*“I am having a hard time picturing it plus the sketch shows the garage offset from the right-of-way line which is better. I searched on Google Earth - is this the location?”*

He is trying to figure what it is you are trying to do and we sent to the DOT. That is one of the comments from the County response again. The County response is:

*The subject parcel is .18 acres. The adjacent parcel to the south is .1 acres and also owned by the applicant. Options for development are limited by steep slopes and exposed bedrock on the west side (rear) of the property.*

Which you have mentioned.

*There are no 100 year flood zones or wetlands on the property.*

Comments:

*1. Part of the area variance consideration is alternatives in granting of the minimum variance necessary. It appears that combining the two lots owned by the applicant would eliminate the need for the side setback variance.”*

Which you have addressed.

*2. The ZBA is encouraged to grant only the minimum variance necessary.*

*3. Does town code allow construction of an accessory structure on a lot with no primary structure?*

Do not know the answer to that. Definition of an accessory structure implies that there is a primary structure. So if there is no primary structure I guess I am going to have to ask the town's attorney on what does this mean.

Chris Catoggi: Would is not be the primary structure would be the house across the street that she owns. It is just like a detached garage is just across the street.

Keith English: If it is all combined. Just because we are saying it is going to be combined. I think you have to show the board that it is all combined.

Chris Catoggi: Okay. I was just asking I did not know the answer.

Chairman Burgie: There is no primary structure on this lot.

Chris Catoggi: On this lot. Okay.

Chairman Burgie: There is a legal issue and a potential legal challenge from somebody who disagrees with allowing it to happen. That is one of the things we need to be concerned about.

Chris Catoggi: Okay.

Chairman Burgie:

*The applicant has not addressed the five criteria required in NYS Town Law to be considered for area variances.*

In your application there is no addressing of any of those five criteria that are in the package that was issued to you to do the variance request. So it is really incumbent on you to show us how you have met the five criteria and whether or not they have been minimized in the process. The five 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 area variance.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial.

This is going to be substantial because as we are looking at the setback variance required it is going to be a significant if not all of the setback required.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Those are the five things that the town code says we must address and we must make findings to support the decision that we ultimately make. We really need you to support us in the information to make a decision on those. What they are referring to here is that your application doesn't address any of those five things. That is just from the county board their reading of your application.

Chris Catoggi: Okay.

Chairman Burgie: In addition to the comments listed above:

*The referring board is encouraged to grant the minimum variance necessary. The referring board is encouraged to allow NYS DOT to have the opportunity to provide comments prior to approval.*

*Dealing with traffic flow and safety:*

*When making findings on the County wide and intermunicipal impacts a proposal may have on traffic flow and safety, the Board will seek input from representatives at the Ontario County Department of Public Works. Intermunicipal agreements and corridor studies that include development guidelines will also be considered.*

*The board will involve itself in the planning and creation of projects that address traffic flow and safety along intermunicipal corridors in Ontario County.*

We do have a response from NYS DOT as I have said he said he is having a tough time picturing what this is to further amplify that this is not as cut and dry as you would think.

*There are two issues to address safety and use of state property. Safety: What will be the distance from the garage to the edge line?*

We do not have a firm decision.

Chris Catoggi: You are telling me the edge line is the white line or is this a make believe line. I am not trying to be rude or anything. I want to understand so I can give you an answer.

Chairman Burgie: I would imagine they are talking about the edge of the road.

Chris Catoggi: So where blacktop ends?

Chairman Burgie: Yes. I am imagining.

Keith English: Yeah. They are talking about snow falling.

Donna Faatz: Yeah.

Chris Catoggi: If you look at the picture here in the packet, I do not know the exact number to the edge of the blacktop but the picture shows there is a car there, there is grass there, and there are steps there. There is plenty of room. I am not right on the line. I am not in the middle of the road.

Chairman Burgie: Let me just continue so that you know what the concerns are that he has.

*Basically some of the houses are up tight to the road basically some are in our right-of-way. We do not want that to happen with any new construction. With the current shoulder width of about three feet some are even encroaching on that distance with parked boats trailers, etc. Will the driveway be regularly used to park vehicles perpendicular to the road and if so does that cause site distance issues to any nearby intersections, curves, etc. If there are no issues that are unusual to area then safety is not compromised significantly and this becomes a non-issue.*

These are questions that he has that he cannot tell by the application.

*Looking at that area (I assume where the street sign has her name on it), there is stone gabions.*

Donna Faatz: Somebody put that in. The State did it I guess.

Chairman Burgie: I do not know what that is.

Donna Faatz: If he is reading that sign, this is my driveway going up.

Chris Catoggi: That sign is way over here.

Donna Faatz: Way off from that.

Chairman Burgie:

*Looking at that area (I assume where the street sign has her name on it), there is stone gabions. In no way, shape or form do we want things to be compromised and have that garage fall into the road from above, if she plans on being up that hill.*

Donna Faatz: He is right. He is way wrong. It is way over here.

Chairman Burgie: So he cannot tell from the application where you are putting it. I guess that is the bottom line here.

Chris Catoggi: Is this on the application? Is this picture on there? He cannot tell from the picture?

Chairman Burgie: Did that go in with the application?

Chris Catoggi: Yes.

Chairman Burgie: I do not know.

Keith English: He had it on the GPS Google maps. He looked at it and he was confused.

Chris Catoggi: Okay.

Keith English: I think aligning it with that building there in his mind he wasn't sure.

Chris Catoggi: I can line it out and take pictures or something.

Keith English: The best thing to do would be to contact DOT and ask if you can meet them or if they can send an engineer out to tell you.

Chairman Burgie: Show them exactly what you want.

Keith English: They do not want you in the right-of-way they would rather come out and meet you and say I do not have a problem with it here, but just because they say it is okay you still have to come back for approval.

Donna Faatz: Do you have their contact?

Keith English: Diane, do you have their phone?

Diane Graham: Yes.

Chairman Burgie:

*Use of Property: If they don't admit to regularly using the driveway to park but merely to drive into their garage then we would have no comment. Otherwise parking perpendicular on our ROW requires a use and occupancy (U&O) permit. I think we would rather not go there if we can avoid it. I also would add that construction and maintenance of a structure on the ROW line could require a highway work permit given the likelihood that a portion of those activities would occur in the ROW. I recommend that the*

*property owner or their surveyor or their contractor speak to our ROW mapping group to ensure they have any pertinent information we may possess which might inform as to where the highway boundary line is. I've seen surveyors get it wrong before especially where we have user/legislated ROW. They should also make sure nothing is in the ROW including any roof overhang which would require a U & O permit.*

*Bottom line, without seeing any plans or what she wants to do specifically there, I would have to say that the NYSDOT cannot support the blanket statement of Ms. Faatz wanting to put a garage on the ROW line.*

So that is their response to us. They are confused they need more information.

Donna Faatz: We will contact them to set up a meeting with them.

Chairman Burgie: I think that is the next step to make sure that they support or can help you alleviate any concerns that they have.

Donna Faatz: Yes.

Jonathan Gage: Am I right in understanding that you are using that for a car when you are going to use this for belongings?

Donna Faatz: Some of my belongings but mainly for my car.

Jonathan Gage: Oh you are going to have your car in there.

Chris Catoggi: That is only in the winter. It is going to be heated on one side.

Donna Faatz: I will keep it in there in the summer.

Chris Catoggi: She pays someone to put her car away.

Jonathan Gage: So it only comes out once in the spring is what you are saying? Okay.

Chris Catoggi: Yes. Not in an out all the time.

Chairman Burgie: So you would definitely not have it parked outside the garage during winter time which is a major concern?

Chris Catoggi: All winter it will be locked in there and warm.

Chairman Burgie: Let's see if we can get their support of what you are trying to do before we act on this to make sure there are not any concerns.

Donna Faatz: Okay.

Chris Catoggi: I have no problem with that.

Jonathan Gage: Is the little building next door pre-existing?

Donna Faatz: Yes.

Jonathan Gage: So that is why you did not go through for that one?



Donna Faatz: There was a building there and when we bought that property we took that building off and just put another one right there the same size.

Jonathan Gage: Oh Okay.

Donna Faatz: Yes.

Robert Bacon: Is the existing building the cabin earlier is that a permanent structure or is that on skids?

Donna Faatz: No. Just on skids.

Robert Bacon: Okay. I am not sure I may be speaking out of turn I am not sure a temporary structure on skids would qualify for a pre-existing building.

Chairman Burgie: You mean the building that is there now?

Robert Bacon: Right. The building that is right here. It looks like a mini cabin.

Chairman Burgie: I understand that but I am not sure why you are bringing that issue. We're not making any determination on that pre-existing building.

Robert Bacon: Correct we are not but there is some inference about pre-existing and maybe a pre-existing condition.

Chairman Burgie: That will not affect I do not think with what she wants to do with the garage.

Robert Bacon: Correct. The garage is brand new construction. We have to apply to current zoning laws.

Donna Faatz: Okay.

Chris Catoggi: Correct. I understand that yeah.

Chairman Burgie: She is not using pre-existing for that garage.

Jonathan Gage: The only reason I raised that question to see if the state had approached when they put the other building up but it wasn't pre-existing so it did not come up that is the only reason I asked that.

Chairman Burgie: Okay.

Diane Graham: It is movable.

Chairman Burgie: So the next step is to contact them and get some concerns relieved there and let's fully define what the setback is required and what that variance specifically is.

Keith English: I have to check because I thought it would say here measured from usually different towns some of them will measure from the right-of-way as I am looking at this it could be centerline to 50 foot or they could be on the right-of-way at 50 foot. It just so happens all the towns in Livingston County that I am used to enforcing and Canadice went from the right-of-way back. I am going to have to check I thought Phil said measure from the centerline out. State road 33 feet depending on the road rod size of the town road.

Chairman Burgie: Would you do that and then let's get everybody educated on what the requirement is.

Keith English: I do not want to mislead anybody if it is 50 feet from the centerline. I know for a fact on the state roads that I dealt with for fences even I had the state say 50 feet from the centerline of the road out.

Chairman Burgie: For the right-of-way?

Keith English: Fifty feet from the centerline to wherever that 50 foot is. Some towns go from the centerline of the road for the measurement and some towns go from the right-of-way. Where I live it is 30 feet from the right-of-way. I am not sure now I got confused because I also was told that on the lake side the lake is considered the front on Canandaigua Lake and Conesus it is the rear.

Diane Graham: Front is the road.

Keith English: That is what I always thought but that is what he was told to.

Donna Faatz: Would you be willing to come talk when I get that guy to come here?

Keith English: No sense in having me there. I am not allowed to influence the board.

Donna Faatz: So you do not need to be there just call?

Keith English: Until the board approves it I am going to deny it anyway. Do you know what I am saying?

Donna Faatz: Okay.

Chairman Burgie: Make sure that they are giving us the accurate measurements that we need to make that decision. That's the main thing.

Donna Faatz: That's right.

Keith English: There is no way they are going to meet it down there by the way.

Chairman Burgie: But we need to know how much of a variance is required.

Keith English: Right.

Chairman Burgie: Is it ten feet, is it twenty feet, and is it fifty feet. That makes a huge difference in the granting of a substantial setback variance. Also we need to make sure where that actual right-of-way line is with respect to the DOT concerns so that snow plows and anything else are not a hazard to your building or your building to the snow plow. Okay?

Donna Faatz: Yup.

Chairman Burgie: Sorry I would love be able to wrap this up tonight but.

Donna Faatz: It is alright.

Keith English: Everybody gets stuck on the right-of-way on their right-of-way but there is 33 feet to whatever on the state road then it is 50 feet I am assuming I got to look at this it has to be at least 50 feet from the centerline to wherever someone can start building.

Chairman Burgie: If that is the case we are going to have a significant issue here but we need to know what the legalities are.

Keith English: Yes. I am sorry. I apologize.

Chairman Burgie: We are all here to have a discussion and make sure that we are all educated and making good decisions supportable decisions and safe. Okay?

Robert Bacon: I want to make a motion that we postpone a decision on the applicant number until we have the answers to the right-of-way starting point and we have accurate articulate measures where the garage will be located.

The motion was seconded by Carol Dulski.

All in favor.

Aye: 5 (R. Bacon, T. Burgie, A. Crofton, C. Dulski, J. Gage)

Opposed: 0

Robert Bacon: All set then?

Chairman Burgie: I am just reviewing flow chart and make sure we are down to the next block so if no one has anything else to offer then we will open it up for any other business as appropriate before the board. Do we have anything else that needs to be discussed tonight? Anything on the agenda?

Robert Bacon: Going back and I not trying to re-open it up did we open it up for public opinion for Donna's garage? I know we have Canandaigua Marina here.

Chairman Burgie: We did not open it up. Okay.

Robert Bacon: We should flush out any other details if there are others.

Chairman Burgie: Let's make sure that we have offered that to anybody as a formal portion of it we will open the public hearing for any comments from anyone who would like to voice any concerns or questions or anything else.

Public Hearing Opened 9:01 am

Chairman Burgie: None. Okay. Then we close the public hearing.

Public Hearing Closed 9:01 am

Chairman Burgie: We have entered into the minutes any other public documentation that has been provided to us and that raised more questions as to what we are trying to do here. We approved a motion to table the matter to collect additional data. If there is no other business as appropriate before the board then can we have a motion to adjourn?

**Old Business**

There was no old business at this time.

**Other**

There was no other business at this time.

**Motion to Adjourn**

Being no further business, Robert Bacon made a motion to adjourn the meeting and it was seconded by Carol Dulski. The motion was unanimously accepted and the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Diane Scholtz Graham  
Board Secretary