

Zoning Board of Appeals Meeting

March 26, 2014

Present:	Tom Brahm	Guests:	Dan Hackett
	Tom Burgie		Jeanne Baric-Parker
	Mary Faulk		
	Ken Hanvey, Chairman		
	Matt McDonald		

The regular March meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:30 P.M. followed by the Pledge of Allegiance. A roll call of members was taken: Mary Faulk-present; Tom Burgie-present; Ken Hanvey-present; Tom Brahm-present and Matt McDonald-present.

Chairman Hanvey made a motion to approve the January 22, 2014 minutes as written. Tom Burgie seconded the motion. The motion was unanimously accepted with the exception of Tom Brahm who was not present at the January 22, 2014 meeting.

Board member, Tom Burgie, then relayed the Rules of Order. He explained that the board members were the applicant's friends and neighbors and that, as such, would grant relief whenever reasonably possible. Tom said they needed to balance the needs and wants of the applicant, if granting the variance, against the potential detriment to the community-at-large as defined in the town code. He said that the board must, by statute, only grant the minimum variance it deems necessary while at the same time preserving the general character of the neighborhood. Mr. Burgie also said that the board may, at its discretion, impose reasonable conditions that are directly related to and incidental to the proposed use of the property.

Old Business

There was no old business.

New Business

PUBLIC HEARING-JEAN BARIC-PARKER-REQUEST FOR VARIANCE-Discussion on the application began at 7:40 P.M.

Mr. Hanvey then explained that the board was going to be addressing Application #14-013Z, Jeanne M. Baric-Parker. He said that basically they were asking for an area variance so that they can build a pavilion without meeting the required front setback. He then proceeded to read the Legal Notice as published into the record.

Chairman Hanvey: At this point, I would like to have the applicant come up and tell us what you want to do.

Mr. Hackett: I'm Dan Hackett from Ted Collins Tree and Landscape. I don't know if any of you have had a chance to go by the site but I did drop off some photographs. Did everyone have a chance to see those?

Response: Yes.

Mr. Hackett: Also, we had the opportunity for the neighbor to the north, Mr. Siewert, to be sent a copy of the plans and he sent an email response back. Did the board get that response?

Response: Yes.

Mr. Hackett: They live on the other side of the road from the lake and the road transects their property. The amount of lakefront available for use it is pretty large. It is one hundred and forty some feet. Overall, they have over 435 feet of lake frontage which is pretty considerable. They obviously have the dock down at the lake with a structure that covers the boat but for sitting down there they are really looking to create a shade structure so they have a place to sit and spend more time by the lake during the summer. So the proposal is to just do an open four-sided pavilion with room for a picnic table and a couple of chairs on either side and have a place where they can actually sit down there and eat lunch. They also have a growing family with their children being married and they are expecting grandchildren someday so I think that they are looking forward to having large family gatherings during the summertime and having a place to sit at the lakefront versus back and forth across the road.

Where the structure is being proposed there is an existing row of arborvitae which, as you can see from the photographs, really screens things off. It is behind the existing fence. There is a fence that runs along from the road. In the proposal, they also wanted to add a row of shrubs to sort of screen that out. Currently, coming from the south, you really would not see the structure at all. Coming from the north, which is the Siewert view, you would see the structure and I think when they spoke with the Siewerts who said that they were up high so they would look right over it and that the pavilion would not really be an objectionable thing.

We are hoping that the board will look at this thing favorably just by looking at the feel of the neighborhood. With the road transecting some of these properties and the homes not being on the lakefront, you do see other structures along the way that are very much closer to the lake. Because of the zoning and the required setback from the lake and having two front properties it makes it a little awkward. So the idea is to slide it back and get away from the lake as much as possible so it is not a structure right up on the shore and not sticking out there obstructing the view. We want to push it back against the arborvitae and make it very low profile to be used as a gathering spot for the family. Other than that, I think it is pretty straight forward.

As far as the test questions, obviously they will be up to you, but we did look at all of the test questions. We typed up our thoughts. We certainly were designing this to stay within the character of the neighborhood and not to cause an undesirable change. The benefits sought could be achieved in some other way by having some other kind of shade structure there. I guess you could have a bunch of little umbrellas but that certainly does not lend itself to a family gathering under an 8 foot umbrella. At one point, we looked at having a fireplace in it and all that and felt that would be unreasonable and block views. It is really just to keep things simple and have a gathering spot. Whether there was some other

method for us to pursue, we felt this was a very fair method of creating some kind of overhead protection. We also, at one point, considered creating just an arbor to create shade but the downside to that with them being there a lot in the summer, is you would have those rainy occasions and it would be nice just to be able to sit down by the water during those events. Whether the requested area variance is substantial, again, is it substantial in light of them having two setbacks because the road transects the property. In reality, if the road isn't there at all, we're in compliance with the 25 feet that is required from the lakefront. So, if you owned a lot and you were building, we are in compliance with that from the tie lines. So is it really substantial or is it a victim of Seneca Point Road? Will it have an adverse effect or impact on the physical or environmental conditions in the neighborhood? We think we designed it to be consistent. It will look like the home. Aesthetically, it will tie those things together while tucking it back to maintain the views. As I told them, because they have 400 feet of lakefront, in reality, they could do a bunch of docks along the lakefront. That said, they could have a sitting area by putting in another dock and a variance would not be needed to do so. They really did not want another dock as they only have one boat and they wanted to just be able to sit up on shore. I think that this proposal is nice for the neighborhood because it's not another dock sticking out in the water. Again, the neighbor most affected by this, Mr. Siewert, was very good with the proposal as he indicated in his letter. The last part was whether this was self-created. If that means whether it was the applicant's desire, then the answer would be "yes". However, the way the road transects the property, it's a function of the interpretation of the code where we really are meeting the setback. I don't know how you look at that as a board. It seems to be that it is a reasonable request because of Seneca Point Road transecting the property and it will give them better use of their lakefront. Does the board have any questions?

Chairman Hanvey: It is pretty clear what you are trying to do. The area that you are trying to do it in is kind of tough. I was down there this afternoon and that is a relatively small area there that you guys are working with.

Mr. Hackett: I didn't mention that a factor in the positioning is that there is an existing underground culvert pipe and catch basin on the beach. We want to put some rocks around that to sort of break up the erosion on the beach shore. Obviously, it is a municipal catch basin and I think at one time there must have been some puddling and there was an agreement. There are no easements for the property or anything like that but when I spoke with Phil I told him we want to maintain that, obviously, so the drainage is very good on Seneca Point and that entered into where to exactly position the pavilion on the shore.

Chairman Hanvey: What are you doing for a foundation?

Mr. Hackett: All we are going to do is use a poured sonotube.

Chairman Hanvey: How far down are you going to go?

Mr. Hackett: Forty-two inches. Frost level.

Chairman Hanvey: How far above the lake level are you?

Mr. Hackett: I didn't shoot the exact topo so I am just guessing. The beach rolls up quite a bit. Right now we are not at high water. Where the shore rolls up we are about 2 ½ feet above what would be mean high. In flood conditions, I do think that the water does come up.

Chairman Hanvey: If you go down 42 inches and you are below the mean high water mark, you could have water coming back up underneath your sonotube. It's another consideration when building structures down there with foundations or piers or whatever. Obviously, if you live on the side of a mountain it would not be a problem at all but if you live on the lake shore you can't always be digging down as far as you want.

Mr. Hackett: I would say that at 42 inches the sonotube base would be adequate, because even though you do have shale conditions down there and I'm sure that you are going to have migrating water in the shale, how that would work is there would be insulation in the ground and in theory the lake isn't going to freeze even though we have had a drastic winter this year. Forty-two inches is the code but if the board felt that it should be 48" I don't think that would be a big deal just to make sure that we are in where the water is not freezing.

Chairman Hanvey: I'm saying that you might be between a rock and a hard place because you are going to need the 42" to meet code and if you are below the mean high water level you could have a hydraulic problem with your piers being that close to the lake having your footers extend down past the mean high water mark. That's a consideration as to whether that is going to keep the structure or not.

Mr. Hackett: Again, because this is a proposal, there will be final architectural drawings that go into the building permit process. I don't think it would be a problem to send this to a structural engineer and ask him about the piers since this was brought up.

Chairman Hanvey: I'm saying that you might end up talking to Ontario County Soil and Water.

Mr. Hackett: Okay.

Chairman Hanvey: The other thing in connection with your write-up here is that the sole reason this is happening is basically so that they have a shaded sitting area.

Mr. McDonald: That's one of the reasons. It's also because if there is adverse weather conditions you want to be able to have a place to sit rather than just sit down there under a tree.

Mr. Hackett: Right. And, again, the idea is not to ever enclose this. As a condition of approval I would almost expect the board to include that as a condition if you should approve our request by stating that the structure can never be enclosed so that somebody doesn't end up putting walls up and plumbing in because that is not the intent of the structure at all.

Chairman Hanvey: One of the first things that they want us to ask is whether there is a way of doing this and accomplishing the shade that you want without the need for a variance. I was reading through your comments and in your explanation you actually mention a way of doing this without the need for a variance because Docking and Mooring would allow you to put a roof up over your dock which is something you could do without the need for a variance that would give you the shade without having to build a separate structure.

Mr. Hackett: Docking and Mooring would allow you to put a structure out in the lake, correct?

Chairman Hanvey: Yes.

Mr. Hackett: But they would not allow you to put a structure up to sit on the shore. If you view it in that way I certainly could not argue that. Something projecting out into the lake, though, is really not something that would be welcomed by the neighboring property owners.

Chairman Hanvey: We are a judicial board so legalities play into this. If this went to an Article 78 proceeding and I'm sitting in front of a State Supreme Court Judge explaining my reasoning and there is a perfectly good way to provide for shade under Docking and Mooring without granting a variance I would have to have an answer for that.

Mr. Hackett: I would hope that the answer would be that because there is screening, because it's protected, because it's on the shore and because it's not another eye/lakeview obstruction. When you look at the total lake frontage there of 400 feet that they have, to have something sticking out is going to be more obstructive to the views and is going to be more objectionable to the neighbors.

Chairman Hanvey: Our problem is more of a legal one. What is allowed and what isn't.

Mr. Hackett: You may want to check Docking and Mooring because I don't think that Docking and Mooring will allow the kind of footage to cover a picnic table and a sitting/gathering area although Docking and Mooring does allow for a structure over a boat. I believe that it's like 200 square feet of sitting area and the rest has to be the walkway. So with the threshold being so small, it really wouldn't be appropriate for what they are trying to do.

Chairman Hanvey: Also, did you consider a temporary structure of some type such as a tent of some kind that would be taken down in the wintertime. Is there some reason why you have to do this with a permanent structure?

Mr. Hackett: Again, I think don't think something like that would give them the size that they are looking for. For a tented canopy you would need structure to hold something of that size unless you mean like a wedding tent. You would need to apply for a permit to put up those large tents. I just don't see it as applicable.

Chairman Hanvey: Obviously, I've got to ask the questions especially when you are talking about a variance of this size.

Mr. Burgie: The required setback from the mean high water is 25 feet?

Mr. Hackett: That's correct.

Mr. Burgie: On your drawing, it shows 30 feet?

Mr. Hackett: Correct.

Mr. Burgie: So you actually have a 5 foot leeway from the mean high water?

Mr. Hackett: That's what Phil determined when I came in and sat down with him with the drawing.

Mr. Burgie: And you are asking for a 5 foot variance from the road?

Mr. Hackett: No. We are asking for a 45 foot variance. From the road you have to have 50 feet because they are calling this the front (pointing to site plan) and the lake is the rear.

Chairman Hanvey: So they are asking for a 45 foot reduction to the required 50 foot front setback.

Mr. Hackett: The road is our problem. Not the lake.

Mr. Burgie: Okay.

Ms. Baric-Parker: I would just like to add that we did look at a number of other alternatives before we talked to Dan. We have an umbrella there that gets blown over regularly and we have rocks on it. It's small, though, and not suitable for a family. We also have had someone talk to us about putting a retractable awning on the boat dock and it's not tall enough to do that. So we have looked at other sort of temporary things, I guess you would say, and over the years we have tried many things. It would be nice to have something like this so we could be down there even in the wind and the rain and even keep a few things down there such as chairs, etc. and not have to carry them back in all the time.

Mr. McDonald: You stated that you have grandchildren on the way possibly.

Ms. Baric-Parker: We're hoping.

Mr. Hackett: They've got their children married off and now they're waiting for the grandchildren.

Mr. McDonald: Obviously, having small children out on a dock structure would be more of a hazard.

Ms. Baric-Parker: Elderly people, too, quite frankly. I also think being out on a dock structure in the evening without any sides on it, to me, would be even more dangerous than being in an enclosed structure with chairs on land. That's all I would add. Thank you.

Chairman Hanvey: Feel free to speak up anytime. You live there and your name is on the paperwork.

Ms. Baric-Parker: We actually want to keep a low profile. I love the view there and I know that people along where the rocks are enjoy that as being scenic. People are always stopping and taking pictures. I think it is nice to see that people enjoy that. I would hate to put another big dock out there with a roof. To me, that would be worse for the character of the neighborhood than an open pavilion.

Mr. Hackett: I did the original work for the Hainens before the Parkers owned it when Dry Rot burned down and the first house was built. I've done a lot of work for the Parkers over the years. We've done all of that beautiful perennial landscaping along the road. What's amazing to me is the people that walk down there from up at Bristol Harbour and they always tell me that it was so nice that they did that and that they made it so nice to walk through there. It is a really nice stretch along that road and I think they just want to maintain that. It is a public area and I think as a member of the community living down there they have done some pretty nice things to share with everyone. I really love their house and what they have done with it. For me as a landscaper it's great, it's a lot of plants.

Chairman Hanvey: That little stretch there just before you go up Bopple Hill Road, there are some really nice houses there. It's probably one of my favorite places as far as the types of homes that are built there and how they are constructed.

Mr. Hackett: It's got a nice feel in that neighborhood.

Chairman Harvey: Yes. It's a really nice part of Seneca Point Road. Does anybody else have any questions? (None) The next step would be for Phil to explain why they needed a variance and, obviously, they need a 50 foot setback from the road and they are asking for a 45 foot reduction to the 50 foot setback which would result in a 5 foot front setback from the right-of-way. Visitation reports?

Mr. Brahm: I was down there yesterday and you were right, it is a very beautiful spot. I kind of feel that with the hedge there it's not going to impact the view any especially being an open structure.

Chairman Harvey: Yes. They are at least making an attempt to mitigate the circumstances. I do have a letter from Jeffrey Siewert. I would like to read that into the record:

"Kevin

Thanks so much for sending me your plans for the renovation to your beach frontage. It looks great and it will greatly improve your beach frontage without impairing on our views or vistas. I think it will look great and be a real asset to the Seneca Point community. Having a place to get out of the rain and sun in and when we get it will be great especially when you have grandchildren as we do. Out of the sun is important to them and it's important to plan for the future. The plan looks great and I hope you get it approved. When your grandchildren arrive they will be happy for your thinking ahead. I think there is no reason this should not be approved. Jeffrey Siewert, 3041 Castalain Court, Naples, Florida."

Chairman Harvey: I believe he is the neighbor to the north.

Mr. Hackett: Jeff is the neighbor to the north, yes.

Chairman Harvey: Okay. We need to determine the SEQR status. It's going to be a Type II action, Section 617.5(c)(12), the granting of individual setback and lot line variances with no further action necessary. However, we need to complete the Short Form anyway. Part 1 was completed by the project sponsor. We have to complete Part 2. The response options are either to check the box entitled "No, or small impact may occur" OR "Moderate to large impact may occur". The board then proceeded to complete Part 2 of the Short Environmental Assessment Form as follows:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Response: No, or small impact may occur
2. Will the proposed action result in a change in the use or intensity of the land? Response: No, or small impact may occur
3. Will the proposed action impair the character or quality of the existing community? Response: No, or small impact may occur
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Response: No, or small impact may occur
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? Response: No, or small impact may occur
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? Response: No, or small impact may occur

7. Will the proposed action impact existing: a. public/private water supplies? Response: No, or small impact may occur; b. public/private wastewater treatment utilities? Response: No, or small impact may occur
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? Response: No, or small impact may occur
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? Response: No, or small impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Response: No, or small impact may occur
11. Will the proposed action create a hazard to environmental resources or human health? Response: No, or small impact may occur

The board then completed Part 3, Determination of Significance by selecting the box that read "Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts".

Chairman Hanvey: We have determined that the proposed action will not result in any adverse environmental impact, Deb, and I would like to make a motion that we make that Finding #1.

Mr. McDonald: I'll second it.

Chairman Hanvey: Motion has been made and seconded. All in favor, say "Aye". All- Aye. At this point in time, I would like to open the public hearing portion of our meeting. Time: 8:08 P.M. If anyone would like to speak please stand up and have your say. Note: There was no one present at the meeting except for the applicant.

Ms. Baric-Parker: I hope you approve my application.

Chairman Hanvey: Okay. I will now close the public hearing portion of our meeting. Time: 8:09 P.M. Discussion and debate?

Mr. McDonald: I would think that aesthetically it would be a lot less of an impact on the area to put a structure next to the arborvitae than to build a new dock structure along the lakefront on the water itself. The arborvitae kind of cover the area there and they are going to tuck the structure right back behind them.

Chairman Hanvey: You are keeping this over by the shed. Isn't that the general idea?

Mr. Hackett: Correct.

Mr. McDonald: Obviously, you have looked at the drainage aspect and said that there is some sort of culvert that comes across the road and you weren't going to interrupt that line. It is going to remain as it exists and always has been even with the introduction of this structure.

Mr. Hackett: Correct.

Mr. McDonald: Was the shed going to be moved or is that going to be maintained?

Mr. Hackett: The shed is getting picked up and moved down and reset behind the arborvitae and more towards Siewert's property, twelve feet off of his property line, and set up in there. That was one of the reasons that the proposal went to Mr. Siewert so that he could see where the pavilion will be and then also where the shed will be moved to.

Chairman Hanvey: This is one of those where the intent and the idea seems to make a lot of sense but it is really pushing the limits on a couple of things. One is, historically, when you get down close to the lake variances are kind of hard to come by. It is treated pretty harshly, I guess, when it comes to changing zoning and things down around the lake. If you look at all the time that was spent when representatives from the towns around the lake for years got together for years to put together the Docking and Mooring Law. If someone is going to go after something in Docking and Mooring they better have really good reasons for doing so.

The second thing that is bugging me is the size of what you are asking for. You are asking for a 90% reduction to the required front setback which is very substantial. I have read your remarks and I appreciate your laying out how much square footage they own but, when they ask that question, what they are asking is how much of a reduction is being requested. In other words, what is the percentage over what is required versus what you are asking for?

Mr. Hackett: We don't disagree with that. I would hope that the board would take into consideration that the reduction is not a setback from the water. It is a setback from what someone would consider to be the rear property line which, because of the road, although it may be substantial may be a mitigating factor. We are actually back 5 feet more from the lake than what we are required to be. I cannot answer that in any other way. I can't disagree with you at all. But as you drive along Seneca Point Road, because of the way that road transects properties, you do see fences up at the right-of-way line. There are older homes that are built and have been there. It is in the character of the neighborhood with how it looks.

Ms. Baric-Parker: There are neighbors several houses up that have something much bigger and walls and everything. We don't have anything like that. Nothing.

Chairman Hanvey: Part of the problem with that is a lot of those were done before the zoning code was implemented so they are what is called pre-existing, non-conforming structures. In other words, if you are living along a road and your house is 25 feet from the road when they come along and put zoning in place and require a 50 foot setback from the road that doesn't mean that they tear down your house. It simply means that your house doesn't conform to the new zoning and it becomes a non-conforming structure and you get a certificate of non-conformity and off you go. A lot of what is down there falls under that. So it is not a comparable application because that was something that was done before zoning existed and now the town is trying to maintain its zoning. Now, unfortunately, you are coming in after-the-fact. Now, anything new that you build has to be in accordance with the current code.

Ms. Baric-Parker: I understand.

Mr. Hackett: I certainly agree with you. The nice thing is that zoning boards have the ability to look at all of those factors and weigh them when making their decision because there are multiple factors involved. I agree that the variance we are asking for is substantial but in light of the variables

given we would hope that it would be an acceptable point that the requested variance being substantial is due to what's there, the neighborhood and all of the test questions.

Chairman Hanvey: They have kind of done the right thing in that they have looked at the lake setback as being more serious than the front setback and they have moved it back far enough. But there is so little space there that the front just creates a real problem.

Mr. Hackett: There is also, which I didn't bring up, an existing fence that has been there forever and ever.

Chairman Hanvey: A variance was granted for that.

Mr. Hackett: It's behind the fence.

Chairman Hanvey: They had to get a variance to put that fence up. I went back and looked at the records. Quite honestly, I looked it up because boards don't always think things through all the way as to what all the possible applications could be. I've seen it where I have gone back and someone has applied for a five foot setback from the right-of-way for a fence and the board has gone through the whole meeting and at the end they have made a motion to grant a reduction in the front setback to five feet and they don't bother to mention that it is just for the fence which literally means you can build anything, anywhere on that property after the five feet. They basically give carte blanche. It should not be done that way but if that is what they have done, it stands. If that had happened in this case, I could have just called you up and said go ahead and do what you want. So I did go back and research that but the variance was granted specifically for the fence. A fence is something down there which people understand the need for in order to get a little privacy. They won't let you go too tall with those but it is a lot easier to get a variance for a fence than a structure.

The other nagging thing that I am having a problem with on this is I would really like to find out, with the lake level being what it is and being so close to it, if going down is going to cause some kind of a problem.

Mr. Hackett: The only suggestion that I will offer for that is that if the setback from the lake is determined by the code at 25 feet and the lake level is 689, the first floor for flood insurance purposes, I think they want that to be at 693 (four feet higher than lake level). But those homes all have foundations that are put in and those foundations are 42 inches. Again, it's not to push off the question you have about the footer because I think that deserves some investigation if something is built. But a home there would have a block foundation and it would have a crawl space in it and that would go down 42 inches and that would have the same impact as we're using the sonotubes going down. So, from the perspective of just building it with that elevation, I believe it is going to be a non-factor because you would be doing the same thing building a house. If the road wasn't behind there and you had a lot that extended back and somebody put their house right at the 25 foot setback and they are at 694 and then they have floor joists plus your existing grade and they are going to go down that 42 inches they are going to have a foundation that's at the same level of the foundation that we are proposing. I've seen foundations along the lake for other jobs we have done where they dig down into the shale and there is water because it is going to seep in and they pour the sonoblock for deck and porches. So I don't think that construction technique is anything unique or different or problematic. I would consult with Jensen who is an engineer. I have had him look at drawings before. He may say

what you want to do is instead of a 12" sonotube go to an 18" sonotube and just do a spread pour at the bottom where the sonotube is coming up.

Chairman Hanvey: And specify a specific type of concrete to use that might be more water resistant.

Mr. Hackett It may be that he says to put #5 to form it in and use 4,000psi with fiber. So I think from a structural component, I would have no problem if the board did see fit to approve it with a contingency to have the drawings reviewed for the footer. That's just us doing our due diligence and that's going to come to Phil to look at that before issuing a building permit on it.

Ms. Baric-Parker: I don't want it to fall down either.

Chairman Hanvey: You know, if you dig a square footer and you tie it all together and then you put block in it, if the proportions acting on it are spread over a much greater area I'm almost more concerned about this because it is four point loads as opposed to a static load-bearing structure.

Mr. Hackett: I think if Jensen said we have to put a spread footer and connect it I guess that would be the answer if that would be the appropriate thing because it is obviously going to have to meet the codes to be built and for safety. Again, I don't think it would be unreasonable for the board as a contingency to say that when the drawings come in Phil will want to be sure somebody looks at the footer.

Chairman Hanvey: The drawings that you have, how close is that to what is actually going to be built?

Mr. Hackett: That's what's going to be built. It will be an exposed rafter. The shingles will match the roof of the house. We want to use some green paint that matches the trim on the house and the natural wood we want to stain the color of the house. We want it to tie in with the house. It will look just like the shed that is there now. Everything will aesthetically be tied in.

Ms. Baric-Parker: We want it to look nice, obviously.

Chairman Hanvey: I like the way the house looks by the way. That came out nice.

Ms. Baric-Parker: I can't take any credit for that. We want to keep that kind of look there. We definitely don't want to degrade the neighborhood at all in any way.

Mr. Burgie: Where is the existing shed?

Mr. Hackett: It's where the building is going to go. The reason for shifting that around was that the arborvitae there is really mature and we want to keep the roofline hidden. We also want to keep the structure screened. We want to have the building tucked down and hidden.

Chairman Hanvey: What are the dimensions of the shed versus the pavilion?

Mr. Hackett: Eight by sixteen (8' x 16") versus 16' x 20'.

Chairman Hanvey: Elevationwise, how high is that shed?

Mr. Hackett: Right now, that roof is steeper than what is proposed for the pavilion. The shed is 12'6" high.

Chairman Harvey: And what will the maximum height be for the pavilion?

Mr. Hackett: The pavilion itself is 13' 5" and then we want to do a venting cupola so to the top of the cupola it would be 15'5".

Mr. Burgie: How does moving the shed affect the requirement for the variance?

Chairman Harvey: I talked to Phil about it and the shed is less than 144 square feet so the shed is kind of a non-factor.

Mr. Brahm: Where is the shed going? Is it going to the north or the south?

Mr. Hackett: The shed is going to the north behind the arborvitae moved back with the pavilion going where the shed is basically now.

Mr. Brahm: So the shed will show more than it does right now?

Mr. Hackett: Actually, when the new proposed deer proof 8-10 foot Green Giant arborvitae go in behind that fence it will create a screen for the shed.

Chairman Harvey: That north corner is pretty well shielded.

Mr. Hackett: Yeah.

Chairman Harvey: So you are planning on submitting engineered drawings when you coming to apply for the building permit?

Mr. Hackett: Yes, for the footers we can do engineered drawings. For the structure itself, all I was going to do was give Phil the span chart data and the size of the rafters because we will be acting as the builder on it. Typically, that will suffice for a municipality. It's like a builder coming in to do a deck. He does not need to provide a stamped engineered drawing of it as long as he provides the data on it.

Chairman Harvey: Okay. Now we need to put together some findings.

Mr. McDonald: I would like to propose a finding that the proposed location for the structure will have a minimal impact on the aesthetics of the neighborhood due to the existing arborvitae.

Chairman Harvey: I make a motion that we make that Finding #2.

Mr. Burgie: Second.

Chairman Harvey: All in favor, say "Aye". All – Aye

I would like to make a Finding #3 that no one appeared in opposition to the application.

Mr. Brahm: I'll second that.

Chairman Harvey: All in favor, say "Aye". All – Aye.

Mr. Brahm: I would like to propose a finding that the neighbor to the north, Mr. Siewert, wrote a letter in support of the project.

Chairman Hanvey: I will second that. All those in favor of making that Finding #4, say "Aye". All – Aye.

I make a finding that the area variance is substantial. The applicant is requesting a 45 foot reduction to the 50 foot front setback requirement.

Mr. McDonald: I will second that.

Chairman Hanvey: All in favor of making that Finding #5, say "Aye". All – Aye.

Mr. McDonald: I would like to make a finding that the completion of the structure will not significantly change the current usage of the property.

Ms. Faulk: Second.

Chairman Hanvey: All in favor, say "Aye". All – Aye.

I propose a finding that the alleged difficulty is self-created.

Mr. McDonald: I'll second that.

Chairman Hanvey: All in favor, say "Aye". All – Aye.

I would also like to propose a finding that a portion of the area where the new pavilion will be located is currently taken up by an existing shed.

Mr. Brahm: I'll second that.

Chairman Hanvey: All in favor, say "Aye". All – Aye.

Do you have a drawing with all the dimensioning and everything on it for the building itself?

Mr. Hackett: You mean final architectural?

Chairman Hanvey: Yeah.

Mr. Hackett: We'll submit architectural to Phil if this gets approved. There is Drawing 1 of your sheet where we are showing the orientation of it as a 16' x 20' structure.

Chairman Hanvey: Would anybody like to make a motion?

Mr. Brahm: I would like to put a restriction on it.

Chairman Hanvey: Conditions are afterward. We need a motion first.

Mr. McDonald: I make a motion that we approve the application for variance subject to our discussion afterward with regard to restrictions.

Chairman Hanvey: Do we have a second?

Ms. Faulk: Second.

Board Secretary: Before we vote, are you going to do it by including the conditions with the motion or are you going to make them separate? Sometimes we do it with the motion to grant and say "with the following conditions" and other times you don't.

Chairman Harvey: Let's include any conditions with the motion to grant the variance.

Board Secretary: Okay. So what conditions do you want to include?

Mr. Brahm: I would like a condition that the structure shall be built as an open air structure never to be enclosed or used for any other purpose.

Chairman Harvey: I would also like to include a condition that the structure shall be built to the drawn specifications and in the location indicated on the plans submitted with the application prepared by Ted Collins Associates, Ltd., Project No. 0027-14.

I would like to include this condition because unless you condition it, technically, once you give them the variance they can build it wherever they want to. We need to condition the approval in a way that the structure presented to us with the application gets built and not something else. If this gets approved, it is going to be unusual for down on the lake like that. The thing that kind of gets you by all the substantial reduction and everything is to me a couple of things: 1-that there is an existing structure there that already eats up a portion of what is going on so we are not completely changing everything and 2-the structure itself being an open-sided structure, never to be enclosed, open air, see through it, etc. The other thing is that it needs to go where it says it's going to go on the plans.

Ms. Baric-Parker: What we want and where we want it is on the plans.

Chairman Harvey: Another thing you may not realize is that when a variance is given it goes with the property. So if you build the pavilion this summer and turn around and sell your place next fall there is going to be a variance on that property that the next person can do with what they want. So if you are not very specific, especially in a case like this, then the new people could come along and enclose the structure and decide that they want it in a different location where it is blocking everybody else's view. That's why we are concerned about it.

Ms. Baric-Parker: It makes sense.

Chairman Harvey: So what do we have now for conditions to go along with the motion to approve the variance?

Board Secretary: The motion would be that the board approve the application for variance with the following conditions: 1-that the structure shall be built as an open air structure never to be enclosed or used for any other purpose and 2-that the structure shall be built to the drawn specifications and in the location indicated on the plans submitted with the application prepared by Ted Collins Associates, Ltd., Project No. 0027-14.

Ms. Faulk: Does that then allow them to go with an 18" sonotube because of the water?

Chairman Harvey: That's actually more of a building permit aspect of the project and I think what I will do is mention to Phil that he may need to have something else come in with their application, an engineering report or something. He can ask for that. It's a concern of mine but it is kind of outside the boundary of what we are doing here.

Ms. Faulk: Okay.

Chairman Harvey: So is everybody clear on what the conditions are?

All: Yes.

Chairman Hanvey: Just to be clear, we had a motion to approve by Matt and Mary seconded it. Then we added some conditions to that motion. So, Deb, now we need a roll call vote to approve the motion with conditions.

Board Secretary: Roll call vote:

Mary Faulk	- Aye
Tom Burgie	- Aye
Ken Hanvey	- Aye
Tom Brahm	- Aye
Matt McDonald	- Aye

Chairman Hanvey: The motion is carried.

Mr. Hackett: Thank you.

Ms. Baric-Parker: Thank you very much.

Discussion on the Baric-Parker variance application ended at 8:45 P.M.

Other Business To Come Before The Board

Training Opportunities-The board secretary checked to see if Tom Burgie or Ken Hanvey had attended the workshop held on February 13, 2014 by County Planning to use toward their 2014 training requirement. They indicated that they had not done so. She also then pointed out that she had distributed copies of a list of available up and coming training opportunities that she had actually already emailed to them as well. Then she pointed out that she had just received information about a workshop to be held on Saturday, March 29, which was very short notice. She said that she had emailed that information to them on March 25 and that she had distributed copies of that workshop notice to each of them also.

Resignation of Mary Faulk-The board secretary then announced that Mary Faulk would be resigning from the board due to the fact that her husband was diagnosed with a serious lung disease making it necessary for them to move from their current home into a one story home. Mary then said that they would be relocating to West Bloomfield. The board secretary then requested that Mary put together an official letter of resignation to submit to the Town Board.

Matt McDonald Status-Chairman Hanvey asked Matt McDonald what his current status was with regard to his position on the board. He said he would continue to be available to sit in on any meetings where he is needed until his position is filled. He said that he had brought in the reference material and his code book so everything would be available when a new member is found. Matt said he also had turned in his resignation letter within which he had stated that he would be available on an as-needed basis. He said he hoped that his situation would be tied up within the next couple of months but that was not definite. Chairman Hanvey then asked Matt what his feeling was with regard to if there was someone interested in a position to replace Matt on the board. Matt responded by saying that, at this point in

time, to go ahead and replace him. Matt went on to say that once his situation got straightened out and his time restraints became more predictable he would then make himself available to the town to serve on the ZBA once again.

Board Vacancies-Chairman Hanvey told the board that a fair amount of people had indicated an interest in serving on the ZBA. He said that he had come up with two candidates that he had forwarded to Barbara Welch. He said that Barbara also had come up with two people that she had talked to so that currently there were four people that should be appointed at the next Town Board meeting. Mr. Hanvey said that the Town Clerk had also just sent him the name of another person but that she did not give him any contact information for that person. Mr. Hanvey asked the board secretary to speak to the Town Clerk and ask her to forward him the missing contact information. He indicated that there may have been attachment that was to go along with the email that the Town Clerk had sent him that was inadvertently omitted.

There being no other business to come before the board, Chairman Hanvey called for a motion to adjourn. Matt McDonald made said motion which was seconded by Mr. Hanvey. The motion was unanimously accepted and the meeting adjourned at 9:00 P.M.

Respectfully submitted,

Debra Minute-Recording Secretary