



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

Zoning Board of Appeals Meeting Agenda

Wednesday, June 27, 2018

7:00 p.m.

Call to Order

Pledge of Allegiance

Minutes

Approval of March 28, 2018 and May 23, 2018 Zoning Board of Appeals Meeting Minutes

New Business

Area Variance Application #2018-0006

Owners: Marc McStay

Property: 6993 Coye Point Drive

Tax Map #: 191.17-1-25.000

Area Variance Application #2017-0002 Amended

Owners: Canandaigua Marina LLC

Property: 7099 State Route 21

Tax Map #: 195.05-1-18.000

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, June 27, 2018

Present: Robert Bacon
Thomas Burgie
Albert Crofton
Carol Dulski
Jonathan Gage
John Holtz
Barbara Howard

Guests: Mike Hiller
Francisco & Vicki Garza
Keith English

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:00 p.m. followed by the Pledge of Allegiance. There was a roll call of board members with all present.

Minutes

Chairman Burgie called for a motion to approve the March 28, 2018 meeting minutes with corrections to be made on page 44 Robert Bacon said "I will make the motion to deny variance #21" It will be corrected to variance #3 and on page 46 Chairman Burgie said "we approved 23.5%". It will be corrected to 23.74%. Albert Crofton made a motion to approve the meeting minutes with corrections which was seconded by Jonathan Gage. The motion was unanimously accepted by all board members present except Barbara Howard.

New Business

Chairman Burgie: Originally we had two different variances that were on the schedule. One of them was resolved yesterday. It was the first one McStay requesting a variance for six foot fence versus a four foot fence. When reading the actual the Town Code, it says that a four foot fence is the limit in the lake area if there an undo obstruction of the scenic view. If there is no undo obstruction to scenic view from the neighboring premises or from the highway then in all residential districts six foot is the limit. Six foot is what they were requesting. I did go down and take a look at it and this is the view from the neighboring property. There is no view from the lake. That is the mother who has power of attorney standing there and asked the neighbor if I could come over on his land. So I went over and took this picture in case we did have a meeting tonight. Everybody agreed there is not a view from there. I came back and showed the CEO and said there is no scenic view from there. I will just issue the permit. So the permit has been issued. There is no variance request and that issue is pertinent.

Robert Bacon: Do we need to submit the pictures for documentation purposes?

Chairman Burgie: I do not think so. I think showing it in the minutes as to why we are not taking it father is probably sufficient. Anyone who is really interested can go down and look at it, but the CEO looked at the picture and said there is no scenic view and I will issue the permit, which he has every right to do under the code. If he issues the permit, then we have no jurisdiction.

Robert Bacon: Okay.

Chairman Burgie: Did I say that all correctly Keith? You just walked in and missed it all. You did issue the permit?

Keith English: I issued the permit and did let them know.

Chairman Burgie: Alright. Thank you.

Rules of Order were read by Robert Bacon.

Variance Application #2017-0002

Diane Graham read legal public hearing notice:

NOTICE OF PUBLIC HEARING CORRECTION

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

Amended 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 required for front, side, and rear setbacks.

SAID HEARING will take place on the 27th day of June, 2018 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.

Chairman Burgie: This is your turn to educate us on your request.

Mike Hiller: I want to thank the Board for every one's time. My name is Mike Hiller. I am the general manager of Smith Boys. Last year when we applied for our variances there was some confusion and problems with the footprint of the facility that we are proposing to build and the footprint of the building that is existing on the property. What we did was have a little bit of a discussion before the meeting closed as to whether or not the facility we are planning to build was the same footprint as the existing facility we have at the marina. Came to find out that it was not. Per prior existing conformity you have to build in a smaller footprint. What we did was we looked at the actual sizes that we were working with and shrunk the building down to what we are proposing. We actually pulled it away from the lake and pushed it away from our neighbor's property. We are now resubmitting that service facility footprint from what we originally proposed. Do you want a refresher as to what we are actually trying to do? I know it has been a year.

Chairman Burgie: Yes please.

Mike Hiller: Okay. You should have a packet with photos there. Exhibit 1 is the first picture. We have this two story facility right in the middle of the property. We have our actual sales office up here and we

basically have a piece of land to the south that borders our neighbor's property. This building we have in the middle of the property this customer facility building is aging and falling apart. We started to address the concerns while if we were to get rid of that and put an actual new facility at the south end we would drastically reduce our traffic impediment and really improve safety. To give you an idea as to how we are going to improve safety and traffic. Do you see Exhibit 1 where I have the first arrow at the top where you see a bunch of boats? That is where we pick up with the tractor any boats that we are either launching or any boats that we sell or any boats that we launch in our launch. We have to then come out into the road and then back down into oncoming traffic lane and go around our existing customer service facility then down a hill that is very steep and down to the launch. If you see the next photo you can imagine how that would potentially cause issues of traffic flow as well as safety. We have had an accident before someone ran into the back of the boat. Luckily no one was hurt. We have had many close calls. Exhibit 1A just gives you a better idea of the actual existing service facility that we have written demolish on and the new service facility which we are proposing. You can tell by the picture how it is a small footprint. The next picture which is Exhibit 1B will give you a better idea about how this will really improve safety and traffic. When we pick up a boat in our main yard there, we will now be able to turn around and back straight into either our launch or a new service facility. We will no longer have to encroach on the road back in to oncoming traffic or have to come up on the road to back down to our launch. We did look into putting a service facility right here which is right next to our existing facility. The problem with that is we have holding tanks right here so that structure and it is still in use. We do have pipes that run all the way down through the whole entire yard here as well as a gas tank. More importantly the reason a building would not work right here is because we have our holding tanks right here and if we do have a service facility here we now cannot be driving up over our holding tanks. It is such a tight area. We basically have to come up back up again come over around our sign we are now back in the road. The reason we chose this area right here is because the one piece of land on the property that is very firm. It is something that we cannot really have customers parking in because right now it is such a hill. It is so hard to get in and out that we cannot have our customers park in there. That impedes are actual logistics in our operation because we have to use the launch every day having customers out here is a big problem. The one piece of land on our property we have that will allow us to put a structure that will improve our flow, safety and through traffic. That is what we are trying to do here. Lastly we had a service facility four feet closer to our neighbor's property last year when we submitted this and it was also 6.3 feet closer to the lake. When we redesigned this and came back yet to get into the footprint of the existing facility we tried to shrink it back to alleviate the view obstruction of our neighbors and also give them more room between the house on that property line and new facility.

Chairman Burgie: Go ahead.

Mike Hiller: Do you have our pictures in case anyone is wondering. It is just a couple photos of what the existing building that is there right now. The customer service facility that we have existing on the property that is what is shown in the pictures. The very last picture I have in the pamphlet there is it three. That is a picture from the south property line looking at the back of the existing facility. The ground you see in front of you that is where the proposed to put the new service facility.

Chairman Burgie: Looking at your map again. I guess I misunderstood. Your actual launch is there. I was thinking it was the next one up.

Mike Hiller: It is actually the dock deck.

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Chairman Burgie: Deck. I was down there. I drove by on that way back here. It is a pretty weathered deck.

Mike Hiller: Yes.

Chairman Burgie: Not much left to it.

Mike Hiller: Mainly an egress for customerø slip on our dock here to get from the marina over and they do not have to go off the road. That is basically what that is.

Chairman Burgie: Okay CEO. The rationale for refusal of the permit just to document. What is the rationale for refusal of the permit?

Keith English: The side setback.

Chairman Burgie: Side setback, front setback, and rear setback.

Keith English: All three of them.

Chairman Burgie: All three of them okay. Visitation reports: I was down for an extended time with you last year looking at the property and what your constraints were and talking about possible alternate plans that you might come up with. I drove down just to refresh myself before this meeting started. Anyone else?

Albert Crofton: I went down and looked at it. I am not fully understanding what the problem was, but I did go down and have a look?

Robert Bacon: Same thing. I drove down. I remember it from last year well. I have some questions, but I will hold those to the discussion period.

Carol Dulski: I went down Sunday night and realized that I must have been in your driveway that I was walking down. I realized how old that building is that you want to be torn down.

John Holtz: I went down last month to look at it to get an idea what we were dealing with.

Barbara Howard: I went down yesterday and looked at it as well so I have a pretty good idea of what they are trying to do.

Jonathan Gage: I came by and looked. I remembered it quite well from before.

Chairman Burgie: I had done a bunch of research and actually took some pictures of pages that I wanted to be able to refer to and I cannot find them now so bear with me. I am trying to look back at some of the earlier information. Diane do you have a copy of the minutes from last year that you sent out? Maybe that would speed things up if you did. Thank you. This is what I am looking for. Research is great but it takes a lot of juggling different things here. Okay the next step formally is to determine the SEQR status. We did that last year and so it is easiest just to recapture what we did because you have not really changed anything from the standpoint of affecting the State Environmental Quality Review Act requirements. Diane this is going to be in the notes you can probably just cut and paste rather than hearing it.

The 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? We will capture that as a finding when we start the findings portion of this.

Here we open up to the public. This is a public hearing and we invite anyone who would like to speak on the subject to come forward.

Public hearing opened at 7:25 pm

Vicki Garza: I have a letter that I will just read. The purpose of this letter is to restate our opposition to the proposed amended application 2017-0002. The applicant Michael Hiller of Smith Boys Jansen Marina of Canandaigua LLC has requested to place a new building next to our residence located at 7101 State Route 21. As you all may remember, we met here May 24 of last year to discuss the same application. We hired a highly respected attorney, Bill Kenyon, who has decades of experience working with the property codes in the Town of South Bristol. It cost us thousands of dollars to be represented by a professional in the field of law. I call forth his entire testimony to be reread and reconsidered as nothing except moving a few feet here or there has changed from the last proposal. I was wondering if you all had a chance to read this I know she sent it out this morning. I know you said you did not have a chance.

Chairman Burgie: I have not seen that. No.

Vicki Garza: Did anyone else have a chance to reread the minutes from last May?

Barbara Howard: Yes. I did.

Chairman Burgie: Reread the minutes from last May. Yes. I did. That went out yesterday.

Vicki Garza: I am talking about a year ago May 2017.

Chairman Burgie: Right.

Barbara Howard: Correct. It went out a couple of days ago.

Vicki Garza: Oh they did. I got mine this morning. I would like to take just a few minutes to highlight the objections to building the new facility. To bring forward the things that stood out to me. These variances are substantial. The marina is making a request for three major variances to construct a building on the south side of the property. The property is zoned C-1 and there may be pre-existing non-conformity issues that limit what a property owner may do regarding the footprints of existing buildings Chapter 170, Article 7, sections 170 through 180 deal with the concept of how the municipality deals with the attempt

to enlarge or extend a non-conformity. The very purpose of this section of code dealing with non-conformity is to keep something from enlarging that is already a violation of the bulk requirements of the code. On number three there is a concern on the percentage of the lot coverage. It cannot exceed 50%. I do not know if it does or not. According to the Bristol Town Law 267 (b) the marina does not sufficiently meet the five criteria for a variance to be granted. Number five building on the south end of the lot would eliminate the view shed. When you cannot see something you used to be able to see, your view shed has been destroyed. That would cause a negative effect as the view shed relates to that aspect of the environment. Number six this request is self-created. The current building issues could be moved to other locations on the property that are better suited than to the south end. In summary my husband and I nothing against the marina. We have been good neighbors to them moving our dock over thirteen feet from where we could have placed it so that they would have access for their docks. Over the last sixteen years we have dealt with four managers at the marina. Wayne, Louis, Bob, and Mike. Until Mike came there was never any mention of a need for a new building to be built a few feet from our property line. We have offered up several ideas to Mike as alternatives and printed them out for you to view this evening as well. The first idea is Plan A it is to tear down the cottage on the north side of the building. You can turn to that. I will go through this packet. If you turn past my letter of the very first page here. My husband is a Photoshop expert. He can put things where they aren't to show you what they look like. You can see the upper one what we see now out of our bedroom. This is what it would look like out our bedroom on the bottom. That is the first page there. The building was there. The next page is the Plan A we gave to Mike and this one we tear down the cottage on the north side of the building currently used for storage and expand their current building into that space for their customer service and repair area. At the same time they could extend the south side of their current building with a large garage opening on one side for boats to come inside and out with a single door on the other side for the customer entrance. This Plan A could also include a second floor with offices and a manager's office with windows all around to give a 180 degree view of the marina. If the first floor could not be expanded, the reason I am saying this is what Mike told me when I showed it to him that there were problems with gas tanks or holding tanks, existing tanks, the second floor could extend and a service a port-to-share giving ample space for office, customer service, and a large working area on the boats to create a showplace for the new boats. This would double the square footage on the first floor with at least half as much additional space upstairs. The Plan A we have it here in several ways. The first is the schematic that shows our property, the showroom and office expansion, the office entrance and the garage door. The next page it shows what it looks like now on top and what it could look like underneath.

Francisco Garza: The idea is to have it upstairs, maybe my software, he could see 180 degrees or more over the entire property. He could view boats and people driving, coming, and going. I think it will be pretty nifty. Downstairs can be still a desk where they can receive people that want to rent boats or they want service. The upstairs can be offices and his command center, if you want to call it that. That way more than double time and half their space where they can have their service. Basically a repair shop. A problem with the building being next to us is going to be a shop that will block our view, noise related to fixing boats, coming and going. Hammering doing whatever the heck they do and disturb our peace and pretty much our view. We are proposing some options for him. As far as the tanks and holding tanks, we live there so we see people driving all over the property with boats and tractors and cars. I do not see anybody going around anything not trying to drive over tanks or pipes so they drive everywhere. I do not think that is a big concern.

Vicki Garza: We do not know if it is a concern.

Francisco Garza: I am telling you what I observe from our property.

Vicki Garza: I want to keep going here with the pages. This next one shows you how really nice it will look if the old cottage went down on the north and then the other customer service place went down. They just expanded it to this really nice looking. It is kind of cool because you have the big steep cliff behind you. Nobody is worried about a second floor there and it will give them a lot of extra space for what they need to do. Any storage that they needed.

The second Plan B is the next one. We were suggesting if they wanted to add to the end the north end if they tore down that they could have more room. Also if they want to move the old building they have there that is 63 years old if they want to move it forward.

Francisco Garza: Build a new one.

Vicki Garza: Build a new one or move the existing one forward or whatever they wanted to do. That would be a Plan B that we could accept. The last page I just wanted you to see what it used to look like back when we were there and the marina wasn't. This picture was taken in 1936. A lot of people do not know we used be the steamboat landing. We did not know that when we first bought the building. We really wanted to tear it down and build a new structure. Then we found out it was more than a 100 years old, it was historic and we decided to keep it. So this just shows before when there wasn't even land there. It is just a piece of road really.

Chairman Burgie: This is a photo from the north of your cottage?

Vicki Garza: Yes. In the winter March 22, 1936.

Chairman Burgie: It is history. You have to keep that.

Vicki Garza: I know. We actually have nine pictures that our next door neighbor brought over because they built their cottage in 1925. They had some old photos. So we have more of these cool photos.

Chairman Burgie: Very nice.

Vicki Garza: So do you have any questions for us on our proposal of what can be done?

Chairman Burgie: Any other comments from the public?

Vicki Garza: Paco, do you want to say something else?

Francisco Garza: We knew when we bought the cottage that we had a marina next to us and it is a lot of things that go on, but we understand that. We have always been friendly with everybody and put up with noise and different things which are difficult with a business next to you even a light that shines all night long in our bedroom. I know that is for security of their boats. We try to cover the windows. We are trying to bring some solutions that may work for all of us so that we can have happy for everybody. I do not know the engineering part of it, as far as like he mentioned, septic and different things. We really would not want a building next to us.

Chairman Burgie: If there are no other comments, then I will close the public hearing.

Public hearing closed at 7:39 pm

Chairman Burgie: Relate any public or municipal officer's documentation that is appropriate to this case. As we captured in the minutes last year, there was documentation in the initial review by the Ontario County Planning Board. There major comments were given how close the proposed structure to buildings on the adjoining property the Town should be sure the proposed location and type of construction complies with the NYS Building Code Fire Separation Requirements. You addressed that. It was one foot on the line at that point. You moved it back to five foot which is the fire code that has been addressed. Referring board is encouraged to have NYS DEC and Watershed Program Manager of the Canandaigua Lake Watershed Council comment on the potential impacts the demolition the existing building will have on the lake given the close proximity. A demolition of a building does require a separate permit so that will have to be addressed at that time. In addition to the comments listed above the referring board is encouraged to grant the minimum variance necessary which by state code we are required to do in court precedence. The new information that they have given us is with the close proximity to the right-of-way the applicant should be asked to confirm that the foundation at the northwest corner of their building is not going to be in the right-of-way. You have done this by a survey and a licensed architect. Is that right?

Mike Hiller: Correct.

Chairman Burgie: So the 1.2 feet is valid from the distance to the right-of-way?

Mike Hiller: That is correct.

Chairman Burgie: A permit is required to take down the one building in the right-of-way slated for demolition and there is no charge for the permit, but documentation of contractor insurance is required. Applicant pointed out the relocation of the service building will reduce required maneuvering in the road right-of-way to move boats from the water to the repair service building. Other comments: any onsite fuel storage and other toxic vehicle maintenance material should be used and stored in compliance with NYS DEC requirements to ensure any spill of such materials does not adversely impact the environment. I assume that is happening now since you have been doing that for some time. This is just moving the building to do the repairs, but you have been using toxic materials onsite and have been complying with NYS requirements?

Mike Hiller: Yes. We do not actually store any oil or anything like that stored in that building. It is all in the other building.

Chairman Burgie: The other building the long building onsite, but it is still onsite.

Mike Hiller: That is correct.

Chairman Burgie: It is not changing what you are doing from that perspective.

Mike Hiller: No.

Chairman Burgie: All demolition debris should be disposed of in accordance with NYS regulations. The Board motioned to retain referrals from the last time to return with comments. There were thirteen in favor and zero abstained. That is what we got from County Planning Board. They did not specifically address the three variances. We have to send it for their review and comments based on multiple

variances and did not specifically address that. These were their comments/concerns when they came back.

Is there any other documentation that we received?

Diane Graham: I do not believe so.

Chairman Burgie: Then I would like to open it up for Zoning Board of Appeals discussion and debate period. If I remember right in the discussion last time, you can see we had a difficult time with the balancing the rights of your neighbors and helping you do what you need to do to be functional. Of course, by demolishing that building and having your traffic on your property and not out on State Route 21 is certainly enhances safety. I think those were the things that came out here, but we were very concerned with being that close to the property line. In particular, the one variance really favors one or the other. We asked you to go back and look for alternatives. Part of the discussion was one story versus two story. The two story people going along State Route 21 two story versus one story really is not making any difference at that point, but it does reduce your expanded footprint and the two story if it were not within that setback from the south lot line would not make any difference to their view either. Is that true? So we had asked to take a look at that two story versus one story. If I remember right, one of the things you said was to work on this equipment you needed tool storage space downstairs. You could not be running upstairs to get that all the time, but you also use part of that as storage space for other rental equipment. The rental equipment could be upstairs. Is that right?

Mike Hiller: That is right.

Chairman Burgie: So enough space for tool storage downstairs so they could actually do the work on the boat on a trailer. I assume the dimension you have here 35 feet you feel that is the minimum length necessary and 18 feet wide minimum width necessary to be able to put a boat in there and be able to work on it?

Mike Hiller: Yes. Forty feet was kind of stretching it when we are working on a boat 20-30 plus feet when you have them on a trailer you cannot get a 30 foot in there and shut the door. We wanted 40 to try to alleviate this and bring it back to a reasonable size here for variances we are going to make do with 35.

Chairman Burgie: Thirty-five and 18 wide?

Mike Hiller: Yes. Also with shrinking the building probably going to find another place to store the rental gear.

Chairman Burgie: Store your rental gear? So what is driving the 14 by 24 side room?

Mike Hiller: That is actually going to be where the tools are.

Chairman Burgie: You need that much space for the tools?

Mike Hiller: Yes.

Chairman Burgie: Okay.

Mike Hiller: When we actually put the boat inside the 35 foot bay you basically have not much room in there. So an area for benches and also area for tools.

Chairman Burgie: One of the comments that you made about preexisting conditions. Do you have a preexisting certificate of non-conformity?

Mike Hiller: According to all the research I could. Also the Town they were not able to find any records at all about the building. I tried to search for everything I could. I know the ownerø had one to do the work we did about ten years ago on a building. They labeled the whole property non-conforming because every single structure there was in the right-of-way.

Chairman Burgie: There is no Certificate of Non-Conformity?

Mike Hiller: There is not. There is no record.

Chairman Burgie: To be able to get a Certificate of Non-Conformity you must apply to the CEO for that and it is non-conforming that is true. That is another process that you can get that certificate. With that certificate according to the code you can then tear an existing structure and rebuild with that Certificate of Non-Conformity. It does not say that you cannot increase the footprint. What it does say is any non-conformity of the building or structure or its use do not exceed the non-conformities of the destroyed building or structure. Do not exceed the non-conformities of the destroyed building or structure. Has nothing to do with footprint. The footprint is not non-conforming. Where it is in the setback is non-conforming. To rebuild in that same space would not increase the non-conformity. To rebuild where you want to does increase the non-conformity because now you bring in two additional variance requests that are necessary. It is not an issue of can we do it? Is it allowed by non-conformity? You do not have a Certificate of Non-Conformity and that is not what you are trying to do anyway and if you did have a Certificate of Non-Conformity you could not do what you wanted to do under that certificate because you are increasing the non-conformity by going into the south line setback. That does not say that he cannot do it based upon a new variance. If the Board grants the variance, that becomes a new non-conformity. I do not need a new certificate. The documentation of the variance granted is your new non-conformity. That is kind of how that works. He is not precluded from doing it if the Board grants it. He cannot do it under a Certificate of Non-Conformity because he does not have one anyway. It would increase the non-conformity so we are basically starting at ground zero and we are going to rebuild from there. If you were to rebuild in your location right now without increasing the non-conformity, you could apply for a Certificate of Non-Conformity and use that then to rebuild in that same footprint or not increasing the non-conformity. That is a better way of saying it. You could do it in the same footprint because that would not increase it. You could move it to the north, to the east, you could extend it out in both directions as long as it is not increasing a non-conformity by introducing a new one. Does that make sense?

Mike Hiller: Yes. I did not know that when I worked with Diane and Phil to try and get this straightened out. I was led to believe that it was just the footprint.

Chairman Burgie: I have done a lot of research on it. Looking at the Town Code and looking at what guidance from the state and court cases are to be able to define. Okay, what is this real issue of non-conformity? You can if you do not increase the non-conformity and if you have applied for a Certificate of Non-Conformity first. You can use that. That is really not what we can do in this case based upon what you want to. We are now precluded as a Board from granting those three variances if we deem that is in the best interest of all involved, which I am not trying to say that it is or is not. That is the discussion that we are going to be having. So that is kind of where we stand. We are discussing new variances. Could

you address the cottage you have at the north end? It is a one story framed building. Why could it not move in that direction as they have discussed?

Mike Hiller: So per the photos that were proposed by the Garza's the one issue with expanding the showroom this way is not only do we have a holding tank right here right underneath our main deck we also have our underground gas tank as well as a DOT drainage that runs right through the property underneath the ground. No real way to build a facility there. As far as this whole building here, we have bay doors and actually tried to use it as a place to put the boats and work on them. It became very dangerous because there is high traffic coming through here. We have about seven feet between our actual bay door and the edge of the road. When you try to put a boat in there, you block the whole road off and you have the width of the road you are trying to back around to straighten out. The bay doors are very small. The building itself there is not enough room between the sheer cliff right here and the building. It is almost disastrous. We do it once every month to put a boat in there as a showroom boat and basically use it as our sales office because of the danger. We try to do it in the day with low traffic. To use any of this area as a place where we are going to bring boats in and out of is very dangerous.

Chairman Burgie: You cannot bring it in if you modify that building you cannot bring it in from the south going north into the building? It would be driving over the tanks.

Mike Hiller: You mean take this whole building and restructure the bay and how it all works?

Chairman Burgie: Instead of building a new building.

Mike Hiller: Say that again.

Chairman Burgie: The tradeoff would be build a new building or restructure that building.

Mike Hiller: This is our sales office and we basically use that whole entire thing for our sales office. That is one of our main gist of our business.

Chairman Burgie: I think what they were suggesting is take down that cottage at the north end, expand that building north more into that space, and move your sales office down a little bit.

Mike Hiller: Right. This is where we keep all our indoor boats to sell put on display so people can buy boats which is the brunt of our business. If we were to try make this into a service facility then it is no longer keeping the boats. I guess that is kind of where our view is on that. You are proposing that we turn this into the sales office?

Chairman Burgie: No. Tear down that building and extend the building north into that space so that your sales office is in the north half or two thirds of that whole space. The existing long building the sales office right now plus extending it up into where the existing cottage is. This is the picture that they were showing and that is what I am interested to see if that is possible at all.

Mike Hiller: I guess to show the Board this right here the actual cottage itself this is ground level right here. This is where the road is right there. You really only have that right there. That is the only room you really have. You would not be able to put any kind of car on top of there or a boat in there. The other issue we actually had plans for that building. It is a cottage. it is a rental cottage we use for part of our business as well. That is something we plan on doing in the possible future. It is not something we want

to get rid of. It is a valuable piece of property there. I guess the number one reason I am trying to say is this is something we did look at, but would not work because is number one this whole area here that is where are tanks are and shrinking this building down and trying to move it up forward it now leaves us with no room to do customer service facility and a very small office that is very hard to get to for sales. That would be our number one concern.

Barbara Howard: The second floor would take care of the offices. If you went two stories that would take of the office situation, right?

Mike Hiller: Yes as opposed to a second floor show room.

Barbara Howard: It might be tough to put a boat up there, but you could put offices up there.

Mike Hiller: Sure. The offices are basically when like you go into a store. You walk in and someone helps you. You would have to come in the marina and go upstairs to see anyone that would help you. It would be counterproductive for business.

Chairman Burgie: These were offices of a sales person?

Mike Hiller: Myself, my sales person, and our accountant. Basically greets everyone right as you come in.

Robert Bacon: So is the cottage rented today?

Mike Hiller: It is not.

Robert Bacon: Is there some body living in the cottage?

Mike Hiller: No.

Chairman Burgie: Has it ever been rented?

Mike Hiller: It was rented in the past during three managers ago. We have plans to do that in the future which would be basically to get the cottage back to its original shape, in its original nice condition, and possibly do rental. Right now we use it for storage both the top and the bottom. That is where a lot of our stuff that we do not have much room on the property so that is where we store a lot of the stuff we use.

Chairman Burgie: Yes. It is small.

Robert Bacon: Mike did you consider at all relocating the gas tank and/or whatever other storage that may be below ground to above ground?

Mike Hiller: No. We did not consider that because we are trying to do this project with the least amount of disturbance to the marina as possible. The main reason for picking this area is it is the firmest piece of land we have on the property. It is not as much in the water table. It is above the flood line high water mark. It is the one piece on out property that has no gas or water running through it. No holding tank. It is just land. Otherwise we cannot really do much with it other than historical.

John Holtz: In your exhibit photos 1A and exhibit 1 you show boats in storage on the north side of the building.

Mike Hiller: Yes.

John Holtz: I exhibit 1B those are removed giving you a clear shot off the road. How would we know that those boats still would not be there in that parking lot area in storage still requiring you to swing out into the road to get to your launch?

Mike Hiller: So let me make sure you are wondering why the boats are here?

John Holtz: These are here and then you eliminated them giving you a straight shot. I do not know if those boats will no longer be part of your business giving you a straight shot or would they just be still there requiring you to still go out into the road.

Mike Hiller: They would not. We do not want to be in the road at all. It is a danger for anyone on the tracker.

John Holtz: You are storing them now or whatever they are doing there. They are waiting for repair or storage. You would have to find a home for them, right?

Mike Hiller: Those boats right there were in the picture from last year. It was a four year old photo because the manager's car was there who used to work there in 2014-15. Those boats that were there were actually on display for sale. The idea of this whole project of moving this building there to there we are actually hoping to pick up a little more parking for customers right along the line where at least people can pull up. To answer your questions we do not plan on having any boats right there. The only boats we possibly have is ones that are getting ready to be in the launch by where the new facility would be.

John Holtz: If one of the main concerns is safety, not going out into the road, how could you ensure that would not occur? That half off the road to the launch would not somehow be blocked?

Mike Hiller: Sure. Our original preliminary thoughts are we are basically going to put a decorative rope style. I guess you call them a bunch of cones set up, but it will be decorative ropes. The channel right here that no one can park in here. Anyone parking is towed at owner's expense. Being that we have our own work truck right now most of the times we park our work truck in front of that ramp a lot of times during busy season so people that drive by and say oh hey there is a boat launch let's go down there and use that. We park that there so people do not go down to park and be in the way of the launch. We have had that problem in the past. What we will do is this will be all blocked off. There will not be a way down through this road right there. We will have a wire or something blocked off. This right here will be blocked off after hours. During hours we will either use cones or be very diligent to catch anyone who tries to park there and say you cannot park there. The whole idea of this is so that we will not be going around this building into the road. None of us like that. It is a dangerous feeling backing up on the road and you cannot see behind it. We usually have a guy behind that trying to direct traffic. We have that lane clear so it can be usable.

Chairman Burgie: Where is your actual drive in off the road onto your lot?

Mike Hiller: The drive in?

Chairman Burgie: With the boats.

Mike Hiller: If you were coming down the road with a boat you would pull up here and back down in here which creates a little problem sometimes because customers try to pull in forward and they do not know and then they have to back up onto the road.

Chairman Burgie: If I remember right, we had some discussion about where the launch is right now and just to the north the water comes in farther into that little ramp or deck (worn out deck), you said it might be possible to move your launch north to give you more room to move the building that you are proposing there north.

Mike Hiller: This right here is our existing.

Chairman Burgie: That is your existing launch and just to the north of that you said that could be the launch.

Mike Hiller: It could be. It would have to be dredged. It is very shallow right there. It is also the reason we originally put that deck there is to two reasons. One we to have an egress to come through and the second is not just a gradual incline. It just drops off and go to a very shallow pitch there. So you could. The main reason we wanted to keep using our boat launch was because this is a pretty big hill right here so when we do back a boat down in here we have to make that corner. The more farther we bring the launch this way you are backing up into the hill and then try to swing a boat down into here which why we want to preserve our launch. It gives a big turning area so we turn the tractor into it or a truck you can still make that corner.

Chairman Burgie: What are your thoughts if the south line variance was not granted? What would you do then? The biggest sticking point in all of this discussion that I had with it anyway is the impact it has on your neighbors. If that south line variance was not granted, but the rear and the front setback variances were granted, what kind of options could you look at?

Mike Hiller: I guess one option that we could look at is to see if there is a way to somehow maybe fill in half of that to move the building up so we could still get to the launch. Again we tried to scale this down as much as we could. There is no room at all. If we had more room to do this, we would do it because we would not be here today having variances. We do not want that. We certainly do not want to encroach on the neighbors view any more than we want. We are trying to get this done in a way that saves and makes sense.

Jonathan Gage: So you are planning on in Exhibit 1A here if you are bringing your boats in from the north is where you put your boats to work on and then the reason this L shape is down here is where you are going to be storing your tools?

Mike Hiller: Yes.

Jonathan Gage: So you are bringing the boats in here and this is going to be your tool area? I looked at it and as you notice the road curves out so your right of way will be expanded more if you go this way too. Is it possible and you have to see if the Garza's whether that was enough of a compromise to make us all live with it? Is this section here make it so your boats are coming in through here and then you move your tool area up to here. Is that possibly feasible? That is an idea I had that would give them an additional

fourteen feet of visibility on top of their nine and that would give you twenty some feet. It should from when I remember being in your bedroom it would probably push it back quite a ways. This is off the top of my head.

Mike Hiller: I do not think that gives us enough room to get our boat into the actual building. You are talking a small slice of that. If I could show you.

Jonathan Gage: I have a picture here and you have in this picture here them coming along the edge into the launch. If you move this section here up to here, you are saying you would not have enough room to get in on this side?

Mike Hiller: With the truck you swing and would hit the building. That is the problem pushing it to far forward you have to have a turning radius.

Jonathan Gage: If you go any to the west, you are in the right of way then.

Mike Hiller: We are 1.2 feet off the right of way.

Robert Bacon: Tell me why in this scenario if you are physically bring the building from the south corner of the property up to the jut out by the lake, why we could not use that piece of property?

Mike Hiller: The first reason it is not the most solid ground to support a building. It is fill and we have issues with our gas pumps and gas dock as well settling. I did talk with one of our people that had given us quotes on this building. I had him look at that area. He said this is not a suitable area. You would have to put a lot on there to have a building built right there. That is one of the main reasons we did not look or pursue putting a building there. To be honest with you that was my favorite spot. That is where I wanted the building to go, but between not having an open view and the actual ground being not suitable for building and being in close proximity to our gas pumps that was the main reason we shelved that.

Chairman Burgie: Where are your gas pumps?

Mike Hiller: Right there.

Robert Bacon: To keep everybody on the same page can you point out on the easel?

Mike Hiller: That is the gas pumps right there. We have two of them actually.

Barbara Howard: Mike, can we go back to the north building again? I understand that the cottage is something at some point in time you might want to fix up. It is clearly not rentable now. I was down there yesterday and I can tell from the outside but I assuming the inside does not look much better than the outside. It would take some work and time to do it. Can we go back to assuming that was something you were willing to swallow? The building now the one story metal building this looks to me if I am reading this correctly is about 36 feet wide. To proposed new building, and if I understand correctly, you are going to bring a boat in is 18 feet?

Mike Hiller: Yes.

Barbara Howard: Almost exactly half the size of the current one building. If you split that building, the current nice new building to the north in half, basically you would have an 18 foot space and it would go back, it looks like to me to be 80 feet, okay?

Mike Hiller: Yes.

Barbara Howard: And you would have another 18 foot that would go back 80 feet. Again it takes thinking outside the box and doing some things with it on the second story and doing some storage. In terms of the space that you need to get the boats in again you will be bringing the boat in not perpendicular but parallel to State Route 21. So you will be bringing the boat basically in this general area here. When I was there yesterday anyway, there was boat traffic right there anyway. That would give you the opportunity to maybe not that long to have some additional parking down closer to the south end. Again obviously out of the way of the launch so you still have the egress. I still think that maybe you do not need the cottage space, but I would guess that would probably do it so it was all one. Has that been given serious consideration? It looks like the space is there given the dimensions of the new building. If I take that new building the two rectangles there and put them end to end it is 35 and 24 which I am pretty sure is less than 80. I do not know exactly what it is, but it is less than 80.

Mike Hiller: We did just invest in a new metal roof for that cottage so we are in the works of fixing it. That was done a month ago. To get back to the idea of splitting that building. The only issue with that is then we now have basically just two channel ways where boats can come through. We know longer have that room for customers coming in and seeing us in the actual office where we do all of our work. The first half of the building as you know at least one quarter to one third is all office and sundry sales. That is generally the bulk of our business. Splitting that building and basically using one side for a humungous long shop, if you want to call it, for a customer service facility and the other side maybe one or two boats and no real way to make a permanent office to greet customers that would be the main problem. That would adversely affect business. I do not know how you would put office where you greet customers and also still be able to get the boats in and out in two separate rooms. I guess am I on the same page?

Barbara Howard: Yes. You are on the same page. I am not an architect so I was envisioning half of the building is 18 feet. That is not a small space. It is not a huge space. If you can get boats in on one side to get repaired, you should be able to get boats in on the other side to show them off. Again, I do not know how much of an office space, but you are really talking about yourself and a salesperson.

Mike Hiller: There is actually three offices and a main counter.

Barbara Howard: Those people do not interact with the customers.

Mike Hiller: They do.

Barbara Howard: So they are actually part of sales?

Mike Hiller: Yes. All of them.

Carol Dulski: You said the accounting office was downstairs on the first floor. Does the accounting person interact with the customers?

Mike Hiller: That is the number one person who greets basically. I guess accounting is the wrong name. It is actually admin/front desk.

Carol Dulski: Oh okay.

Mike Hiller: We have an office I guess about that long that houses three offices, our main counter where all our activity happens, and then a wall with all our place to put parts and that kind of thing. Where we actually sell the life jackets. The building proceeds down to the end the extra 60 feet. The problem is if we split the building and try to bring boats in we could still probably bring boats in through the bay doors we have towards the road, but then you can no longer have a way where you come in here with a boat if you are going to split it because we now have this area we our offices. I am trying to think of how we could do. I did look at almost every single option I could of for this building when I originally had the thoughts to take this existing building down.

Chairman Burgie: How many boats to do normally have in there?

Mike Hiller: It all depends on the size really. Our corporate office usually sends us what we can get for the year. It is anywhere from four to six. We try to have a selection that customers can buy from us with the competition have a lot more property in Canandaigua. On any given day they may have 20 or 30 new boats. We are limited on how much we can have in the actual yard and we put all we can in the actual showroom.

Barbara Howard: Could you make the showroom L-shape because you do not need the whole eighty feet for service, right? I am using your new service building you do not need the whole eighty feet back here so you could go back and come around. Some of the boats could actually be behind your service area. So you are using the half the building for the service area maybe a third of it and the other two-thirds was your showroom. I am trying to find a way that if you take a look at the pictures. That is the kind of thing that cleans up the whole area. I am sure you feel the same way.

Mike Hiller: It does. I am not trying saying it cannot, but is kind of unrealistic to try to put the building scope. The building scope in the picture is assuming we are going to build over the top of the gas tanks and holding tank. That is all elongated with the building. It is basically building the building farther south making it a longer building. The only issue with the L-shape back in there you can really only get one boat on that L. You cannot make a corner there. The boats are 23 foot long which you have a 19 foot boat with a trailer.

Chairman Burgie: Which direction do you bring them in?

Mike Hiller: If you are going to make this into an L-shape either way if you are bringing a boat in here having this being the service corridor or if you are havingí

Chairman Burgie: Which way do you bring them in now?

Mike Hiller: We bring them in through the bay doors. That is the only exit we have because like I said this is all offices.

Chairman Burgie: You would not be bringing them in L-shape anyway. If you continued bringing them in the direction you are through the bay doors on the end and have your office space down in the southeast portion of it with a third of the building going up.

Mike Hiller: This is where our offices are right now. This where we have three bay doors. That is where we back boats in right now. It is extremely tight. If you have ever been inside the showroom, it is like a game of Tetris trying to get them in there. So trying to split that building up is going to be very difficult with offices and boats. We could probably do maybe one boat. We tried using that as a natural customer service where we could bring the boat in and get it out of rain to work. It was just so dangerous that everyone that was involved said I am not going to do that. I will work out in the rain.

Chairman Burgie: Yes. You do not want to do it on a regular basis. As you said you bring them in and they sit there until they are sold. It is a one-time deal for each one of the boats.

Mike Hiller: It is a great idea. I am with you on that as far as using this building as a customer service facility that knocks out another avenue of doing business which is our primary junction here is to do sales. That is what we try to do rental and sales and that space is rental and sales office here and that right there is we try have our boats available for customers to come by. So splitting that up I just do not see a way we can do that and still be possible to do that.

Barbara Howard: Your service area right now everything is fixed outside?

Mike Hiller: Yes. It is basically a tool storage building and not storage for our rentals.

Barbara Howard: So will the proposed new building will only have one boat in there at a time?

Mike Hiller: That is correct. Unless we have a jet ski.

Chairman Burgie: In the existing building you are looking at tearing down there are brown lines on the north side of that what are those? Is that piping?

Mike Hiller: Break walls. It is a very steep hill you can see the grade.

Chairman Burgie: No. On the north.

Mike Hiller: Yes. It is a very steep hill right here and it is also steep here. This is a break wall that gives a lower elevation right there and higher elevation here. Basically railroad ties stacked on each other.

Chairman Burgie: Got it. So right now on the existing building you are driving the boat in. Can you point out where you actually back a boat into there to work on it?

Mike Hiller: There is no garage in that building.

Chairman Burgie: Oh you are not working inside that building.

Mike Hiller: No. We do everything outside which is one of the other points I would assume would have been an improvement for the Garzaø. The back wall is going to be heavily insulated for sound. Right now we run these things right out in the marina yard. It does not stop that noise from hitting the house. That being said we would not do any work past 5:00 pm. It would be quiet after that.

Vicki Garza: We live there all day. A repair shop next to us would affect us all day long. We do not go to work and come home later. We live there all day.

Chairman Burgie: Other than the break wall and the higher elevation just to the north of that existing building what other impediments do you have to building in that area? Taking it fifteen feet to the north and just extending it up.

Mike Hiller: Right there is the underground holding tanks and right there is our underground aerator? tank.

Chairman Burgie: I do not mean that far up. If you were to take that footprint of the existing building and where you have the indentation there draw a line straight up it would be 15 foot wide actually you want an 18 foot wide. If you took about an 18 foot and extended it up farther you would have to dig out some of that higher elevation break wall there, but do away with the portion on the left and take it straight north so it is a longer building. Could you still get the square footage that you need, the length and the width, to be able to put a boat in by doing away with the left side of that building you would have driving room to come through there?

Mike Hiller: So you are you proposing this right here basically.

Chairman Burgie: Do away with that part.

Mike Hiller: And bring it this way?

Chairman Burgie: Yes.

Mike Hiller: If we were to get rid of the holding tank that is almost five feet next to it which we had an big issue getting in there in the first place. If we were to do away with that and the move the building forward, you are proposing that we would back into the new like that? I am trying to make sure I understand.

Chairman Burgie: Well you can do it from either direction. I am not sure which is easier for you to back it from the north or back it in from the south.

Mike Hiller: There would be no way I could personally I do not think there would be a way to back it in from the south. The only entrance here is a very steep hill.

Chairman Burgie: If you do it with the left side of the building you could come in from the north.

Mike Hiller: Right here?

Chairman Burgie: Yes. Do away with the left side and come in from the north past the building down toward the boat ramp and then back it up to the north or you can back it down from the south. That would be your choice. It would be looking at using part of the footprint where the existing building is. Do away with that is 15.4 that the left side of that building to do away with 12 feet of that. So you have an 18 foot wide building there and just take it north to get your additional space.

Mike Hiller: So then I assume we would be basically backing the boats on the shoulder of the road there to get it in the launch?

Barbara Howard: I think he is saying in front of the building between the building would be closer to the road and back it in between that.

[Inaudible: Chairman Burgie suggested option to Mike Hiller and Mike Hiller explained the backing safety issue with the suggested option.]

Mike Hiller: I hate to sound like a broken record, but every time we get to something when we have another idea it always comes down to a safety concern. I do not try to use this as trump card, but that is the main reason why we were only able to locate this one ideal site on the property to do this facility.

Barbara Howard: Did I understand correctly the land in front of the current building now is not stable enough to build on? Is that what they are telling you?

Mike Hiller: That is what I understand. It's from preliminary research and also from my experience. It is fill. It is not the most stable. It does fall apart, if you will, especially towards the edge of docks the lands have disappeared from the water. Are actual docks themselves they keep going down and down. Coming here and have to rebuild that as well to raise them up.

John Holtz: Since we are all thinking out loud here. In the existing area if you had overhead doors on each end you could enter the building from each direction so you would not have to do any backing around. Would that alleviate any safety concerns? You could come in from one end and exit the other.

Mike Hiller: I totally understand. I did think of that idea as well. The only problem with that is I do not know how you are going to have room in there to actually work on anything if you have that small of an entranceway. If you were to put a bay door here, you are saying, and a bay door there and just come down through. There is a couple of reasons. One is very tight so coming out of here and making this turning radius is going to be very tight especially with the bigger boats. You are going to be asking for problems. The second thing is with our customers coming through. I do not know how you would do that because this building would have to most likely to be changed and widened to accommodate a wide enough area to get a boat safely in and tall enough to get a boat safely through it.

John Holtz: Well we are talking about taking down the existing building and putting a new building up on that spot so you could make it however you want it because you are going to be building a new building anyway. So you are going to be tearing down that building anyway so we just put a new safety designed building in that spot so you have entrance in egress and then the new building down at the south end would not be there so it would give you more room to pull in and back around because that would be more like a staging area rather than a building location.

Mike Hiller: It would be but the building would have to be L-shaped to accommodate the holding tanks which I believe would be very difficult to try to get through with the tractor, truck, and trailer.

Barbara Howard: Where are the holding tanks? They are not on this map, right?

Mike Hiller: No. They are not. They are underground right here.

Barbara Howard: Just north of the demolished building?

Mike Hiller: Yes. Literally it is basically right inside of the retaining wall. One foot off the side of the building there.

Robert Bacon: That is a septic holding tank, correct?

Mike Hiller: That is a holding tank for septic or water. Currently we just have it pumped.

Robert Bacon: Because you have no leach field?

Mike Hiller: Yes.

John Holtz: Is there any way to drive over those or manufacture something to make it okay to drive over that? Like putting a bridge over it or something.

Mike Hiller: We can drive over it, but we try not to as much as we can. The main concern is up top there is trying not to be in the road. As far as the actual holding tanks, they are a very high elevation. I guess I am trying to come up with the right terminology so you can relate to it, north of the existing building where it says 30.4 feet, you see that orange line, that is our break wall. That is a raised elevation to accommodate the tanks. So if you were trying to actually build almost a covered bridge type service facility I suppose we would call it, you would have to basically have it be an L-shape to come in through there because this is high and our holding tanks. This is all low which is why our original plan was if this building was not there we could sneak in across and down into the launch. I understand the idea, but I do not know how we would accommodate it with that elevation change and with the tanks in there.

Barbara Howard: You have had more than one person tell you that the land further to the east of where the old building is now so that the boats would come behind it to get launched that area is not feasible to build on it at all?

John Holtz: The lake side of the existing building.

Mike Hiller: I had one person. I had one of the people that we were actually originally looking at before I did anything I hired someone and had him called down. I had a couple people actually just to get any ideas of what they thought would be great options for us.

Barbara Howard: Clearly in terms of the land where you have selected is probably the best option, but is it feasible to put it someplace else so that you sort of accomplish and it is not in their backyard if you will? It would also give you by the way the potential option of because it was right there next to your launch it will be in this little square here. Potentially give you the option of doing something with a shop that lets you have the boat in the water and in shop at the same time which I know some of the bigger marinas have the ability to fix the boat in the water.

Mike Hiller: Yes. That is exactly why I thought because the boat pulls up and boom we are right there. Not only that we have room to put rental gear in there right there on the docks. Again, we abandoned the idea because we had issues already with things we have down there right now with the docks and the break wall falling in so to try build an actual facility in there.

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Barbara Howard: Half of Chicago is built over water. They filled it in. Has not fallen in yet. It may not be feasible, but what would it take to do that?

Mike Hiller: Again that goes back to trying to get this done with a minimal amount of disruption to the land which is why we chose the one site that really seemed to have the least impact.

Chairman Burgie: Least impact to your operation.

Mike Hiller: Operations and also

Chairman Burgie: Not to your neighbors though.

Mike Hiller: The neighbors, we chose that site because it is basically the best option to alleviate safety.

Chairman Burgie: For safety. I see the safety concern.

Robert Bacon: Mike, have you considered, and I know this is thinking outside of the box, there is a piece of property that is now vacant to the south of you across the street. It used to be a restaurant. The restaurant has been torn down. Did you think about relocating the service area and buying that property?

Mike Hiller: We did. Unfortunately, that property was sold to Jeremy Fields. He had plans for it. It is out of the question as far as that one goes. We did look at doing a facility offsite. Anything is possible. We could do this in Florida, but it would not work logistically trying to get all of our parts and running back and forth. We have a storage facility three miles down the road and we tried to use that before to do some jobs. It guess it got expensive really quick. The guy forgot the one part now we spend an hour going back and forth to the marina to get a set of electrical cables.

Robert Bacon: So you do own a building three miles south?

Mike Hiller: We do.

Robert Bacon: Did you seriously consider separating the sales from service where you have your parts in service in one building and just new purchase sales in the other building?

Mike Hiller: That is our storage building. That is where we store all our boats for winter. It does not have electric and not developed. It is a big pole barn. It is not right on the lake. It is down off the road near the swamp. It is not something we would entertain making it an actual sales office or for service facility.

Carol Dulski: With the proposed building, going one step further, can you make that a rental facility and just divide up the sales of the rentals so you will not have to worry about the noise, if that makes sense at all?

Mike Hiller: This right here you mean?

Carol Dulski: Yes. A smaller version of it so it would fit into the parameters of what the codes are and then make it a rental, like you said, to sell life jackets or whatever. Just divide up the sales of the boat versus just to fit in there.

Mike Hiller: As far as room goes, we might have enough room for offices, but everything is centrally located there basically for marina operations.

Jonathan Gage: You had all the first building up there strictly for service would that be sufficient for you for your service aspect without the sales?

Mike Hiller: This right here you mean?

Jonathan Gage: Yes.

Mike Hiller: I guess I do not follow.

Jonathan Gage: If you were able divorce your sales from that building, would that building be sufficient for your service center?

Mike Hiller: This right here?

Jonathan Gage: Yes.

Mike Hiller: You mean if we were to take all the area and devote this building for a customer service facility?

Jonathan Gage: For repairs.

Mike Hiller: I guess to answer the question is no because this right now is a sales for boats and it is also basically an operation standpoint. This right here would become the office and then we have one big service facility. We do not do that much service. We are mainly a sales and rental operation. So that is the idea of trying to make it smaller service facility where we house one boat and that is it. I guess to answer your question this would be a very small building for the brunt of our business. Just sales and rentals.

Chairman Burgie: You could not park any boats in there to show to people? Even though the majority of that larger building is for boats in there.

Mike Hiller: Which stinks because if this road was not here we just cut the building in half and away we go. We could even go long. The problem with that is the safety feature that we are trying get away with. We do not want to spend money on a new building. We want to maximize profit and want to do well. It is not that we are trying to ruin anyone's view or create variances. We are trying to do this the safest way possible. To do it where it is safe for us and safe for traffic. Trying to minimize the amount of views obstruction for our neighbors, but also preserve the feasibility of the marina to operate the marina. We have looked at every option and we are certainly open to more, but we were not able to find any. That is why we ended up there.

Robert Bacon: Mike help me understand that I think you just said the showroom and the retail sales is a majority of your business? Service is a minority.

Mike Hiller: It is tied in with storage.

Robert Bacon: From an employee perspective how many people do you have supporting retail sales and how employees do you have doing mechanical repairs on the boats?

Mike Hiller: I have two mechanics. One is there during the week and one is there on the weekend. They are not heavily trained mechanics. They can do simple things like fixing a horn, changing your oil if you needed to. We do not get into blowers and parts and that kind of thing.

Robert Bacon: They do not get into heavy repairs?

Mike Hiller: No.

Robert Bacon: It is minor repairs?

Mike Hiller: It is minor repairs. We send all of our heavy repairs to our feature store where they have Mercury certified technicians.

Robert Bacon: Could the repairs be done offsite?

Mike Hiller: Again that goes back to us trying to use our storage barn where it is not feasible to have something offsite permanently dedicated to this. You have to be on site to work with all of our parts and tools. It is very difficult to try and maintain an offsite facility.

To go back to the question we have two or three dock hands and use them as floaters, two salesman. I double as a manager and a salesman. I have three other people in the office that rotate to the front desk and one that helps in the office and sales and also outside as a deck hand. Nine people.

Carol Dulski: Is it all full-time?

Mike Hiller: All but one of the office front desk is part-time.

It is just our service is all of the boats that come out of storage in the spring and fall all the boats come in for storage. That is the main gist of our service side of things.

Robert Bacon: [Inaudible]

Mike Hiller: In the summertime here and there it is someone's bilge pump. The guys climb in there get that fixed.

Chairman Burgie: So your storage is this pole barn three miles south?

Mike Hiller: Yes.

Chairman Burgie: Those are the boats that need to be summarized or winterized and it is not feasible to do the summarizing or winterizing in that building where you are storing the boats?

Mike Hiller: There is no water or electricity.

John Holtz: I have a question for the CEO. I know you are not a geologist, at least I do not think you are, we are taking his word on it that this is unstable ground for building. Do you have a professional opinion on that the lakeside of the existing building is that totally unsuitable for a building to be placed there?

Keith English: I know when there is a will there is a way in today's world for construction, but how much somebody wants to spend is another.

John Holtz: What would that take to find out some kind of geological?

Keith English: It would have to be done by soil and sand core samples by an engineer. I am not an engineer. I would not even make that determination without an engineer review.

John Holtz: Nothing against you at all we are taking your word on it. It is almost like hearsay that this is not suitable.

Mike Hiller: Sure just another point on that. That is not the only reason why we did not take that into consideration. This is also doubles as customer parking and boat parking in here. If we do not put the building there were basically getting rid of a lot of area at the marina we can use as parking or boat storage. This down here does not lend very well to parking at all because of our launch ramp in there.

Chairman Burgie: You have a number of boats in the picture here that are parked in that area.

Mike Hiller: That is what I am saying we use it as storage right now. If we have the building here, we would be cutting off a lot of our storage.

Chairman Burgie: No I mean down here where you are proposing to build the new building. These pictures show a number of boats parked in that area right now.

Mike Hiller: Absolutely because we do have much else we can do with that piece because it is so tight down in there.

Barbara Howard: Could customer's park there?

Mike Hiller: The problem with customer's parking down in there is it is very steep. A lot of them damage their vehicles coming out of there. We had one guy actually lose his gas tank coming up the hill there. Number two reason we are in and out of there launching boats. It gets very dangerous. We did open it up for them years ago on a fourth of July and it was a disaster. People were coming down there and trying to launch. It was very bad. We generally do not let customer's park down in there at all. It is not safe.

Chairman Burgie: But you have customers parking up there to the east of the existing building? Customers parking in there east.

Mike Hiller: Yes. What we do is generally we try to put the boats down in here and allow customers to park in here or we shift them up. Once this is gone we will allow customers to park in here or either have boats over here. With an actual facility here we now will have that less amount of room right there which is why we shelved the idea. The ground is not as good of a site as it was on the south property. We will now have a facility where we normally have customers or boats stored. Those were some of the concerns

we had. One of the owners actually pointed it out to me because I was gung-ho for having the building right there.

Barbara Howard: How many customers do you have at a time though? It is not like Wegmans that you have fifty or sixty cars trying to park, right?

Mike Hiller: We have 60, I would have to look up the numbers, over 60 slips. The problem is, you would not think it, but it is almost all of them come down at once. So the next thing you know we are taking all our employee cars and driving them all down to the state launch just to make room for everyone's cars. So there is definitely a problem with parking at the marina.

Barbara Howard: You are talking about parking their car and taking the boats out?

Mike Hiller: Yes. As well as customers that come to rent a boat.

Just to point out on a side note the picture that the Garzas showed you of the view impediment. That looks like it was based off of last year's numbers when you look at the actual building out the window. We are now going to be a lot farther away from the lake than that picture shows. We are actually at 9.9 feet.

Vicki Garza: No. He took it from your measurements. Paco works with Texas Instruments all the time. He is very exact. He took it from measurement today not from another time.

Mike Hiller: I was referring to this photo right here. It does not look like 9.9 feet. It looks to me like three feet. We did make efforts to scale our building back to alleviate the view obstruction.

Robert Bacon: In your application you say moved the location but you have also shrunk the size down. The one dimension didn't see documented was from two story to one story. What is the actual height including the peak?

Mike Hiller: It was originally going to be a one story and it is still going to be a one story.

Robert Bacon: Okay.

Mike Hiller: The existing building that is there now is a two story.

Robert Bacon: So what is the height of the proposed one story including the peak?

Mike Hiller: It will be on an angle. This is north. It will be on a slant with the smaller part of the slant toward the Garza's property. The building is somewhere in the 16-24 foot tall range that will slant at the top peak. On the back side you are probably looking at seven or eight feet.

Robert Bacon: So the maximum height of the roof would be at least sixteen feet?

Mike Hiller: Yes. With the grade of the roof it would be a lot less height than the existing facility.

Jonathan Gage: How many feet back from the edge would their view be compromised?

Francisco Garza: Sixteen feet.

Jonathan Gage: Sixteen. He is saying ten now so you need another six feet?

Vicki Garza: Another six feet and we would not see it.

Chairman Burgie: Sixteen feet back from the water?

Vicki Garza: From the water.

Jonathan Gage: They are getting ten now 9.9.

Francisco Garza: Everybody is pretty much lined up.

Vicki Garza: We are all lined up at 16 feet back.

Carol Dulski: Would that be 6 foot off of the 32 foot then? Is that what I am hearing?

Barbara Howard: Yes.

Jonathan Gage: Twenty-six feet.

Carol Dulski: Twenty-six foot. What can you live with Mike?

Mike Hiller: Well we tried moving the building.

Carol Dulski: I meant size of the building.

Mike Hiller: That is what I mean. We tried moving it and shrinking it back to where it is just about tolerable for what we are trying to do. Trying to alleviate their view is to why we shrink it back out of the way.

Vicki Garza: This is a real safety hazard for us just trying to get out of our driveway. Having your building right there next to our driveway.

Barbara Howard: If you came back to the sixteen feet off of the lake Mark that would take it looks like to me roughly ten now another six feet back so that 32 inches would be 26 right?

Mike Hiller: Twenty-six feet.

Barbara Howard: Twenty-six feet. Right now the long wall would be twenty-six feet. What if you brought that out where you have the little cut-out, in other words, have the smaller cut-out?

Mike Hiller: The dog leg L.

[Board inaudible discussion.]

Barbara Howard: In other words you could almost do a 26 by 26 which I think actually gives you more.

Mike Hiller: So you are saying where it is 32 foot long running the span there?

Barbara Howard: If you made that 26 that would leave you 16 foot back from the water. It would line up.

Vicki Garza: Well it would line up with our cottage but still totally obstruct our view. That is the problem it would be back, but the way our cottage is where our bedroom is.

Barbara Howard: I have seen the back yesterday.

Vicki Garza: Basically where our back patio is on our cottage we just have that wall right there of view. It would line up with our front porch, right?

Francisco Garza: Yes.

Vicki Garza: It would line up with our front porch. Mike, would it be cheaper to put water and electric in that building than it would be to build another building?

Mike Hiller: Are you addressing the Board?

Vicki Garza: No, I am just asking you. Wouldn't it be cheaper to put electricity and water in your pole building than to build a whole new building?

Mike Hiller: It is not feasible to use that building on the south.

Vicki Garza: No. I am not saying heat the whole building. What I am saying is to do your building there.

Mike Hiller: I think I addressed that with the Board. It is not feasible to have the customer service facility down four miles.

Vicki Garza: No. I am just saying to winterize summarize and all that.

Mike Hiller: That is not what we are trying to do.

John Holtz: If it allowable for us to require a study, to find out the feasibility of building on that before we make a ruling?

Chairman Burgie: Could we require him to have a feasibility study for that? I do not think so. We could deny the variance. I do not know anything that would condition.

John Holtz: Just to know whether that is. I have nothing against him at all.

Chairman Burgie: We can impose conditions on anything that we do approve, but if we have imposed a condition that he has a feasibility study on that and it said it was not feasible. Would then the follow on be that we have to approve it?

John Holtz: Yes. That is a good point.

Chairman Burgie: I would think that would be a tricky one. I am thinking through them.

John Holtz: That is a good point.

Chairman Burgie: Mike, in working with Phil last year you did this was the original drawing that you did and here is an alternative that you have looked at. Where you have forty feet you would reduce this down to ten foot wide which is coming close to the sixteen feet setback. You have fourteen foot right there, but it is ten foot. Only two more feet. This is bringing you over encroaching on the launch ramp right here. Is that why you did not do this because that was in conflict? Can you encroach some in here? Is there any play available?

Mike Hiller: I think there is. We have to figure out how to mitigate the water. That is our main issue. So the customers come down in here to get to the easement there. The only tricky part is how we build that up. Whether we have to build a metal structure or some kind of dock to get half way around that. That is certainly feasible.

Chairman Burgie: Is there enough space to get a boat around here backing it into the water if you were to encroach by two to four feet here?

Mike Hiller: I have some notes that I wrote on a separate card here. It looks like the minimum thirteen foot nine inches from the sea wall to there is the minimum we could actually scale the boat back and move it forward. We move this basically forty feet and it would be 13.9. That is the smallest I can do it. It is not ideal because the fact it encroaches on there.

Chairman Burgie: The forty feet you have based upon what you have with the thirty-five and forty feet here you would have some space for some of your tools back in here. Is that correct?

Mike Hiller: No. We are not planning on putting anything on the back wall there. You have to be able get in behind to do any kind of work.

Chairman Burgie: In this drawing you are losing a little bit of your space here, which you said that you need so by doing this you have an extra five feet here over the thirty-five foot in this drawing.

Mike Hiller: Right. We still would not use it for benches. We would still put our benches over here and make do with what we have. It is not as ideal as having more room over here for benches. When you are putting the boat in there, some of the boats we are not going to fit. It would be nice to be able to fit the boat in there in inclement weather or if you are doing something in the winter. Right now we do not have the option to do because our sales office is over boats and you have snow in front of it and it is hard to get in and out of there. Our storage building has a very steep grade. Could not get down in there if you wanted to and it full of boats. So we do not have any option to do work in the winter, which we could be making work, we could be making money. If we have a job someone wanted new seats put in their boat. We could be working in the winter.

Jonathan Gage: With this thirty-five feet you are going to have enough?

Mike Hiller: It is going to be at the point if someone has a bigger boat we would not be able to do it. The forty feet is the same situation. It is still going to be tricky, but we would not want to put anything behind here so we can maximize the size of the boat to put in there. A thirty foot boat going is realistically take thirty-five feet when you have the trailer involved. I guess to answer the question short even is if we made the building fifty feet long, I would not put benches behind it so that we have that room.

Chairman Burgie: We are not going to be able to give you everything that you want.

Mike Hiller: Sure.

Chairman Burgie: Fifty feet long, forty feet long unless it is a trade-off on something else and gaining someplace else then we certainly would not grant that variance with a forty foot building.

Mike Hiller: Sure.

Chairman Burgie: It is thirty-five feet long then is somewhere down in here. I am just guessing right now. This would be the footprint you are looking at and that would gain some distance away from this south boundary line also. Is this feasible for you to work with coming out this far?

Mike Hiller: I guess that depends on how far we are starting at. That would change our numbers, but this is forty feet long so five foot off. That makes it a total of forty-five feet from the property line you are saying?

Chairman Burgie: Right now you are five feet from the property line in this drawing right here and that is forty. If we went to thirty-five then you would be ten feet off the property line which is better than five feet off the property line. That still requires a ten foot variance, but it is better than a fifteen variance. That buys them a little bit more angle here by cutting it off here and giving you this space.

Mike Hiller: Sure.

Chairman Burgie: You have the thirty-five. This is encroaching on the ramp that is the question I am asking. Can it move partially up here which is what your drawing is showing this was a forty feet from the property line and it is taking you about a foot into it. If you look at this right now you are thirty-five feet to the corner right here so if this went up five feet more than this is going about five feet into this boat launch. Can you still get around there safely and be able to do the job? The reason I am asking the question is you show it in one of the drawings that you were looking at.

Mike Hiller: Yes. Last year. I think it probably doable with some modification to the land there so the customers can still get through.

Chairman Burgie: To build a small not a dock but a deck through there so they can walk through is that what you are saying?

Mike Hiller: Yes. They would have to come over the water. I do not know the logistics of that. If we could get that done. I think it is feasible.

Keith English: It would just be a dock permit.

Chairman Burgie: You would have to look at the docking and mooring laws. If I am seeing the lines correctly, is this the water line here on your drawing?

Barbara Howard: Can he show us from the one he has there Tom because we are not following at this point?

Chairman Burgie: I know. Is this the water here and this is land up in here sloping land but land?

Mike Hiller: Kind of. It depends on the week. This is basically the water. It is not an accurate depiction of where the water comes to I guess. The water can come up to here. Right now the water is right underneath this deck. It is very tight there. Literally we have to build some kind of a dock that would encroach on half the water there.

Chairman Burgie: He is talking about right down in here leaving the water line by actually coming along here if you look at your other map there. This is coming out about five feet past the actual set of boat ramp here. He is concerned with the drawing he submitted today it stops here. In this drawing he was working last year it was about five feet farther up. This is an area that he is concerned with people being able to walk safely through there maybe build some kind of a dock right in here. This is the main high water line coming through here. He says that the water is coming up under. This area right here.

Barbara Howard: He is talking about coming this way with it versus what it is now.

Chairman Burgie: Push up about five feet in this drawing which would buy if was thirty-five feet long it would buy five feet on this variance request. It would be ten feet variance instead of a fifteen feet variance. A ten foot setback instead of the five foot setback on the south boundary line.

Vicki Garza: [Inaudible.]

Chairman Burgie: In this drawing he is back from the water. This is actually fourteen feet back so it is two feet.

Jonathan Gage: Fourteen feet. You said you wanted sixteen feet. So it is two feet. Getting close.

Barbara Howard: His concern now is that not that he is not go for the launch that he will be where his high water mark is.

Chairman Burgie: This is where the launch is. He says he can still launch through here but his concern is the safety of owners walking down to their boats onto the dock through this area. He would have to build a deck or maybe a dock over here to be able ensure their safety through that area. I believe that is what you said right?

Mike Hiller: Yes.

Barbara Howard: This is the launch or this is the launch?

Chairman Burgie: I am sorry.

Barbara Howard: This is the launch or this is the launch?

Chairman Burgie: This one down here is the launch.

Barbara Howard: That is the launch.

Chairman Burgie: He would have to dredge this to make it a launch.

Barbara Howard: Okay.

Mike Hiller: That would also increase our variance that we would be seeking from the road. The building would have to get pushed over if we did that.

Jonathan Gage: It is still out of the right-of-way.

Mike Hiller: Yes. It is 29 feet roughly what is would almost come to. It is going to be less by four inches or something like that.

Chairman Burgie: It seems from what we saw from the state highway department and the county that as long as you are out of the right-of-way they are less concerned with that variance than the other things that you are dealing with, right now.

Mike Hiller: Sure.

Chairman Burgie: So if it came that way ensuring that it was definitely out of the right-of-way we could be looking at a .9. It has to be a 50 foot setback so 49.1 foot or 49 foot variance from the road.

Mike Hiller: Yes. Right now we are seeking 47.9.

Barbara Howard: Forty-eight point eight.

Mike Hiller: It would change it to 48.7. It would obviously shrink down the variance we are looking for.

Chairman Burgie: Forty-seven point nine variance.

[Multiple Board members responded to variance amount.]

Chairman Burgie: It should be 48.8. Your closest point is 1.2 feet away.

Mike Hiller: Yes. Sorry.

Chairman Burgie: There are so many versions of this going around.

Mike Hiller: You should see my papers.

Vicki Garza: Is there still enough time for use to speak? Is our time over or can we say something?

Chairman Burgie: If you have something, please.

Vicki Garza: I just wanted to say for us we still have the noise and we still have the view issue. I know it is a compromise, but we still have it. I mean just because it is five feet more over does not mean that we are not having to listen to the repair all day long. Just because he is lined up with us at 16 feet doesn't mean we do not have a big building next to us because we do. He has the whole cottage at the other end. They have so much other space to work with. I asked him would it be possible to draw a line over on this side. It makes so much more sense to do something else than to do that to us. We would have to fight it. I

would have to fight it. We already put \$3,000 into an attorney last year. I would put another \$3,000 in to stop it because it still affects us greatly. That is our home. It is where we live day in and day out. We do not go out that much. We go shopping. Sometimes we got our canoe. It is supposed to be a place of quiet. Why would he have to put his repair shop down next to our house when he has all that land? It is upsetting.

Chairman Burgie: Thank you. We understand that very well. Any other discussion from board members? Any other ideas you would like to pursue?

John Holtz: I am surprised the County did not comment on multiple variances. Didn't they just do that this year with us?

Chairman Burgie: We are required to send it to them for review if there are multiple variances in the request. They do not necessarily need to comment.

John Holtz: They do not need to comment. I am just surprised they didn't because I thought they did before.

Chairman Burgie: I have not seen anything that indicated that. Bert were you at the meeting when this was discussed?

Albert Crofton: I do not recall.

Chairman Burgie: What was the date of this meeting?

Vicki Garza: May 24th.

Chairman Burgie: No. The County Planning Board.

Robert Bacon: I think it was June 13th.

Chairman Burgie: June 13th.

Albert Crofton: I think I missed that. I do not know why. I think I forgot.

Chairman Burgie: That is the piece of paper we were looking for which addresses your issue. The administrator review referral dated March 29, 2017 going to the CPB meeting April 12, 2017. The referral recommendation was for denial. In May of 2017 you abstained to that one. It is indicated here. The recommendation is for denial. The application is involving one single family residential site including home occupations, residential development that may infringe on the County's right-of-way or easement for roads or other infrastructure address traffic safety among intermunicipal corridors by encouraging proper placement of residential driveways along County roads addressing impacts to ground and surface water. The following applies to all development on parcels with lake frontage that require various pertaining to side yard setback or lakeshore setback. They recommended denial and their findings protection of water features is a stated goal of CPB. The Finger Lakes are an indispensable part of the quality of life in Ontario County. Increases in impervious surface lead to increased run-off pollution. Run-off from lake front developments is more likely to impact water quality. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot

coverage that allow reasonable use of lake front properties. Protection of community character as it relates to tourism is a goal of the CPB. It is the position of this Board that numerous variances can allow overdevelopment of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character. It is the position of this Board that such incremental impacts have accumulative impact that is of County wide and intermunicipal significance. The final recommendation is for denial.

This is a recommendation administratively to the County Board. The Board motion referral be retained as Class 2 and returned to the local board with recommendation of approval with comments. So the County Planning Board actually did address it and it is recommended with approval with these comments read in earlier. So that is what the confusion was. The administrative review was recommending denial but the Board recommended approval with comments.

Is there any other discussion? We have I think probably exhausted any ideas here. Then the next formal part of this is to determine findings.

The first finding as I addressed earlier will be for the SEQR status.

Finding #1:

Chairman Burgie: That this is a type II action under paragraph 617.5(c)(7) and 617.5 (c)(12) granting of individual setback for lot line variances as a type II action. It requires no further study.

The motion was made by Thomas Burgie and it was seconded by Robert Bacon.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Finding #2:

Chairman Burgie: These five areas that we need to address specifically in our findings whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will created by granting the area variance.

That an undesirable change will be produced in the character of the neighborhood specifically to the detriment to the nearby property the neighbor to the south by granting that area variance.

The motion was made by Thomas Burgie and it was seconded by Jonathan Gage.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Finding #3:

Chairman Burgie: Whether the benefits sought by the applicant can be achieved by some method feasible for the application to pursue other than an area variance. This is a difficult one. There is a difference of opinion I think on this one. The applicant has stated that they have looked at every possible option. What are your feelings?

Robert Bacon: I think it is accurate to say the applicant has stated they looked at all the options. I think we have pointed out several options really should be considered or reconsidered.

Chairman Burgie: So you would say there are other feasible options?

Robert Bacon: I personally feel there other options, yes.

Chairman Burgie: Would you like that motion?

Robert Bacon: I will make that motion.

Diane Graham: Will you say it out please?

I believe there are other options that we have discovered tonight whether it be pointed out by reconfiguring of the existing long building, looking at studying the feasibility of building by the gas pumps, and the third one the potential of using the existing building three miles down the road.

The motion was made by Robert Bacon and it was seconded by Thomas Burgie.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Finding #4:

Chairman Burgie: Whether the requested area variance is substantial.

That all three area variances requested are substantial.

The motion was made by Thomas Burgie and it was seconded by Robert Bacon.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Finding #5:

Chairman Burgie: Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

It would have a beneficial effect on the safety conditions by moving that building and doing the driving on the property instead of out on the road.

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The motion was made by Thomas Burgie and it was seconded by Albert Crofton.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Finding #6:

Chairman Burgie: Due to the very limited space down there the fact that you have a lot of issues to work around or whatever.

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 an area variance.

The alleged difficulty is not self-created.

The motion was made by Thomas Burgie and it was seconded by Carol Dulski.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Robert Bacon: I would like to go back to findings. I think we do need to document the existing proposals blocking the northern view based on the current setbacks.

Chairman Burgie: I am sorry I am not following what you said.

Diane Graham: The right of way?

Robert Bacon: No. If we look at the neighbor's documentation lower picture the northern view from their bedroom the current simulated pictures is blocking that northern view. We have a current state and we have future state that should be a finding.

Chairman Burgie: Okay.

Finding #7:

The proposed building location will block the neighbor to the south's view looking north.

Chairman Burgie: Which is a scenic view.

The motion was made by Robert Bacon and it was seconded by Thomas Burgie.

All in favor.

Aye: 5; Opposed: 0

R. Bacon; T. Burgie, A. Crofton, C. Dulski, J. Gage

Motion carried.

Chairman Burgie: At any point in here we can interject conditions if we are going to grant these variances. It seems to me that we can specify conditions now. We do not know whether the Board is going to grant the variance or we could grant the variances, but with conditions and capture that. We need to make sure them I think.

Are there any conditions that anyone would like to impose?

I am going to petition the Board members to offer a motion to approve or deny the applicants request for three variances. If you believe one or two of the variances should be granted and one not then let me know and we can break it down separately.

Robert Bacon: I think it is difficult to separate it right now given the objectives we are trying to achieve. I think we need to vote on the proposal with the three variances the front, side, and rear.

Chairman Burgie: Any discussion on that?

Jonathan Gage: Should we point out at this time like we talked about before if one is denied it is a year to go?

Chairman Burgie: I am still looking for the reference to that, but I have seen it. I brought it up at training last month that was provided by New York State and they said no unless that is in your local code that does not exist. I apologize for that. I can't tell you that is a valid statement at this point. Okay. I have not seen it in our code either. A motion to approve or deny the applicant's request. You can see how hard this is.

Robert Bacon: Can we just reread? I think we had six or seven findings.

Diane Graham: I am not going to remember all of them. SEQR was the first one, then we went through the five criteria, then you added one.

Chairman Burgie: The first one was whether an undesirable change will produce in the character of the neighborhood that was undesirable change will be produced in the character of the neighborhood. The second one was whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue that can be achieved by some other method. The third one whether the requested area variance is substantial. All three are substantial. The fourth one whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. There will not be an adverse effect or impact on the physical or environmental conditions in the neighborhood. The last one was that it was not self-created. The last one was from you is view is obstructed to the north.

Robert Bacon: I think for the findings while we are summarizing there is at least four negative impacts and two positives impacts. I think that speaks volumes. As difficult as this is to state, I will make the motion to deny the application based on those findings.

The motion was made by Robert Bacon and it was seconded by Thomas Burgie.

Roll call vote:

Robert Bacon, Aye
Thomas Burgie, Aye
Albert Crofton, Aye
Carol Dulski, Aye
Jonathan Gage, Aye

Motion carried.

Chairman Burgie: I wish we could have found a way to come out with a different outcome on this. You are asking too much from any of the Board and too much of an impact on your neighbor. Since we are not convinced that there is not some other feasible way it may be a little bit more expensive or not the perfect situation for you. I think the Board found that we just cannot do that to your neighbor when you have not really in our opinion exhausted all the possibilities. I am sorry the application for three variances is denied at this point. If you would like to meet with any of us to see if ideas on what to do, you are welcome to request that. The primary CEO will be back next week I believe and he can sit down with you after that also if you want to pursue that.

Mike Hiller: That would be great.

Chairman Burgie: Anything else you would like to add at this point?

Vicki Garza: Thank you.

Chairman Burgie: You are welcome.

Barbara Howard: I want to make sure this is clear if he decides he does find an alternate, what is the timeframe?

Chairman Burgie: He can come back next month with a new application if we wants to.

Barbara Howard: Just wanted to make sure that everyone was clear on the timing.

Mike Hiller: So if we do submit a different something, we would have to go through the whole County basically the whole thing over again, right?

Chairman Burgie: Yes. You will have to. The County will want to see what you are doing proposing again and give us advice.

Jonathan Gage: If he needs variances.

Chairman Burgie: Yes. If you do not need any variances, you can find a way that fits within all the required setbacks, which I doubt in that property you are going to find it because 30 feet from the lake, 50 feet off the right of way there is not much room there.

Mike Hiller: Just to be clear. We were talking about for a while there setting the building over, making it smaller, pushing it back that is basically what is denied today, correct?

Chairman Burgie: What is denied is what you proposed. What you applied for.

Robert Bacon: Your original proposal was denied.

Mike Hiller: If we were willing to shrink that down, we could if that would alleviate the neighbors.

Chairman Burgie: We heard after you had said that they are still not very happy so that is not to say we could not entertain that and see if that is the best compromise we can come up with. I am not telling you to not bring it, but we were not voting on whether or not to apply some amendment to what you have formally submitted.

Mike Hiller: I want to be clear. I did not know that was taken into consideration when you were voting.

Chairman Burgie: I think if the Board members had felt that was sufficient at this time they probably would have used that as a condition to say okay instead of five setback we will go ten foot and that is a ten foot variance, etc. and played with it. I do not think anybody was comfortable enough to make those at this point especially with your saying okay here is the drawback and they also had problems with it. If you want to submit something formally we certainly would be welcome to take a look at it. Alright.

Anything else from the neighbors? No. Okay. That is all that we have other than we are going to discuss whether or not if there is any other business that we need to discuss and then adjourn. So you are welcome to stay and listen or leave.

Mike Hiller: Thank you for your time.

Chairman Burgie: Thank you.

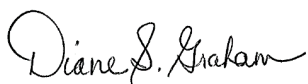
Other

Discussed recent education opportunities and required training hour status was emailed to the Board members.

Motion to Adjourn

Being no further business, Albert Crofton 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 9:37 p.m.

Respectfully submitted,



Diane Scholtz Graham
Board Secretary