

TOWN OF WARWICK
ZONING BOARD OF APPEALS

MAY 22, 2017

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Kevin Shuback

Diane Bramich

Chris Daubert

Attorney Robert Fink

PUBLIC HEARING OF Moyna Singh - for property located at 18 West Lake Road, Warwick, New York and designated on the Town tax map as Section 19 Block 1 Lot 25 and located in an RU District for a variance of the Bulk Area Requirements of the Code permitting a 13' 6" X 16' 6" addition to a single family dwelling decreasing side setback from 58.5 feet to 45 (+/-) feet where 75 feet are required. **Continued from the April 24, 2017 ZBA Meeting.**

Chairman Jansen: The public hearing for Moyna Singh will not be heard tonight. They requested to be adjourned to the June 26, 2017 ZBA Meeting.

PUBLIC HEARING OF Yonique, Inc. - for property located at 15 Rocky Trail, Greenwood Lake, New York and designated on the Town tax map as Section 72 Block 1 Lot 139 and located in an SM District for a variance of the setback requirements of the Code permitting construction of a 10 foot X 12 foot deck & balcony on an existing single family dwelling 8 feet from the front property line where 30 feet are required. **Continued from the April 24, 2017 ZBA Meeting.**

Representing the applicant: Yonique, Applicant

Chairman Jansen: I think where we last left it at the last time, you had said that you were going to come back in with some proposals.

Yonique: Yes. I discussed with my Architect to shorten it by 8 feet. I have some pictures to show you. This one is with the lattice work and bushes. I took a measuring tape from the house to the rocks. It is about 14 feet. I know that the survey said about 8 feet. I think because it goes to this end point to the curb. I don't think my property goes to the end of the road. Majority of concerns that were raised was from the edge of the road. It is about 14 feet from the edge of the road. Looking at the picture, there is more footage at this side of the house. I think this side would work better because there is more ground coverage. It does have the deck on the other side.

Yonique and the Board continue to discuss the pictures that were presented to the floor with alternate designs and screening of the deck and balcony on the existing single family dwelling that is 8 feet from the front property line where 30 feet are required.

Chairman Jansen: This is a continued public hearing. Is there anyone in the audience that would like to speak and/or take a look at the pictures that has been just presented to the board? The pictures were shown to the public and they discussed the alternate designs of the deck and balcony with the Applicant and the Board. Yonique is open to options. Public Hearing is closed.

Attorney Fink: We have a 4-Member Board here this evening. Do you want to come back another month where we have 5 Members or continue this evening with the 4 Member Board to vote on your application?

Yonique: I am ok with tonight.

Chairman Jansen: I am not in favor of a 4-foot wide deck. It would be going from 14 feet down.

Mr. Shuback: The architectural looks fine the way it is.

Ms. Bramich: Yes.

Chairman Jansen: Ok.

Attorney Fink: Should we go through with this?

Chairman Jansen: Yes.

Attorney Fink: Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Mr. Malocsay: The answer to the question from our visits is that there are properties that have structures that sits closer than that.

Ms. Bramich: Yes. Much closer.

Mr. Malocsay: They are much closer. When we talk about the character of the neighborhood, it is no.

Ms. Bramich: No.

Attorney Fink: Ok. Would it be a detriment to nearby properties?

Mr. Malocsay: No.

Ms. Bramich: No.

Attorney Fink: Can it be achieved by any other method?

Mr. Malocsay: We did change it from its original to make it more appealing.

Attorney Fink: Is this a substantial variance?

Ms. Bramich: Yes.

Mr. Malocsay: Yes.

Attorney Fink: Is this going to have an adverse effect or impact on the physical or environmental conditions of the neighborhood?

Mr. Malocsay: No.

Ms. Bramich: No.

Attorney Fink: Is this self-created?

Mr. Malocsay: Yes.

Ms. Bramich: Yes.

Mr. Shuback: Yes.

Attorney Fink: This is an Unlisted Actions with no adverse or environmental impact.

Ms. Bramich: So moved.

Mr. Malocsay: Seconded.

Chairman Jansen: Any discussion?

All in favor? (4 Ayes) Motion carried.

Attorney Fink: Does someone care to move that the variance be granted as advertised however with the following changes: Additional provisions will be that first we are dealing with two decks. One deck is a 10'x12' deck. The other deck is a 4'x14' deck. Now the 10'x10' deck being on the south side of the house. The 4'x14' deck being on the north side of the house on the second story. I am going to annex this rendering that it would have to be constructed in that manner including foliage and a lattice.

Chairman Jansen: Yes.

Ms. Bramich: Yes.

Mr. Malocsay: Yes.

Mr. Shuback: Yes.

Attorney Fink: Lastly, it is to be in mute colors.

Mr. Malocsay: There might be a word for it. In the Ridgeline Overlay District, we have a list of colors.

Attorney Fink: Ok. It will be in accordance with the Ridgeline Overlay District colors. Is there anything else? Seeing none, could we have a motion and second on this?

Mr. Shuback: So moved.

Ms. Bramich: Seconded.

Chairman Jansen: Any discussion?

All in favor? (4 Ayes) Motion carried.

PUBLIC HEARING OF Joan Hoge - for property located at 165 Union Corners Road, Warwick, New York and designated on the Town tax map as Section 17 Block 1 Lot 21.191 and located in an RU District for a variance of Section 164.46J(16) permitting the housing of livestock in an existing shed 11 (+/-) feet from the property line where 150 feet are required. **Continued from the April 24, 2017 ZBA Meeting.**

Representing the applicant: Bob Krahulik, Attorney. Joan Hoge, Applicant.

Bob Krahulik: We have taken the comments from the neighbors to heart. What we propose to do is construct another building that would house the livestock. We are hopeful that it would conform to all of the Code requirements. If it does not, we would submit a revised plan showing the location of the new building being constructed. A variance might be necessary. We won't know yet where it would be built and how far from the property line that it would be constructed. We would like to ask that this application be carried over for a month or two while we get a Surveyor to work with us on the new building.

Attorney Fink: You are looking to amend the application. It would have to be noticed again along with mailings and publication. You would get to save \$150.00 in the application fee.

Bob Krahulik: Right. Every bit counts.

Attorney Fink: We will adjourn this application for 2 months which brings it to the July 24, 2017 ZBA Meeting. It would have to be re-noticed and re-mailed out to the adjoining property owners again if there is a change to the application.

Bob Krahulik: Ok.

To Be Continued to the July 24, 2017 ZBA Meeting.

PUBLIC HEARING OF Blue Arrow Too, LLC - for property located at 86 Glenwood Road, Pine Island, New York and designated on the Town tax map as Section 24 Block 1 Lot 19.11 and located in an RU District for a variance of Section 164.41.A.(1)(a) permitting construction of an 80 foot X 200 foot building and a second building 50 feet X 104 feet where the Code requires that each building shall not exceed 1,200 square feet in floor area and not more than 48 feet in greatest median dimension.

Representing the applicant: David Griggs from ERS Consultants.

Chairman Jansen: Do you want to give a rundown on this project?

David Griggs: We are looking to put up these two buildings that are about 5,000 s.f. in size. One of those buildings will be used as an indoor riding arena. The property was always a horse farm. It will be continued as a horse farm. The owners rescue horses. They have 3 horses on site. They have another 10 horses coming. The indoor horse arena will be necessary for the horses to exercise.

Chairman Jansen: Do any Board members have any questions?

Mr. Malocsay: I just don't understand how we didn't have provisions for an Agricultural operation as a same restriction on the barn sizes.

David Griggs: The owners of the property are new owners. They have applied for Agricultural. They have to wait for a period of time at least over a year for them to move forward with this. The horses are already there. That is why we are in front of you now as opposed for them to wait another year. At this point, once they do have Ag this wouldn't be needed anyway.

Chairman Jansen: That shouldn't matter. Is that correct?

Mr. Malocsay: That was what I thought too.

Chairman Jansen: That only has to do with the Ag Assessment. It doesn't have anything to do with that.

Mr. Malocsay: Yes.

David Griggs: The Building Department sent us here. That is why we are here.

Attorney Fink: It is still an Agricultural Use. It still has to conform to Zoning.

Mr. Malocsay: Ok. I am still a little confused on that. If it is an Agricultural operation in our zone barns themselves, does anyone still have to come before us with barns being over 1200 s.f.?

Attorney Fink: I don't know of any exemption.

Chairman Jansen: We have had applications similar to this that have come before us. We still had to grant an accessory structure larger in size even if it had an Agricultural Exemption.

Mr. Malocsay: I am sure it is.

Attorney Fink: I don't know of any exceptions in our Ordinance that accepts the size of a barn if it happens to have an Agricultural Exemption. By definition, how many barns are not going to be associated with Agricultural uses.

Mr. Malocsay: I wouldn't call them barns. I would call them garages or larger shops. That was what we had seen in residential areas. But when someone comes in for an Agricultural operation, I was under the assumption that you could build something larger without having to come before the ZBA.

Attorney Fink: Ok. Educate me on this. Is this in the Agricultural District?

David Griggs: Yes.

Mr. Malocsay: The place has been in existence forever.

Chairman Jansen: We all know that. I will open this up to the public now. This is a public hearing. Does anyone want to come up and address the Board?

William Merritt: I live at 95 Glenwood Road. This has been a project that they have been working on all winter long. They expect nothing but slide through this process. At 6:00 a.m. the tandems are dropping their tailgates that make lots of noise. That goes on late into the evenings. I believe that the ACOE maps state that they are in wetlands. It is a 100-year flood zone. They took the original detention bond that was built illegally from the racetrack and expanded it out. I don't know how without a variance that this thing could be continued. Now they want two big buildings for horses. I have been living there for a long time. This is my retirement home. Now, I have this eyesore coming up. There has been 1,000 yards of fill going in there down by the retention pond. They are from New Jersey. There is plenty of land in Sussex. Why does it have to be here? Why does it have to be across from my house? There is no consideration. They start at 6:00 a.m. I understand why they do it. I was a builder for years. I didn't start work until 8:00 a.m. A neighbor of mine, Sheryl Fisher was supposed to be here tonight. I hope she wrote a letter to you. There is going to be not one but two huge barns put there. That is my statement.

J.R.: I live at 110 Glenwood Rd. My mother Susan Caiafa received a letter about this. She sent a letter by email to the Planning Department. Did you receive that?

Chairman Jansen: Yes. We received that letter.

J.R.: She couldn't be here this evening. My Grandfather built that horse farm back in the 1980's. He had built it in a flood zone. I heard from workers that they will be putting in a training track.

They are going to put a microbrewery in one of those buildings. They already have a barn that house about 50 stalls that my Grandfather had built. I just wanted you to know that. You have the emailed letter from my Mother. You can read that if you want.

Chairman Jansen: Ok. Is there anyone else?

Mr. Schuring: I live at 33 Glenwood Road. We are just interested to see what is going on. We pass by it every day.

David Griggs shows the map to Mr. Schuring and explains what is going on at the site. What Mr. Schuring thought was going on is not located on the Blue Arrow's property. What he is talking about is on another property. Dave shows them the 2 barns that are to be built on the Blue Arrow's property. He shows them the wetlands and the ponds.

William Merritt: That is the other thing. There is talk about a microbrewery and concerts to be happening. They are going to do whatever they feel like. They are going to come to the Board and say that they are going to want to expand because they are just moving along. If you drove by there and had seen what it looked like when it started and what it looks like now, it is a total different look.

Attorney Fink: I am assuming that you have a permit from the Town for the fill?

Kathy Olinger: No. We have a permit for the buildings. We just received a second permit. We have been through the Building Department.

Kim: I was involved in the sale of the property. This property has been on the market for many years. We've had people in trying to clean up the property for years because it has been overgrown and the barn is falling apart. We had guys in there to maintain it while we were trying to sell it. We tried to maintain it as best as we could in order to try to help the owner sell the property. I would suggest that all of you take a ride by the property. I had many people come by and wanted to do something with the property. But no one could come up with the money to do it. It needs so much tender loving care in order for it to be brought back to something that could be useful. I think if you drove by to see what is being done, it is in my opinion breathtaking. You will see the beauty and the horses that are there. I feel that it is coming back to life. They are willing to work with the neighbors. I feel that this is a positive thing.

Tina Guerrero: I live at 83 Glenwood Rd. I am the house that is directly across from the barn. That is my site. I have a 60-foot front porch. I look at the horse farm every day. I have been living at my house since 1985. This is the nicest that it has been since I have ever seen it. It has never been up kept. There has been everything from illegal apartments to drugs. It has been horrible. What has been happening there is an improvement. How he does it there, I understand that there are rules. You now see that there is life there to a place that was abandoned. I think that it has the potential to benefit the community. Any questions that I have asked, they have been very upfront. It is a lot nicer now than what we have been looking at.

Chairman Jansen: Thank you. I appreciate that.

Bob Kravitz: I live at 71 Glenwood Rd. I have heard that there would be a lot of different things. I am sure that they would have to be approved for that by the Town. As far as the barns go, I

could tell you that I looked at the property. I had considered on buying it myself. The property was initially established for trotters I believe. I was looking at it to use it as some sort of a horse facility. I don't know what everyone wants to see there or not. It is a big property. It was dormant for years. A plan has to be developed that would be livable for everyone. I have spoken to Don. He seems reasonable to what is going on. An owner has the right to improve something at a point that it makes sense in a state that it is in. I think what is there, it does make sense what it is.

Chairman Jansen: Thank you. I think that we ourselves have a few questions, I would like to leave this public hearing open until next month.

Mr. Malocsay: Yes.

Ms. Bramich: Yes.

Mr. Shuback: Yes.

Chairman Jansen: Ok. Our next meeting will be June 26, 2017.

David Griggs: Ok.

Chairman Jansen: We will go out there and visit the site.

Rich, a Contractor states that there will be noise at 6:00 am.

Attorney Fink: Who is the contact person?

Rich: Kathleen & Don are the ones to contact. They are the owners.

Kathleen Olinger gives her contact information to Chairman Jansen so that he could contact her to set up a site visit.

Chairman Jansen: Thank you.

The Blue Arrow application is to be continued at the June 26, 2017 ZBA Meeting.

PUBLIC HEARING OF Paul Madel & Jennifer Morrison - for property located at 47 Gurda Lane Warwick, New York and designated on the Town tax map as Section 1 Block 1 Lot 23 and located in an SL District for a variance of the Bulk Area Requirements of the Code permitting an addition to a single family dwelling 47.8 (+/-) feet from the front setback and addition of a 2 car garage 35 feet from the front setback where 50 feet are required.

Representing the applicant: Paul Madel, Applicant.

Paul Madel: I am the owner of the property. We have lived there for 16 years. My family is bigger. We have grown. We would like to put some additions on. We are deeded to Gurda Lane. Our driveway comes off Kelly Lane. Since the Post Office has changed its rules for package delivery, they won't deliver packages to our house because they would have to drive less than 100 feet down Kelly Lane in order for them to get to our driveway. Kelly Lane is a private road even though we are not deeded to it. We would like to move our driveway to the other side. The views are also nicer on that side. We would like to put up an addition in the back so that we could enjoy the beautiful view. The garage would be going in front of the house. We are legally non-conforming now. The house is not set back 50 feet. We pushed the garage up 7 feet from that because of the way the kitchen is. We are not any closer than some of the other houses on that road. That is what we are doing.

Chairman Jansen: I know that Leonard DeBuck had concerns about the safety of the road Gurda Lane. Is that correct?

Leonard DeBuck: Yes. I am a nearby neighbor. I live at 107 DeBuck Drive. I have been there since 1980. DeBuck Drive is across from Mission Land Road from Gurda Lane. As a nearby neighbor, having a driveway or 2 driveways allowing to have access to and from Gurda Lane with limited sight distance and the steep slope that is there is dangerous. The current plan does not specify any sight distances on the plan. The new driveway is about 2/3 away up a steep grade on Gurda Lane. A traveler would have to accelerate in order to get up the hill. It is almost worse coming down Gurda Lane because the slope automatically pushes you and your vehicle down Gurda Lane. Gurda Lane is not a straight road. It has a lazy S bend to it. I believe that there would have to be a better solution for the safety of all which includes my neighbors. I think everyone would be better served if the access was to remain on Kelly Lane. It is also unfortunate that this project moved forward without a variance being issued. In Paul's defense tonight, I did not know that he could not receive mail. Many people receive mail at a community mailbox area on Gurda Lane. Gurda Lane has not one private access road. It has two private access roads. One is called Noviski Lane. That road comes in from one direction whereas Kelly Lane comes in from another direction. There must be about 15 mailboxes located there. Tonight was the first that I heard from Paul about the Post Office not able to deliver packages to him. Being on the subject about packages, I am concerned about when UPS delivers stuff to their place as their site plan indicates, you can see by their site plan the size of vehicles that might fit in the garage. If a UPS truck pulls in and stops because he would be in their new front yard, there might be a vehicle

in the turnaround. I don't know. I just know that a UPS or Fed Ex truck won't be able to get out. I just think it would be safer to come and go from Kelly Lane. First, I want to congratulate my neighbors for wanting to put on an addition and staying in the neighborhood is a good thing. I just want them to be safe as well as the public's safety.

Chairman Jansen and Mr. Madel take a look at the site plan and discusses the existing driveway location. Looking at the site plan, Mr. Madel wants to put in a loop which would come out farther than what is shown on the map. You would be able to sweep then come around and go right up to the garage. Mr. Madel has an existing driveway that goes to his barn. There is already an existing driveway right across the street from where his driveway would be.

Attorney Fink: Gurda Lane is a Town Road. You will need to apply for a driveway permit.

Paul Madel: I have done that. I applied this morning for that. The Building Department didn't tell me about that until last Friday.

Attorney Fink: They will deal with the Superintendent of the Highway Department.

Paul Madel: Right. We staked it today. He is supposed to come out and take a look at that.

Attorney Fink: It will be a moot point if they grant you a permit as far as safety and other concerns.

Paul Madel: I personally don't see how it's going to be a big deal.

Attorney Fink: That is not this Board's call. If you get a permit for that then it would no longer be an issue.

Paul Madel: Ok. The variance is for the setback.

Attorney Fink: Correct. This Board cannot grant you a permit to go upon a Town, County or State road. You have to get permits for that from one of those municipalities. You get the permit, this Board doesn't review it in any way. The issue that is before this Board are the structures that would be too close to the road.

Leonard DeBuck: If there are vehicles in the proposed driveway, would curbside and roadside parking be allowed? Would a UPS or Fed Ex truck that has their flashers on be allowed to park on Gurda Lane?

Mr. Shuback: They would have to follow Town Law.

Leonard DeBuck: Is the answer yes?

Mr. Shuback: It would be whatever the Town Laws are to be able to park there or not.

Chairman Jansen: I am not even sure if there are any specifications for that.

Leonard DeBuck: The same thing kind of goes for if they have company over. My question is that if curbside parking is allowed in the Town if their driveway is full of cars.

Chairman Jansen: If it is not posted as no parking allowed on this side, then I would assume it would be.

Paul Madel: A Fed Ex truck doesn't come down Kelly Lane. They park curbside when they deliver to our house. He jumps out and puts the package at our front door, then he drives away. The UPS truck does drive down Kelly Lane. The Fed Ex truck won't do that.

Chairman Jansen: Unless it is actually posted that no parking is allowed on that side, then the assumption would be that it is ok.

Leonard DeBuck: I think there are other alternatives that could be considered. I just want it to go on record that the proposed driveway design would be dangerous if it is allowed.

Attorney Fink: This Board doesn't allow or disallow it.

Chairman Jansen: The only thing we get to act on are the setbacks of the additions.

Leonard DeBuck: Ok.

Chairman Jansen: What we are going to act on are the setbacks.

Leonard DeBuck: Is it not unusual to have a plan with 2 front yards?

Paul Madel: We don't have 2 front yards.

Attorney Fink: Technically, if you are on a corner lot, you would have two front yards.

Chairman Jansen: That would be with anybody.

Leonard DeBuck: You wouldn't be able to comment on whether or not this is a certifiable plan?

Chairman Jansen: What do you mean by a certifiable plan?

Leonard DeBuck: Whether or not they have a new well or septic.

Chairman Jansen: No. That would be the Building Department.

Leonard DeBuck: Ok. So it would be out of your hands about the sight distance with the driveway.

Attorney Fink: Yes. That would be the DPW.

Leonard DeBuck: Ok. My concern is, can you carry my concern to someone officially in the Town that I believe?

Attorney Fink: That is not the function of this Board. This Board only hears appeals. It doesn't advise other Officials or Boards. You could always voice them to the Building Department.

Leonard DeBuck: Ok.

Paul Madel: I don't understand why you think it is so different from the other property across the street. I am asking for a variance to go 7 feet closer to an already legal non-conforming setback.

Attorney Fink: It wasn't in your application. What is it that you actually want to build? You want to vary Bulk Area Requirements of the Code permitting an addition to a single family dwelling 47.8± feet from the front setback and addition of a 2 car garage 35 feet from the front setback where 50 feet are required. How big is the garage that you are proposing?

Paul Madel: It is a 2 car garage. It is roughly 24 feet wide.

Attorney Fink: Is it a 24'x24' garage?

Paul Madel: Yes.

Attorney Fink: Are all of these hatched areas additions?

Paul Madel: Yes.

Attorney Fink: Ok. The variances are for the garage and the proposed hatched areas. We will attach this to the Resolution.

Chairman Jansen: The public hearing was opened. Now the public hearing is closed.

Attorney Fink: Is this going to create an undesirable change in the character of the neighborhood or be detriment to nearby properties?

Chairman Jansen: No.

Ms. Bramich: No.

Mr. Malocsay: No.

Mr. Shuback: No

Attorney Fink: Can it be achieved by any other method?

Chairman Jansen: No.

Ms. Bramich: No.

Mr. Malocsay: No.

Mr. Shuback: No.

Attorney Fink: Is this a substantial variance?

Chairman Jansen: No.

Ms. Bramich: No.

Mr. Malocsay: No.

Mr. Shuback: Yes.

Attorney Fink: Is this going to have an adverse effect or impact on the physical or environmental conditions of the neighborhood?

Chairman Jansen: No.

Mr. Malocsay: No.

Ms. Bramich: No.

Mr. Shuback: No.

Attorney Fink: Is this self-created?

Chairman Jansen: Yes.

Ms. Bramich: Yes.

Mr. Malocsay: Yes.

Mr. Shuback: Yes.

Attorney Fink: Does someone care to make a motion as an Unlisted with no adverse environmental impact

Mr. Malocsay: So moved.

Mr. Shuback: Seconded

Chairman Jansen: Any discussion?

All in favor? (4-Ayes) Motion carried.

Attorney Fink: Does someone care to make a motion as advertised with the attachment of the diagram showing what he is going to do?

Mr. Shuback: So moved.

Ms. Bramich: Seconded.

Chairman Jansen: Any discussion?

All in favor? (5-Ayes) Motion carried.

Attorney Fink: Please be advised this Board is only granting the buildings. We are not granting the driveways or access to any roads. This variance is only for the buildings. It is not for any of the driveways. We will put an asterisk in the Resolution stating that so it is clear.

Paul Madel: Ok. Thank you.

PUBLIC HEARING OF Peter Ladka - for property located at 17 Silvertail Road, Warwick, New York and designated on the Town tax map as Section 23 Block 2 Lot 4 and located in an RU District for a variance of the Bulk Area Requirements of the Code reducing 1 side setback to 40 (+/-) feet where 75 feet are required for the purpose of construction of a single family dwelling.

Chairman Jansen: The public hearing for Peter Ladka will not be heard tonight. They have asked to be postponed to the June 26, 2017 ZBA Meeting.

PUBLIC HEARING OF Mark Rogowski - for property owned by Stanley Oszczepinski and located at 234 Mt. Eve Road, Goshen, New York and designated on the Town tax map as Section 6 Block 4 Lot 22.3 and located in a CO District for a variance of the Bulk Area Requirements of the Code to permit a 3 lot subdivision: Proposed Lot 1 – 4.1 (+/-) acres / 6 acres required; 331 (+/-) feet lot depth / 400 feet required; 17.6 feet (pre-existing) / 100 feet required; Proposed Lot 2: lot width 390 (+/-) feet / 400 feet required; Proposed Lot 3: lot width 357 (+/-) feet / 400 feet required; and a variance from Section 280-a of the Town Law for proposed Lot 3 permitting access to a public road via a private road.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering

Karen Emmerich: We have approximately 20 acres on Mt. Eve Road. It has an existing dwelling on it. The owner's daughter and son-in-law want to subdivide the property and build a house on it. But the owners have 2 daughters. It came up that we should take 2 lots off this. The property is located in the Conservation Zone. It requires 6 acres. I want to show you a layout that shows that it conforms to the Zoning Code. It's not what we want. There are some logistic problems. It is shown with the blue lines on the plans. That is the conforming subdivision. The yellow is what we would like to do.

Chairman Jansen: Does the yellow lines reduce for lot #1?

Karen Emmerich: It reduces the lot acreage for lot #1. The other complication that we have is the original house that was built in 1925 is right smack in the middle of the property. It makes it logistically subdividing this property difficult. The other problem is that it is a very steep parcel. We don't want to push the houses way back. It would make it difficult to build. It would make it more expensive. There would be greater disturbances the further back the houses go. We are showing the layout here where the front lot is reduced in size to 4.1 acres. The remainder lots would be roughly 6 and 11 acres. It would be something like that. We are asking for a variance that we believe is really not out of character with the neighborhood. There is a zone boundary on Mt. Eve Road. The lots on the west side of Mt. Eve Road are much smaller than the lots on the east side of Mt. Eve Road which is the portion of the Town that is in the CO zone.

Chairman Jansen: I see the one driveway for Lot #2 is on their lot. Is it a flag lot?

Karen Emmerich: Yes.

Chairman Jansen: Lot #3 goes right through Lot #1.

Karen Emmerich: Yes.

Chairman Jansen: Couldn't you cut out another piece on the other side?

Karen Emmerich: We had looked at that. It is extremely steep. We would have retaining walls that would be about 12 to 15 feet high. We had looked at that. It was discussed with the Planning Board. I agree with you. It is not ideal to come off the existing driveway. We are going to have an easement in order to allow access for the lot. That is another thing. We will need 280-a variance for that lot. It does not have access to a Town Road.

Chairman Jansen: This came to us without a recommendation from the Planning Board.

Karen Emmerich: Right. They wanted us to go to the ZBA without recommendation. They said that if we get the variances then we will talk.

Mr. Shuback: Where they are proposing the 2 houses there are not too many flat spots on that property. I lived right across the street from there my whole life.

Karen Emmerich: Then you know. Access is difficult to this parcel.

Chairman Jansen: Ok. This is a public hearing. Is there anyone in the audience wishing to address the Mark Rogowski application? No public comment. The public hearing is closed.

Attorney Fink: We have multiple variances and a 280-a variance for proposed Lot #3.

Mr. Malocsay: I always thought the Planning Board gave recommendations.

Karen Emmerich: They don't always give recommendations. If they didn't like it, then they would give a negative recommendation. They just felt that there were a number of variances involved. They wanted to see if we would get approvals for the variances. If we do, then they would review the project. We have done soils out there. The soils are good. We also discussed the additional flag for Lot #3. They had agreed that due to the steepness of that lot it was not practical to put a driveway in there.

Chairman Jansen: My other question would be if the private road going into Lot #2, could that be extended to this other lot?

Karen Emmerich: We have looked at that. The perspective owner of Lot #2 does not want that. He does not like the idea of someone driving past his house in order to get to that lot.

Chairman Jansen: As long as there is a legal agreement.

Attorney Fink: The Planning Board won't grant the subdivision without a filed legal agreement concerning maintenance and other items.

Mr. Shuback: The other house they are renting out. That was the parents' house. They are not going to get rid of the house. They are going to keep it. They are going to keep all 3 of them.

Mr. Malocsay: I am thinking that this Board will probably give the variances for this....

Attorney Fink: It is not the tidiest thing.

Karen Emmerich: No. It is not. It is very awkward. I wish I could say that there was a way to make it less awkward. Between the physical constraints and what the applicant wants, it's not the easiest.

Mr. Malocsay: I understand that. But with him having another daughter wanting a lot, that has nothing to do with us. You are asking for a 3-Lot subdivision which should actually just be divided in half. But because of the way it is, that is kind of the way it is. If the Planning had said that they were recommending this, it would be a little bit easier. We are the ones to give the variances.

Karen Emmerich: I think you would be able to do a 3-Lot subdivision here if the house was not right in the middle of the property. That is really the biggest problem. The problem is that existing house.

Mr. Malocsay: Yes. The one question that could be asked that we haven't asked yet, could additional property be bought in order to make this work?

Karen Emmerich: We actually looked at that. The property just north of the property which is SBL # 6-4-22.1 is already undersized as far as the Code goes. We would create a more non-conforming situation. Taking more acreage in the back won't help anything.

Mr. Malocsay: I realize that.

Karen Emmerich: On either side of the property, there is nothing to be really gained.

Chairman Jansen: Ok. The public hearing is closed.

Attorney Fink: Is this going to create an undesirable change in the character of the neighborhood or be detriment to nearby properties?

Chairman Jansen: No.

Ms. Bramich: No.

Mr. Shuback: No.

Mr. Malocsay: No.

Attorney Fink: Can it be achieved by any other method?

Chairman Jansen: No.

Ms. Bramich: No.

Mr. Shuback: No.

Mr. Malocsay: No.

Attorney Fink: Is this a substantial variance?

Chairman Jansen: Yes.

Ms. Bramich: Yes.

Mr. Malocsay: Yes.

Attorney Fink: In regards to the undesirable change, that also applies to the 280-a variance. There was one thing that you did not indicate. How wide is this driveway going to be?

Karen Emmerich: The 2 driveways, I believe will be 12 feet wide.

Attorney Fink: They won't be less than 12 feet wide. That would be up to the Planning Board.

Karen Emmerich: Yes.

Chairman Jansen: You are also going to make sure there is room for emergency vehicles. Is that correct?

Karen Emmerich: Yes.

Attorney Fink: The Planning Board takes care of that.

Karen Emmerich: Yes. We have to have a turnaround.

Attorney Fink: Is this a self-created difficulty?

Ms. Bramich: Yes.

Chairman Jansen: Yes.

Mr. Malocsay: Yes.

Mr. Shuback: Yes.

Attorney Fink: Does someone care to make a motion as an Unlisted no adverse environmental impacts?

Mr. Malocsay: So moved.

Mr. Shuback: Seconded.

Chairman Jansen: Any discussion?

All in favor? (4-Ayes) Motion carried.

Attorney Fink: Does someone care to make a motion as advertised and as specifically shown in the yellow outline?

Ms. Bramich: So moved.

Mr. Malocsay: Seconded.

Chairman Jansen: Any discussion?

All in favor? (4-Ayes) Motion carried.

Karen Emmerich: Thank you.