

A regular meeting of the Town of Victor Zoning Board of Appeals was held on January 19, 2021 at 7:00 p.m. There was no public gathering based on the recommended precautions for limiting exposure to COVID-19. The following members were present virtually via ZOOM and the meeting was live streamed via YouTube:

**PRESENT:** Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Fred Salsburg; Sarah Mitchell

**OTHERS:** Al Benedict, Town of Victor code enforcement; Ed Kahovec, Victor Town Board; Suzy Mandrino, Town of Victor; Kim Reese, ZBA secretary

Chairman Reinhardt called the January 19 Zoning Board of Appeals meeting to order at 7:00pm.

#### PLEDGE OF ALLEGIANCE

#### PAST MINUTES:

On motion of Fred Salsburg, seconded by Donna Morley:

RESOLVED, that the minutes of the meeting held on December 8, 2020 BE APPROVED.

Adopted: Ayes 5, Nays 0

#### PUBLIC HEARING:

##### 1. **HERMAN GARAGE ADDITION** – 01-Z-2021

Nicholas Herman, 1070 Azzano Circle

Applicant is asking to build a 12' garage addition with a 1' eve and is requesting a variance for an 8' setback, whereas 15' is required. Property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – We have two applications today, the Herman garage addition and the Canzano new home. I'm going to presume that both applicants it's the first time here, so we're just going to walk through it quickly on how this is going to look. What we will do is each applicant will have an opportunity to make the presentation so that the board has a good idea of what it is and what kind of variance that they are looking for. We have reviewed the papers so we're going to try and streamline that. At that point then, once the applicant has had an opportunity to review and make their presentation rather, to the board, the board then is going to ask some questions and hone in on exactly what it is that you're looking for. And apply the five criteria and that you should have seen on your application. There's probably going to be an opportunity that the board is going to want to also ask questions of the code enforcement officer. They have made some comments and at that point then we will take a look at, I know that at least on the Canzano application there was an email that we received from a Phillip Nelson. So that's the opportunity for the public to make comments whether it be for or against. If there are further

exhibits by all means you are going to have an opportunity to present them. So we will give the applicant every chance that they can to make the presentation. With that, if there are no other questions we will start with the Herman garage addition. Nicholas, you'll be making the presentation? Is that your son? Are you going to send him in if it's gets a little too tough? Not to worry.

Chairman Reinhardt – Your application is that you want to put a 12 foot garage addition with a one foot eve. The code requires a 15 foot side setback and you're looking for 8 feet. We also know that there have been some other similar additions in the neighborhood onto the garages. Is that accurate?

Mr. Herman – Yes, it's accurate. If you're looking at that diagram, if you go one, two, three houses to the left, they did the same thing and they build a third car garage to the south, I guess of their house.

Chairman Reinhardt – Okay, so looking at that aerial that you have, I think your next door neighbor would be 1068, is that right?

Mr. Herman – Yes.

Chairman Reinhardt – Have you discussed that with him at all? On what your proposal is?

Mr. Herman – I appreciate all the help and the guidance you guys gave me. The code enforcer was awesome. I know it was recommended to talk to him. I was grilling one day and kind of mentioned it to him and I think he has a third car garage, too so he understands the storage limitations. My wife is due with our third kid on the 28<sup>th</sup>, next Thursday, so truth be told, I haven't gone over with everything going on today. I told him, obviously he got a letter, there's been a sign in my yard. He's very aware of what I'm requesting. He said he understood when I talked to him, but I didn't get a letter or anything from him.

Chairman Reinhardt – So why don't you make your presentation before we start getting into some questions.

Mr. Herman – Sure. I didn't prepare a presentation, so I apologize for that. My job (inaudible) I'm really just looking to add a third car garage. One of the reasons we requested a variance, the plot is plenty large enough but I really can't build on the far side due to that easement, so it just makes logical sense to build kind of where that third car driveway already exists. We have three cars, I just like to keep it clean. Everybody else parks in the garage. I would kind of like to get everything in the garage. I requested the 12 foot. The code enforcement officer told me that's kind of standard. I'm not a builder. I've had a couple builders come look and give me some quotes and some ideas so I'm really trying; it's chicken and egg kind of conversation. I'm requesting a 12 foot by 30? I doubt it's going to be that big. One guy told me that based on the roof line, it would be more like 24 feet long, so it didn't impede with some of the windows. But, I guess I'm just requesting something larger so if I feel like if I build something smaller the board would be okay with that.

Chairman Reinhardt – I think it's not so much the depth is the problem, it's going to be the width for the side setback is the issue. Do you know the distance between your house and 1068 without the proposed garage and then with the proposed garage?

Mr. Herman – I used my survey map that diagram, that you just had up. I actually used my survey map to create that, so the house is built not exactly in line with the property line, so it's 21.5 on the front of the house and then it's 19.4 on the back. We wouldn't be going all the way back. You can see my green line. It would probably be 2/3 back, so it's probably 20 and a half, 21? Something of that nature.

Chairman Reinhardt – Anything else you want to add to your application before we start asking some questions?

Mr. Herman – I don't think so. I think I answered all the questions that were on the application. Some I'm not sure are applicable. I've also never done this before so hopefully the board can give me some guidance. I'll answer whatever questions I'm equipped to answer without having any kind of engineer or contractor look at it at this point.

Chairman Reinhardt – You're not the first newbie that we've talked to, so what we usually do is we're going to ask you some questions and that will help us to fine tune the application to see what is it you're asking for and how it applies to the five criteria.

So, with that Matt, do you have any questions?

Mr. Nearpass – Not really. This is relatively straightforward. Just a few things that come to mind, I'm assuming is there anything unique about this? I'm assuming it's just going to match the siding color of the house and it's just going to kind of blend right in with the whole thing and kind of still fit within the character of the neighborhood?

Mr. Herman – Yeah, I've even talked to the contractor and one guy wanted to do like a kind of, what do you call it, a gable-style where it just kind of comes off the house and I'm really trying to make it look like the neighborhood. Everybody else kind of has a north and south running steep, so my goal is to make it look everybody else's if I can.

Mr. Nearpass – We did grant a variance for a couple doors down to have a third as well. Do we know Al, is that project done?

Mr. Benedict – The last I knew I don't think it even had started yet. I maybe incorrect, but.

Mr. Herman – It started. The structure is completely up. I don't know how finished it is.

Mr. Nearpass – Are there any other three car garages in the neighborhood?

Mr. Herman – I would say that the majority of ours have three car garages. There are only a few houses that doesn't at this point.

Mr. Nearpass – It would have been good if you had the conversation with the neighbor, a little more thoroughly or direct. Obviously to your point, he's aware something is going on. You had the initial conversation with him and it doesn't sound like or appear that he's spoken one way or

the other on it, but I think obviously this is something that's important given what's in front of us. I'm out of questions for now.

Chairman Reinhardt – Sarah, do you have any questions?

Ms. Mitchell – I don't. I feel like this is right along the same lines as the area variance we granted last year in the same housing development, so I feel like it fits with the characteristic and he's right along the same lines as they were so I really don't have anything negative or against the project at all. So, I'm good with it as presented.

Chairman Reinhardt – Donna, questions?

Ms. Morley – No, I'm good as they are.

Chairman Reinhardt – Fred, questions?

Mr. Salsburg – Where the new garage is going to go, is relatively flat. Probably slopes away from the house a little bit, but as the house goes out that grade is going to have to become steeper in order to keep and drain away from the house and I kind of think that the neighbor ought to be in tune with that. My thought is to make one of the conditions a letter from that neighbor if he doesn't object to it. Not so much that I don't believe the applicant, but I think it's important enough. That's all for me.

Mr. Herman – Fred, to your point, their house is probably 10 or 15 fifteen feet above ours. Even with the (inaudible) I think it would slope down into our yard.

Mr. Salsburg – Right, you wouldn't want the grade sloping down to the new garage. You would want a swale in between the two. That would make the grade a little steeper. But you wouldn't go on his property, I wouldn't think to regrade. It would stay just on yours. That's getting pretty close to an influence on the neighbor. That's my only thought is I'm nervous about the neighbor.

Chairman Reinhardt – On the drainage, swale issue is there any encroachment or do you anticipate any encroachment? Let me back up, let me ask the question a little better. Is there a swale between your house and your neighbor at 1068?

Mr. Herman – A swale? I apologize.

Chairman Reinhardt – Okay, so it's often times in newer developments, what happens is, in between the houses so that there isn't the run-off from one house to another there is a depression in between the two house that allow, I don't want to quite use the word flash flood, but if there is kind of a heavy rain, quick rain that the water then will instead of going into your neighbor's basement will go into the depression and then off into the storm sewer or off in some other place that is someplace other than somebody's basement.

Mr. Herman – Thank you for the definition. I apologize for that. Like I just said to Fred, it actually all slopes. There's actually no grade that grades away from my house as is, right now. Everything actually slopes down towards my house, like I said probably a 15 foot difference from his ground level to my ground level, but there's no depression, no nothing. It's kind of a

smooth downgrade to my house itself. Which was a little concerning when we bought the house because there is no slope away to Fred's point, at all. So, I assume most of the water that runs from his yard is coming right down into my house today.

Chairman Reinhardt – Let me ask Al, then. Al, from the proposed plan for the garage do you anticipate that there will be any kind of adverse problems for the neighbor at 1068, run-off, water, run-off?

Mr. Benedict – The neighbor to the south.

Mr. Salsburg – It would be the uphill neighbor.

Mr. Benedict – The uphill should have enough room to drain water away from garage as well as the neighbor's house without either one being inundated.

Chairman Reinhardt – Okay. That's good to know. Let's circle around to Fred's comment about looking for the neighbor's comments. My initial thought here is that they were put on notice. If the neighbor thought whether it be for or against, this neighbor had an opportunity to either send us an email or notify us that he was for or against it. Their silence doesn't actually mean that they are for or against it, but in my opinion he or they had an opportunity to comment and they didn't do it. Matt, what do you think about requiring the neighbor to comment on this application?

Mr. Nearpass – I'm kind of in the same boat as you. I was going to ask Mr. Herman, when are you looking at starting the project?

Mr. Herman – That's actually a great question. Spring? I think.

Mr. Nearpass – We've got some time, if we wanted to hear from that neighbor a little more directly, we're not really going to be impacting your project schedule?

Mr. Herman – You shouldn't be. I've met with one contractor so far. I wasn't exactly sure which step to put in front of the other step, right? I don't want to get a bunch of contractors over here if the answer was going to be no that I wasn't able to do the project at all.

Mr. Nearpass – Would you have an issue with that? Is there a level of nervousness around being that direct with him or her?

Mr. Herman – I don't have a problem communicating with anyone. It's been kind of a weird year just because of Covid. I was super close with my neighbors previous to this move, but I just feel awkward going over there at this point, right now. Come spring time, I'm sure maybe it will be a different story. Again, with my wife being so close to giving birth I can't risk getting Covid myself.

Mr. Nearpass – Well you could call him, right?

Mr. Herman – I don't know their phone number though. Yes, I can reach out.

Mr. Nearpass – I could go either way with it, Mike.

Mr. Herman – From my standpoint, we've mentioned it. We talked during the time I was cooking chicken wings, so it's probably 20 minutes worth of conversation. Just kind of small talk. I brought it up right away. I'm the new guy. I don't want to be the guy that's making everybody upset the second I move here. I'd like some good relationships with my neighbors and again the response I got was like yeah, I totally understand. As long as it looks good and fits the neighborhood, I don't have a problem with it. That was kind of as far as it went from there. But there's been a sign in my yard for two weeks and letters went out to all my neighbors. A couple of them messaged me and made some jokes about me being the new guy causing a ruckus.

Chairman Reinhardt – Sarah, your thoughts?

Ms. Mitchell – I don't think the letter is necessary. He's right. The sign's been in his front yard, a legal notice gets mailed to his house. You can't be much more proactive to get feedback and if they haven't reached out with concern, then I would like to say that there is no concern at this point. So, my personal feeling is I don't think a letter is necessary.

Chairman Reinhardt – Donna, your thoughts?

Ms. Morley – I wanted to ask Suzy is anybody watching, Suzy?

Ms. Mandrino – There are people watching, but no comments for this application.

Ms. Morley – I'm with Sarah. I don't have a problem without having a letter from them. They had plenty of ways to do it, if they wanted to.

Chairman Reinhardt – Okay. Just to wrap that piece of it out. I think what we have is since there was a variance granted in this neighborhood. It's not a large neighborhood, and also that there appears to be when you look at the aerial similar style, whether it be three car garages or additions to those homes. I think as far as that first criteria, I really don't think that an undesirable change is going to be produced in the character of the neighborhood. And, just having one individual, we've had this before, where one neighbor might say I don't like it and fill in the blank and try to explain why and it doesn't necessarily mean that the variance is going to be denied. So with that I'm comfortable with moving forward and going through the criteria. I think there is sufficient information that we can fill in the blanks for the criteria and entertain a motion. Matt are you prepared then once we go through the criteria, you comfortable with either granting or denying the motion with the information we have.

Mr. Nearpass – Yes, I'm comfortable. No issues on my end.

Chairman Reinhardt – Sarah, you comfortable moving forward?

Ms. Mitchell – Yes.

Chairman Reinhardt – Al, do you have a comment?

Mr. Benedict – Yeah, I did some math on the plan that was submitted and interpolated the numbers and it comes out that the back corner of the garage if it were 30 feet, with the eve, would be seven feet from the lot line rather than the eight indicated.

Chairman Reinhardt – Alright, so the depth is going to matter. So he's asking for an eight foot side setback. You're looking at the plan numbers and it looks like he needs seven.

Mr. Benedict – Yes that would be at the back corner.

Mr. Nearpass – That's if he goes with a 30 foot depth?

Mr. Benedict – Correct.

Mr. Herman – Al, does thirty foot get me all the way back there? I tried to measure to, I have a bump out associated with a fireplace that's got to be, I don't know, 15-20 feet I would think from the back of my house? So, I wasn't going farther than that.

Mr. Benedict – That's probably right, but what I did is I took the difference from the front of the house to the back of the house and spread that over the 46 feet which is the length of the house and then you interpolate to, it actually ends up 31 and half feet because you're setting the garage back a foot and a half from the front and then from there it comes out actually at 31 and half feet back from the front of the house and the garage being 12 feet plus the eve, you end up at 7 feet.

Mr. Herman – I apologize, I'm not a mathematician. I'm not good at this stuff.

Mr. Benedict – That's okay. That's why I'm here.

Chairman Reinhardt – This is important for both applicants. The variance if granted runs with the land so whatever is decided it's going to stay with it, whether you're the homeowner or not. If you sell it, the variance stays. And also in today's day and age as much as people might want to say, well close enough is good enough, applications especially variances could run into some trouble if you basically put your thumb up and say, oh I want it over there. Because if it's an eight foot request and the variance is granted at eight feet and it turns out to be seven and a half or seven, you got yourself a bind and now you're in violation. I think what Al is trying to do is give you a little bit more room for error, so that if it turns out to be eight, okay. If it's seven, now you got a little bit more room to get it done, presuming the board decides to grant the variance. Does that make sense?

Mr. Herman – I appreciate you, Al. I truly do. Again, I'm freestyling here. I'm not a contractor, so thank you, Al for doing that math.

Chairman Reinhardt – Any other comments, Al?

Mr. Benedict – No, that's it.

Chairman Reinhardt – Okay, great. Alright, so let's run through the criteria.

First being, an undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification being that the placement for the garage is going to be attached to the garage. To put it on the other side of the house is going to encroach onto the easement. Also, that there are other similar types of third bay or three car garages in the neighborhood. We have found that there was one similar request for a variance back in July 2020 that was granted. While the applicant hasn't directly spoken or at least doesn't have any proof that he spoke to the neighbor at 1068, it appears that notice was given to that neighbor and the neighbor has not either spoke for or against the requested variance.

Anyone else want to add to the first criteria?

Second being, the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

As part as the first justification was that there was an easement on the other side of the house which makes it prohibitive.

Anyone want to add anything else to the second criteria?

Alright, third, the requested area variance, I would have to say that it is substantial. It is more than fifty percent.

Anyone want to comment or add anything on the third criteria?

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

It appears that the drainage and swale water, if you will, encroachment has been addressed. Al seemed to indicate that there will not be any kind of run-off water issue and I think that's satisfactory.

Anyone want to add anything else to the fourth criteria?

Fifth, the alleged difficulty is self-created. However that doesn't necessarily mean that the application will be denied based solely on the difficulty is self-created.

There was some discussion on whether or not we should require the neighbor at 1068 to comment on at least having an opportunity either for or against however I think it is at this point unnecessary.

Would anyone like to add anything else to the five criteria or any proposed conditions to the variance itself?

Alright, hearing none, I would entertain a motion for approval.

Mr. Nearpass – I'll make that motion for approval. Sorry Sarah.

Thank you Matt. Sarah, would you like to second that?

Ms. Mitchell – That's okay. I'll second, Mike.

Chairman Reinhardt – Thank you. Alright, any further discussion on the proposed motion?

Great then, all in favor say aye. (Aye) Opposed? (None)



Alright, you have a variance. Congratulations, good luck to you. Stay Well.

Mr. Herman – Thank you everyone. Appreciate the help.

RESOLUTION:

January 29, 2021

Mr. Nicholas Herman  
1070 Azzano Circle  
Victor, NY 14564  
Re: 1070 Azzano Circle Garage Addition, Area Variance

Appl: 1-Z-2021

Dear Mr. Herman:

At a regular meeting of the Town of Victor Zoning Board of Appeals held on January 19, 2021 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on December 16, 2020 from Nicholas Herman, 1070 Azzano Circle, Victor, NY requesting an eight foot variance thus allowing a seven foot setback to build a garage addition, whereas Schedule II, Area and Height Requirements of Chapter 211 of the Town of Victor code states a 15 foot setback is required;

WHEREAS, said application was referred by Martin Avila, Code Enforcement Officer of the Town of Victor on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 10, 2021 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on January 19, 2021 at which time no residents spoke for/against the application,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings:

1. An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: The addition will be attached to the garage. To put it on the other side of the house would encroach onto the easement. There are other similar types of third car garages in the neighborhood. There was a similar request for a variance in July 2020 that was granted. While

the applicant doesn't have written proof that he spoke to the neighbor at 1068 Azzano, it appears that notice was given to that neighbor and that neighbor has not either spoke for or against the requested variance.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: There is an easement on the other side of the house that makes it prohibitive.

3. The requested area variance is substantial.

Justification: The applicant is asking for a variance of more than fifty percent.

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

Justification: It appears that the drainage and swale water encroachment has been addressed. Code enforcement indicated that there will not be any kind of run-off water issue.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

There was discussion on whether the Zoning Board of Appeals should require the neighbor at 1068 Azzano to comment on the application, but it was deemed unnecessary at this point.

On a motion made by Mathew Nearpass and seconded by Sarah Mitchell:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Nicholas Herman, 1070 Azzano Circle, Victor, NY requesting an eight foot variance thus allowing a seven foot setback to build a garage addition, whereas Schedule II, Area and Height Requirements of Chapter 211 of the Town of Victor code states a 15 foot setback is required, BE APPROVED.

AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.

This resolution was put to a vote with the following results:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Sarah Mitchell	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Adopted: 5 Ayes, 0 Nays

If you have any questions, please do not hesitate to contact the Planning/Building Office at (585) 742-5040.

Respectfully,

Michael Reinhardt, Chairman  
Town of Victor Zoning Board of Appeals

MR/KR

Xc: Karen Bodine, Town Clerk  
Town Building Department (via email)  
Jack Marren, Town Supervisor (via email)  
File

2. **CANZANO NEW HOME – 02-Z-2021**

Patrick and Sarah Canzano, 23 Rothbury

The applicants are requesting to build a house behind an existing barn at 1086 Strong Road. §211-31G(2) states no accessory structure shall be forward of the primary building. Property is zoned Residential 2 and owned by Ott Irrevocable Survivors Trust.

Chairman Reinhardt – Next is the Canzano application. So, you know the drill. We're going to give you an opportunity to make your presentation. Looks like this is going to be a proposed new build. You're currently looking to build a house at 1068 Strong Road and currently there is an existing barn on the property, is that right?

Mrs. Canzano – That's correct. So, right now we actually do not own the property yet. We've placed an offer on it and we're under contract. The seller had a planning board meeting last week for the subdivision of the land. It's a larger parcel of land on Strong Road. So, we kind of understand, this is sort of like a chicken before the egg thing, but there's a lot of pieces that go into it and we don't want to purchase 8 ½ acres of land without either having had a conversation with you, with the understanding that we could build on it in the future. Because the last thing we want is to spend all this money and then own a big barn.

So right now there is a barn right up against the road and you can see my nice little drawing there on the other one. That would be our lot that we're going to be purchasing and then the possible home site would be behind it. Obviously there isn't space for a home in front of it. The plan would be to build a modern farmhouse there for our family. And, we would fix up the barn. Right now it's super run down. It's like red and white. We'd fix that up. There would be landscaping. It would be our home, our forever home. The issue being that we'd have to build behind the barn which the variance is for. The other problem is that that we don't know exactly where the house is going to go until we purchase the land, we figure out where the well would go, the septic and all that, but that's the general placement of where we would like the home.

I know that was a lot of information.

Chairman Reinhardt – No, that was very brief and concise. Very nice job. Anything else you want to add before we ask you some questions?

Ms. Canzano – I guess good information to have would be that the lot above us, the lot 2 there, is actually our best friends that are going to be purchasing that lot, so we know who is going in next to us and right now the land is all owned by a family trust, so the piece across Strong Road, the large 34 acre parcel, there's not a buyer on it right now. It's still that family trust that would own it. So we're just purchasing those two lots there.

Chairman Reinhardt – I might have missed it. Do you have authorization to apply for the variance?

Mr. Canzano – We do. In the offer in the contract that we're under for the land.

Ms. Canzano – And, we got the survey information from the seller's survey company. That was their survey that they did.

Chairman Reinhardt – Sarah, do you have any questions?

Ms. Mitchell – I guess my question right now is how far is the barn currently from the road and proposed location from the barn to the house. That's my question for now.

Mrs. Canzano – That's a good question. I don't think it's on the survey how far it is. Can you guess at it?

Chairman Reinhardt – No, we don't want to guess.

Mrs. Canzano – Just to have an idea, though. It's hard to tell on that picture.

Mr. Canzano – Was there ever an application to build a barn on the land? Is there any historical information from the town that has that data on it?

Mr. Benedict – There may be. I remember when I looked at this for the planning board for the subdivision I know the barn was at least 40 feet from the right of way line. I want to say it was maybe 50 feet from the right of way line.

Mrs. Canzano – Yeah that makes sense.

Ms. Mitchell – And then, do you have an idea how far you'd like to put the house from the barn?

Mrs. Canzano – So, I'd say double that at least.

Mr. Canzano – Yeah, I think further than that. We've done some preliminary work in trying to understand what our options are in building especially knowing that we have to install a septic system and do a well that we can only be so far off the road without having to install some type of sprinkler system so we would obviously look to construct a home within those parameters while still

Mrs. Canzano – I believe it's 250 feet back from the road.

Mr. Canzano – So we're trying to take it off the road, leverage some of the property and again it's only going to be a single family home on that entire 8 ½ acres, so we would have the ability

to move it. I guess ultimately we're just looking to know that we'd be able to do that before we spend all this money.

Mr. Nearpass – Are you looking to get a number from us and a variance tonight or are you looking for opinions and guidance?

Mrs. Canzano – I guess either because right now the situation there's so many moving parts that are involved so I guess if we were to come to this with you, like the questions you're asking we need to know obviously so that's something we can go back and find out more information from whether it's through Al or someone at the town to get all that information because this is a learning process for us and it's been six months of questions and meetings and poor Kim, we've talked to Kim a thousand and one times. The sellers don't have a lot of information on the land because it wasn't there's. It was relatives that owned it.

Mr. Canzano – I guess ultimately having the variance would provide a ton of piece of mind, but if not we at least need to understand the fact that it wouldn't be an issue to obtain the variance knowing that there is that existing barn and structure there. Given the fact that we would work with town once we go for a site plan to ultimately construct the home.

Chairman Reinhardt – Matt, do you have some more questions?

Mr. Nearpass – If it's my turn. I didn't want to hijack who was going before me, Sarah?

Ms. Mitchell – Just one more question, is the driveway where it is in its current location your plan to leave it in that spot?

Mrs. Canzano – Probably, yes. It would probably come off that one spot so it could loop into the barn and then loop straight back to the house.

Ms. Mitchell – Those are the questions I had for now, so, Matt your turn.

Mr. Nearpass – My opinion on this and we've seen this a few times, right? The lots that have preexisting barns and things on them and it's not uncommon in a country setting like this to have the barn forward of the front line of the house. As long as the, in my opinion, solely in my opinion as long as the home is adequately spaced from the road. It looks like you want to set it back there quite a distance I'm okay with having the barn forward of the house in a setting, in a neighborhood like this. It makes sense to me, that's what I would want to do with it. I think it would be within character of the neighborhood. I guess my question is to Al. How close to the road is the house allowed to be?

Mr. Benedict – The front setback to the right of way line is 40 feet.

Mr. Nearpass – And, that right of way line is that dotted line?

Mr. Benedict – I don't have it in front of me, but generally yes.

Mr. Nearpass – I'm looking at the Strong road map. There's a red dotted line that goes east west or maybe that's north south?

Mrs. Canzano – Yeah, north south.

Mr. Nearpass – We all give our opinions, but none of them are guarantees or promises. So I'm thinking if it's possible and I'll leave it up to Mike and the rest of the board, to just draw the line or give you something that we know there's enough buffer for you to work with or anyone who's going to buy the property to work with and still have the home no closer than X number of feet from the existing barn so I'll turn it over to the rest of the board, but I'm totally willing to kind of work with you and the rest of the board to come up with a solid number and guidance for you instead of a kind of a wishy washy, we think everybody liked it kind of thing.

Mrs. Canzano – Thank you. That's a good recommendation.

Chairman Reinhardt – Al, I'd like to have you comment a little more on your notes about lots 2 and 3 are not buildable until the site plan has been submitted and approved. Which stage are we in, in that?

Mr. Benedict – Right now they are in the subdivision stage, so they're breaking the parent parcel out into three. One being on the west side of the road and the Canzanos and neighboring parcel to the north being on the east side of the road. If and when that is approved they could then move forward with establishing a site plan in which you'd get a design professional. They can submit that through the planning and building office or through the planning board or to the town engineer for review. Once that is reviewed and approved they can move forward with building permits.

Chairman Reinhardt – I'm a little leery about pressing forward with the variance at this stage without having some kind of comfort level on the site plan approval process because I don't know. I understand the chicken and the egg argument here and the problem, but if a variance is granted and we're starting to guess about you can have the house here and there and it makes some sense and the site plan approval process there's just all this upheaval or contradictions about no you can't really put the house there because something that's really in the prevue in the site plan approval process. Let me go back to Al a little bit here, in the site plan approval process is there any kind of thought process on where possible locations for a residential structure can go irrespective of the barn?

Mr. Benedict – That's part of the site plan process and they have to show where the house is going to be located along with septic, driveways, utilities as well as grading.

Chairman Reinhardt – So is it possible without micromanaging or telling the planning board and the site plan approval process what to do, is it possible from the code to, I'm not saying that's where you want to put the house, but is it possible to put the house right next to the barn so that a variance wouldn't be required? This comes down to the feasibility piece of it.

Mr. Nearpass – I think looking at it, you can't put the house in front of the barn, right?

Chairman Reinhardt – No, no next to it.

Mrs. Canzano – I feel like even next to it it's too close to road, isn't it?

Mr. Benedict – You can locate it somewhere to the side of the barn but still have the front line of the house closer to the road than the barn is.

Chairman Reinhardt – I know that's not what you want it's really not really the question I'm trying to drive at, is that it does go to the one of the criteria is it feasible, it's reverse, that there really isn't any other feasible alternatives for you to accomplish what you want without the variance? So, in the site plan approval process in their wisdom and their analysis they say whoever owns that property could put a house in line with where the barn is and still be in compliant with the code and not require a variance that's a fact we have to consider, right and to do an analysis of a variance at this point without knowing what the site plan approval process looks like I think is premature because there's pieces we don't know. And we don't start guessing at it to say, is it feasible or not, well if we don't know because the site plan approval process hasn't been completed yet. I think that's an important piece that we're not quite ready to do a full analysis on either granting or denying it. Does that make any sense or I can explain it a little differently?

Mrs. Canzano – I understand.

Mr. Canzano – I guess I'm struggling with that. The site plan approval who determines that? We hire somebody to develop the land to give us a plan and we present it to the board where we are looking to construct a home and then you're outlining that the board would come back and say no you actually could move it up 200 feet right next to the barn and accomplish what you're looking for?

Mr. Benedict – Generally what would happen is you would hire a design professional to design your site and in that they would take into your considerations where you would like to place a house as well as keeping in mind town codes as far as setbacks to front and sides and other buildings. At that point, that site plan would come forward, it would be submitted, it would be then reviewed by myself or somebody else in the code office and if it didn't meet code or setbacks or in this case being behind the front line of the barn, that would be highlighted and then you'd have to come back, get the variance prior to the planning board or anybody else approving the site plan.

Chairman Reinhardt – Thank you, Al. I think what's also important here and to the applicants favor is that as Al indicated in his notes that the barn is a previous existing, non-conforming which even though what you're trying to do. Many times if an applicant comes before us with this kind of request, the house has already been constructed and they want to put the barn in front of the house. You're doing it the other way. The barn is already there and let me ask you this, it's a curious question that I have. Is there any thought about taking the barn down and if so, you want to keep the barn?

Mr. Canzano – We want to keep the barn. It would serve great storage. We would look to improve the barn. It's on a cement slab. I think it wouldn't make sense for us to take it down, relocate or even take it off the property. It's valuable to the piece of land that we're looking to purchase.

Chairman Reinhardt – I think where we're going with this is we're going to need some more information and on the feasibility piece if you could come back and say look to move the barn, we looked into it, it's going to cost, if you have somebody to give you an estimate, to say it's going to cost us \$100,000 to move the barn. It's going to cost \$100,000 to take the barn down, I'm just putting a number on it. That is valuable to us because now we're going to see it isn't feasible to move the barn. They don't want to take the barn down. And, even though it's the needs and wants, we've had this conversation with applicants before. You may not want the house next to or in line with the barn, because of aesthetics okay that's important. It doesn't mean though you can't put it in some other place. These are all valuable pieces when we look at the criteria and plug all this information in. I think you saw in the last application that just because you don't meet one of the criteria is not fatal to the granting of the variance itself. You don't need all of them. It's a collective body of information the factors that go into it.

Mrs. Canzano – Okay. So my question would be then, just guidance from you the next step for us. So say we purchase the land and everything goes through successfully with the subdivision, we're able to purchase the land, your recommendation would be then when we're working with our builder, developer, whoever to do the site plan first and then get the variance or to get the variance and then the site plan.

Chairman Reinhardt – I don't know if it was just my computer, but I think I missed about two sentences of what you said. You had a skip and I missed it, so if you could say that again for me.

Mrs. Canzano – No worries. So my question is if the subdivision goes through successfully and we're able to purchase the land, is the next step then the site plan application and then the variance or vice versa?

Mr. Benedict – Actually you can submit the site plan, but it cannot be approved until you get the variance.

Mrs. Canzano – Okay.

Mr. Canzano – Now I'm confused, because everything was contingent on the site plan yet we can't even go to site plan submission until we know that we can.

Mrs. Canzano – We can, it won't get approved until. It's like in the middle.

Mr. Benedict – You can generate the site plan and submit it. But it cannot be approved by myself, the town engineer or the planning board until all the variances are satisfied.

Mr. Canzano – So it sounds like need to try to figure out what we need to do to satisfy the variance. I've never been through this, I'm trying to process this in my head.

Chairman Reinhardt – For me, not knowing where that house is going to go, just by you saying it's going to go about there is causing I think me some angst, maybe some of the board members some angst and I think Al's trying to tell you you've got to kind of put a fence around your project instead of just having this wide open, well it might go here, it might go there, it might go



here. I think that process needs to get going on where you'd like the house to go, what it's going to look for the site plan approval process. Okay? Donna, you have a question?

Ms. Morley – Yes, is the property that they are buying where the old Ontario Pool supply was?

Mr. Canzano – Yes, that's the building.

Ms. Morley – Is there already a variance on that property, for that business and building there, or no? Or was it just a barn?

Chairman Reinhardt – If I understood Al's notes right this was granted by a special use permit and has not been renewed, so the business is not running out of there anymore. Is that accurate, Al?

Mr. Benedict – That's correct.

Ms. Morley – So then that property is zoned what?

Mrs. Canzano – Residential 2.

Mr. Canzano – That's what we understood, R-2.

Mr. Benedict – That's correct.

Ms. Morley – Okay, thank you. That's my only question.

Chairman Reinhardt – Are they in the Ag district at all? There's been times what applicants come forward with variances and if you will, the bar is lower because they are in Ag district.

Mr. Nearpass – I think that's only if it's a farming activity, right?

Mr. Benedict – Right.

Chairman Reinhardt – Great. If it was an Ag district area, they'd have to use that barn for agricultural purposes. I'm not hearing that that's what you're going to do.

Mrs. Canzano – I do want goats, guys.

Mr. Canzano – There may be additions. Chickens or something.

Chairman Reinhardt – We'll hold that thought for now. Donna, any other questions?

Ms. Morley – No thank you.

Chairman Reinhardt – Fred, questions?

Mr. Salsburg – I don't see the problem with the house. If the question in front of us is can they build a house behind the barn and we say yes or no. Let's say we say yes, as long as the house is built per code, what's the problem?

Mr. Nearpass – Wow, I agree 100% with you Fred.

Mrs. Canzano – Me, too, Fred.

Chairman Reinhardt – Alright, Sarah what do you think?

Ms. Mitchell – I think that no one will agree with me because I think that we're too early to decide this right now. I think the subdivision isn't even done yet, so and we don't even have a guestimate of what a site plan will look like. I mean this is a guestimate of a site plan. But, I think that until we actually see an actual site plan I think then we can better make our decision.

Mr. Nearpass – I'm kind of in the same, well similar boat as Fred, in my opinion this is all about the character of the neighborhood. We're not in a Ryan Home development or anything like that, where houses are close to each other. It's all about do we feel comfortable with having the barn in front of the house. I could honestly care where they put that house on that piece of property as long as it adheres to the side setbacks and the rest of the codes. The only variance between them and getting the house where they want is just the placement of the barn forward of the house? No problem here. And they are obeying all the side setbacks and all the other things. Where the septic has to be so far and they have a well thought out plan. I'm not sure we can make that decision for you tonight other than again kind of giving you some feedback, but as long as they are obeying all, whether the lot line is five feet this way or that way or whether it will look exactly like this, I just think in general my opinion is I'm okay with having the barn forward of the house again as long as the house meets all of the other code criteria. Put it wherever you want.

Chairman Reinhardt – Okay. I don't want to cut anybody else off, Fred, Donna, anyone else want to have any comments on the issue?

Mr. Salsburg – If we were to force this barn to be torn down, I'd feel guilty and wouldn't want to drive down Strong Road anymore.

Chairman Reinhardt – I agree with you. I think it's a question that we can't assume things. To create a record is important so to hear the applicant say that they want to keep the barn. I know it was a kind of a bit of tongue in cheek question. I get it. To move the barn, to tear it down that's not feasible, but we can't assume it, so somebody has to say and make that part of the record.

Mr. Canzano – Can I ask a question?

Chairman Reinhardt – Absolutely. Ask us anything you want.

Mr. Canzano – Is the normal variance approval process for this request to construct something behind an existing barn, does it require your review of the site plan? Everybody is asking for that, but it sounds like all we're looking for like you said, is just a yes or a no.

Mr. Salsburg – It's none of our business.

Mr. Nearpass – The variance has to be specific in that you're only allowed to be so far away from the barn. You have to basically tell us exactly where the house is going to go.

Mr. Canzano – Oh, okay, so there is in the variance it needs to be 70 feet away from

Mr. Nearpass – Right. No closer than X.

Mr. Canzano – I didn't know that. Okay.

Chairman Reinhardt – Let me put it a little different. The site plan approval process is important where other applications I can't tell you exactly where they've been, but to describe them the barn itself was for example about 200 feet off the road and the house was further back and you never would see it and it was well buffered, so that's just an example of when a house could be behind a barn or an exterior non livable structure, if you will. So every case is different. We go on a case by case basis. Your case is unique. The barn exists and it's about 50 feet off the road. You have lots of room in the back. The troubling, maybe intriguing part of this application is there's lots of different places you could put the house including next to the barn. Again, I know you don't want it there, I hear you, but for us to look at it and say well they didn't want it there, so let them put it wherever they want. The way that the code is, the way variances work, you need more than that, just to say, we don't want it there. We have applicants say we can't put the barn structure garage there because we only could put the septic system in this location and this is about the only place that makes sense because of the slope and all these other variables come into play and we look at and say okay now this makes sense. There's really not a feasible place to put X and they need the variance. You have a lot, what did you say eight acres (8.5), okay 8.5 acres I don't think you could put the house anywhere on the eight acres, but I'm going to take a guess it's probably close to seven acres that you could put that house. So to Matt's point, to say you could put it wherever you want but for the variance it's important that it's written so that we know and the language of the variance is that where is that house going to be in location to the barn. And, I don't know if you're quite there yet.

Mrs. Canzano – No, and I think though that all the questions you guys have asked have helped us narrow down and get a feel for your opinions on it, what's required for it, the process, it's just been very confusing so I think this was the first place we could start right now and I think this has been helpful for me at least to understand and to know what we need moving forward so.

Chairman Reinhardt – There have been other applicants that when something is unusual and a variance is needed, they'll say well gee on that it's the first criteria about whether or not it would change the character of the neighborhood. They will go in the neighborhood and I think you heard in the last application, say there are three car garages in our neighborhood it's not going to change the character of the neighborhood. You might do a little more research and say there are barns out there.

Mr. and Mrs. Canzano – There is one, down the street, 1200 Strong Road. It exists today.

Chairman Reinhardt – There we go. So, showing that and presenting that to the board. You can't make the zoning board do all your homework for you and it's your application. You have to give us something to sink our teeth into so that we can say okay yeah there is another barn. It's not going to change the character of the neighborhood. Without creating the dangerous language that the granting or denying of a variance. It's a term called arbitrary and capricious meaning the decision which is made without any thought going into it. Alright? Facts need to be put into it, so that the reason why the variance was granted or denied was based on facts.

Does that make some sense? You need some more facts if you want the variance to be granted that plug into the criteria.

Mr. Salsburg – Mike are you suggesting this application be tabled at this meeting?

Chairman Reinhardt – I think that's right. I think that's where we need to go. We don't have enough information just yet. So what I want to do though is we do have an email.

Ms. Mandrino – Mike, there is one comment, so whenever you're ready for that.

Chairman Reinhardt – I know we had an email from Phillip Nelson. Is that the comment you're speaking of or somebody else?

Ms. Mandrino – Nope. It's another resident.

Chairman Reinhardt – I would like to at least touch on we have an email from Phillip Nelson. He brought up three concerns regarding the subdivision. The first being that the barn housed a pool supply business. I think that has already been addressed, so we can take that off. He indicated that Strong Road, there's a blind curve on Strong Road. I don't think that comes under the purview of the zoning board, while it might be a concern. I think that's more of a highway department concern and I don't think it's necessarily going to change the character of the neighborhood. So certainly if the board wants to discuss that, it certainly can.

Mr. Canzano – That was brought up to the planning board for the subdivision. They are requiring them to propose driveways further so that they can see how that would impact that turn.

Chairman Reinhardt – Okay. And next he discussed the deer population. I'm not sure that I've ever heard that concern before as far as variance criteria. There was a concern that it would impact the deer population and there would be more deer/car collisions.

Mr. Salsburg – We've had very little influence on the deer habits.

Chairman Reinhardt – I don't think that, I do appreciate public comment, but I don't think those concerns that he has are pointed enough to either sway the board one way or the other as far as the granting or denying of the variance itself.

Suzy, you said you had other comments from the public?

Ms. Mandrino – Yes, I have a couple comments by the same resident, John Aldridge at 8018 Taylor Road. The first one he said he's in complete support of the proposal to build the house behind the existing barn. It is a large lot and would not be a detriment to the neighborhood in any way. And, then he continued on with saying there was another variance was given to an Ed Hackel on Taylor Road to build a garage in front of his house a few years ago and it looks great. And that's it.

Chairman Reinhardt – Al, do you know about that variance? The variance for Ed Hackel?

Mr. Benedict – Yes. It was granted I believe.

Chairman Reinhardt – Do you know when?

Mr. Benedict – Maybe four years ago?

Chairman Reinhardt – About four years ago. Okay.

Alright, so I think since we are moving in the direction of tabling it, Kim can I give you some homework and look for that variance and then the minutes as well and pass that along to the board members?

Ms. Reese – Yes, I can do that.

Chairman Reinhardt – Good because I that would assist us in understanding whether or not there would be undesirable changes to the neighborhood. Suzy, anyone else?

Ms. Mandrino – Yes, I have one other one by Delores Fanton, at 8082 Taylor Road and she says she agrees with the house behind the barn. She's concerned about the house being build north of the barn and danger of a blind drive.

Mrs. Canzano – That would be right on the lot line, so. Of the other lot.

Chairman Reinhardt – Suzy, it sounds like we have three individuals from the public for the application.

Ms. Mandrino – Just two.

Chairman Reinhardt – I see.

Mr. Salsburg – It's two to one.

Chairman Reinhardt – John Aldridge was referring to an application of Ed Hackel.

Ms. Mandrino – Correct.

Chairman Reinhardt – Got it. Okay, so there were two.

We have two, four and one against.

So, Matt are you okay then with tabling this and I think the applicants have some better knowledge and maybe what their homework is for us.

Mr. Nearpass – Yeah, I'm okay with it. My comment or advice to the applicant is put your site plan together the way you want it to look and then provide just your supporting facts and evidence that support where you want the house to go and I think you'll do well.

Mr. Salsburg – Maybe refer to it as a sketch plan. Not a site plan.

Mr. Nearpass – Well they've got to have asite plan.

Mr. Canzano – I think we need a site plan because we need to know septic and well. There are requirements because there's no public water and sewer. How long would the application, how long can it be tabled for?

Chairman Reinhardt – Well let me ask you. How long is it going to take you to put that plan together?

Mr. Canzano – I guess we don't know yet.

Mrs. Canzano – Right, we don't own the land yet.

Mr. Canzano – Part one is we need to purchase the land which again is part of the request in our contract in purchasing the land we put a contingency that we would be able to obtain a variance to construct a home behind the existing barn.

Mrs. Canzano – That we would be able to apply for one.

Mr. Canzano – Apply for one.

Mr. Benedict – Generally an application goes for 62 days unless the zoning board and the applicant agree to go longer.

Chairman Reinhardt – I think considering what we're hearing and seeing I can circle around with the board, but if you do need more than 62 days, I'm guessing the board is going to give you that kind of latitude, but hopefully you're not going to need all that time. You should be able to get some information for us where you'd like to see the house, and also you said that barn. Was that the variance, is that the Hackel property or another property?

Mr. Canzano – 1200 Strong it's in our letter to you that that exists today on Strong Road, just a few houses down.

Mrs. Canzano – Just a few houses south from where the land is. It's like a real dark blue color. The barn is super close to the road and the house is back further.

Mr. Canzano – And I guess the reason I'm asking is one we don't own the land yet and two there's financial obligation we have to do all that that we're not going to look to incur until we know that we can even do it on the land. So, if we can't get the subdivision approved and processed and closing on the home, we need to know that it's our piece of property before we start paying contractors and developers and everybody to do all of that work. That's why I asked how long the application could be.

Chairman Reinhardt – Having the location of where you'd like the house I think is going to be important. How long do you think that's going to take?

Mrs. Canzano – That's the problem. It just depends on. We've been trying to buy this land since like July, so it's been a little bit of a process and it's not moving slow on our accounts so we'll leave it at that.

Mr. Canzano – We have a general idea. We know where we want it to be, but can it work with the septic and the well and all of that plays into it.

Mrs. Canzano – We have to get the well test done and perc test and we don't necessarily, we can't do that until, that's why all these parts all kind of reliant on the next part.

Chairman Reinhardt – I hear you. I’m trying to figure out.

Mrs. Canzano – No, we appreciate that. I feel like we’ve learned a lot and we hope we didn’t waste your time by bringing something here that couldn’t be acted on right away.

Chairman Reinhardt – No, not at all. Al, do you have any thoughts, comments?

Mr. Benedict – I don’t know if the board was interested, but I was wondering if they could approve a variance contingent on them coming back with a site plan? Kind of defeats what you’re trying to do right now, though.

Chairman Reinhardt – Right, because without knowing. I think it does matter on where the proposed house it going to go and all that I’m hearing so far from the applicants is that they don’t want it next to or in line with the barn. But what’s troubling to me as a board member is that there’s seven acres that you can put it anywhere. I understand where the barn is, but it’s the needs and wants and that’s the hurdle I’m really trying to get around.

Mr. Nearpass – Part of it Mike is, if there were no barn, they could put the house wherever they want within the setbacks. Right? I mean our opinion wouldn’t matter.

Chairman Reinhardt – It does matter that there’s a barn there. If the barn wasn’t there,

Mr. Nearpass – It does now, but what I’m saying though is if there wasn’t a barn they could put it wherever. I mean that fact I guess helps me with my decision on this. If I’m okay with the barn being forward of the front line of the house, then the barn could be forward of the front line of the house, right? You put it wherever you want.

Chairman Reinhardt – I think the analysis would be different if this were closer to let’s say the village or a clustered development. I don’t think that the variance would be granted. The reason why it’s being considered is because it’s further out, there was farm land, it’s rural. I think that gives it more weight to allowing the house to be behind the structure, behind the barn.

Mr. Nearpass – The character of the neighborhood.

Chairman Reinhardt – Right, so does it matter that if the house is five feet behind the barn or 500 feet behind the barn. I don’t think it’s going to change the character of the neighborhood.

Mr. Nearpass – Then, that’s my point. That’s exactly my point.

Chairman Reinhardt – Well, Matt do you think there is enough information today that we can run through the criteria and in your mind grant the variance?

Mr. Nearpass – In my opinion, yes. Based on what I said earlier, which is I’m applying more weight to the criteria associated with the characteristic of the neighborhood. Because that’s largely what this part of the code is about. Things being forward of the house structure. If this was in the village absolutely right. I would still weight that heavily but I wouldn’t be in favor of it if this was in a Ryan development or another development. Again, with a row of homes and someone wants to put a shed in their front yard, it’s different.

Mr. Canzano – We are village residents today. We live in the village of Victor today.

Mr. and Mrs. Canzano – And our shed's in the back yard.

Mr. Nearpass – So, to me, I do feel comfortable. I think that again with all of the other assumptions that the applicant is going to follow the rest of the code we're not giving them an appraisal, a reprieve on putting the septic wherever you want or being as close to, they'd still have to follow all the setback rules and everything else. They are literally here for that one variance and I think that the best way to communicate that is either going to have to be we draw a line on this that says we're ok with the home being no closer than or no further than X number of feet.

Chairman Reinhardt – If that's the case aren't we, we try and steer away from micromanaging.

Mr. Nearpass – Right, exactly. It would have to be a number that everybody feels like, of course we're going to be, whether it's a foot behind, you draw the line a foot behind the barn and say you can be no forward of that. Whatever that is, I'm just kind of freewheeling it here. But, I think if we put our heads together we could come up with a reasonable number. I think another way, too may also be that I think other times we have as a board voted on maybe a statement or a recommendation. It's short of a variance, but it would be a communication that said our opinion on this is X.

Chairman Reinhardt – I appreciate that and I'm liking the thought that you have. The other piece that I think is going to be helpful for the board is taking a look at the variance that was granted I think Al indicated about four years ago. Looking at the minutes and looking at how this board arrived at granting that variance, but globally it feels like without pinning it down specifically, saying you will get the variance granted, I think the applicant should have a pretty good feel for. If the site plan approval was ready to go, done and the house was placed and the septic system made sense to where it was going to go because it was based on a site plan approval process I think this board is more likely than not going to grant the variance. The concern that I have is that there are just some unknowns that I just don't feel comfortable on guessing at what these criteria pieces are.

Mr. Nearpass – What's a good example of an unknown?

Chairman Reinhardt – Where's the house going to go? It's the rationale of is it going to change the character of the neighborhood. Arguably I don't know this but if during the site plan approval process, it's considered that the house goes next to the barn and Al or the septic system won't fit, it won't go there, it can't go there. Okay, that's valuable information. So that's not feasible to put it next to the barn anymore. It has to go behind the barn. The only way for a residence to go there is for it to be behind the barn because the septic system won't fit or it can't go there. I'm guessing here. I'm making things up here. Is it going to change the character of the neighborhood if that house is directly behind the barn within five feet, sure probably. I think that's going to be ugly. So but I shouldn't be micromanaging where the applicant wants to put the house and where's the septic system going to go. And, I would like to see how that variance was granted for the Hackel property.



Mr. Nearpass – Okay.

Chairman Reinhardt – I think by getting our arms around that, Kim when's our next meeting?

Mr. Salsburg – Let's table this. This is about the third time we've gone over it. Take it up again.

Ms. Morley – Can I ask a question?

Chairman Reinhardt – Sure.

Ms. Morley – If we were to grant a variance, it always goes with that property, what happens if they don't get the subdivision?

Mr. Benedict – My opinion would be that it would go away. Because there would no longer be that property that it's associated with.

Chairman Reinhardt – Well there could be a condition I think that if the variance is granted a condition to site plan approval. It's a good question. I think that's an easy fix.

Ms. Morley – Okay. Thank you.

Ms. Reese – The next meeting is February 1<sup>st</sup>.

Ms. Mandrino – There's also one more comment. It was from Phillip Nelson. I guess he was clarifying his comments. He said they were not specifically for a variance for one house, but for the several subdivisions and quantity of houses that will be built on Strong Roads multiple subdivisions and he has no objection to putting a house behind the barn.

Chairman Reinhardt – Okay.

Mr. Salsburg – Well what to you know? That's three neighbors for and an existing example or two nearby. That's better than most applications.

Chairman Reinhardt – I'd like to see that Hackel application, the variance, the minutes. I think that could be valuable information. You okay with that Matt, if we table until February 1<sup>st</sup>.

Mr. Nearpass – I think that the applicant's got the time, it sounds like, too. You don't need us to decide this second. It's a good debate and I can't resist a good debate on things. I generally try to put as little red tape in between us and the decision and the applicant as possible. But it sounds like you're not here chomping at the bit saying I've got to have this decision by. You probably have got a good feeling, like Mike said as where we're going to end up with this. Is that good enough for you to make your next steps in your home purchase process?

Mr. Canzano – It is and thank you guys so much. The next subdivision meeting is the 26<sup>th</sup>. We had a first meeting they had questions about a few other things, so that's fine. If you guys need to review that, completely understand that. Glad to see what other precedent was set. And if it helps making the decision easier, that's great.

Chairman Reinhardt – Al, are you part of that meeting on the 26<sup>th</sup>?

Mr. Benedict – No. I provided comments to it, but that's it.

Chairman Reinhardt – Alright, so if we could get minutes to that meeting by the 1<sup>st</sup>, so we could take a look at both the variance on the Hackel property and the minutes for the subdivision I think that would give us valuable information so that hopefully we can address this particular application. Can we do that, Kim?

Ms. Reese – Well Lisa types those minutes, so I will ask her and we'll see what she can do on that, but the Hackel I can definitely get that for you.

Chairman Reinhardt – I appreciate whatever you can do on that.

Again, thank you. The whole purpose to and I think you heard again from the other application is that to create a thorough record. We don't want to make an arbitrary and capricious decision one way or the other and I think to Matt's point when he calls here it's a good debate. We're creating a good record here. The analysis is important so that if anybody decides that they want to challenge whether it's granted or denied, if they want to challenge it they can go back into the minutes and they should be able to tell that we spent what 45-50 minutes on this and I think anybody would be hard pressed to say that a decision on this particular application was arbitrary and capricious.

Mrs. Canzano – Sounds good, thank you.

Chairman Reinhardt – You're welcome. Any questions for us?

Mrs. Canzano – No. This was super informative. We appreciate your time. I'm sure you're all super busy on a Tuesday night during Covid, so thank you.

Mr. Canzano – This was great.

Chairman Reinhardt – The Sabres are on. (laughter) It's okay this is more important.

Does anyone else have any more questions before we let them go?

We're all good? Fred, Donna, Sarah?

(Good)

Suzy, anyone else, any other comments?

Ms. Mandrino – No other comments.

Chairman Reinhardt – Okay good. So we're going to circle back on February 1<sup>st</sup>. Kim's going to get us that over variances granted and hopefully get the minutes from the site plan and we'll see what we can do for you on the 1<sup>st</sup>.

Mr. Canzano – And, you'll send us the information to join again on the 1<sup>st</sup>?

Ms. Reese – Suzy will send it to me and I'll send it to you.

Canzanos – Thanks, Kim.

Chairman Reinhardt – You're very welcome. Have a good night. Anyone else have anything for the board? Hearing none, entertain a motion to adjourn.

On a motion by Mr. Salsburg and seconded by Ms. Morley, it was unanimously decided to adjourn the meeting at 8:25pm.