

TOWN OF VICTOR ZONING BOARD OF APPEALS, August 15, 2022

A regular meeting of the Town of Victor Zoning Board of Appeals was held on August 15, 2022, at 7:00 p.m.

PRESENT: Sarah Mitchell; Donna Morley; Fred Salsburg

ABSENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman

OTHERS: Eric Ferri, Lisa LaBarge, Jen Barber, Chris Barber, Jacqueline Midlam, Jay Dianetti, Ed Kahovec, Town Board Member, Adam Ryczek, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Fred Salsburg called the August 15, 2022, Zoning Board of Appeals meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

Fred Salsburg welcomed everyone. He gave the meeting announcements; location of emergency exits and restroom. The chairman asked that guests please sign the attendance sheet. Agendas and business cards are at front entrance. He asked to silence cell phones and that applicants use compass directions and descriptions to create a complete meeting record. Applicants will have opportunity to be heard with as few interruptions as possible. We'll talk one at a time, not over each other. Also, to let the board know if there are additional exhibits.

PAST MINUTES:

On motion of Donna Morley, seconded by Sarah Mitchell:

RESOLVED, that the minutes of the meeting held on August 1, 2022, BE APPROVED.

Adopted: Ayes 3, Nays 0, Absent 2

PUBLIC HEARING

ERIC FERRI, 7195 Gillis Rd

14-Z-2022

Seeking an area variance to place a shed 4' from the side setback where 15' is required.

Mr. Salsburg- The public hearing is opened, the first item is Eric Ferri, 7195 Gillis Road, shed closer to the lot line than code allows, I was up there this morning, and it appeared that the edge of the edge is, 8 or so feet from the line, is that right?

Mr. Ferri- correct.

Mr. Salsburg- the string is the line?

Mr. Ferri- yes.

Mr. Salsburg- you decided not to turn it though?

Mr. Ferri- correct.

Mr. Salsburg- so, now you're asking for a variance to be 8' away from the sideline instead of 15'.

Mr. Ferri- to be precise –

Mr. Salsburg- which is an improvement over what it was, it was 4'

Mr. Ferri- correct, but the correct dimension is 6'

Mr. Salsburg- 6' off?

Mr. Ferri- yes, my father –

Mr. Salsburg- okay, I was just guessing –

Mr. Ferri- yea, my father and I measured out, we did exactly 6', I just want to show ---
inaudible

Mr. Salsburg- so we have a shed that shows 6' from the lot line.

Mr. Ferri- correct as you see on the drawing, on the photo here as we laid out our pins to show the property line, and then 6' away and the edge of the shed and then we have a 20' x 16' deep shed, the back wall would basically be buried with, you will not see the back elevation or the side, you'll see a little bit, but that will be a block wall going up, and a block wall going on the side and then you would basically see a garage door and a window facing the house.

Mr. Salsburg- mhm, you really went after that hill, didn't you?

Mr. Ferri- yes, sir. Again, we were trying to expand the back yard, to make it a little bit bigger ---

Mr. Salsburg- yes, it's more like 80' from the shed to the back of the house now or something like that, 70' a lot more than what the drawing would show.

Mr. Ferri- correct, yes, the drawing would have to be modified, showing the correct distance, well basically the shed will be over 6' away from the property line there and then you're 40', 41' setback from the back property line.

Mr. Salsburg- you didn't want to turn it to have the 16' perpendicular to the lot line which would set it off the lot line a little further, you didn't want to do that? –

Mr. Ferri- well we didn't want to do that because the garage door would be going against a hill, so again imagine we're building or cutting out the side of the hill and the sheds fitting on the side, basically garage won't be accessible to go on the east side. So that's basically we put the shed right at the front where its nice and flat even with the back yard.

Mr. Salsburg- Does anybody have any questions?

Ms. Morley- no, what did you say, the rear was going to be how many feet off the lot line?

Mr. Ferri- 41'

Ms. Morley- okay. That was my only question.

Mr. Salsburg- it can't be 41' if the front of it is 6'

Mr. Ferri- well our –

Mr. Salsburg- from the back?

Mr. Ferri- yes, our –

Mr. Salsburg- oh, is it 41' from the shed to the back line?

Mr. Ferri-back property line, yes –

Mr. Salsburg- okay.

Mr. Ferri- yes, yes sir.

Mr. Salsburg- oh, okay.

Ms. Mitchell- so based on the comments from the last meeting the only modification you made was move it in 2'?

Mr. Ferri- correct.

Ms. Mitchell- did you move the pool at all?

Mr. Ferris- basically I moved, I would move the pool a little bit closer, put it centered in front of the patio, so I'd basically move it closer to the shed.

Ms. Mitchell- no, I'm asking if you are moving the pool at all based on our comments that we had at the last meeting? Because we talked about the fact that the pool is not there currently and you're basing this shed location on something that is potential future but does not currently exist, so my question is did you move the pool over?

Mr. Salsburg- to make room for the shed to slide away from the sideline –

Ms. Mitchell- or did you just move the shed in 2'?

Mr. Ferri- basically I just moved the shed in 2' and I didn't move the pool yet, but I can move the pool, again we are trying to create a flat back yard, we're really fighting against that hill and we have a good backyard now, basically making it all flat for the future pool and a having a flat

backyard instead of fighting, I mean the house fighting against the grade and the hill, yes I can move the pool –

Mr. Salsburg- how far do you think you could move it in a what direction is it that takes it to the right, how far could you move it, to the east, would that be?

Mr. Ferri- mhm.

Mr. Salsburg- how far could you go do you think? Because the shed could follow it right along, couldn't it?

Mr. Ferri- yea, but then the shed would be in the middle of the back yard, we wouldn't have a back yard, so again if I move the pool to the right, then at least we'd have a little back yard behind the covered porch, so you're trying, basically, I'm not trying to kill the whole backyard, so if they decide to do a future pool or put a pool in next year, I will pin it to the right and then have a backyard for the kids to play or the dogs, and then the shed would be pinched towards the property line. Again, we're, again the whole point of this is creating this backyard and the future pool, if possible, when it happens ---

Mr. Salsburg- the backyard is a lot bigger than it shows there –

Mr. Ferri- I know because the, again we're, it doesn't show the topo lines, so again, it's a 2D drawing –

Mr. Salsburg- yea ---

Mr. Ferri- so it does, it does look deceiving.

Mr. Salsburg- are you opened to trying to slide it over some more or you want to call it halt and we'll vote on it? Sarah, did you get all your questions in?

Ms. Mitchell- yea, so I'm also just going to make a quick comment, because we are a board of 3 tonight, if we were to vote tonight and you don't get all of us saying yes, that where you'll run into an issue.

Mr. Ferri- it doesn't hurt to try and then I can come back –

Ms. Mitchell- you can't –

Mr. Ferri- so we're –

Ms. Mitchell- if we deny you tonight, you could not come back for this same variance –

Ms. Morley- so you might want to table it –

Mr. Salsburg- my suggestion is, do something a little more and come back, table it for tonight, and come back with a little more clearance from the side yard. If you don't want to, that's up to you. But at least if you came back, you'd probably have a full board. Of 5.

Mr. Ferri- that's a little unfair, but --- I guess we'll table it, because I really don't want to lose per 6' but if you requested 8' and again the sheds keep going into the back yard ---

Mr. Salsburg- well to us cutting it in half is quite a big step and that's about what we'd be.

Mr. Ferri- mhm.

Mr. Salsburg- it doesn't seem it to you maybe, but it does to us.

Mr. Ferri- okay. So, lets table it and then, and we'll provide new drawings for 8' away from the property line and moving the pool ---

Mr. Salsburg- yea ---

Mr. Ferri- and then showing the little backyard space that we have --

Mr. Salsburg- put the backyard in the way it is, further into the hill --

Ms. Morley- Amber, what day would he be coming back?

Ms. Downs- September 6th is the next meeting, that's a Tuesday.

Mr. Salsburg- we're meeting every --

Ms. Morley- its not a Monday it's a Tuesday because of the holiday just so you know --- okay.

Mr. Ferri- alright, thank you.

Mr. Salsburg- it is kind of a tough lot back there isn't it.

Mr. Ferri- mhm.

Mr. Salsburg- because of the hill.

Mr. Ferri- so I would have to get 4 votes out of, would have to get everybody to say yes.

Mr. Salsburg- no, a simple majority.

Mr. Ferri- okay, so it would have been --

Mr. Salsburg- 3 out of 5.

Mr. Ferri- mhm. But, alright, thank you.

Mr. Salsburg- alright.

CHRIS BARBER, 1425 State Route 444

15-Z-2022

Seeking an area variance to place a pool and future deck 5' from the side setback where §211-20 C states Accessory uses, generally. Accessory uses, such as storage sheds, must observe a 15' property line setback on residentially zoned property unless otherwise specified herein.

Mr. Salsburg- well the next item is Eric Barber residence –

Ms. Morley- *inaudible*

Mr. Salsburg- oh, sorry Chris ---

Mr. Barber- I've been called much worse---

Mr. Salsburg- 1425 Rt 444 and you are pushing the side yard as well.

Mr. Barber- oh yea, I got a big hill same thing –

Mr. Salsburg- and there's a dimension, an important dimension on the drawing that I can't read and its how far the deck is from the side yard.

Mr. Barber- oh, the proposed ---

Mr. Salsburg- yea, its not that one ---

Mr. Barber- it's probably going to be around the 5' ---

Mr. Salsburg- its not that drawing, is there another drawing, Sue? Yea, that's it, where did I see that dimension to the side yard, oh yes, there it is, where is it on that drawing? ---

Ms. Morley- lower right.

Mr. Salsburg- oh, this one says clearly 6' the copy I had before I couldn't read.

Mr. Barber- oh.

Mr. Salsburg- this must be a different drawing then, in some respects.

Mr. Barber- they asked for updated one for a better, more of a close up.

Mr. Salsburg- tell us what you're up to.

Mr. Barber- so the, my father in law wants to buy the grand kids a pool, so I'm putting in a pool, similar to the last gentlemen I live on a giant hillside, I brought in 30 loads of dirt already just to

try to make a flat area, so kind of where I'm asking right now is the best place I can put the pool, on the other side of the house is the sewer and septic lines and if it went right in front of the house you would walk right out into it. There'd be no way to kind of work around it to make it look nice.

Mr. Salsburg- the side lot line is horizontal in that drawing on the wall—

Mr. Barber- Yea. It's kind of actually cans a little bit where the right side of the drawing would be downward —

Mr. Salsburg- and the dotted line is the —

Mr. Barber- is the property line.

Mr. Salsburg- edge of the property.

Mr. Barber- yea.

Mr. Salsburg- and the pool is 6' —

Mr. Barber- yea, I think its probably going to be more, but I was just trying to be a little more conservative but I think its going to be probably closer to 7' maybe 8' so I kind of just wanted to have a little bit of cushion, because I haven't been able to talk to the actual excavator who is going to install it, because they are so backed up right now. Their estimate has already came and passed from, and I haven't even gotten a phone call from the gentlemen.

Ms. Morley- so this is an above ground pool?

Mr. Barber- correct.

Ms. Morley- 24' around.

Mr. Barber- yup. Yea, so on the hillside there it slopes down from the top level —

Mr. Salsburg- yea, I did see that ---

Mr. Barber- all the way down, so it's very ---

Mr. Salsburg- it substantially down, yes.

Mr. Barber- yea so it's very unusable, kind of how it is right now, so that's kind of why I thought if I have an elevated pool at the bottom, I'd have a pretty low deck and it would make it usable in an otherwise unusable area.

Ms. Morley- so you said you brought in all this dirt so how in comparison to your neighbors did you do anything close to the property line with all the dirt, did it raise?

Mr. Barber- It, so I stayed probably a few more feet away and it went towards the slope of our property –

Ms. Morley- okay.

Mr. Barber- because both of our houses are on the same hillside and when the builders did it, they graded it to the middle of the property line –

Ms. Morley- where the water runs –

Mr. Barber- so the water runs down from the road because we're both kind of set down from the road as well and slopes down to the middle and then it unfortunately for the golf course drains onto them.

Mr. Salsburg- so that's not a recent thing that's a when the house was build?

Mr. Barber- the house was built that's how it originally was, yea.

Ms. Morley- okay.

Mr. Barber- I mean there's more of a slope now, just because we had to raise it ---

Ms. Morley- okay.

Mr. Barber- but that's how it originally was sloping towards the center. I had, I added more drainage when I did it, we did gutter run off so that goes out to the front of my lawn and then there's a basin at the bottom, there a walk outdoor underneath the existing covered deck.

Mr. Salsburg- now I see the dimension that I thought was the working dimension that I couldn't read and that is from the edge of the deck to the sideline, not the pool.

Mr. Barber- right.

Mr. Salsburg- how far is that? Is that a 3? Or a 2?

Mr. Barber- no, I think I got 5' on there.

Mr. Salsburg- is it 5'?

Mr. Barber- yea, 5' but again I think it's probably going to be, well down at the bottom it'll probably be more than that because like I said the property line kind of skews, so I went kind of a little more on, I just wanted to make sure I had room ----

Ms. Morley- the problem is going to be if we do pass your variance –

Mr. Barber- mhm.

Ms. Morley- we need exact numbers –

Mr. Barber- yea.

Ms. Morley- not kind of, so we would need you to talk to your ---

Mr. Barber- yup, so –

Ms. Morley- excavator.

Mr. Barber- I tried to get a survey done, but same thing they are out so far –

Ms. Morley- okay, I tried to get one too, I get it.

Mr. Barber- they're weeks out. I talked to a guy he said the best he could do was probably 3 weeks.

Ms. Morley- okay.

Mr. Barber- so, I mean, I'm not –

Ms. Morley- do you –

Mr. Barber- that was a week ago, so ---

Ms. Morley- have to go to county planning board because they are on a state route?

Ms. Downs- yes.

Ms. Morley- so is it in yet or has it not gone yet?

Ms. Downs- it has not, they're going to county on September 14th, so the next meeting after that would be September 19th.

Ms. Morley- September 19th, so that maybe would give you a little bit more time to get all that in place because that's really what we need ---

Mr. Barber- yea, I mean, really my plan is if 5' gets approved I'm staying, I'll have the 5' which is going to be the top of the deck –

Ms. Morley- mhm.

Mr. Barber- and then, its going to get wider as it gets closer towards the pool.

Ms. Morley- when he would be coming back next after the county meeting.

Ms. Downs- September 19th.

Ms. Morley- September 19th, okay.

Mr. Salsburg- going to 5' is kind of a big ask.

Mr. Barber- yea, I just, I don't really have a good place to put it, because I would have liked to add storage and all sorts of other stuff as well, but being on the hillside I am either right in front of a door or a window or just straight hillside, it's been quite the challenge ---

Mr. Salsburg- what's immediately adjacent to this in terms of the neighbor's property?

Mr. Barber- so from our property line --

Mr. Salsburg- do you use---

Mr. Barber- she's probably 40' to 50' to her house, we have a good amount of land in between us, I think each of us is, each of our lots is about an acre. I think.

Ms. Morley- so this is ---

Mr. Barber- was that the other one that was up there at first?

Ms. Morely- so this is you, right?

Mr. Barber- yup.

Ms. Morley- so your pool, can you just draw me kind of a circle where its going to be, so we know what neighbor we're talking ---

Mr. Barber- so, here --

Ms. Morley- to, about --

Mr. Barber- I think its actually over more, this line, this dark line is, down through here --

Ms. Morley- mhm.

Mr. Barber- that's more where it is, so where its currently the little playground is --

Ms. Morley- mhm.

Mr. Barber- we're going to put the pool there, playground is going to shift down, we're going to have to turn it sideways because right there is, a big hill ---

Ms. Morley- like, could you kind of draw a circle so Fred can, we can all see kind of how far away that house is from --

Mr. Barber- sure, from, I'm estimating –

Ms. Morley- he's asking about how far, we're asking where the neighbor, what they have over here –

Mr. Barber- oh, it's all –

Ms. Morley- okay.

Mr. Barber- its all grass right there –

Ms. Morley- yeas, we just want you to kind of draw the pool where its going to be so –

Mr. Barber- oh got you.

Ms. Morley- so that, so we can see that there's nothing there.

Mr. Salsburg- is the neighbor okay with you doing this –

Mr. Barber- so, this is my neighbor Lisa and she's not crazy about the idea. Yea, I spoke to her.

Ms. Morley- yup, nope. That's okay, that'll just give us a general idea when we're looking at what is there and what's there.

Mr. Barber- little roughed in –

Ms. Morley- okay, thank you.

Mr. Barber- I did have –

Mr. Salsburg- is that deck 26' x 36'?

Mr. Barber- what's that?

Mr. Salsburg- the deck?

Mr. Barber- again, that's, that was an estimate with me and a tape measure—

Mr. Salsburg-sure

Mr. Barber- I gave room for –

Mr. Salsburg- going to be a big deck—

Mr. Barber- yea, I gave room for some space at the end of the driveway probably for like a flower bed, couple feet for retaining wall and then go into the deck that way and still leave me enough room for the kids to get around the playground.

Mr. Salsburg- I have a feeling that you're going to have to move the pool over.

Mr. Barber- okay.

Mr. Salsburg- as far as you can stand, whatever you can think of. Speaking from my vote.

Mr. Barber- okay, yea I mean I get, I can probably get a few more feet before I start getting into elevation issues and what not again.

Mr. Salsburg- it'll, it would be in, well towards this, so the pool is more centered in the lot rather than over by the edge.

Mr. Barber- right, so once, yea, so once I get into the house, that's when I get into all my windows and stuff and then I'm going to be blocking the front of the house and being an above ground pool, I'm just going to be looking at deck.

Mr. Salsburg- well, I think you should try to move it away from the side lot.

Mr. Barber- oaky.

Ms. Morley- because unfortunately, are you –

Mr. Salsburg- and you've got –

Ms. Morey- on public water?

Mr. Salsburg- room. –

Mr. Barber- yes.

Mr. Salsburg- yea, you got room there, you got room on the other side.

Mr. Barber- yea, I'm just –

Mr. Salsburg- seems like –

Mr. Barber- yea, I'm jus going to then be running into how I can tie it into the house nicely, because right now where I'm planning on it, I can come out of the covered deck portion onto the deck and then from there I can also go down to the lower level of the house, so it'll give me access to both where the other way, I'm not going to, I can obviously get from the ground there but I'm not really going to be able to tie it in nicely, so it's also very much kind of making it a cleaner project, instead of kind of just a thrown together not so nice looking thing.

Ms. Mitchell- I'm sorry, so technically the deck can 5' from your property line –

Mr. Barber- okay –

Ms. Mitchell- so have you thought about trying to move the pool over and maybe, because you won't need a variance if you put the deck on that side as opposed to the pool –

Mr. Barber- I did not know that I thought it was just the pool ---

Mr. Ryczek- the deck counts as a structure, so the 15' setback also applies –

Mr. Barber- so I would need the variance for the deck as well.

Mr. Ryczek- correct.

Mr. Barber- right, so that's why I was told if I included the future deck now in this variance, it would kind of go both together.

Mr. Ryczek- correct.

Mr. Barber- instead of doing 2 separate... am I understanding that right?

Ms. Mitchell- yea, so I have an issue and you probably heard me say it with the applicant prior to you is that we're talking about future, nothing exists right now so we have the opportunity to make one of these items code compliant, and right now everything's future based so you could make your pool code complaint, you could make your deck code complaint, therefore you're only asking for 1 variance, a deck doesn't have to sit on the ground, a deck can be built up to a certain level. So, the fact that your yard maybe slopes down to me you can't really use that as an excuse for the deck because you can build it to where you want it to be. You can build it up to the grade that you need it to be.

Mr. Barber- right, yea, that's –

Ms. Mitchell- so, I'm just saying that you could potentially follow code if you changed your plan just a little bit, because your deck can be built up—

Mr. Barber- by moving it closer towards the house—

Ms. Mitchell- the deck can be built up to an elevation that you would like it to be at –

Mr. Barber- right, that's kind of what I, I, I'm not sure if I'm ---

Ms. Mitchell- well because you slope down in the back.

Mr. Barber- correct. Yup.

Ms. Mitchell- so technically your, this can all shift over, your deck can move to the other side –

Mr. Barber- to the other side of the house all together –

Ms. Mitchell- the other side of the pool

Mr. Barber- in front, so in front of the house?

Ms. Mitchell- nope, this is the road, this is the road here –

Mr. Barber- correct. Yup.

Ms. Mitchell- this is your pool –

Mr. Barber- yup.

Ms. Mitchell- so technically the deck can shift—

Mr. Barber- just on the other side, okay –

Ms. Mitchell- and you can build it up to the elevation that you want it to be at –

Mr. Barber- right, I just liked it on the other side because then I could get to it a lot easier from the house ---

Ms. Mitchell- I understand that. And it makes sense but I'm just because we as a board have to grant the minimum relief necessary, so this is, there's no, this is just the way I'm looking at it because everything is future, nothing is there, if you had one or the other then I think it would be a different situation but because you have neither and you're asking for both that's where I run into an issue, but that's just my looking at it.

Mr. Barber- okay

Ms. Mitchell- I mean we can't –

Mr. Barber- it's going to be –

Ms. Mitchell- make a decision tonight anyway because we have to wait for county comments –

Mr. Barber- right, but wouldn't it be the same thing though if its on one side or the other –

Ms. Mitchell- you'd only need a variance for your pool at that point

Ms. Morley- because your deck would be on the only side it would not need a variance, its not within the lines of a variance.

Mr. Barber- but it'd still be within the 15' though if I butted up to the pool—

Ms. Mitchell- well, how big is your pool?

Ms. Morley- 24' round, no?

Mr. Barber- 24' I think

Ms. Mitchell- yea you would be –

Mr. Barber- right, but the side yard is where the, so the lower portion kind of where that 250 is wrote on there was where the variance is being requested –

Ms. Mitchell- right, that's your side yard

Ms. Morley- she's saying turn your deck –

Ms. Mitchell- turn it –

Ms. Morley- completely –

Mr. Barber- to like where it says pool site?

Ms. Morley- the north side –

Ms. Mitchell- to the back

Ms. Morley- to the back.

Ms. Mitchell- you're going to be, your deck can swap all the way around –

Mr. Barber- I guess –

Ms. Mitchell- your deck can move, so your deck is, you're proposing it right here, but it can shift all the way around –

Mr. Barber- right, so –

Ms. Mitchell- and it could, you could build it up, the elevation –

Mr. Barber- but here would still be the –

Ms. Mitchell- not if you do it this way

Mr. Barber- so you're talking about in front of the house then –

Ms. Mitchell- well, this is the back of your house –

Mr. Barber- yup, I'm sorry, I call it the front because I –

Ms. Mitchell- okay –

Mr. Barber- yea, I don't know –

Ms. Mitchell- because of the gold course is over here so –

Ms. Morley- because you can't have a pool in the front yard regardless, you'd need another variance --

Mr. Barber- yea, so I mean if its over here so my father-in-law and eventually the kids will be downstairs, so its going to, its all going to come, like all their windows are right there so its just going to see deck, right, like you look out your window it's just going to be deck and railing –

Ms. Morley- mhm—

Mr. Barber- that's the only thing you're going to be able to see.

Ms. Morley- okay.

Mr. Barber- compared to it here where its out of the way –

Ms. Downs- I'm sorry do you mind just speaking into –

Ms. Mitchell- I'm sorry I thought it would have caught you, like caught off of here but –

Mr. Barber- sorry, at the drawing there where I'm proposing it is unused, I mean there's a basement storage window there so it's not really impeding anything, because like I said, I've brought 30 loads of dirt in and I don't really have much yard at all on the other picture where you see its darker is all the area that I've reseeded and that's, after that its all hillside. So, I've, for how much 30 truck loads of dirt cost me, really didn't buy me a lot of square footage –

Ms. Mitchell- okay, it was just, you know a thought that, I mean I just have –

Mr. Barber- yea, I mean we –

Ms. Mitchell- it doesn't exist, so we have the opportunity right now to make it code compliant.

Mr. Barber- right. Sure.

Ms. Mitchell- so, that's where I'm at, at this point.

Mr. Barber- yea, I understand that, yea, no we, we've talked about trying to put it on the other side but then the sewer lines are over there and then when its right in the front of the house you would just walk out to it, there wouldn't be any way around it, it would just block the rear of the house, not the front.

Laughter

Mr. Barber- sorry.

Mr. Salsburg- since we've got this build in delay to send it to the county because its on a state road, gives you a chance to, if you can figure out a way that you can be satisfied with sliding the pool over or I don't know what would, what it would take to make it work for you but –

Mr. Barber- mhm, yea, because just there can be a –

Mr. Salsburg- if you could give us something—

Mr. Barber- yea it gave me a decent area –

Mr. Salsburg- it'd be in your best interest –

Mr. Barber- to the house where I could still, you know, kind of do some landscaping and maintain it instead of, you know just having, having it right of top and you know just have it turn into like mud and junk on the side. I could probably scale it down a couple of feet because I also have to do where I was looking to get the stairs, I also have to get the stairs from you know the second level to probably halfway down, 4 1/2' so I got to figure in the run and all that stuff. But I could probably move in some, I mean kind of how much, I know there's, because I mean really, it's the best place I can put it to make it look finished and decent without really being an eye sore. I could probably make the deck a little bit smaller with no area on the side which would probably eat up a couple feet there.

Mr. Salsburg- now you're working on it already.

laughter

Ms. Morley- we don't really need an answer tonight because you're going to –

Mr. Barber- okay.

Ms. Morley- come back and present it again because we have to wait to see what the county says and we need to listen to what anyone else has to say about it so, you can go back to the drawing board and do the best you can do –

Mr. Barber- okay, yea. I still have the pins are still in the ground, I never removed them, I mean we've been there for 6 years, so I should still have a pin where I could run a line and probably also try and get you a more accurate measurement

Ms. Morely- we definitely need an accurate –

Mr. Barber- I mean it should be –

Mr. Salsburg- especially if it made it a little bigger –

Mr. Barber- right. Yea, okay. Alright.

Mr. Salsburg- Does anybody else have anything to say for or against this application?

Mr. Barber- thank you.

Ms. LaBarge- Hi, I'm Lisa LaBarge and I live at 1431 St Rt 444 which is the property this variance if granted would negatively impact, I have huge stacks of documents for you guys.

Mr. Salsburg- so you're up the hill one? The next house.

Ms. LaBarge- um, yea. I'm right over, yea, I'm right next to him, I'm the property that this would affect. You don't have to go through these now because I'll walk you through them. So, I've done a lot of research on this and an applicant for a variance has to prove 1 that because of some peculiar characteristic of their land it would be especially difficult to make reasonable use of the property in conformance with all applicable zoning regulations which in this case is 15' from my property without a variance and the second thing is that the variance, oops, I don't know what that is, but okay, that the variance would not have a significantly detrimental effect on the overall zoning plan on the neighborhood, so 1, there is no peculiar characteristic of their land which would make it especially difficult to make reasonable use of their property, in fact in his application Chirs Barber wrote that there is another place that he can put this, okay and the variance the second point the variance would have a detrimental effect on my property and having a deck and an above ground pool for 50' right at my property line does not match the character of the neighborhood. So, I'm going to get to this stack of evidence but as I go through this, there's a 5 factor test that's used when owners request a zoning variance, so my first has to do with the first factor in the test and that's an undesirable change will produce, will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance. So, the first page I have an expert letter from a broker and realtor actually won realtor of the year Jeff Schofield, and it reads in response to my reviewing your property and your neighbor's property at 1425 St Rt 444, I would conclude the following, in the evaluation of the possible installation of an above ground pool 5' from your property line, I would have to expect that the proximity to your property line would definitely be a detriment to the value of your house on a resale, I would also ascertain that by the neighbors having an above ground pool in the dead center of their yard, would also serve to reduce the desirability of your home to future home buyers hence would result in a lower sale price, this would not be as much as if it were right on top of your property line but still a devaluation. People on your street pay a bit of a premium for the view and having an obstruction like a pool or outbuilding decreases that desirability. So, I'm still on the first point, and I wrote here and above ground pool and deck facing my property close to my property line does not match the character of the neighborhood and would be a detriment to my property value enjoyment and my view. The other properties that abut the gold course right where my house is located are spaced and the neighbors have privacy, nobody is building, location, nobody is building anywhere near their neighbor's property lines that I know of and can see, however the Barbers, I'm not sure who flagged the property, who staked?

Mr. Barber- when I got the, when I applied for the variance, that's why the sign is there.

Ms. LaBarge- no, no, no who flagged it though?

Ms. Barber- the flags, that's for the dog training.

Mr. Barber- the puppy, we got a puppy.

Ms. LaBarge- that's for the dog training.

Ms. Barber- yea.

Mr. Barber- for the puppy, yea.

Ms. LaBarge- okay, I thought it was property lines staking the –

Mr. Barber- nope.

Ms. LaBarge- okay, okay, so I thought that that was property lines, but it doesn't affect this anyway, so, okay, okay, so I thought that they were stake lines and that they built over my property on the drive, on both areas abutting, on both areas abutting this proposed variance, that they already built over my property line, if that's not the case, it right there, all of this stuff right on my property, right there already, so, where they were requesting to build 4' from my property line I don't believe that's 4' from my property line, okay, and they already have next to that a, to the immediate right of where they're requesting the variance, there's a huge rectangular enclosure for a gazebo and playground, that's huge, that's my whole, huge amount of my property line, and then this proposal adds another 50' to my property line where nobody in this neighborhood has, nobody near me has that, okay, so, okay, okay also the proposed area, my point of that, this area that he proposed according to his specs which I also have some questions about the specs, but, it's a 50' along my property line and he's already on my property, here's 50' on my property line, that's already on my property line, right here and then above, he's all up on me in a row. The proposed area where they want to build the deck and install an above ground pool is close to my bedroom, okay and its going to create a lot of noise coming into my bedroom, it will also ruin the private enjoyment of using my deck, because where they're wanting to build right now, I'm going to walk out and it's right there, right in my direct view when I walk out, right there is an above ground pool and a deck, okay, so, and I also, I wrote it will ruin the private enjoyment of using my deck which is primarily why I bought my house for the view, space and privacy, which have a lot to do with the values of the homes near me in general. So the second thing on the 5 part test is that the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the variance, in his application and I put that in this stack of documents, there, there, this is not the only place that this can go, this standard, and also, the standard of approval for a mentionable variance is practical difficulty which the courts have defined to mean strict compliance is unnecessarily burdensome, but it's not unnecessarily burdensome for the Barbers to not be able to install an above ground pool and deck facing my property, for 50', you know for 50' long where they already built stuff right there. Number 3 on the 5-factor test is, is the requested area of the variance substantial, yes, 50' on my property line is substantial, and like I said there's already something right there as well.

Mr. Salsburg- you refer to 50' on your property line?

Ms. LaBarge- okay, because –

Mr. Salsburg- what is that?

Ms. LaBarge- okay, I'll go to that page, if you look at the, you can put that back, okay, you see, where you were, the page where you were referencing his diagram that you were unsure of where, how the stairs were and everything, where he shows the 24' pool.

Mr. Salsburg- yes, it's the handwritten sketch—

Ms. LaBarge- right, and I have the same questions about the stairs too because next to it you see it says 12' and if you do like a pro break down of that compared to the sketch, I would say that that's the stairs are 10' or 9' and then you know all these numbers, I don't know that they would even bring him to where they are saying it would come to for a 4' variance. Okay, so the requirements, oh so on this you were saying how do I get that 50', so if you look at that sketch, it's 36' long okay, and then you have to take whatever amount of footage the pool has that adds to it, because see the pool extends out further, can't tell by the picture really it looks like it's a little more than half over but let's say it was half, that even, that's 12' and 36' but it looks more like 14' and 36' so that would be 50' at a stretch right there. Okay, so yea the proposed requested area of the variance is substantial and they already have a huge amount of obstructing my view where they already built right either on or over my property line, number 4, the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, there's already been drainage issues there where they're requesting to build and I am concerned building there could cause more drainage issues that could negatively impact my property. I know that the previous neighbor had issues with water right where, right, you know coming into his house right there and in that location. And number 5 is if the alleged difficulty is self-created, so now I'm going to just go over the documents I submitted, I already went over the first one, this, okay, I actually thought that those were property flags, I thought that someone came out and flagged the property because when I spoke with to the town code enforcement officer, I said you know where he's saying the property line is doesn't match what I'm seeing, and I said how could you ask to be building something and not prove exactly where you're going, and he said that, well you know, when people ask for a permit or a variance that that a survey is ordered and you know exactly where they're going, and the code enforcement officer goes out and checks that makes sure everything matches up, that had not happened, I talked to him about that and he said, I said why did that not happen, I guess it slipped through the cracks, so when that, when I saw all the your puppy flags, I thought he ran out, I thought he went out and had it staked, but I was wrong. But I just thought that because, I said why wasn't that done here. And I also had a concern about the application itself, that if I reviewed it I would have found a lot of issues with it, I know that they did address some issues like that there was no measurements provided or something like that and then they came back and gave the measurements but, so the second picture that just shows I thought it was property lines so if you're looking at now, you just can see that they've built this humongous structure right, so look at this huge structure that they built down my line and now they want to go right next to it and build 50', that's –

Mr. Salsburg- so these 2 first pictures are the applicant's backyard?

Ms. LaBarge- yes, yes. That to the left shows, okay ---

Mr. Salsburg- they're about the same thing.

Ms. LaBarge- no, I did that because I marked the flags, I have the first page is the same as the second page but its, you have to strain to see the flags so I marked them but I didn't want to come in with a document that had markings on them because then how is there proof of what was under the markings and that's why I did that but anyway that's not relevant for the actual flagging of it now, but you can see how huge the amount of space is that they went on the border and now they want to go more, just my whole property line, except for the very bottom but I think they're moving downward too. So, okay, so then –

Ms. Morley- can I ask you a couple questions, while you're saying that?

Ms. LaBarge- yea, sure.

Ms. Morley- isn't your deck like elevated up in the air?

Ms. LaBarge- yes.

Ms. Morley- so you're saying you can't see over this but in the pictures, I can see all the way down all through –

Ms. LaBarge- no, no I don't mean it that way, I mean that this, the character of the neighborhood when I moved in was, its on a hill, and then there's the golf course –

Ms. Morley- yea I know –

Ms. LaBarge- yea, so, when I moved in everything, there just, the neighbors kept their lawn, their yards all free and opened, so everywhere you looked its like this beautiful opened space, and in fact when we, when I moved in there, I even asked about that if there were certain different laws that applied to that area because I didn't know if I would be able to build where I can build or anything like that. So, but anyway now it's not like that it used to be like that where it was all opened and beautiful but now, I walk out and there, I'm right in my vision line is the gazebo and the play yard that huge rectangular enclosure and now to the left and then to the left of it would be their aboveground pool and their deck.

Mr. Salsburg- there's 2 more pictures that are about the same thing –

Ms. LaBarge- right they –

Mr. Salsburg- do they show something different?

Ms. LaBarge- no, I gave one original and one marked picture for 6 pictures in a row.

Mr. Salsburg- okay.

Ms. LaBarge- so that you could see that I was giving evidence, you could, that, that its not just my word, if I marked over flags and didn't show you the original then that wouldn't hold up. The next, past these photos is the notice I got for a 5' variance, which doesn't match the application,

there's a question as the measurements period in the applications but what was in the application was 4' and that's if that even is 4', but it didn't match this.

Mr. Salsburg- the next picture is the boat?

Ms. LaBarge- oh that's because where the flags were it came over and I thought that someone came and marked the property lines, then also just when you look at this, this picture its towards the end, this is what they submitted, you know this got submitted with the application, when you turn it you know to face my property like this, you can see right here this whole big thing, so that imagine right next to it all going down on the line, that's what it ends up if that variance goes through. So, and you know, and I also had a lot of concerns about the sketch I had in my notes the same thing that you brought up, but I didn't think that it matched I, you know, I want to have proof of exactly where everything is. But even so I am opposed to any variance because I do think it is going to negatively impact my property and nobody else's properties right, I mean that's not going on there.

Mr. Salsburg- I think you've made your point. They do have right to use their own property. So, these that. And that's from one end of the town to the other if a person moves in only place and some more places get built, doesn't look the same and people don't like it, but –

Ms. LaBarge- yes, I totally agree with you, but a variance has to go through that 5-factor test and it's not a legal right, its not a legal right, so that's why I came to contest it.

Mr. Salsburg- yup, understand.

Ms. LaBarge- that's it. Thank you for your time.

Ms. Mitchell- thank you.

Mr. Salsburg- okay. Good job.

Ms. LaBarge- thank you, now you got to do the job. To the applicant. So, this will go to the county you're going to do some more work.

Mr. Barber- yea hopefully I can get the, oh sorry, do you want me to?

Ms. Downs- yes please come up.

Mr. Barber- yea, I'll get the surveyor out so I can get the lines run, I can find the pins because the pins were there when I moved in, I just pushed them down, so I have an idea of where they are –

Mr. Salsburg- is a, as an example the applicant before put a string right on the line –

Mr. Barber- mhm.

Mr. Salsburg- we went out and looked at it. I just, I don't know, I did the, did anybody else go look?

Ms. Morley- I looked at it.

Mr. Salsburg- so he had a good reference to where the lot –

Mr. Barber- yea.

Mr. Salsburg- lot was.

Mr. Barber- so, I staked out where it runs the 25.2' from the garage, I staked that one out and I know where the top one is, its just the bottom one is buried in all the tall grass so –

Mr. Salsburg- same thing with my house.

Mr. Barber- I got a friend with a metal detector he was going to try and come over, but he had to take his mom to surgery so, didn't work out. But I talked to, I figured actually having a real survey person with a modern survey would be more beneficial.

Mr. Salsburg- uh, yea, it would have been quite a stretch to get the pool in finished condition this summer –

Mr. Barber- yea, like I said –

Mr. Salsburg- through the length of the summer that there is anyway, so it isn't like it's in the spring and ---

Mr. Barber- correct.

Mr. Salsburg- and you're fighting for the weather.

Mr. Barber- yea, I was kind of a spur of the moment idea by the father-in-law. He wanted to do something for the grandkids and then it was kind of on mom and da to make it work so –

Mr. Salsburg- yea.

Mr. Barber- so that's where we're at now, his heart was in the right place but – the back work is coming to dad. So, I'll get the survey done, I'll get some more accurate measurements, it should be further away, I was just trying to go more conservative I guess, just to be on the safe side but I do believe its further away then this one shows, the one that you guys have, so when she, so I spoke to her before about where the, the measurement was for the 25.2' and that's why I put the stake out and she because originally she thought the driveway was on hers, so I measured it out she was there with me, read the tape measure and agreed that the driveway wasn't on hers, I was past, or within my 25.2'

Mr. Salsburg- yea.

Mr. Barber- so and that line kind of runs all the way down the hill so the line on the overhead is further over to the right towards her property.

Ms. Morley- and this pool is what you're projecting right here is going where the playground area is, and the deck?

Mr. Barber- right, so I have to do some shuffling, so the playground is going to go down to kind of where the gazebo is and the gazebo part, I'd like to move on top of the deck just to have a little shade from the sun.

Ms. Mitchell- I'm just going to throw this out here, these pictures from Oncor aren't always the most accurate, so I know she's thinking that it's closer, but they're not always the most accurate from the Ontario County Oncor website.

Mr. Barber- yea when she –

Ms. Mitchell- so –

Mr. Barber- she showed it to me, I didn't –

Ms. Mitchell- yea, these aren't exactly, I mean its close, but this isn't right on.

Mr. Barber- right, its definitely a few feet and she agreed with the measurement, so I mean there was –

Ms. Mitchell- I'm just saying this isn't necessarily ---

Mr. Barber- don't put faith into it, I know.

Ms. Mitchell- yea.

Mr. Barber- I know. Yea.

Mr. Salsburg- Does anybody else have a comment.

Mr. Dianetti- uh, just that, uh –

Ms. Downs- I can't hear you from back there, I'm sorry.

Mr. Dianetti- I said when the time comes to make a decision, when the time comes to make a decision, we trust your judgement, whatever you guys decide is fine with us.

Ms. Midlam- I'm the trustee of the land that it backs up to for the golf course, Jacqueline Midlane, and my brother Jay, so we both came to let you know we do trust your judgment and know that it won't affect the golf course.

Mr. Salsburg- what property do you represent? I dint quite understand that.

Ms. Midlam- Victor Hills.

Mr. Salsburg- oh, in the, from the back line.

Mr. Dianetti- right.

Ms. Midlam- yes. The 12th hole. The green, yea it backs up to that and they wanted to go, instead of 15', 5' –

Ms. Morley- on the side, not on the back, on the side.

Ms. Midlam- no, on the south, on the 12th hole, yea. So, we're okay with that, as long as it doesn't go any further, or affect drainage ---

Mr. Salsburg- okay well I was going ---

Ms. Midlam- don't let the pool drain into the green, \$25, 000 later not a good idea. But, you know, like my brother Jay said we trust your judgement on our end ---

Mr. Dianetti- right.

Ms. Midlam- you've got enough to do on the other end. Thank you.

Ms. Morley- Thank you.

Mr. Salsburg- yup, thank you. Yes, more?

Ms. LaBarge- I'd like to respond to something Chris Barber just said. He showed me one specific part on his driveway and the way that the driveway is that doesn't mean that the whole driveway is where it should be, that's not the confirmed. So ---

Mr. Salsburg- this circular driveway?

Ms. LaBarge- No, it's like this but he built over this way and that doesn't mean that he built exactly on the... so, you know, I feel that an actual survey with flags and the code enforcement officer coming out, hopefully before, way before the next meeting so I have documentation of whatever they submit before then and that I want to see absolute concrete numbers where I'm not relying on anybody's good will, I want to see it marked out, exact. Not willy-nilly. I mean exact flags and I want it marked, like I want it, okay here's 4' here's where I'm going, all this, and I, in that diagram the stairs, I mean if he was planning on staying there it doesn't match up, it looks like, it has to be 9' or 10' from the, it doesn't match up there, but there's just a lot of, I think things have to be done with exact precision, this isn't like a, well wherever it lands –

Mr. Salsburg- I think you've made yourself clear ---

Ms. LaBarge- and I am, I do feel that it would negatively impact my property value and my use of my property in general with it, it can't go without a variance to the side of my house, there's not room for it, unless they were to just like take, just the pole and put it back there and move the

whole deck, I'm not sure about that either, but even if that was done, I would want to see the exact measurements. You know, proven to me. Yea, so, that's it, thank you.

Mr. Salsburg- okay. Well, that ought to about cover it. Anybody else, that ought to conclude the public meeting, has anybody got anything to say before we leave? I'll make a motion to adjourn.

Ms. Mitchell- I'll second.

On a motion made by Fred Salsburg and seconded by Sarah Mitchell the meeting was adjourned at 8:05 pm.