

TOWN OF VICTOR ZONING BOARD OF APPEALS, September 19, 2022

A regular meeting of the Town of Victor Zoning Board of Appeals was held on September 19, 2022, at 7:00 p.m.

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

ABSENT: Sarah Mitchell

OTHERS: Jen & Chris Barber, Lisa LaBarge, James Boglioli, Ed Kahovec, Town Board Member, Adam Ryczek, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Michael Reinhardt called the September 19, 2022, Zoning Board of Appeals meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

Chairman Reinhardt 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 Fred Salsburg, seconded by Donna Morley:

RESOLVED, that the minutes of the meeting held on September 6, 2022, BE APPROVED.

Adopted: Ayes 4, Nays 0, Absent 1

PUBLIC HEARING

**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.

Chairman Reinhardt- okay, first, it's a continuance, Chris Barber, the application was first heard on August 15<sup>th</sup>, hello Chris.

Mr. Barber- Good afternoon.

Chairman Reinhardt- Good afternoon. So, there were some minutes that we took a look at, we just approved, I think actually it was the, from before, so in a nutshell you're looking for a pool to be put 5' from the side setback where the code requires 15'. In the minutes there appear to be some discussion about location as well as neighbors having concerns about where it was placed, so do you have any other

thoughts on could it, can it be moved towards the center, so you don't need a variance or how far did you get with that.

Mr. Barber- so I went and got a survey done, I'll bring them up to you, so the first page is a survey \*inaudible\* where the new proposed pool is. I moved it more towards the center, I didn't have to move it much, most of it was me just kind of being cautious on my number, so the pool is now 10' from the edge and the proposed future deck would be 8'.

Chairman Reinhardt- okay, so if I could just, if I could just stop you just for a second, I'm marking the first page that you gave us as Exhibit A and the second page is Exhibit B, the documents that you gave us so when, again the record as we're creating it, if you can refer to Exhibit A and Exhibit B, or if there's again something else that you want us to look at just let us know what it is that you're looking at. Okay.

Mr. Barber- okay.

Chairman Reinhardt- okay, go ahead.

Mr. Barber- so, last time we were here the board recommended getting a current survey, so I got a new one about 2 weeks ago, so that's what Exhibit A is, is the new survey, its 2 weeks old, and they recommended getting a more hard set number, because I was just being cautious of the number I was asking for just incase stuff moved, so I got a new survey done and with my 90's Microsoft paint wisdom and a semester of drafting in High School I was able to put this together, so just some things of note, the stairs are in red, the pool is in blue and the deck is outlined in black, I have the measurements on there, the deck I adjusted as well, I shifted it over towards the house where I had a little overhang before now it just meets the end of the pool instead of the overhang, so it took a little bit away there and I actually turned the deck a little bit because my property line looking at the house kind of runs a little skewed so turning the deck I was able to get to about 8'.

Chairman Reinhardt- alright so as I, the variance that you're looking for is the, it's the pool and the future deck.

Mr. Barber- correct.

Chairman Reinhardt- so looking at the pool, and I, again I'm condensing all the minutes and the, what the sum and substance of it was, can that pool be moved 5' to the north and or to the East if you want to pull it away from the deck and I wasn't clear on why it couldn't be done, can you explain for the board why?

Mr. Barber- yea, yup, so I had a, a bunch of dirt brought in 30 dump truck loads, so kind of the whole hill side is slanted so I was able to make a flat spot over there where you can see on Exhibit A there's a playground, so kind of where that playground is, is where I want to utilize kind of what's already existing for a flat area, without having to bring in additional fill.

Chairman Reinhardt- okay, do you have it from a contractor that, either it can't be done or the cost of re-excavating that area to allow that pool to be in compliance with the code.

Mr. Barber- I haven't spoken to a contractor, no.

Chairman Reinhardt- okay, because part of the, again I Think you've looked at it, the resolution or at least the granting or denying of a variance comes with 5 criteria, you don't need to meet all of them, with an area variance it's a balancing --

Mr. Barber- mhm.

Chairman Reinhardt- criteria, so the, number 2 is whether or not you can achieve it by some feasible method other than a variance, there are times that whether it be a, for a shed, or for a pool or whatever the variance is requested for, the analysis is they may say, well gee there's, there's an easement there, I cant touch it, or there's a septic system there, we can't touch it, the slope of the land is so severe its going to be cost prohibitive. Those are just examples and people would bring it to say, well here's where my septic system is, here's where the easement is, whatever the case may be, there's a reason why other than aesthetics, someone came before us not too long ago, that said well I don't want it to put it right in the middle of my yard because then its going to ruin my view. That's really not, if you will, a good enough reason.

Mr. Barber- right.

Chairman Reinhardt- are you following me so far?

Mr. Barber- so if I do start going closer to the house I start getting closer to the air conditioning unit, I think that's, its out about 1' and that's probably like 3-4 feet so if I ran a deck there further over then I'm going to start to get it into I think probably where a technician would feel comfortable but still by having a little bit of the overhang, it will allow me to hide the pool mechanics, like the pumps and the filters and stuff like that.

Chairman Reinhardt- that's what I was asking you, if it, if you didn't want to move it 5' to the north because of air conditioning units or its too close to the deck, why couldn't you do a little of both, if you moved it whether it be 2' or 3' east and then 5' north so you'd give yourself some room.

Mr. Barber- right, so if I start going east then I get to the downslope of the hill, I'm already going to have to fill in some which I think I can probably use some of the fill from just squaring up the top side, so I can probably use some of the fill for down on the east side of where the pool would go because it's going to have to go back a little bit over in the slope.

Chairman Reinhardt- alright, can, could, does it, I hear you right, correct me if I'm wrong, its not necessarily that it can't be done, but you don't know the cost --

Mr. Barber- its going to take more money, right.

Chairman Reinhardt- I'm sure its going to be more money, whether it \$5 or \$50,000 I would imagine of it gets to be \$50,000 it gets to be cost prohibitive.

Mr. Barber- mm.

Chairman Reinhardt- If its \$500.00 argument, its doable. So, the question then I have for you is, is it possible to get a number from a contractor to say, if we're going to move this to get it in compliance with the code it's going to cost, you, homeowner X amount of dollars.

Mr. Barber- okay. I haven't –

Chairman Reinhardt- not saying its—

Mr. Barber- no I understand what you're saying, right, no I haven't got really into the process of building the deck yet because, I mean the way with the materials are now, I'm kind of thinking that's probably going to be a next year or year after project. After the pool.

Chairman Reinhardt- okay,

Mr. Barber- but I was kind of told that if I was looking to it, it'd be, Id be better off doing it all in one shot with the board for the variance.

Chairman Reinhardt- okay so fair to say, it could be done, but the question is how much it would cost to get it done for that pool to be, so, you where you don't need a variance.

Mr. Barber- right because I'm going to need more retaining wall, because I am, that side of the house where the deck is going to go over is quite sloped so I'm going to have to do some on the top as well as the bottom just to keep it kind of from all washing out.

Chairman Reinhardt-alright, not saying that the board is going to go that way we're just exploring some ideas –

Mr. Barber- sure.

Chairman Reinhardt- on if you will filling out this criteria.

Mr. Barber- okay.

Chairman Reinhardt- so, I'm going to hold the rest of my questions for a bit, Fred do you have any questions/concerns?

Mr. Salsburg- there's a 8' and a 10' dimension, it says the 10' is right under the pool.

Mr. Barber- correct.

Mr. Salsburg- where the 8'?

Mr. Barber- the 8' would be at the top side where the deck is because the property line is kind of skewed a little bit.

Mr. Salsburg- but I don't see any deck there, do I?

Mr. Barber- just kind of that rectangular box.

Mr. Salsburg- oh, okay, okay. The lot line varies that much, 2'?

Mr. Barber- yea, I had to turn the deck too, so its actually going to be kind of, the whole thing is going to be tilted to get the 8'

Mr. Salsburg- well before you said that there was a septic system, perk field?

Mr. Barber- on the –

Mr. Salsburg- on the, got to be on the north.

Mr. Barber- on the north side of the house. Correct, yup.

Mr. Salsburg- but you must be missing that by a lot, now.

Mr. Barber- yea.

Mr. Salsburg- I mean there's really no factor.

Mr. Barber- no that's correct. Its on the opposite side of the house.

Mr. Salsburg- so that's not in the way.

Mr. Barber- correct.

Mr. Salsburg- and the deck is 3' away or so—

Mr. Barber- from—

Mr. Salsburg- from the edge of the pool, so the dashed line for the deck.

Mr. Barber- which one are you referring to, on the dashed line.

Mr. Salsburg- that'd be north of the pool.

Mr. Barber- oh, that's an existing one, that's already on the house.

Mr. Salsburg- so that's totally clear, okay, that clears it up for the moment.

Chairman Reinhardt- Matt, any questions/concerns.

Mr. Nearpass- yes, so what you have back there now looks like a shed and then is it a, not a shed, I'm sorry the playground and then is it a –

Mr. Barber- like a gazebo type thing.

Mr. Nearpass- and then, is it a hot tub, under the gazebo, I couldn't quite tell from --?

Mr. Barber- nope, just a table.

Mr. Nearpass- just a table under there.

Mr. Barber- yup.

Mr. Nearpass- and all of that is going to just be completely replaced by the pool or you're moving that?

Mr. Barber- so what my plan is, is once the deck is done, I'll move the gazebo thing on top of the deck, and then the playground is going to do down where that gazebo part is.

Mr. Nearpass- okay. So, my, I mean my biggest concern is your neighbor right to the south, right so they have the, it looks like 1431, there was a letter that came in from –

Mr. Barber-Lisa

Mr. Nearpass- Lisa.

Mr. Barber- yup.

Mr. Nearpass- looks like it was written to Lisa from a realtor, and so obviously someone is not too pleased with that, I wasn't sure, have you had a chance to speak with your neighbor, is there a way that you could buffer it, so ---

Mr. Barber- I've tried she doesn't want me to have one. She just doesn't want to see it.

Mr. Nearpass- okay, I'm, I'm just, I'm a bit on the fence, similar to Mike with whether it's a want or a need, obviously there's a lot of stuff in the backyard anyways, and it's going to be there, there's not to say anything wrong with it there but it, it just is what it is and neighbors don't always have to like everything that we do in our backyard, I was just hoping maybe there would be some type of balance, maybe you could strike with her and when it comes time for the public to speak, if she's here I guess –

Mr. Barber- yup, she's over here.

Mr. Nearpass- oh, okay.

Mr. Barber- yup.

Mr. Nearpass- we can get to that, but that was just my main concern, obviously you know within the character of the neighborhood, there's a pool to the south—

Mr. Barber- hers.

Mr. Nearpass- yup, there's if you go farther south, there's an above ground pool, although it's buffered by quite a few trees and such, would your, would you be opened to buffering it with vegetation –

Mr. Barber- I'd like to, it's just been a cost thing, I mean, we've put in a horse shoe driveway just because pulling out onto 444 was horrible, and it was kind of our first thing, I mean, we almost had a semi-accident, you know, almost as soon as we got there and doing that, the sewer ran wight where the driveway was so if we would have put, not done the sewer then we would have had to dig up the driveway to put the sewer in after, so our first, like year and a half between sewer line and driveway, I think we've put almost \$60,000 into it just between dirt and sewer and driveway and everything so, its kind of been doing, prioritizing stuff, I mean obviously getting out of the driveway was horrible, we had quite a steep one and it was bad.

Mr. Nearpass- sure, and you said earlier the future deck, and whenever, usually we have an applicant and an applicant says future, kind of the hair on the back of our neck stands up sometimes because future sometimes is like, is never, or –

Mr. Barber- right.

Mr. Nearpass- or 5-10 years, do you have some kind of timeline or –

Mr. Barber- I would hope, so I'm a Rochester Police officer, and we're like 3 ½ years out of contract, so I'm kind of hoping for a retro check, that would cover it, honestly. So, if we could hear something like December time, I'd like to plan something, you know, probably summer so we could use it. But I don't have a definite –

Mr. Nearpass- okay. Alright, I'm good for now.

Chairman Reinhardt- Donna?

Ms. Morley- I don't have any questions.

Mr. Salsburg- I want to say something more if I could take another turn.

Chairman Reinhardt- you'll have all the turns you want Fred, go ahead.

Mr. Salsburg- the situation looks to me like, my question is if you move the pool 5', it's a what 24' pool?

Mr. Barber- mhm.

Mr. Salsburg- could you live with that?

Mr. Barber- I, the harder part would be the deck would get into the air conditioner. Is kind of where I would start to come into problems, but still even if I move over 5' and run it straight, my deck would still be inside of the 15' just because the way the property lines run.

Mr. Salsburg- well I was going to say if you thought you could live with it, pool shifting over, then take the deck with it.

Mr. Barber- I could but if I move that 5' then I'm still going to, I'm going to run into AC unit and still be a need for the variance by a few feet for the deck.

Mr. Nearpass- you'd only need 2' though versus 7'.

Mr. Barber- yea. But I think where its at now I can still, it'll allow me to maintain that area, and I wouldn't mind putting up some trees or vegetation or plants or something like that.

Chairman Reinhardt- to piggyback on Fred's comment sometimes we'll ask that question, is, if the board decides to deny the variance and the request for 10' would you say, alright sorry kids, no pool, or would you find a way to get it to 15' so you don't need the variance, it's the hypothetical –

Mr. Barber- no, yea, I understand, I'd have to try to figure out how to work the air conditioner, because then I'd have to have like, like a cut out around for it.

Chairman Reinhardt- there's no option for moving the air conditioner?

Mr. Barber- I don't believe so, that was when the new ones we had to put into the house too, when we moved in because that was, that went when we moved in of course. So, we had to do a new heater and air conditioner at the same time so that just got installed I know that the plumbing and stuff and having to blow through the basement wall, I don't know what that would entail, because they already had to build a little structure box and level off some ground to put the unit where its at.

Chairman Reinhardt- okay, let's hold that thought on the cost of complying with the code whether it be moving it to the east and or north or moving the AC unit over enough so that the pool could go over, again, its not a fatal kind of, you got to do it this way, our board doesn't, doesn't go that direction, we're exploring ideas to see the feasibility of, you want to put a pool in the backyard, can you do it feasibly/reasonably comply with the code or do you need, if you will some flex in the code, that's what a variance is.

Mr. Barber- sure.

Chairman Reinhardt- so, anything else you want to add before I ask the public for or against the application. You'll have another opportunity ---

Mr. Barber- yea, I have nothing that's really coming to mind right now.

Chairman Reinhardt- okay, alright well we'll give you another shot.

Mr. Salsburg- so if your father-in-law started all this --

Mr. Barber- he did.

Mr. Salsburg- maybe you could tell him, it'll cost a little more than you thought at first.

Mr. Barber- maybe, we've already jumped into a little more with the survey and what not, so, we'll see what happens.

Chairman Reinhardt- we'll come back to that thought in a little bit, alright. Would anyone like to speak for or against the application? Come on up.

Ms. LaBarge- Hi, I'm Lisa LaBarge and I'm their neighbor at 1431, Mathew had said he wasn't sure whether this was a want or a need so I'm going to give some quotes --

Chairman Reinhardt- okay, so what I'm going to ask you, you'll have plenty of time, what I'm hoping you're not going to do is just put everything that you did on the August 15<sup>th</sup>, if its something new that we, please go ahead,

Ms. LaBarge-okay, this is quotes from the August 15<sup>th</sup> meeting and from his paperwork not things that have been brought up before.

Chairman Reinhardt- alright, so if you can --

Ms. LaBarge- yes, yes.

Chairman Reinhardt- I don't want you to read the minutes, if you can condense it, summarize it, that would be great.

Ms. LaBarge- so in the paperwork that the Barbers submitted for the variance, Chris Barber wrote the only area where he could place the pool and deck, the only, that's the only area that he could place the pool and deck that wouldn't make the area look cheap, so it looks cheap behind his house but it doesn't look cheap when its facing my house, he then said the board member who is absent, I guess her name is Sarah, she was asking that it go behind the house, like, can it go behind the house, and at 27.25 of that meeting he said "I just liked it on the other side because I thought I could get to it easier" then he also said "my father in law eventually my kids will be downstairs and their windows

will be there, they'll be able to see the deck, whereas compared to here, meaning where my property is, its out of the way" so he doesn't want to see it, put it out of the way where it affects me, and then he actually called it and "eye-sore" "it'd be an eye-sore if it was behind his property" but its not an eye-sore somehow for it to be next to my property. So, and as I think it was Sarah said in the last board meeting, that the board, they have to grant the minimum relief possible. And he has the ability to put this behind his house, he just kept saying he didn't want to look at it, you know, "eye-sore" all that, that was, that was the reasons for it. So—

Chairman Reinhardt- alright, so if I could ask you a question then, the, right now he is looking to put the pool 10' to the property line, the code allows him to do 15' if he could figure out a way to be 15' as opposed to 10' how is that going to change your world?

Ms. LaBarge- oh, if he does not have to get a variance, then that, he's, the same rights as any other legal resident, I would want proof, because for instance I know –

Chairman Reinhardt- as far as proof goes, when a board grants a variance whether it be 2', 5', 14' or even if he' says I'm going to put it 15' in, the code enforcement officer is going to go there when they get the building permit and make sure that whoever is building whatever they're building is in compliance with the code, if they're not, they get cited, so the distance I think between you and I, 10', 12' if you back up a little, 15', the difference between 10' and 15' for a neighbor, arguably really isn't a lot, I'm sensing from you that, it's the pool in and of itself whether it be 15', you're shaking your head.

Ms. LaBarge- sorry.

Chairman Reinhardt- okay, so if he's 15' in compliance with the code, you're okay with that?

Ms. LaBarge- right. Its that, its facing a pool, the deck for 50' directly facing my property, so when I come out to use the deck its right there, its right by my bedroom, the noise from that, the lights from that, as now, right in that area they have a flood light, it faces my house, its been blinding us out, you cant do that so there would, 50' of deck, and I'm hoping that's going to stop now that I said that, has to be diverted but, when you have 50' you're going to have to llluminate that to use it at night and that's you know the closer it is to my property and then there's all that noise and light and everything else that comes in, and that, how much privacy do you have when someone's deck is right facing you, so when I walk out, boom its right there.

Chairman Reinhardt- understood, and I'm, I understand the frustration of it, but having pool where the trampoline or anything that close, 15' sometimes seems like its close, its really not that far, certainly, 10' is closer, 5' is closer, 2' is really close to your lot line, and if it just happens to be where your, whether it be your bedroom, your bathroom whatever the case may be, it's certainly, and I understand it affects your property, but the criteria is, it's the overall character of the neighborhood, not just how it impacts one neighbor, and I'm not dismissing that your opinions and your concerns are irrelevant, they are, but as the criteria and as I read the minutes, there was a bit of almost like too much hyper focused on, how is this going to impact my property in and of itself. Right, so you see the difference between the 2 or not so much?

Ms. LaBarge- I, if he's in compliance with the law, and has the same laws that apply to every other Victor resident then I don't have an issue, specially if it's solidified because there's been a lot of issues of fuzzy numbering, sketches handed in without any numbers that had to come back that sort of thing, even what was just submitted, the Exhibit A and Exhibit B, I think the surveyor plopped the stuff inside, I think it was Chris Barber who did, so I have stuff here I would like to show that I have concerns because of those stake lines that that actually could fir in this area, that –

Chairman Reinhardt- alright, if the, whether, whatever Exhibits he provided us if he says it came from a surveyor, right now, we'll take that at face value, but, if you will, to coin the term, when the rubber hits the road, if he says I can do this within 10' , 12' and the board approves that, the code enforcement officer will go out there and make sure that everything is spot on not fuzzy, numbers, hard fast numbers, and if they're not right, they get cited for a violation.

Ms. LaBarge- mhm.

Chairman Reinhardt- alright, so you're, rest assured your concerns are heard they're in the minutes, nothing is fuzzy here. Alright, so whether its approved/denied, for 10' or he's going to do it 15' right now we don't have the answer to that, alright but, does that answer your question as far as where—

Ms. LaBarge- yes.

Chairman Reinhardt- you know if that pool does go in where exactly its going to go.

Ms. LaBarge- right. Right, part, 1 problem with this is they didn't discuss this with me in any way, I went to them, I went there and said something when I got notice because, they didn't come to me, but I felt that it wasn't neighborly to come in and dispute it and not tell them that in advance, so when I was pulling in one day Chris stopped me and I said “give me a minute, I'll be right out” and I went out and we were at the property and I was explaining how it would affect my property and, you know, and he just, I found his tone, when he realized I wasn't going to agree with him, like this is my property, this is where I'm putting it and was, I felt like, not the, that, the fact that he's not legally entitled to that and it is going to adversely affect us, that right there, if he was going to get anything out of me, and he wasn't, but that really made it, you know, this is just not acceptable.

Chairman Reinhardt- alright, anything else you want to add.

Ms. LaBarge- no.

Ms. Morley- can I ask a question?

Chairman Reinhardt- go ahead.

Ms. Morley- can you tell me how many feet off the property line is your home?

Ms. LaBarge- I have no idea. I have no idea, but I don't have anything where I had to get a variance and put you know stuff facing me, facing, like, I go to use my deck, my lower/upper deck, and its boom, they're right there.

Mr. Nearpass- so, my question is kind of similar to the lines, with the questions I was asking earlier and what Mike said the difference between 10', 12' or 15' so you would rather have it be for example 15' complaint with the code as is, or if you had an opportunity for it to be 10' or 12' but buffered with vegetation, so you couldn't see it, which would you prefer?

Ms. LaBarge- I would not trust that that's what would happen. And I want the 15' I'm not going to take them on their word of – I don't think they care –

Mr. Nearpass- it would be, we're talking about the law, and have the law, when there is a variance and a variance says something, an applicant has to do something, that becomes the code or law that they have to follow.

Ms. LaBarge- mhm.

Mr. Nearpass- so I'm just saying, in your particular scenario, I know there's a lot of emotions around this, but it's a, it's a bit of a, the variance request is a bit of an opportunity now for you to say, yes or no or there's somewhere in the middle. And if you don't like the vegetation idea then I'll drop it, but –

Ms. LaBarge- yea. No and I –

Mr. Nearpass- 15' as proposed and per the code as it is today, you'd be completely okay with that?

Ms. LaBarge- the stand—

Mr. Nearpass- versus something shorter and buffered.

Ms. LaBarge- yes.

Mr. Nearpass- okay.

Ms. LaBarge- I'm really concerned about the, especially the lights because the one light –

Mr. Nearpass- we're not talking about lights—

Ms. LaBarge- is really blinding us out.

Mr. Nearpass- we're not here to talk about light.

Ms. LaBarge- no, I know, but a 50, going 50' down my property line is not okay.

Mr. Nearpass- I don't understand.

Ms. LaBarge- like, what he, what they asked for was 50', going 50' down my property line.

Mr. Nearpass- 50' down –

Mr. Ryczek- she's talking about –

Chairman Reinhardt- hold on...

Mr. Ryczek- linear footage of the deck and the pool.

Ms. LaBarge- mhm.

Mr. Ryczek- so the deck's 24', 28', then the pool is 24' she's saying 50' along the property line where the structure would be.

Mr. Nearpass- sure, right, as of right now it's, it would be 15' away from your property line. Or some negotiating in-between or where he proposed it, right, that's kind of what we're here to debate and discuss.

Ms. LaBarge- yea, no I want them to be treated as the same as any other Victor resident. And if I have to do stuff after that to make my, you know, it more livable from where we are then that, you know, then that's what I have to do. Minus like lights being blared in the direction of our house anything like that, yea then, but I want it, I don't think that they, that the stuff that I quoted, I don't see how it would be fair to give somebody a variance who just says "well, its an eye sore" its an eye-sore for me, its not for you.

Mr. Nearpass- sure.

Ms. LaBarge- that kind of stuff it is just, I can't really, and I'm –

Chairman Reinhardt- questions.

Mr. Salsburg-Suzy, could you put the overhead picture on of the property. No, the aerial.

Chairman Reinhardt- the aerial.

Mr. Salsburg- the airplane.

Ms. Mandrino- this one?

Mr. Salsburg- yea, lets see, your house is to the right on this picture, right?

Ms. LaBarge- mhm.

Mr. Salsburg- kind of hard to tell what that is, but that's your house.

Ms. LaBarge- yea, that's my bedroom and then my deck.

Chairman Reinhardt- good, Fred? Alright, anything else you want to add?

Ms. Labarge- no.

Chairman Reinhardt- okay, good, thanks so much.

Ms. LaBarge- thank you.

Chairman Reinhardt- anyone else want to speak for or against the application? Okay, great. Chris, come on up a minute, anything as far as what you heard you want to respond, I want to give you—

Mr. Barber- no, I was just going to answer the one question, I think the house is probably about 45' away from the property line. Hers to, her house to the property line ish, I'm not, I don't have her survey. But –

Ms. Morley- thank you.

Mr. Barber- and as far as the privacy we're below level of her house, so I mean we can't look into her house at all, and I know that the vegetation stuff was brought up about doing the trees and the wife has asked me to do them, just kind of that reason, because then anytime we're out there we're below, I mean. Doesn't bother me but sometimes it feels a little weird, but so –

Chairman Reinhardt- alright, so what I would like to do is just take a, go down and I often do this on where is everybody on the application presently with the information that we have, what I'm proposing is, is to consider the really it's the second criteria on the feasibility of putting the pool in your backyard and being compliant with the code, and part of that understand that feasibility is what's it going to cost for you to get that pool in compliance with the code whether it go east and/or north east or whatever compass direction you need to do, however many, whether it be grading, basically getting a contractor in there to say it's going to cost you X if you move the pool because its going to cost X amount for loads of dirt and people power to do that and/or move the AC unit whatever it is to get, be in compliance with the code, what is that estimated cost, right, I'd like to know that, so, I'm going to ask Fred is that something that you'd like to see –

Mr. Salsburg- I was going to say the same thing, I think it would be in your best interest to get an estimate for your own decision making, whether you wanted to look into moving it or leave it. That's a choice.

Mr. Barber- yea, I just –

Mr. Salsburg- and to me, I don't think it sounds that bad. But that's just me.

Mr. Barber- yea, I was just thinking for the ease of building a deck in a rectangle shape instead of like cut outs and you know, stairs and stuff like that, it'd save me some money and the extra railing and the extra time and everything of the builder, that's why I was just trying to keep it, kind of simple rectangle stairs down, stairs up, straight and easy hopefully.

Mr. Salsburg- to me, you've done so well, between the last time and this time, it'd pay you to do just a little bit more. You aren't going to use it this year anyway. You probably ---

Mr. Barber- I was told the end of August they were installing pools so --- still feel good.

Chairman Reinhardt- I think to his point, I think this board really prides itself on being thorough and there are times whether it takes 2 times or sometimes 3 times to gather all the information, we don't guess, we don't put our thumb up and say, "oh, it goes about there" that's not what we do. We need facts, we can't go look for them, we rely on the applicant to say, if you could provide this for us, we'd have a better understanding of what's going on there. Okay, that's, that's the theme here, I think what we're going at. Matt, do you have enough information or is it ---

Mr. Nearpass- no, so I, I think there's other places you can put the pool, right, quite easily. I'm sure there's, I'm familiar with the area, I'm sure you've got, there's grading and places where its no use of having any kind of pool, I mean for example where the trampoline is today, that is probably 20' to the north of where it is, so it's got to be somewhat level there.

Mr. Barber- yes.

Mr. Nearpass- right, so if you could put the pool towards that other deck.

Mr. Barber- I see what you're saying. Towards the north, right.

Mr. Nearpass- so where it's almost in the middle of the house.

Mr. Barber- mhm.

Mr. Nearpass- right.

Mr. Barber- right.

Mr. Nearpass- is there anything that, I know you're talking about air conditioning units and things like that but is there anything really keeping you from putting it there?

Mr. Barber- so, as, like I said the last meeting then I just walk out to it, and I can't, trying to make something where it would look nice to get down from the top and the bottom levels without taking up the whole yard by putting it over there, it allows me to keep some of my flat yard for the kids and with the hillside then it lets me put the deck there to a unusable area, I, I understand what you're saying and I --

Mr. Nearpass- I mean, yea I get it ---

Mr. Barber- I can consider ---

Mr. Nearpass- I get the way you proposed it may be optimal for how you want to do it but we're here trying to weigh the benefits to the community to the neighborhood, yourself, for all of this and that may just be some type of consideration to look at other alternatives that are either complaint or don't have as much impact on the, you know the setback that's required, is kind of my, as proposed I cant say I'm for it right now, I still think that you've got some, some things that you can experiment with and try to, try to make it work for you and the neighbor and kind of everybody involved, that's kind of where I'm at. I'm not against it, but as proposed I am, but I think, I think there's opportunities for you to maybe let this settle a little bit and think about some alternatives is kind of where I'm at.

Chairman Reinhardt- Donna? Do you, the question we have before us is whether or not you have enough information or whether you would like to explore the idea on how much is it going to cost whether it be moving the air conditioner, re-grading, some numbers from a contractor –

Ms. Morley- I'm fine with getting numbers from a contractor but when you look at that backyard from the golf course, he had a lot of, like he's saying he's trying to use some of that hill that's probably unusable where he's putting that deck. The numbers would help, sure.

Chairman Reinhardt- alright, are you willing to do that, or we can certainly, we can vote today, and I think you know you may not want to do that.

Mr. Barber- I, to, to, I mean, I've already paid \$800 for the surveyor to tell me my line is exactly where I thought it was, so to pay a contractor, you know, a couple grand to lay down blueprints and run lines and stuff like that when it's a difference of 3'- 5'

Chairman Reinhardt- you think a contractor, I'm sorry, go ahead, I interrupted.

Mr. Barber- no, I, I'm just saying to pay a contractor that extra money that, to tell me what a difference between 12' and 8' a difference of, you know 4' or 5' is going to do for a couple thousand dollars to pay him to tell me, yea this is going to cost you this much compared to this much when really a 5' difference for something I've already paid thousands and thousands of dollars to try to make it the nicest I can for ---

Mr. Nearpass- who would install the pool?

Mr. Barber- huh?

Mr. Nearpass- who would install the pool?

Mr. Barber- the pool company, uh –

Mr. Nearpass- so couldn't you go to –

Mr. Barber- Kastler's or something like that

Mr. Nearpass- so couldn't you go to them and say "hey look, I'm burning through a little resistance with the Zoning Board on this where else do you, could you recommend I ..." I can't imagine they would charge you for it. Like where else would you recommend on this site –

Mr. barber- so they've had no input, I haven't even talked to the installer.

Mr. Nearpass- that's what I'm saying, it might be worth it, to do that.

Mr. Barber- I have, I've, I, he hasn't called me at all, I, I called when I came to get the permit the first time and he responded with his insurance number, but other than that I've, I haven't spoken to him.

Chairman Reinhardt- to Matt's point, if you're going to have ABC pool company install it, and if you stake it out and they come out and go "it's not going here, we're not going to, we can't" okay, or maybe they'll say "okay" you know what, but there's some dialog that's going to go on and they're going to give you an estimate, here's how much it's going to cost, if you really want that pool where you have it staked on, its going to cost you X, we need this and that and the other thing, but if you move it over 5', they're going to tell you a number on what it's going to cost to install that pool, where you stake it out, and if you stake it out in 2 places... what's it going to cost to install it where the 10' is and what's it going to cost if you comply with the code.

Mr. Barber- right, so it's not so much the pool that's going to be the added cost, the pool, well I was trying to utilize was the flat spot where the playground already was, where I already had it, excavator come in and make a flat spot for that, we had to dig out hillside and bring it back. But where the cost is really going to come in is to the decking, up towards the west of the house because then we get into more of the retaining wall and stuff like that –

Chairman Reinhardt- alright, the dilemma that I have is the chicken or the egg, you're asking, you cant figure out how much its going to cost to put the deck in unless you know where the pool is and you can't figure out where the pool is going to go unless you know whether or not you're going to get a variance or whether or not you can put it in the backyard and comply with the code in the first place, so there's a lot of ifs and buts going on moving targets that we're having a hard time figuring out whether or not you can put a pool in that backyard and comply with the code in a cost effective/feasible manner. Understand what, we're dealing with a bunch of unknowns.

Mr. Nearpass- it sounds like the answer is yes, but you might not get the deck you want, or there might be tradeoffs with the deck, right I get, you want the deck to go to the second floor and to go to the first floor –

Mr. Barber- right because that's where I have the –

Mr. Nearpass- I, the, that's a design that you want but I'm just saying the pool could probably go somewhere else and its almost no cost difference, it's the deck that sounds like you're, you think is the cost is going to come in.

Mr. Barber- right. Right.

Mr. Nearpass- and so, I think you got to play around with the deck design or something, right, it's a, again it comes down to, I guess in this case needs and wants and if you, you know, if you really want to have the, kind of the 2 level thing going from the upper deck down to the lower one, you know it may just have to be designed just looking at a, and I'm not an architect, like I said maybe have to be designed a little differently, but the pool itself I suspect can go anywhere you, almost anywhere you want it to near that house in the back if you can have a level trampoline there, it might not be desirable based on what you want to do with the deck but the pool could go there.

Mr. Barber- yea, I mean that's still slanted over there but its minimal.

Mr. Nearpass- yea I haven't found a backyard yet that's not slanted.

Chairman Reinhardt- we're going around in circles a little bit, so you have some choices here, you can say, "go ahead vote" however the board decides to go with what you have and either its going to grant it or deny it, but I think you have an idea of how the board feels right here, right now –

Mr. Barber- yea.

Chairman Reinhardt- or you can say, heck with it, I'm just going to withdraw the whole thing, I'll figure it out on my own, I'll comply with it, or you can say, you know what, I'm going to get some numbers on what its going to cost to move the pieces around and show the board that its really not cost effective or maybe it is, I don't know. So, with those choices that you have, which one do you want?

Mr. Barber- just my hang up is spending thousands of dollars to have them come out and do surveys and do lines for elevation and ---

Mr. Nearpass- we're not asking for surveys though.

Mr. Barber- no, I'm not saying that, but if I got a have somebody come in who's building the deck, they're going to need to know what that hill and slope is and where the stairs are going to come down and meet for a pool that I don't even have which I –

Mr. Nearpass- I thought the pool was coming first and the deck following ---

Mr. Barber- the pool is going to come first but if you want to know what the deck plans and numbers and all that stuff is going to be then that's going to cost me thousands of dollars.

Chairman Reinhardt- how do you know if you, if the board decides today and grants you a variance for 10' that that deck is going to work? If you don't have it --

Mr. Barber- Its just straight. That's all I got to do is go straight from the pool. That's it, if I got to go down a little bit on the back side because it is a slope the retaining wall's going to be there, so I'll have a couple feet variance on the backside of the hill with the retaining wall if I got to go a little lower or a little higher to meet where the pool is.

Chairman Reinhardt- with that slope, from my own experience, I can build a deck if it's a foot off the ground, anything more than that, I'm calling a contractor because its beyond my skillset, you have some lay of the land, some slope, if, and a pool, if you want a contractor building around where the pool is going to go, hopefully someday, I would think you're going to want some hard numbers to say I know this is going to work, my plan is going to work, just don't stick your thumb up in the air and say "oh its going to go right there, it'll work because .." you're not a contractor, are you?

Mr. Barber- nope.

Chairman Reinhardt- okay, neither am I, so we don't have the skillset to understand what its going to cost to put the deck where you'd like it to go, put the pool where you'd like it go, can it be moved, this is information that's valuable to us, to plug in, into the criteria on whether or not its feasible to put the pool in compliance with the code or maybe its not, its just cost prohibitive. We don't have that information, maybe it does make sense that if the contractor says "wow, you're asking for a ton of money and here's an estimate of how much its going to cost, if you try and put that pool any further north and or east" I got to move the air conditioner and, oaky, then it makes some sense because you're now, we're figuring out for that second criteria, you need a variance because any other way its not going to happen, that make sense there needs to be, there's that feasibility the reasonableness of granting a variance, not just guessing at it.

Mr. Barber- no, I understand what you're saying but I mean the difference of 4' or not compared to where I'd be able to just make a rectangle to a pool, I just to make a rectangle to a pool on a hillside, I know the pool is 4 1/2 ' tall there's going to be sand underneath it and fill underneath it to raise it up a little bit, I ran a string from the top to the 5 1/2 ' and I know there's about 18" so I know the bottom has to be dug down about 18" which I'm going to have the retaining wall there which will accommodate that, so I should be able to run it straight through just like a normal deck.

Chairman Reinhardt- the law requires this board, if it does decide to grant a variance to grant as minimal a variance as possible and what we're telling you is, we cant tell if, if we do grant a 10' variance is that the minimum amount that is needed to make that pool happen, because we don't know if it's feasible to put that pool in the backyard and not need a variance. Sometimes there are conditions that, it's a shed or whatever the structure is, its reasonable, its feasible to put it 5' from the lot line, sometimes its 12' sometimes its like no, you have plenty of room to do it, it's a case by case basis, and its information, its evidence that we need to plug this in so we may make our decisions based on facts, on evidence and being thorough, alright, I know its not the answer you want to hear tonight --

Mr. Barber- no, no I understand but I just its frustrating that I could have something nice and looks put together where its going to have no variance on my property, or no effect on mine or the neighbor's property, there's going to be no water run off issues, no, I'm not interfering on her land or anything with the difference of 5' but it just seems silly –

Mr. Nearpass- there is a 5' encroachment, right, over what's allowed, right, I mean it is something, its, we might say oh, 5' isn't going to seem like a lot to some people it may, to others it may not, but there is, there is an encroachment there that you're asking for.

Mr. Barber- right and I understand if we were in a development and we were, you know if I could reach out and touch her house but I have 25' from my house and she's got almost another 50' I mean we're almost 75' from one another, I'd understand if we had, you know quarter acre lots and we were packed on top of each other but we each have a little over an acre.

Chairman Reinhardt- how far her house is from your common lot line is a bit irrelevant. It's the lot line that is the bright line, that's the factor and how close can each home owner get to that lot line, code says in this area you need 15' side setback or you need a variance and if you want a variance to be granted, you look at the criteria, and no one, you could have 1 of the criteria lack of a better term fail at it, say no, you, it would create an undesirable characteristic to the neighborhood but you've met the other 3, it's balance. Right, one doesn't necessarily out balance the other, but in an instance when we're looking at one of the criteria and we just don't have an answer for it, we're, we have to draft a resolution, and there has to be an answer of, can it or can it not be achieved by some method feasible, I don't know how to draft a resolution, if it can or can't if I don't have the facts in front of me and those facts are can it comply with the code or not, you've already indicated that the septic system is not a factor, the deck isn't even there yet, the new proposed deck, so how do we know that, we don't, we're just guessing and we don't want to guess at it. So –

Mr. Salsburg- I got to think you're over stating the problem. Its just kind of a standard discussion, its not driven by the neighbor, we do this all the time, we don't like to give variances and when we do, they got to be necessary.

Mr. Nearpass- usually I'd say often the home owner will come in with the contractor, with the architect, and they'll drag them in here to convince us, look I, he's my client, or she's my client and we've tried to go here, here's why we cant go here, we've tried to go here, a lot of times its sheds or pools right, you know, there's often, you know, water that's on a corner, particular area, or a slope or something to that effect, but usually it's a plan, and I know it cost money, I get it, but we're all just trying to do the right thing here per the code and to convince us that there aren't other options, usually again someone's usually in here with their project manager, whomever saying this is why we can't go here, A, B or C and its not because of aesthetics its usually because of something real, a leach lines or a seasonal stream or something to that effect, it's a –

Ms. Morley- are you doing the work or is a contractor going to do the work of the deck?

Mr. Barber- I haven't even started pricing it out, I know somebody that does it, like people that moved into my parents' town home, he does good work and so I was probably going to contact him,

but like I said I don't even have the money together right now, so I hadn't even started really shopping around.

Chairman Reinhardt- you want to get some estimates, you want us to vote today do you want to, you can withdraw, I can't –

Mr. Barber- No, I understand, I just kind of my train of thought is, regardless of quotes or not, its going to be denied if I want to keep it where it is. So, I mean –

Chairman Reinhardt- I don't know that to be true, if your contractor, somebody that has some where with all and not your buddy down the street that knows how to build a deck, someone that really knows this is what its going to cost you if you want to put that pool and if you will in compliance with the code—

Mr. Barber-right.

Chairman Reinhardt- and we're going to be able to tell, you know if you put it on half way, 40' towards the gold course north and east it's on the side of a hill, we're going to know that, we're going, we're talking about, you know, I don't know if that AC unit needs to be moved and that'll help quite a bit or not or north and east its, there's a couple of different options, if you explore on what is it going to cost to comply with the code. It doesn't have to be to the penny but something that's reliable a source of information we can look at.

Mr. Nearpass- but again you're, he's here for the pool, because we don't know when the deck is going in, that's kind of the dilemma, right, the pool can go, we all know, I mean, tell me if I'm wrong but the pool could go where the trampoline is, it might not be ideal, but the pool could go there.

Mr. Barber- definitely not ideal, yea.

Mr. Nearpass- yea, I get it, but and that's kind of the debate we have is, okay it might not be ideal but it might be one of the only places that the site allows show us other alternatives or what's the, what's the cost to put it there versus somewhere else and if its substantial, your big issue is the deck, but the deck is this future thing so you know the size of the pool, you know where you'd want to put the pool in case down the road you're going to build a deck and we're here going well I, we don't even know if the, we don't know if the deck is ever going to be build, because we hear it a lot of people come in here and say well this is going to be, we actually had a future pool the other week, the deck, the shed was going in and the pool was going to be the future pool, right, it was off of Gillis Road and so it's really hard to work with that –

Mr. Barber- right.

Mr. Nearpass- and it's really hard to make –

Mr. Barber- but if I don't make a plan for a pool, sorry, a plan to put the deck on then its, its then it becomes harder to make it work with the house, compared –

Mr. Nearpass- but what ends up happening on our end –

Mr. Barber- to planning them both together.

Mr. Nearpass- potentially is the pool ends up going there and your, say we give you the variance and you're 10' away from the property line and the deck never goes in, ever, just maybe you, maybe you move, maybe something happens, maybe just doesn't work out the way you want, and then you got the pool there that's 10' away from the property line and we're in, and we haven't all done our jobs to make sure that the, you know we've had as minimal impact as we can on the site and that's my concern with it is, yea, its tough, I want to give advice and I know I cant give advice but I would really take another look at this –

Mr. Barber- no, no I understand but I think –

Mr. Nearpass- you have other options there.

Mr. Barber- I kind of my end of it is to spend money to get quotes done from different contractors I could be using to actually build it instead –

Mr. Nearpass- I'm with you.

Chairman Reinhardt- here's the, here's my suggestion to you, you can certainly do what you want, again our job is we cant give legal advise its to give you choices, another choice that I need to tell you is if you want to, you could go seek legal advice and say look my head is spinning here I don't understand variances, I don't understand how this works, this is what I got can you help me through this, often times, and I know its like you got to pay an attorney and that's a pain but –

Mr. Barber- and more money that I could be using just for the deck itself.

Chairman Reinhardt- true but sometimes attorneys can tell you this is how you navigate through these waters, here are the rules of the game, you know the drill, you know the rules and sometimes people do dumb things because they didn't follow the rules and that's what you're doing when you're out on the streets and thank you for doing that, it's no different here, we're just trying to help, these are the rules, these are the rules that we need to follow. We're doing our job, there's pieces of it, if you will, those moving targets we don't have it so we cant either grant or deny it and if we don't have enough information we're probably going to deny it for fact of there's not enough evidence here we're trying to help you if you want give us some more pieces of the puzzle and we'll help you solve it, I mean you, you're going to get the answer or not but right now it doesn't look like we can grant a variance with what we have in front of us.

Mr. Salsburg- and the very next article in the application is, is this variance substantial or not, so that's the next question. That could be split. I don't know.

Chairman Reinhardt- alright so the choice is yours, you decide how you want to play it, what you want to do, if you want to think about it, I don't want to force you into an answer, you certainly can come back to our October 3<sup>rd</sup>.

Mr. Salsburg- the frustration doesn't cost you anything anyway.

Mr. Barber- I mean, no we'll I, kind of where I'm at now is to put money into getting quotes and seeking lawyers is, I'm sorry but stupid compared to what I could just be using it for the deck, I mean if I'm not going to be granted this variance then its just going to be, to build a complaint one, I mean, you're talking a matter of feet, when there's plenty of room between the property line and, I'd understand if I was trying to build right on it but I mean I have room there –

Mr. Nearpass- but you also got room, you've got a lot of other room that's within the 15'

Mr. Barber- right but I just can't make it look decent, I'm going to be –

Chairman Reinhardt- we're not, alright –

Mr. Barber- right onto the side of the house where I have –

Chairman Reinhardt- alright so –

Mr. Barber- we'll vote on it if it gets struck down then I just got to build a compliant deck and it looks stupid but if that's what I got to do then whatever, I mean at this point, I'm not going to, sorry but piss away thousands of dollars with contractors and lawyers to –

Chairman Reinhardt- alright so, you certainly –

Mr. Barber- I wouldn't even, yea, we'll just vote on it.

Mr. Salsburg- I wouldn't expect you to spend any money on getting a quote.

Chairman Reinhardt- do you have any, if everything went copasetic tonight, is that pool going in before the snow flies.

Mr. Barber- I hope so, I've already talked to –

Chairman Reinhardt- really, okay.

Mr. Barber- I've already talked to the contractor and when the pool guy dropped off the pool material itself, 2-3 weeks ago he said they were still installing, he said until the ground freezes they are going to be putting them in, because they are so backed up right now that they're still putting them in. The electronic, the electrical guy I contacted months ago, so they're, I'm already on their schedule. So, I have tried to keep everything going so I don't hold anybody up.

Chairman Reinhardt- so you'd like us to vote ---

Mr. Barber- I'd like to just vote on it, honestly, I mean, I don't think at, I understand I'm probably going to lose and whatever.

Chairman Reinhardt- you have the option, if you want to sleep on it tonight and let us know in the morning, but you want to ---

Mr. Barber- I wish Sarah was here, Sarah seemed a little more forgiving, so – but I, yea to, to waste money with quotes and lawyers and all that I don't think its really the financially smart thing to do when, if 5' is going to kill me then, 5' one way or the other is, if it is what it is, it looks stupid, it looks stupid

Chairman Reinhardt- alright, so you're proposing the pool go 10' from the lot line –

Mr. Barber- correct.

Chairman Reinhardt- is that what it is currently?

Mr. Barber- yup.

Chairman Reinhardt- instead of your request for 5'

Mr. Barber- correct, yup. I had the survey done, I got a hard number 10' the deck I moved and pushed back, so I've tried to work as well with the variance as –

Chairman Reinhardt- the deck would have to comply as well to the 10' not 8' is I'm looking at your survey right its 10' whether there's the pool and the deck –

Mr. Barber- so it's got to be 10' the whole way? Because that's what I

Chairman Reinhardt- right.

Mr. Barber- I had 8' at the top of the deck and 10' ---

Chairman Reinhardt- we got to get some hard numbers then, because now I'm –

Mr. Barber- that's what I mean, \$900 for the survey guy.

Mr. Nearpass- he cam back and asked for 8'

Chairman Reinhardt- alright so you're looking for 8'

Mr. Barber- the corner of the deck would be 8' and the pool would be 10', so 8' would I guess be what I'm looking for.

Ms. Downs- can I ask a question.

Chairman Reinhardt- yea.

Ms. Downs- so if he gets denied this variance and he wants to come back after putting this pool in a code complaint area, he can not come back and ask for a variance for his deck, correct?

Chairman Reinhardt- 1 year.

Ms. Downs- okay.

Chairman Reinhardt- so that's a good point, should this board deny the variance, you can certainly comply with the code and put that pool 15' in even though the variance has been denied but if you come back and say "gee alright, I will push everything back 13' whatever the, anything different you have to wait a whole year and go through this all over again"

Mr. Barber- Fantastic.

Chairman Reinhardt- that, I, I'm not making up the law, that's how it is.

Mr. Barber- no, I understand. I know.

Mr. Nearpass- that's where we were saying you might want to think about it and withdraw then you don't wait a year, you come back a month from now if you have a better plan based on how you think its going to end up.

Ms. Barber- \*in audience\* I say we withdraw.

Mr. Barber- well but then that's where the pool would have to be, just ask for the 10' pool variance or do you try and do the 15' because I mean 15'

Chairman Reinhardt- you can –

Mr. Salsburg- we're here every 2 weeks.

Chairman Reinhardt- you can, no, no we're not. \*inaudible\* you can think about it tonight and tomorrow the next day, say look I'm going to give you the numbers or you can say I'm done, I'll –

Mr. Barber- move.

Chairman Reinhardt- no, no, comply with the code

Chairman Reinhardt- 15' or you can, voting today may have consequences that are going to make it more uncomfortable going forward, I often tell my kids, ask my wife, sleep on it, you know when you're wound up a little bit you don't always make good decisions, you sleep on it –

Mr. Barber- oh definitely wound up. Because I share this story, and everybody thinks it's a joke.

Chairman Reinhardt- well, I, I'm –

Mr. Barber- its quite horrible.

Chairman Reinhardt- the board is winding you up, its stressful, I understand.

Mr. Barber-mhm.

Chairman Reinhardt- and we see this when applicants come in, this is not their normal thing that they do, try, and give them as many options as they can so –

Mr. Barber- No, I understand, because like you said this, on the scale of stuff I have to do, this is minimal, I was at work last night because the lady was held against her will and beat and stabbed and broken vertebrae and broken ribs and I have to plead to get a damn pool. You know, that's kind of where it seems really frustrating and silly ---

Chairman Reinhardt- much like you we are here to comply with the code.

Mr. Barber- I understand. I understand.

Chairman Reinhardt- so, want us to vote, want to think about it –

Mr. Barber- no, no, lets hold off on it, we'll withdraw it or whatever we're doing.

Chairman Reinhardt- think about it tonight, certainly give Amber an e-mail tomorrow, even the next couple days, how do you want to go, which way do you want to go and then we'll proceed forward.

Mr. Barber- super. Thanks.

Chairman Reinhardt- thanks so much for your patience and time.

Ms. LaBarge- will I be notified when the board votes though.

Chairman Reinhardt- it will be, once a resolution is whether its granted or denied, how long does it take to get on the webpage, you can search it, you just mail it.

Ms. Downs- everything is posted on our website, so as soon as I hear if Chris does withdraw that results agenda will be posted on our website and same for if he does decide to come back that would be the October 3<sup>rd</sup> meeting and that agenda will be posted on our website as well. Okay.

Chairman Reinhardt- good, thank you, have a good night.

**VICTOR SQUARE**, 4-20 Commerce Drive

17-Z-2022

Seeking an area variance to combine parking lots with Victor Crossing where §211-32 states that parking and paved areas may be located within up to five feet of the property boundary line for side and rear boundaries of lots located within the Commercial District

**VICTOR CROSSING**, 400-441 Commerce Drive

16-Z-2022

Seeking an area variance to combine parking lots with Victor Square where §211-32 states that parking and paved areas may be located within up to five feet of the property boundary line for side and rear boundaries of lots located within the Commercial District

Chairman Reinhardt- Thank you for your patience.

Mr. Salsburg- well there goes the first half of the game.

Mr. Boglioli- its funny, I'm on my school board in Clarince and we actually moved the meeting to Tuesday because of the Bills game, and no one comes to the school board meetings anyways, so I don't know why we did it.

Chairman Reinhardt- I heard there was a bunch of schools out there that had half days, so they didn't want to –

Mr. Boglioli- half days, we did not have a half day but I, I put all the meetings on my calendar so I can make them, and I said what, this must be wrong we have it on Tuesday, they so oh no we moved it to, so we avoided those games.

Chairman Reinhardt- so, alright, so I appreciate your patience, this is a, it is a unique one because it mirrors, Victor Crossing and Victor Square mirror each other and as I understand it and you pointed out to us last time, this is a combined parking lot, you already have your approval of the Planning Board and in your mind, in theory this is a feel good, if you will, its, you don't necessarily need it, but it would tie everything up, the County Planning Board, did you see that or not?

Mr. Boglioli- I didn't get that.

Chairman Reinhardt- so Class 1, and I think the only thing that they touched on was that there needs to be communication with both Victor Square and Victor Crossing on who is taking care of the maintenance –

Mr. Boglioli- we're having, we're recording an REA, it's a reciprocal Easement Agreement and we're, that's part of our, I offered that to the Planning Board as part of the condition of approval from them, so that will set forth maintenance and everything else in it when we record that.

Chairman Reinhardt- Right, right, its just needs to be recorded, everybody stays on the same page, so with that, do you have anything you want to add?

Mr. Boglioli- no I don't, I'm good, and if you have any questions, I'm happy to answer them.

Chairman Reinhardt- Okay, good, so Fred? Do you have any questions?

Mr. Salsburg- no, this is not a bad change at all, in fact the driveway is an improvement.

Chairman Reinhardt- right, I agree. It is an improvement to its current situation. Matt, questions/concerns/comments?

Mr. Nearpass- nope, I'm all set.

Chairman Reinhardt- Donna?

Ms. Morley- nope. None, thank you.

Chairman Reinhardt- great, again as noted County Planning Board determined this to be a class 1 and the recorded, the recorded easement should address the allocation of maintenance, the and the cost for the shared parking and access. Right.

Mr. Boglioli- mhm, yup.

Chairman Reinhardt- alright, so with that if we can, what I'd like to do is combine this, even though they are the mirror image of each other, so Victor Square and Victor Crossing its identical analysis, its just the reverse of each other. You okay with that if we do one and then fill in the, so we'll vote on both of them, so...

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: One factor is, is that the, we're talking about Victor Square, Victor Crossing is the other piece of property that is going to share the property, anyone want to add anything to the first criteria?

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: and as Fred pointed out this is, I think a solid argument for improving that section of the adjoining properties, anyone want to add anything to the second criteria?

3. The requested area variance is not substantial.

Justification: again, these are adjoining properties owned by the same company, is that right?

Mr. Boglioli- That's correct.

Chairman Reinhardt- so arguably they are not substantial. Anything to add for the 3<sup>rd</sup> criteria?

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

Justification: we haven't heard or seen anything before us that would give us any evidence of creating any kind of adverse effect or impact, anything from anyone else on the fourth criteria?

5. The alleged difficulty, I think is self-created.

Mr. Boglioli- it is not self-created; this is the first time I've had a variance that's not self-created because the Planning Board asked me to do it, and I would argue that if you denied this variance I would save \$100,000.00 and not have to do this, so this is the first time I've checked that category.

Chairman Reinhardt- alright, let's go with that.

Mr. Boglioli- yes.

Laughter\*

Mr. Boglioli- the benefit, if you denied it, but –

Chairman Reinhardt- no, that's not the only, you can have one resident that was opposed to it.

Mr. Boglioli- yes.

Chairman Reinhardt- oh, where is it.

Mr. Boglioli- you read that letter the last meeting.

Chairman Reinhardt- I'm not seeing anyone let here that would speak for or against –

Mr. Salsburg- the opposition was kind of a stretch.

Chairman Reinhardt- okay, yea. Alright then if we're ready I would entertain a motion for APPROVAL of both Victor Crossing and Victor Square variances.

On a motion made by Mathew Nearpass and seconded by Donna Morley:

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

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

Adopted: 4 Ayes, 0 Nays, 1 Absent

Chairman Reinhardt- motions carried, thanks so much for your patience.

Mr. Boglioli- thank you very much, have a nice night.

Chairman Reinhardt- safe travels.

Mr. Boglioli- you too.

Chairman Reinhardt-Anything from anyone else, Ed, we're good?

Mr. Kahovec- yea, just on the 3<sup>rd</sup>, there will be no Town Board representation because we have a Budget Workshop scheduled.

Mr. Nearpass- sounds riveting.

Chairman Reinhardt- numbers, numbers, numbers. Okay, very good.

Ms. Downs- I also won't be here on the 3<sup>rd</sup> and Lisa will be filling in for me that meeting.

Chairman Reinhardt- what, well whatever you're doing, enjoy.

Ms. Morley- I have one question for Adam too, you know the property that's on the end down Main Street, that he cam in a bunch of times, you probably weren't here, I don't know what number it is, he's been working on that house for years and years.

Mr. Nearpass- Chadi.

Ms. Morley- I don't know what his name is.

Mr. Nearpass- Chadi.

Mr. Ryczek- yea, I've heard his name a lot, he has a lot of opened permits, I've never met him and have yet to be assigned to anything that he's doing.

Ms. Morley- I just wondered because he came in front of us and he was supposed to come back but we never have seen anything.

Mr. Nearpass-- recently? Or are you talking like a year ago?

Ms. Morley- a year ago. Because it's an eye sore. It's bad.

Mr. Ryczek- I can look into that.

Mr. Nearpass- I think with COVID a lot of stuff was delayed, right?

Mr. Ryczek- he has –

Mr. Nearpass- but during COVID we weren't pulling permits because he was on the verge of almost getting evicted by the Town.

Mr. Ryczek- yea and I think he has been in communication recently and I think some of his permits might be expiring and I think we reached out to him, this is just what I've overheard, so I can definitely look into it.

Ms. Morley- yea, I was wondering because it looks pretty bad.

Chairman Reinhardt- our friend on Dryer still has his circus tents up.

Mr. Ryczek- yes.

Chairman Reinhardt- alright, we're good, motion to adjourn,

On a motion made by Chairman Reinhardt and seconded by Fred Salsburg the meeting was adjourned at 8:26pm.