

TOWN OF WARWICK  
ZONING BOARD OF APPEALS  
JULY 25, 2022

Members Present:

Jan Jansen, Chairman  
Robert Fink, Attorney  
Mark Malocsay  
Diane Bramich  
Chris Daubert

**PUBLIC HEARING OF RICK LEALLI/COMMUNITY LD, LLC.** - for property located at 5 Riley Court, Warwick, New York and designated on the Town tax map as Section 60 Block 1 Lot 8.2 and located in an SL District for a variance of Town Law Section 280-a permitting access to a municipal road from a private road. **Continued from the 6/27/22 ZBA Meeting. \*\*As of 7/18/22, ZBA application “Withdrawn”.**

Chairman Jansen: Is there anyone from the public here this evening for this application?

Ms. Bramich: I saw the Building Inspector from Greenwood Lake who was at our last meeting on this. I showed him the letter that we had received withdrawing it. He probably informed his neighbors about it.

Chairman Jansen: Ok. The ZBA application of Rick Lealli/Community LD, LLC has been withdrawn.

**PUBLIC HEARING OF JOHN WELCH** - for property located at 111 Walling Road, Warwick, New York and designated on the Town tax map as Section 26 Block 1 Lot 25 and located in an RU District for a variance of Section 164.46J permitting a chicken coup less than 100 feet from the property lines. **Continued from the 6/27/22 ZBA Meeting.**

Representing the Applicant: John & Danamarie Welch, Applicants.

Danamarie Welch: I have some papers here for the Board. I am John Welch's wife. I would like to speak today. I have not been at the last few meetings.

Attorney Fink: I just wanted to say that the Board will be carrying this application over because the Surveyor didn't correct it.

Danamarie Welch: I understand that. I wanted you to know why we are here.

John Welch: This has been drugged out too long.

Attorney Fink: Yes. It has.

Mrs. Welch reads from a statement that she wrote for the ZBA Meeting. The Statement is stated below as follows:

*"My name is Danamarie Welch. I have lived at 111 Walling Road in Warwick, New York for 22 years with my fabulous husband John Welch, and I have prepared a written statement for the ZBA Board Members & Attorney Fink to consider"*

*"Currently, the Town of Warwick Code 164 states that I cannot have more than 10 fowl. Fowl are chickens and roosters. I have one rooster and six hens"*

*"I would like the ZBA to note that Mike Faull's initial complaint is invalid. I have purchased 3 separate decimal counters. My rooster crows at a 70 decimal level at 15 feet; that is under the violation noise decimal level, which needs to be over 75"*

*"I would like to quote from the ZBA meeting on April 25<sup>th</sup> ... Attorney Fink: "It seems to me that this chicken coop is more than 100 feet from your lot line". Mike Faull's, "Yes". However, the ZBA decision on June 27<sup>th</sup> was postponed for the 3<sup>rd</sup> time, for the property line to be measured since Mike Faull's & his father decided to state that the coop was less than 100 feet from their lot line"*

*"To update you on the progress of said measuring of property line, on Wednesday, June 29<sup>th</sup>, 2022, the Town of Warwick Building Inspector came to measure the property line,*

*but Mike Faulls' mommy & daddy turned the Building Inspector away because they wanted a survey done for the property line. They were arguing where our property started. However, after turning the Building Inspector away, they never did the survey".*

*"I measured the property line from our propane tanks, which are on our side of the property, and the measurement was 124 feet. The decimal level at the property line, with the rooster outside the coop and in the fenced in area, is 60 dpa's, well below the noise violation decimal level".*

*"No other neighbors are complaining. Here are the letters from our neighbors (attached). In the Notice of Violation dated December 15, 2021 from the Town of Warwick, it states that in order to resolve the violation we needed to:*

- 1. Obtain a permit for the Coop.*
- 2. 2. Contain fowl to our property.*

- 1. Our walk-in coop is on the other side of our property. We were told by the building department secretary that we needed a walk-in coop in order to have the rooster.*
- 2. We have a fenced in area so our fowl do not go on our neighbor's property.*
- 3. Three, we are on our third meeting and fourth month in an attempt to get a variance for our chicken coop."*

*"Additionally, I only allow my chickens out in the fenced in area when I am home (due to my concern over my neighbor shooting them). When my rooster crows more than a few times, if I cannot distract him, I then put him back in the coop for a time out. I have done my due diligence as a chicken owner."*

*"Finally, the ZBA has approved a variance on Jersey Avenue in Greenwood Lake for a coop (5-foot from a property line). The only neighbor within 300 feet from our property who is complaining, I have 11 certified mail letters went out, has an invalid complaint for a noise disturbance since my rooster crows under 75 decibels. From the property line, the coop is well in excess of 100 feet. Since there are no other neighbors in opposition of our permit, it is our belief that there is no reason for our permit not to be approved at this time. Thank you for your time and consideration".*

Danamarie Welch: On page 2 is a picture of our neighbor's Moriarity's coop. The neighbor's coop might be 100 feet. They have chickens. Their children come over and play with our chickens. Their chicken coop might even be 119 feet away. Then you have another 20 feet to his house. His noise variance complaint is actually invalid. If you want the Building Inspector to come out and measure stuff, we could start measuring stuff. Two days after our meeting, the Building Inspector came by. Our neighbor was not home. His mother and father came out. His mother and father trespassed on my property. His mother and father were Munising and threatening and harassing me. They

were telling me that they were not on my property. I have documentation that they were threatening and harassing me. Secondly, the Building Inspector had to walk away because they said they were going to get a survey. There was no survey. Who cares even if there was a survey. The coop is 119 feet away. It is over 100 feet. They know this. They were just stalling for a little more time so that this rooster ban would go through. The rooster ban is not going to go through. You are not going to get my rooster either. Number 2, these are letters from my neighbors. They are the only people that responded other than the only complaint that is not valid. It is not valid for 2 reasons. #1, it is not valid on the noise complaint. You can have this documented by the Building Inspector and my Lawyer. #2, it is over 100 feet. Now you continue to let these people harass me since December of 2021. Stated below are letters from my neighbors as follows:

*April 11, 2022*

*To: The Warwick Zoning Board of Appeals*

*From: Diane Gern, 108 Walling Road, Warwick, NY*

*To Whom It May Concern:*

*We are writing to let you know that we have no problems or issues with the chicken coop at John and Dayna Welch's house at 111 Walling Road, Warwick, NY. Truthfully, we never even knew there was a coop, because it is behind the shed and the same color as the shed. We are not aware of any noise from the coop, and do not find it a nuisance in any way. Please feel free to contact me should you require additional information or if you have any questions.*

*Thank you,*

*Sincerely, Diane Gern, Owner  
108 Walling Road.*

Danamarie Welch: Here is another letter from 110 Walling Road that is directly across from him. The letter below from my neighbor is stated as follows:

*April 20, 2022*

*Town of Warwick  
132 Kings Highway  
Warwick, NY 10990*

*Attn: Zoning Board of Appeals*

*Re: 111 Walling Road*

*To Whom It May Concern,*

*We are writing to say that we have no objection to the chicken coop in its current location behind the shed at the property located at 111 Walling Road. If the coop were to be moved to the backyard, it would be an obstruction to the beautiful view. Please approve the coop in its current location. Should you have any questions or concerns, please feel free to contact us.*

*Sincerely,*

*Ineka & Scott Pirovitz  
110 Walling Road.*

Danamarie Welch: Out of the 11 certified mail letters that we had sent out, one person here is not valid. I have 2 letters that says they are fine with it. Our understanding was that people had to come and complain for us not getting this chicken coop. Is that correct? Or, do you like to make up your own rules at this point?

Chairman Jansen: We don't make up our own rules at any point. We listen to the people to see what the issues are.

Danamarie Welch: Ok. A noise complaint is not valid. We can have the Building Inspector come out and do the noise complaint and test everything. Then we could have the Building Inspector do just like he tried to do 2 days after our last meeting. He had to walk away because they said they were getting it surveyed and come back and measure the property line, which is in dispute. His mom was pointing at the yellow tree that I planted off our property line. She is pointing at the wrong tree. My propane tanks are located here. I am still 119 feet away. His complaint is not valid. He shouldn't even be in this room. This has been going on since the year 2021. He has been harassing me. I have him on ring. You are recorded.

Chairman Jansen: Please calm down. Those papers you have regarding your statement and the letters from the neighbors, you can turn them over to our member, Diane.

Danamarie Welch: You have all the paperwork. I gave you all of the documentations. This is ridiculous.

Chairman Jansen: Ok. Please calm down.

John Welch: We were already to get it measured. They said stop. They were going to get it surveyed. It keeps getting drugged on. I got a call from the Town of Warwick, I will not say names, stating that we are guaranteed that we are well over 100 feet from his property. The footage is right on our site plan. Please let's put this behind us. I am begging you to let this go through so I don't have anymore nightmares. I have served this community for 40 years. I work for this Town doing kitchens. I have been doing those 40 years now. I am very well known and liked in this Town. That is all I want to say.

Chairman Jansen: Thank you. We will open this up to the public. Is there anyone in the audience wishing to address the Welch application?

Mike Faulls: I am the complaining neighbor. I have pictures.

Attorney Fink: I have a question. An interesting point was raised. When the house was constructed, is this a separate building? The coop is behind a building/structure.

John Welch: It is behind the shed.

Attorney Fink: Are there any measurements from the Town?

John Welch: We gave you guys a copy at the first meeting. That was with the application we submitted that had the site plan, plot plan, etc...

Attorney Fink: Does the survey show where the shed is located?

John Welch: Yes.

Attorney Fink: If that is the case and it is behind the shed, then I don't know why a survey is needed. I don't have a copy of the site plan showing the measurements of the structures. We have it. You are not 100 feet from one line. Being that it may, we now know where it is. It is easy enough to measure it based upon the survey.

John Welch: That is what they had done.

Attorney Fink: Ok. Let the gentleman speak now.

Mike Faulls: The threatened part, I didn't think all the neighbors don't want to hear your roosters.

Attorney Fink: Let's stop about the roosters. Roosters are allowed. Is that correct? Isn't it allowed under the ordinance?

Ms. Bramich: So far it is.

John Welch: Yes.

Attorney Fink: If that is the point, let's not talk about roosters. They are allowed.

Mike Faulls: But she is allowed to sit there and say that I was the one threatening her.

Attorney Fink: That is a whole another point.

Mike Faulls: I had called the cops on her 3 times.

Attorney Fink: That has nothing to do with the Zoning Board of Appeals. If somebody feels threatened namely you, then you should call the Police. The Zoning Board of Appeals is not permitting it. We have nothing to do with it. We have no power to stop it. Let's not talk about threatening. Let's not talk about the roosters. We are talking about the 100-foot setback. As I understand it and as to you, the coop is more than 100 feet from your property line. Is that correct?

Mike Faulls: I don't know.

Attorney Fink: It looks like it from the site plan/survey that was given to the Town.

Mike Faulls: I can't force my surveyor to come to my house.

Attorney Fink: You have no right to be on their land to survey their property and their structures.

Mike Faulls: I was getting my property surveyed. All of a sudden, the stakes are missing.

Attorney Fink: Assuming, it is more than 100 feet, are you going to complain because it is not 100 feet from the lot line that is opposite from your lot line? Do you have a complaint about that?

Mike Faulls: If it is code.

Attorney Fink: Your complaint is that it is not code. That is why the Zoning Board of Appeals exists.

Mike Faulls: I can't sit out at my back patio because I hear roosters.

Attorney Fink: That is not before this Board.

Mike Faulls: That was why I had made the complaint.

Attorney Faulls: You may have made the complaint. But it has nothing to do with the Zoning Board of Appeals. I think what you are doing is wasting your time and this Board's time.

Mike Faulls: Could I play a tape?

Attorney Fink: If it has to do with roosters, roosters are allowed. If it over the decibel that is allowed in the Town, it is a whole separate complaint. You should be talking to the Building Inspector. It is not the ZBA.

Let the record show that there is a lot of talking going on back and forth out in the room from the public. We cannot get it on record.

Mr. Malocsay: The Chairperson has not recognized you. Please be quiet. If either one of you do something again, the Chairman will ask you to leave. Are we clear on that?

Danamarie Welch: Ok. We are very clear.

John Welch: Yes.

Mr. Malocsay: Thank you.

Mike Faulls: Could I play the video?

Chairman Jansen: No.

Attorney Fink: If you want to bring up something relevant.

Mike Faulls: She is talking about the decibel level.

Attorney Fink: If you feel it is over the decibel level, it has nothing to do with this Board. You would be wasting your time.

Mr. Faulls goes on talking about how the roosters crows all the time and states he has a 5-minute video showing the roosters crow about 10 different times. Attorney Fink asked Mr. Faulls, what do you want the ZBA to do? Mr. Faulls states, he would like to see the roosters and chickens gone. Attorney Fink states that the Applicant has a right to have the roosters and chickens.

Mike Faulls: Ok. If that is what you had decided.

Attorney Fink: That is not what we decide. The point is that the Town allows it.

Mike Faulls: But they only have 1/2-acre.

John Welch: We have more than 1/2-acre...

Chairman Jansen: Please could you leave?

John Welch: I will stand on the other side.

Chairman Jansen: If it happens again, I will call the Police to have you taken out.

Mr. Faulls continuing discussing the noise of the roosters and that he can't have his windows open because of the noise.

Chairman Jansen: You were trying to prove that the distance was not there. The roosters have nothing to do with us. The Town Board is not going to enact on the rooster thing. The Town Board recently had a hearing on it. Right now, from what we know, they are not going to enact on it. The only thing you have is the distance. Looking at the map, the distance is not an issue.

Mike Faulls: On my side, it is not.

Chairman Jansen: We are talking about the distance from them to you.

Mike Faulls: Ok.

Chairman Jansen: Mr. Fink, if we are not going to do a variance...

Attorney Fink: With a magnifying glass, I could probably give an accurate answer.

Chairman Jansen: That is close enough. Unless, you have a survey and you could prove differently, then this is a moot issue.

Mike Faulls: If I get it surveyed, then what would we do from there?

Chairman Jansen: If it shows that distance is there, then you could reapply.

Attorney Fink: No. Unless you want to hold off. Once this variance is granted, there is a way. As you know, we have talked about it once or twice before. If a variance is granted by a unanimous consent, the Board could rehear it if it doesn't substantially injure the person to whom it was granted. We are not going to talk about that. There is a way to undo it absent to someone bringing in an Article 78. It is quite unusual. It would have to be a unanimous Board. It would then have to be readvertised and reheard.

Ms. Bramich: Who would have to readvertise it?

Attorney Fink: Whoever is holding the application.

Chairman Jansen: Currently, we have 4 Board members present this evening.

Attorney Fink: Here is the other thing. The point is the rooster, chickens and coop are there. It is not like there is an application that is before the Board to build something. We should have more time to accurately look at this map and get an accurate measurement from the other line. I don't see any harm in that.

Chairman Jansen: That would mean for the next meeting, you would need to have that survey. You would have to allow the Building Inspector to do their measurements.

Attorney Fink: The surveyor, unless the property owner consents to it, he cannot go onto the Applicant's property.

Chairman Jansen: We are authorizing the Building Inspector to do the measurement.

Attorney Fink: Ok. He could do that.

Chairman Jansen: That was where we were at the end of last meeting. In the meantime, the surveyor has not appeared. We have no survey. There is no real true measurement at this point.

Attorney Fink: We are interested in both measurements. Principally, we are interested in the measurement from the coop to this gentleman's house. That is right on this Youngblood survey. I just can't read it. We could call the Town to get those measurements.

Mr. Malocsay: We could take off from a larger survey to see what that actual measurement is from the other property line. Then from there, we could work backwards to your property line. We know what the distance is at the shed.

Attorney Fink asks Ms. Bramich if she could read the distance from the Applicant's survey. Ms. Bramich stated that the distance is 124.28. That measurement is from the house. Looking at the survey, Attorney Fink asked if the shed is located at the corner. Mrs. Welch shows Attorney Fink the location of the shed on the map.

Mr. Malocsay: If we were to issue the variance, it would be for that side yard. We would have to know what that number is.

Attorney Fink: Ok. That is fine. Whose responsibility, is it?

Chairman Jansen: It would be the Building Inspector doing the measurements.

Attorney Fink: That is fine.

Chairman Jansen: Before the next meeting, get that survey. As soon as you have it, call the Building Inspector to ask him to come out and measure.

Mike Faulls: Ok. No problem.

Ms. Bramich: August 22, 2022 is the next ZBA Meeting.

Attorney Fink: How are you going to get a survey of somebody else's property?

Mike Faulls: I am surveying my property.

Ms. Bramich: The Building Inspector can go on Welch's property.

Attorney Fink: Ok.

Mr. Malocsay: You brought up something very interesting about decibels. You are accurate. But it is missing one small part. Working hours and dawn to dusk. If a rooster is crowing at 5:00 a.m., the rooster is in violation.

Danamarie Welch: Then that raises another question for you guys and the Town Board. We are going through stuff with the Town Board on this. The wild birds wake us up between 4:15a.m. and 4:30a.m. I trained by rooster 1-1/2 hours later. When my neighbor was waking us up with his truck that needed to be fixed, we were waking up and he trained my rooster to 4:30a.m. Since all of this, now my rooster crows earlier. We are exhausted from wild birds waking us up.

Mrs. Welch goes on to discuss about the rooster's times of crowing, noise of wild birds, etc...

Attorney Fink: There is no violation before this Board for decibels.

Danamarie Welch: Ok. What I am saying is, what is the noise Code violation?

Attorney Fink: There is no violation before this Board.

Ms. Welch continues to discuss her concerns of the noise.

Chairman Jansen: They are only before this Board for the distance.

Attorney Fink: This Board has granted variances for chicken coops that are less than 100-feet from a property line. Each situation is different. It would appear that this gentleman's property line is more than 100 feet. He could raise the attention of the Board that it is supposed to be for both property lines.

Chairman Jansen: I think you guys are spending a lot of time and money for some things.

Attorney Fink: They are looking to keep their chicken coop.

Danamarie Welch: We are not paying for a survey. We already have our survey.

Chairman Jansen: We are going to continue this application to the August 22, 2022 ZBA meeting. Thank you.

Danamarie Welch: Thank you for your time.

A neighbor in the audience asked to speak.

Roy Faulls: I am Mike's dad. I know we are not supposed to talk about roosters. I am located about ¼-mile down the road from that rooster. I hear the rooster crow all day long.

There is yelling and arguing going on in the audience. Attorney Fink stated again that roosters are allowed. The ZBA cannot do anything about that. It interfered with the recording. Let the record show, I cannot get it on record.

Roy Faulls: I know you can't. But you could follow the Town Code. The Town Code says what?

Attorney Fink: It says 100 feet from the property line.

Roy Faulls: Only the complainer's line.

Attorney Fink: I understand that. This Board is aware of that.

Roy Faulls: Yes. This is a public meeting. Is that correct?

Attorney Fink: Yes.

Roy Faulls: You keep notes. Is that correct?

Attorney Fink: Yes.

Roy Faulls: That lady out there, you heard what she had said. I know it is not any of your concerns. She said that I have threatened her. I have never spoken to that woman until that day. We did not harass the Building Inspector. I spoke to him. I agreed. He agreed. The Building Inspector agreed to get it surveyed. We tried to get it surveyed for 3 weeks now. That Surveyor has not shown up. We called him again. You know how busy they are in the summer time. We even called again today. We received no answer. What we are going to do is get another Surveyor. That is the only way to resolve this thing. This has been going on for at least 4 years. I did not harass the Building Inspector. I just want it done right.

Chairman Jansen: Ok.

Danamarie Welch: I was asked to mail out 11 certified letters to people within 300 feet that could have had a say today. What you don't know is that this man and his wife told me before his son and I got into a fight that he loved roosters. He should not be having a discussion with you.

Attorney Fink: I have a question for you. It came up at the last meeting. Is it important to you for you to have a rooster?

Danamarie Welch: The rooster is my pet. I am allowed a pet of 10 fowls.

Attorney Fink: Ok. I just wanted to ask you that question. All it needed was a simple yes.

Danamarie Welch: Yes.

Attorney Fink: Thank you.

Chairman Jansen: Thank you. I would like to ask you folks to vacate the premises so that we could continue.

Danamarie Welch: Ok. Thank you. Get your survey. Don't come on my property again.

Attorney Fink: That is it. Thank you.

Chairman Jansen: Everybody that is involved with this application, please leave the meeting room. Thank you.

**PUBLIC HEARING OF RENE DIAZ & MARA MATOS** – for property located at 124 Jersey Avenue, Greenwood Lake, New York and designated on the Town tax map as Section 74 Block 7 Lot 1 and located in an SM District for a variance of Section 140-4 permitting a hot tub less than the required 15 feet from the dwelling and property line setbacks. **Continued from the 6/27/22 ZBA Meeting**

Representing the Applicant: Rene Diaz, Applicant.

Chairman Jansen: This application was about the hot tub being less than 15 feet away from the dwelling of the property line setback.

Rene Diaz: Yes.

Chairman Jansen: Is there anything else?

Rene Diaz: Yes. Here is the one mailing that was missing from the last meeting.

Ms. Bramich: Ok. That was the one mailing that he had to resend out to.

Chairman Jansen: Ok. This is a question for our Attorney. We don't care where in a house to locate a hot tub. Here, we are asking for a minimum of 15 feet away from a dwelling. Why?

Attorney Fink: All we have to do is go through a criteria's for a variance.

Chairman Jansen: The public hearing is open. Any comments or concerns has to relate to the hot tub.

Evan Goldberg: I wrote a letter the last time to the ZBA. I am an Attorney. I am here as a homeowner. The premises is an issue. I was president of the Traylor Association for NYS. I argue for a living. I cross examine. When I am home, I want to be at peace. We have recently been invaded by a number of Airbnb properties. I know the Board does not find that necessarily relevant. In the Code, I think the criteria that are used to address these applications to include whether it would adversely impact the nature and character of the neighborhood. We have already started to experience that. We have had fireworks blowing above our roofs.

Mr. Malocsay: In relation to 15 feet from the dwelling of the hot tub. You have lost me on that.

Evan Goldberg: Sir, you have to envision the back of this area is the back of my property. There is a dirt road that goes through the back. The first criteria of the nature of character of the neighborhood...the Airbnb's, if you look them up...

Mr. Malocsay: I am going to stop you right there. It is not the Airbnb. It is the hot tub regarding the distance of it that is before the Zoning Board of Appeals.

Evan Goldberg: Please could I get my argument out?

Mr. Malocsay: If it has to do with the Airbnb, the answer is no.

Attorney Fink: We had heard about the roosters. Let's have this gentleman speak.

Evan Goldberg: My concern is the proximity of the guests to the other houses are causing a disturbance. I also feel that the Applicant has not set forth their sufficient showing that it could not be more appropriate placed on the property.

Mr. Malocsay: That part is a legal argument.

Evan Goldberg: I invited Mr. Diaz to speak to me about it the last time. The last time, I had Covid. I could not attend. He was talking to me about a privacy wall. I don't think that would necessarily address my concerns and other people concerns. I asked him to call me. He did not call me. We did not get a chance to discuss the issues. It is a very congested area with multiple Airbnb properties that are going to be utilizing this hot tub as a commercial endeavor as Chateau Renee. Other Ads that I have seen highlights hot tub.

Attorney Fink: I did not look at the law as far as Airbnb's. Is it allowed?

Ms. Bramich: Yes.

Evan Goldberg: They need licensing. They need to get a permit.

Attorney Fink: Ok.

Ms. Bramich: It is allowed. The Airbnb is licensed.

Attorney Fink: Ok.

Evan Goldberg: It is a crossover. It will adversely impact the nature and character of the neighborhood. I feel it is a crossover.

Attorney Fink: How is it going to create and undesirable change in the character of the neighborhood would be a detriment to nearby properties allowing the hot tub closer in 15-feet from the property line?

Evan Goldberg: That particular 15 feet the area is the area that abuts a commonly shared road.

Attorney Fink: Is your position that it should be 15 feet and then you wouldn't have a complaint?

Evan Goldberg: I don't think they would have been before the Board if they didn't need to seek a variance. We wouldn't be here.

Attorney Fink: That does not answer my question. If it were 15 feet then you wouldn't have a problem?

Evan Goldberg: It has to be 15 feet from the property line and the dwelling. This fails in both.

Mr. Daubert: It is a cliff up there.

Renee Diaz: He is located 3 houses over. We are up on a hill.

There is discussion going on between Mr. Diaz and the Board on where the proposed hot tub would be going on the property.

Renee Daubert: If the Applicant is going to seek a variance, it should be from the homeowner, not from a business adventure. It is going to disrupt the community.

Mr. Malocsay: None of us care about how many people own the property.

Attorney Fink: It is not the matter if we care or not, it is what the law is.

Mr. Malocsay: The variance is for the lay of the land. For that reason, that is not before us. What is before us is the hot tub on the lay of the land. This would then carry on to the next people that own the property. The variance would stay. Bringing up that it is a business does not matter.

Evan Goldberg: I have made my objections on 2 bases. The Applicant has not established that the variance won't unduly affect the nature and character of the neighborhood. And, if there is another place for this hot tub away from the commonly shared area access to a number of homes.

Ms. Bramich: If this was not an Airbnb, would there be a problem with a hot tub being there?

Evan Goldberg: Given the fact that 2 weeks ago there were multiple fireworks over my roof top and into the trees causing fire hazards...

Ms. Bramich: That was not what I had asked you. If it were not an Airbnb, would there be a problem with a hot tub being there? Would it affect you?

Evan Goldberg: If it would affect me, I don't know. I would have to be in that position to answer that. It is an interesting question. Thank you for asking that. My motivation is for the Board to follow the law to hold the Applicant to the criteria necessary for variances and to consider the nature and character of the neighborhood. There are other objectors as well. It is a matter of that it should not be just a rubber stamp. Variances should not be a rubber stamp.

Attorney Fink: Forget the Airbnb. We cannot consider that. It would seem to me that a hot tub that is closer to the house further from the property lines would theoretically be advantageous to a neighbor.

Mr. Malocsay: If we were to grant a variance that was closer to a property line, one of our conditions could be is to put up some kind of a shield or privacy wall.

Evan Goldberg: It would address sight. It would not address sound. That is my concern. Thank you.

Mr. Malocsay: If there were no variances needed and a hot tub could go there, we would have no control over a privacy wall.

Evan Goldberg: If no variance was needed.

Mr. Malocsay: Correct. What Bob was saying is that if it could be further than 15 feet from a property line, I would like to hear from the Applicant about that. I wasn't here at the last meeting.

Evan Goldberg: There is an area in the front of the house he could put the hot tub.

Rene Diaz: There is a septic system located there in the front.

Evan Goldberg: There is nothing in the record stating that this is the only place it could be.

Ms. Bramich: I asked the Applicant at the last meeting where the septic system was located. He showed it to us. It is located in the front.

There is discussion between the Board, the Applicant and Mr. Goldberg where the septic system is located in the front of the property. There is continuing discussion about the probability of placing the hot tub somewhere else on the property. Mr. Daubert and Ms. Bramich have been out to the property.

Chairman Jansen: Please come up and state your name for the record.

Thomas Kelly: I live in Greenwood Lake. I am located a few houses down from the property. Your Board is saying it is all about the hot tub. I would have to talk to Supervisor Sweeton about other issues with this Airbnb stuff. I totally got it. We are now surrounded. Someone else next to me bought property. They are doing Airbnb. I had people drive in my driveway. They ran over my lights last week. It is a problem. As far as a hot tub, yes you can build. I have built houses in Greenwood Lake. You pour sonotubes. You drill down and pin it. You can move it anywhere you want. People build decks on rocks. Anything can be done. It can be moved. The Building Inspector would approve it.

Ms. Bramich: Would a privacy fence help?

Thomas Kelly: It would help. A solid privacy fence would help.

Chairman Jansen: Let me propose that the Board goes out to the property one more time. We will hold this application over to the August 22, 2022 ZBA meeting.

Thomas Kelly: Thank you.

Attorney Fink: If the Applicant would, be a little more definitive about this privacy fence. Tell us what it would be, how it would be and how it would be built up. If the variance was to be granted, that would be a condition.

Evan Goldberg: I would say that a privacy fence would be the last resort. I would suggest since there is more time by adjourning this for another month, I think it would not be unfair to require the Applicant to make a prime a face showing as to why it would be impossible to relocate this proposed hot tub.

Chairman Jansen: Give me your phone number. Mark and I will go out to the site. Only 2 Board member can go out to the site at a time. We will not close the public hearing. The public hearing will be adjourned to August 22, 2022.

Evan Goldberg: On August 22<sup>nd</sup> I will be traveling that day.

Chairman Jansen: That is when our next meeting is.

Renee Diaz: What does the Board want me to do?

Chairman Jansen: Right now, nothing.

Attorney Fink: There is something. Present the Board with something concrete regarding a privacy fence. Bring in a proposal that means something with specifications.

Mr. Daubert: I would respectfully suggest that it would include a consideration of other locations as well from whatever contractor that would be building it.

**Other Considerations:**

1. ZBA Minutes of 6/27/22 for ZBA approval.

So Moved: Mr. Malocsay.

Seconded: Mr. Daubert.

Chairman Jansen: Motion carried.

**Chairman Jansen adjourns the ZBA Meeting of July 25, 2022.**