

Town of Warwick ZBA

August 22, 2022

Town of Warwick ZBA Minutes

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TOWN OF WARWICK  
ZONING BOARD OF APPEALS

AUGUST 22, 2022

Members Present:

Jan Jansen, Chairman  
Robert Fink, ZBA Attorney  
Mark Malocsay  
Diane Bramich  
Chris Daubert  
James Mehling  
Connie Sardo, ZBA Secretary  
Mary Garcia ZBA Recording Secretary

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 8/22/22 ZBA Meeting.

Chairman Jansen: Ok, We have a continuation of the public hearing of John Welch. And I want to reread the reason we're here because everyone is looking at a different aspect and this is all about a setback. Ok? Property located at 111 Walling Road, Warwick, New York, designated on the Town tax map as Section 26 Block 1 Lot 25 located in an RU District for a variance of Section 164.46J permitting his chicken coup less than 100 feet from property lines. That's it. Not talking about no roosters or anything like that, ok? So that's all were going discuss. I believe the public hearing is still open, Connie?

Connie Sardo: Yes

Chairman Jansen: Is there anyone from the public that would like to address *that*?

Mike Faulls: We had spoken about...

Connie Sardo: Sardo: please state your name, come up here and state your name for the record

Mike Faulls: Mike Faulls

Connie Sardo:: can you spell your last name please?

Mike Faulls: F-a-u-l-l-s. Last time we talked we were talking about getting the property surveyed and I've called numerous surveyors and they're like 4-8 weeks out I mean so if we can maybe til October?

Attorney Fink: Sir, are you aware that the building inspector was out there and measured the lines? And he measured 124 feet from your property line?

Mike Faulls: No I have no idea.

Chairman Jansen: So we've got plenty of distance between your property line and theirs. It's the neighbor on the other side, if he has any objections then we'd like to hear about that.

Mike Faulls: That's what, it is what it is.

Chairman Jansen: Ok. Anyone else? Ok so, Mr. Fink I think in the past that we've granted the chicken coops to be closer to the line?

Attorney Fink: That's been the history of the board, yes. The thinking of the board is to rural areas, there are a lot of properties that keep chickens, many of which don't meet the criteria

of the lot line distances, which the, the argument always is, well the distance is the distance, why do they have chicken coops? That's why this board exists. To grant the variance in the proper instance. So the question is, is this proper instance to grant a variance? Is there other than the distance from the property lines are there reasons that this request should not be granted?

Chairman Jansen: Any questions? Anyone? No? Alright so since no one from the public wants to address this application, I close the public hearing and let Mr. Fink do the...Let's see if any board member has any comments before we go through the criteria. Any comments?

Ms. Bramich: I think we've heard everything

Chairman Jansen: All right, the board has been out there, looked at the area, looked at the coop. All right, if there are no further comments, no comments at all.

Chairman Jansen: Is this going to create undesirable change in the character of the neighborhood? I don't think so but I'll let everybody else comment.

Marc Malocsay: It's on record it has to be the 100 feet from the property line, the neighbor that has the most complaints is further away than the 100 feet, so even if we were to move it to the center of the property, or 100 feet away from that one and its further away from the other property line but that neighbor isn't complaining. So its interesting we're given a variance for 5 feet, however, Miss, you know, according to the building inspector its 125 feet from that other property line.

Chairman Jansen: So even if we moved it 25 feet, it would still qualify for the one neighbor, but...

Marc Malocsay: But still need a variance and its better than it being 5 feet away but that neighbor doesn't have any complaints.

Chairman Jansen: Ok. I might also just point out that I believe if I understand correctly that the complaint is the rooster and everybody is aware that the town board is considering this and i just want to make it clear that this variance is for lot line distance only. It has nothing to do with the number of chickens or the type of fowl that are in there, be it one rooster or 10 roosters, whatever the current law is, applies, and there is no restriction and whatever the future law might be, might be grandfathered, might not, this variance will have no effect upon any future law that the town might pass. So, will an undesirable change be produced, etc. What's the feeling of the board? Again, in dealing with the rural area, with the chickens in the area. Can it be achieved by any other method?

Marc Malocsay: Only by not having any.

Chairman Jansen: Yeah, well that's not a feasible method to have chickens. Is the requested variance substantial?

Board Members: yes

Chairman Jansen: Will it have an adverse effect or impact on the physical or environmental conditions in the area or district?

Ms. Bramich: No

Chairman Jansen: Is it self created?

Mr. Malocsay: Yes

Chairman Jansen: Alright. Will someone care to type this as an unlisted Action with no adverse environmental impact?

Ms. Bramich: So moved.

Mr. Malocsay: Seconded

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

Attorney Fink: Move that the variance be granted as advertised with a special note that the variance granted will have no effect whatsoever on anything other than lot line, no effect on upon the number of fowl.

Chairman Jansen: Motion?

James Mehling: So moved.

Chris Daubert: Seconded.

Chairman Jansen: All in favor? (5-Ayes)

Chairman Jansen: Ok 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 7/25/22 ZBA Meeting**

Chairman Jansen: All right. The second item on the agenda is the public hearing of Rene Diaz and Mara Matos

—interruption with question from previous appeal

Chairman Jansen: Rene Diaz?

Rene Diaz: Good evening

Chairman Jansen: Ok, this is the property located at 124 Jersey Avenue, Greenwood Lake, New York and designated on Town tax map as Section 74, Block 7 Lot 1 located in an SM district for variance of Section of 140-4, permitting a hot tub less than the required 15 feet from the dwelling and property line setbacks. Continued from the 8/22/22 ZBA Meeting.

Chairman Jansen: I was out there with Marc Malocsay. I was out there, we were out there and I'm, I'm looking to see exactly where this spot is.

Diane Bramich: Here,

Chairman Jansen: Spotted, see Diane Bramich has it.

Rene Diaz: of course.

Diane Bramich: That's why you have me in Greenwood Lake.

Chairman Jansen: I know I know.

Diane Bramich: All right. Okay. You come in this way yeah, all right the hot tub is on....

Chairman Jansen: Ok I saw that and then I also saw an area over here.

Diane Bramich: No. This is where it's going.

Mr. Malocsay: Ok But Diane, the issue is when we looked at it, was it possible for it to go any place else where it doesn't need a variance is what we were looking at. And we came up with a couple of locations and...

Diane Bramich: you came up with the parking lot

Mr. Malocsay: No. We went in front of rather, we looked at the deck and see how it could be closer to the deck.

Rene Diaz: That is the closest to the deck.

Marc Malocsay: I'm thinking, the walking area that goes to the right. So the house is behind you, you're on the deck, the walking area that goes in the front on the right. It would be technically the back of your property.

Rene Diaz: The cliff

Diane Bramich: where the deck is.

Rene Diaz: That's a cliff

Marc Malocsay: Yes, a cliff where this deck is, yes. I know exactly what it is but it is feasible to put a hot tub there, especially if its for 4 people. Feasible. And you say its a cliff. If you keep going, its a cliff, But it could be in that area and still be on probably have a one foot difference from the front to the back. Um, Jan was with me. He thought the same thing, another location. And this sounds, again, these are, these are more work but at least the variances, aren't needed. It sits on the deck. The way the deck is built, it is possible to extend the deck, to have it on the deck still, but just further away from the house. Again, these are all possibilities as it could go there, and we have to make sure we're weighing out the balance between the variance that's needed and what's allowed. So, you could I guess Chris was Chris wasn't with us. If you wanted to get an opinion from him on that.

Chris Daubert: I went there today I mean, you could put it down there.

Marc Malocsay: if the deck was extended.

Rene Diaz: so dangerous, there's a cliff.

Rene Diaz: unaudible - this is set up for it, I mean I have to admit it's small, it's 6x6, it's not big. The roof of the neighbor...

\*\*\*Rene Diaz discusses with Marc and Chris the neighbor's roof as to why he can't put it there.

Chairman Jansen: You can't put it up on the deck, is that what you're saying?

Rene Diaz: Well, I was just saying if the deck was, if the deck was extended, because clearly it's gotta hold the weight of a hot tub now,

Attorney Fink: I don't know if any more has to be put in. Again, were just weighing out the options of the cost and as opposed to the variance that is needed. Possible is one thing feasible is, another.

Chairman Jansen: I think the board had another concern.

Rene Diaz: Yes sir.

Chairman Jansen: That you are going to put in a fence

Rene Diaz: Yeah,

Attorney Fink: This has been seen before board before, the question being why don't put private, as it is, when you put a hot tub in a house. And and I did its not a pool,

Mr. Malocsay: I know. And I did a bunch of research. And its the pools and the hot tubs, cuz they consider them to be the same, by definition. Mr. But the issue has always been what if there's a leak? And if its that close to the house, is it possible to do damage to the house, is it possible its gonna do damage to a well because we have those. So and I'm thinking about it in years ago i would say Maybe, but today, I don't have a problem with that. And but we are sending some kind of a precedence now with them being closer to the house. Again, I don't have a problem with that because i cannot see any legitimate reason that it has to be further away, or 15 feet away from the house.

Attorney Fink: The other thing of course is feasibility versus possibility. It would seem its possible to put it other places, but due to topography or having to extend the deck out, take out columns, is it really feasible.

Mr. Malocsay: Right.

Chairman Jansen: Well and because of the current code being 15 feet, we, it would taken variance time. No matter what, however you slice it. So if you want to go on with it the way it is.

Rene Diaz: Please yes.

Chairman Jansen: We can do that yes.

Rene Diaz: Yes!

Mr. Malocsay: Ok. So this is the place on left hand side there, right?

Rene Diaz: right

Mr. Malocsay: Ok. Like where the river passes?

Mr. Daubert: Yeah, he's got that open space and its all gravel, same place showing on the application.

Chairman Jansen: So if that, if that's okay with everyone, you know, the public hearing's still open, we can still hear. So if anyone from the public wants to address it.

Thomas Kelley: Yes,

Chairman Jansen: Go ahead.

Thomas Kelley: Thomas Kelley. Yes it can be put on a deck on that side. You can reinforce it. You could add a couple feet out, it can be done. It would be out of the way on that side. It wouldn't be right by the (inaudible). It can be done, I did them years ago; I put plenty of hot tubs on decks. You support the beams instead of 16 on center, you go one foot on center. You double the beams up. It's not a problem. It's not a big hot tub. It wouldn't take a lot to do it and you could extend the deck some. It would be the same variance. And that would make everybody happy. It'd be out of the way. Cause there's nothing on that side, it's all woods on that side.

Mr. Malocsay: But just for clarification. You said its the same variance but the idea is if he's doing this extra work, it's gonna be further from the house...

Thomas Kelley: It's on the deck, it's not far from the house. So here's his, the corner of his house. You have to come out of the house to downstairs and go to that area for the hot tub. You put the hot tub right on that corner where the deck is. But still, it's not further away.

Chairman Jansen: You still need the variance for distance.

Thomas Kelley: That's what, right that's ok.

Mr. Malocsay: That's the only thing that's before us though, I thought, was the 15-foot setback from the house.

Chairman Jansen: So if we grant the variance for the distance, he can still put it in either place.

Marc Malocsay: Yes he can

Chairman Jansen: Right.

Rene Diaz: Thank you

Thomas Kelley: With a fence, it'll deaden the sound.

Chairman Jansen: Well I don't know, with a fence?

Rene Diaz: It's a privacy fence; I have pictures. The outcome is privacy. We're already planning to do.

Attorney Fink: You're planning to do it, ok I don't want to see it. When did you plan on doing it? Please describe this fence.

Rene Diaz: It's a privacy fence, I can show you a picture of it.

Chairman Jansen: give me a description of it.



Rene Diaz: Metal, aluminum. Wood post 8 feet wide by 6 feet tall. Anchor to the level ties.

Chairman Jansen: I'm sorry I don't understand anchor

Ms. Bramich: Anchor to the railroad tracks. You had said last, the last meeting, that having a privacy fence would help.

Thomas Kelley: Yeah, and the other guy was right there.

Chairman Jansen: It's gonna be aluminum?

Rene Diaz: it's (unaudible) aluminum

Chairman Jansen: Should be a solid 6 feet high, is it in the front yard setback?

Ms. Bramich: No

Chairman Jansen: Okay. Because 6 feet you need a variance

Ms. Bramich: Um, No its far enough. It's set back far enough to

Chairman Jansen: And other things..

Rene Diaz: Good to know

Ms. Bramich: the house is an L-shape so here's the front of the house. And here's the top back here.

Ms. Bramich: He can have 6 feet until he gets to the front.

Chairman Jansen: Alright so are we going to leave in those two possibilities, or are we combining it to one?

Ms. Bramich: I mean, alright. Can I ask this? Is it possible to put it on the deck?

Rene Diaz: No

Ms. Bramich: For what reason?

Rene Diaz: Because it's not 6 feet for what I have from space, I will have to extend that, it's gonna be a major, major, major project.

Ms. Bramich: Ok

Chairman Jansen: Ok.. alright so

Rene Diaz: and its not attractive anyway.

Chairman Jansen: I was just thinking of the looks in the lake.

Rene Diaz: Yeah its perfect. Where it is it's like, it's private. It's like peace.

Thomas Kelley: People extend decks all the time to do this you know, it just he's choosing not to do that. And he wants that easy way out I'll tell you that right now.

Attorney Fink: Question: what's, how far apart that the deck, if the hot tub was on the deck, as opposed to where he wants to put it. What's the distance between those two points?

Rene Diaz: none

Thomas Kelley: I didn't go up there and measure.

Chairman Jansen: What would you estimate?

Thomas Kelley: No not on the .... He's got a patio door.

Chairman Jansen: What would you estimate?

Thomas Kelley: The distances is the hot tubs closer to getting into the house

Chairman Jansen: No my question is which if you wanted it, place A as opposed to place B, What's the difference? How far?

Thomas Kelley: I don't have a survey map. I can tell you if I had a survey map. That's at the other corner of the house. So however long the house is it shows on that map.

Diane Bramich: it doesn't say on here

Thomas Kelley: It's on one side of the house, that's down on the other. But if the center of patio door would be on the center of the deck, it would be easier to get to the hot tub, it would be closer. Me, I'd put it on a deck to get a better view of the whole higher up. He's just choosing not to do a little more work. But the easy way out is not always the answer.

Attorney Fink: Well a variance is needed if it's less than 15 feet from the house, right?

Ms. Bramich: Right. That's the variance, right? It would be much less

Rene Diaz: Yeah. Much less.

Ms. Bramich: So it doesn't matter if it's on the deck or where he wants to put it, he would need the same variance either way.

Attorney Fink: Yeah. Again, the complaint by the neighbor is not the 15 feet. It's where its being located on the property be-it on the deck or be-it where it's planned because of the proximity to his house.

Chairman Jansen: He's putting a fence in.

Attorney Fink: He's putting a privacy fence in and there's no variance needed. I do not believe from the property line.

Rene Diaz: May I say something? I cannot see the gentleman's house. That's how far away he is.

Attorney Fink: How far is far?

Rene Diaz: Like 3 houses to 4.

Thomas Kelley: What's the difference?

Rene Diaz: The difference is that you're just doing it to do it.

Thomas Kelley: No. In the middle of the night I hear everything.

Chairman Jansen: Well that isn't reasonable to believe you hear it.

Thomas Kelley: I can hear everything, but that's in that neighborhood. It has nothing to do with that.

Chairman Jansen: Whole different question. Anybody else? Anyone else want to address this?

Mr. Malocsay: Just how far right now is your house off of that side yard setback? So how far is it from on the property line, how far is your house off of the property line?

Diane Bramich: which side?

Mr. Malocsay: The side that would be the hot tub side

Rene Diaz: 15 feet

Diane Bramich: 20, 20. 26. It's on the survey.

Rene Diaz: I just use the retaining wall

Diane Bramich and Rene Diaz discussing the distance

Chairman Jansen: Ok the question is if you're considering a variance of less than 15 feet, what are you, how far to the house, what variance are you ?

Mr. Malocsay: If it was on the side of the house and if it's 25 feet away and if he's putting it 15 feet away from the house then clearly he's going to be within the 15 feet of the property line by 10 feet. My question is, you can't just say 'I believe', you should say that its 15 feet from the house. You should have a figure. It can be not less than 1 feet, 10 feet, whatever.

Rene Diaz: 8.

Mr. Malocsay: I think that's a number that you gave us. Less than 8. Ok I don't have any other questions.

Chairman Jansen: Ok public hearing is closed. Is this going to create, and what were dealing with here is how close is it going to be to the house? Less than 15 ft, and if it's less than 15 feet, is that going to produce an undesirable change in the character of the neighborhood or a detriment to nearby properties?

The answer is no because its in relation to the house not the prop line

Chairman Jansen: I guess theoretically, the closer to the house, the farther from the property line.

Attorney Fink: Correct

Attorney Fink: : Can it be achieved by any other method, in other words, is it feasible, to put it more than 15 feet from the house, not feasible but possible but feasible, cost wise and structure wise, etc.?

Ms. Bramich: no because even if he put it on the deck it would be next to the house

Chairman Jansen: No the question is no, because of the terrain. Is it feasible to put it more than 15 feet from the house. Terrain, if i understand it would not be feasible.

Ms. Bramich: Correct.

Chairman Jansen: Having nothing to do with an awning on another side and reinforcing the deck, that's not an issue

Attorney Fink: Is it a substantial variance? Will it create an adverse effect or impact on the physical or environmental conditions in the neighborhood?

Mr. Daubert: No

Attorney Fink: Is it self-created?

Mr. Malocsay: : Yes

Attorney Fink: : I get the yes but there is topography right? Does someone care to list this as an Unlisted Action?

Ms. Bramich: Does it have to? It only needs the one variance. It should be a Type 2 Action.

Chairman Jansen: This is by def a Type 2 Action.

Attorney Fink: Does anyone care to move that the variance be granted as advertised 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 upon the condition that the applicant construct a privacy fence 8 feet wide and 6 feet tall between the hot tub and side line?

Mr. Daubert: So moved.

Mr. Malocsay: Seconded.

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

Rene Diaz: Thank you guys, take care.

**PUBLIC HEARING OF TED EDWARDS** - for property located at 77 Amity Road & 88 Newport Bridge Road, Warwick, New York and designated on the Town tax map as Section 26 Block 1 Lots 117 & 118 and located in an RU District for a variance of Section 280-a of the Town Law allowing a 3-lot subdivision with access to a public highway by a shared driveway.

Chairman Jansen: Please identify yourself for the record.

Ted Edwards: Ted Edwards

Connie Sardo: Mr. Chairman, we've received mail.

Chairman Jansen: Just one comment on this which I don't think is necessary but be that as it may we don't have to worry about the construction on the road or anything like that. That's all taken care of by the planning board. We're just considering allowing access to a public road by this shared driveway or private road.

Mr. Malocsay: Bob before each side starts I have a question for you. Now you had spoken about this once before, and is this basically what you had talked about before in that... I believe that... under one of the provisions of 280a, is that since its for the planning board, a variance is not necessary. Mr. Myrow believes that it is, and I'm not gonna argue with him. So be-it, be-that, we'll send it back to the planning board, one way or the other. I've never known us to deny a 280a variance.

Attorney Fink: No.

Chairman Jansen: And looking at the application, I can't think of any reason why, this one in particular was denied. Perhaps there is. Maybe somebody will point that out to us. I guess as this goes on that some of these questions will be answered, if no, we'll ask.

Ted Edwards: Where I proposed a driveway is an already existing entrance to the property. This is the entrance to take to the tree farm. And I have a little barn over here, which is 77 Amity road. If you were to google it on your phone it says 77 Amity road and that's the entrance to my farm. It's flat, we've used it for years, there's no disturbance and I just wanna I have 53 and a half feet of clearance, though I believe its 50 feet for the right of way for a common driveway. And you can see where I have the house locations, I put them as far back from any houses around there as I could possibly.

Chairman Jansen: I know that we have a letter from the planning board chairman simply referring it to us with no comment one way or the other. And the reason he's referring it to us is he believes they can't grant the variance, it's not here for any other reason.

Ted Edwards: Where I want the entrance it has good sight distance, you know we've literally been using that for forever. I've farming here for about 40 years, and it was there when I bought the place.

Chairman Jansen: Well the planning board doesn't apparently have any objection to it.

Ted Edwards: What I'll do is, I wanted to put an easement through that piece of property there.

Chairman Jansen: So I guess that's all the planning board, it takes care of all that.

Diane Bramich and Attorney Fink: is allowing access to a public road via that way, but as far as construction, draining, anything else, that's all Planning Board issues.

Attorney Fink: One other thing that we looked at before, cause there's somebody that would argue that, I can't see that being the case, but usually there might be some kind of a restriction on the deed, which wouldn't allow power to go through to that area and/or the limited access to the farm itself so, but going back we'll probably take care of that?

Chairman Jansen: All right, can I open it up to the public? Any questions before I open it up to the public? Anyone from the public would like to address this? Please identify yourself for the record.

Keith Woodruff Woodruff: 60 Newport Road. The location for which the 280-a variance is located is encompassing a substandard lot to begin with. It's a 2 acre lot for which he's going to put an easement and probably remove half an acre of that substandard lot to put the entrance. His current property has access in 2 other locations where he could put access for the subdivision and not require the 280A variance. However, he prefers to put it there cause its furthest away from his residence and closest to other residences where its away from him. The location itself shown on the map is not an accurate representation. The actual driveway or farm access road actually follows the property line not necessarily where he has it shown on the map. The survey hasn't been updated since the previous subdivision back in...

Ms. Bramich: There is a survey.

Keith Woodruff: Right but it is not signed or certified by a licensed surveyor...

Ms. Bramich: Signed right there.

Keith Woodruff: That's the engineers signature too.

Keith Woodruff: Can I see that? Cause I have looked at the previous subdivision which show the houses and actually shows the farm access road where it actually resides, which follows the property line.

Chairman Jansen: So which is the lot in question that you're talking about?

Keith Woodruff: Lot #2. So Lot #2 was originally granted which was part of the APO on the original subdivision back in 2010. This was a 2 acre lot because of the Are allowed to do... two lots the older zoning in putting a 50 foot wide... he's now removing half an acre of potential mobility on that lot. So now you have a cut in half and you only have a total area of 1.5 acres that you can actually improve upon.

Attorney Fink: Sir did you appear at the planning board when this application...

Connie Sardo: It wasn't a public hearing yet. The planning board still has to do a site visit.

Keith Woodruff: No. they haven't done that yet.

Discussion between the Chairman, Ms. Bramich, and Keith Woodruff regarding the road and easement.

Keith Woodruff: Because once you place that 50 foot easement... That doesn't affect the property lines if it's an easement. Well I take that back. Yes, encroachments. Its encumbering that lot to the point where they can no longer improve upon it without the approval of the three properties in the rear, because of the easement, Access through that portion. So if they needed to put in a well or any other septic or any other improvements here, they wouldn't need the approval from these three lot owners in order to approach upon their easement.

Chairman Jansen: You know, you're raising issues that presumably issues, you know, legitimate issues, but these are issues that really the Planning Board should be dealing with.

Keith Woodruff: Correct

Attorney Fink: But I'm not sure if there's no 280A variance, those issues go away. Because he has frontage here, on Newport Road. I think the planning board is going to look at the overall plan, and do what it thinks is most suitable.

Connie Sardo: The Planning board will do a site visit.

Attorney Fink: I think this gentleman should present his arguments to the planning board, and we should get some comment from the planning board. With regard to, Theoretically, they should be doing what's best, what's most feasible, and what will serve the interests of the property owner maybe surrounding properties. We really don't get into that, ours is usually one of Access, does it provide suitable access. But that, when the Planning Board is involved, we have almost no function.

Chairman Jansen: Right. We don't deal with any of that regarding wetland.

Attorney Fink: We are only addressing the 280A variance,



Connie Sardo: They are waiting to hear from the Zoning Board of Appeals before they even set the site visit.

Keith Woodruff: We've had site visits set up, and they've been cancelled in the past, you know.

Connie Sardo: Yes

Chairman Jansen: I'm sorry, yeah, we seem to be... the Planning Board, for us to grant the 280a when there are some alleged issues. We should be getting input, from the Planning Board.

Chairman Jansen: but getting our argument about that, they should be able to do that. Because it it doesn't make sense. We're putting the cart before the race.

Connie Sardo: Just email me a letter for the Planning Board. I'll put it on for other considerations for the board. The next meeting is going to be September 21st; I need that letter before the September 12th workshops.

Ted Edwards: Ok

Connie Sardo: So just email me a letter. List who your engineer is and everything else. The board will take it into consideration. They could discuss scheduling a site visit.

Unaudible

Connie Sardo: Our next meeting is the 21st.

Chairman Jansen: When's our meeting.

Connie Sardo: September 26, 2022.

Chairman Jansen: And I can talk to Ben about this.

Connie Sardo: The Planning Board's letter to the ZBA was attached. What the planning board did was referred the application to the ZBA. They don't do positive or negative recommendations. They refer it.

Chairman Jansen: Yeah, but there were no minutes. There is just a letter from the Planning Board.

Connie Sardo: The variance is for is the three new lots proposed off a shared driveway that will require a 280A variance for access.

Chairman Jansen: if there's been an issue raised, as to is this the best way to go? Now maybe one lot should be increased, in size, slightly.

Connie Sardo: I'm sure that planning boards going to discuss all that at their site visit.

Keith Woodruff: However, if they go back to the planning board for one meeting they won't have time to schedule for a public hearing. So I can't voice my opposition other than via letter,

Chairman Jansen: They're not going to schedule it for a public hearing? Is that correct?

Connie Sardo: No. The Planning Board is going to discuss scheduling a site visit.

Marc Malocsay: The things are already on record that they can take a look at that you brought up. I will say that those right of ways, we've dealt with them numerous times. The right of way is still owned by the property, regardless if the 50 feet goes through it. And the driveway of told overhead. The person still owns the property, they still pay taxes. They could put a well in on the other side. It becomes an access point where they're going to have to have that easement agreed upon in order to cross it and thats where the issues arise, because all it takes is one of those three lot owners to not grant them the access. So. And then we've had something similar to this before that, because the person owns all of the lots and this hasn't been a subdivision yet It'll be in each of their deeds that lot has its a right of way and that's not an issue going forward so that if that person can cross, so if they have to put a well on the other side, etc. So if it were an older subdivision, yeah, that would be an issue. But in this case that person owns all of that land.

Chairman Jansen: Is there anyone else wishing to address this application?

Carol Linton: On the record, Carol Linton, I live at 90 Newport Bridge Road right next to Ted's and I oppose the right of way that he's, the driveway that he's planning. And just would like a site visit from this board, if possible.

Chairman Jansen: Why? Why do you oppose it?

Carol Linton: Why, well if you go out there you would see it's very close to my, to our, this is Jim Linton, my husband, very close to the line.

Chairman Jansen: Which house is yours

Carol Linton: 92 Woodbridge.

\*\*Several discussing her property location on map

Chairman Jansen: that driveway's always existed.

Carol Linton: That driveways been there for ....

Chairman Jansen: : What's it presently servicing?

Keith Woodruff: My property

Chairman Jansen: What I mean is what?

Keith Woodruff: A tree farm

Ms. Linton: a tree farm, yes

Keith Woodruff: This is the entrance to the tree farm. And I have a little barn over here which is 77 Amity. And when you google it, this is where the map takes you.

Diane Bramich: Is it possible to come in a different way, that coming off a communal maybe not road?

Keith Woodruff: This is wetlands. If it's wetlands, that house should never have been there.

There was continued discussion with the Board regarding the wetlands, dirt road, paving, and location on map of Carol Linton's property.

Chairman Jansen: And this is the house that it's certainly planning board should look at. It's coming close to two existing houses. We will hold this application over to the October 24, 2022 ZBA Meeting.

**OTHER CONSIDERATIONS:**

1. ZBA Minutes of 7/25/22 for ZBA approval.

Ms. Bramich: So moved.

Mr. Daubert: Seconded.

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

**Ms. Bramich makes a motion to adjourn the August 22, 2022 ZBA Meeting.**

Seconded by Mr. Daubert. Motion carried: 5-Ayes.