

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Jan Jansen

James Mehling

Marc Malocsay

Chris Daubert Daubert

Mary Garcia, ZBA Recording Secretary

PUBLIC HEARING OF Vincent Lanza Environmental Construction Company and Daniel & Rebecca Gottlieb - for property, owned by Daniel and Rebecca Gottlieb, located at 57 Woods Road, Greenwood Lake, New York. Designated on the Town tax map as Section 78, Block 1, Lot 7, located in an SM district for a variance for construction of a side covered porch with an existing side yard setback 14ft 1in, reduced to 8ft.

Representing the applicants: Vincent Lanza, Contractor and Daniel & Rebecca Gottlieb, Applicants

Chairman Jansen: Are you here?

Vincent Lanza: Yes.

James Mehling: Come up.

Chairman Jansen: Sir, come on up. Please tell us a little bit about this?

Vincent Lanza: I'm Vincent Lanza, the Contractor.

Chairman Jansen: Okay.

Vincent Lanza: And what they're proposing to do is to add a deck, a covered deck on the side yard. The reasons being because the property, the reason for the variance is because the configuration of the property is big, obviously number one. And number two, we have topography constraints. You could say that they want to have an outdoor area that they could access from the main floor so they could view the lake and have recreation, or park, whatever. Putting it out the back was not feasible because of the height that the back is, it's way too high to add a deck on that level. So we decided to put it on the side, which caused us to have a variance. The other thing is it's goING give them a second means of egress on that floor; right now it's only the front door. So it gives us another means of egress. We would take any questions from you that you guys have? I'm sure you went there and looked at the situation.

Chairman Jansen: Some of us have, yes.

Vincent Lanza: Yeah. In fact, you know, we also went through the neighborhood and took some pictures and stuff of all of the surrounding properties. And what we're doing is basically in compliance with the rest of the neighborhood and I don't think what we're doing is a detriment in the neighborhood.

Chairman Jansen: Okay. Your name please?

Rebecca Gottlieb: I'm Rebecca Gottlieb.

Chairman Jansen: Okay. Do you have a picture there?

Marc Malocsay: Do you have the mailings with you?

Vincent Lanza: Oh yes.

Rebecca Gottlieb: So these are just properties all along Woods Road, same street that have side things in between houses. There's gorgeous houses that are right up on...

Chairman Jansen: Everything in that area is,

Vincent Lanza: Yeah, it's old.

Chairman Jansen: do we have any questions at this point?

Marc Malocsay: Just open up to the public.

Chairman Jansen: Okay. I'm going to open it up to the public. Is there anyone in the public that wants to address this application. Okay. I will close the public hearing if there's any other questions at this point that we need to do?

Marc Malocsay: No, when we go through the criteria, we can size on that.

Chairman Jansen: Okay. This proposed action is a type two action and has been determined not to have any significant impact on the environment or is otherwise precluded from the environmental review under the Environmental Conservation Law, Article 8. There is no vote on the negative resolution. Is an undesirable change will or will not be produced in the character of the neighborhood? And the detriment of neighborhood properties will or will not be created by granting the area variance?

Marc Malocsay: No, this will not, there's nothing different between this property and the other ones is the shape of the lots and the close proximity to side-yards in front and rear.

Chairman Jansen: And it's kind of typical of the area, isn't it?

Marc Malocsay: Yes.

Chairman Jansen: Yeah.

Chairman Jansen: Okay. Is the benefit sought by the applicant, can it be achieved by some methods feasible for the applicant pursued other than the variance?

James Mehling: Realistically, I would say no.

Chairman Jansen: There's no other, there's no additional area available. Right? No additional. Is the requested variance numerically substantial or not?

Marc Malocsay: It is numerically, but again, when you're looking at the other properties with everybody's side yard setbacks, it's not.

Chairman Jansen: Okay.

Chairman Jansen: The proposed variance will or will not have an adverse effect or impact upon the physical or environmental condition in the neighborhood or district?

James Mehling: It will not,

Chairman Jansen: It will not. I think it's very similar to similar properties in the area. The alleged difficulty was, was or was not self-created?

Marc Malocsay: Yes.

Chairman Jansen: It was self-created. Can someone move that the application for the variance as advertised be granted?

Marc Malocsay: So moved

James Mehling: Second.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried. Thank you.

Rebecca Gottlieb: Thank you.

PUBLIC HEARING OF Lawrence Miri - for property located at 55 Cascade Road, Warwick, New York, designated on the Town tax map as Section 66, Block 2, Lot 9, located at an MT district for a variance of the requirement of the code exceeding the allowed height of a fence in the front yard setback.

Representing the applicants: Lawrence Miri, Applicant

Chairman Jansen: Please identify yourself for the record.

Lawrence Miri:

Chairman Jansen: Why do you need a six foot fence?

Lawrence Miri: To keep the wildlife out of the yard and eating up the vegetation that's going in the front?

Chairman Jansen: Are you getting tired of them eating?

Lawrence Miri: I just moved in and it's everywhere.

Chairman Jansen: You have six foot fence the rest of the yard?

Lawrence Miri: We're going to move the fence back a little bit.

Chairman Jansen: Okay. All right. Any other questions before I open it up to the public?

Marc Malocsay: No.

James Mehling: Okay. The only question I was going have for you is the placement of the fence from the proximity to the road. Are you coming right off the road by the two gates? By the two pillars?

Lawrence Miri: Yeah the gates, you know the property?

James Mehling: Yeah, I'm at 214. Just for the record, I'm at 214.

Lawrence Miri: It's actually the gates moving closer to the house.

James Mehling: I got you.

Lawrence Miri: Otherwise you know <inaudible> gates are trying to open...

James Mehling: Right.

Chairman Jansen: What kind of fence are you putting up?

Lawrence Miri: A commercial grade aluminum. It's a nice fence.

Marc Malocsay: When you say, so the key thing that we have is, and the reason that it's there in the code on the 6 foot fence is because from the road people still want to have the depth of view onto the property. So it's a commercial grade aluminum. Can you see through the fence?

Lawrence Miri: Yes.

Marc Malocsay: So when you say that, chain link?

Lawrence Miri: No.

Chris Daubert: It has like slats on sides.

Lawrence Miri: Yeah.

Marc Malocsay: Okay.

Chris Daubert: Like the pool fences with the slats.

James Mehling: The property from Cascade is probably better than 30% grade going up the hill. I mean, the house sits pretty prominently up on top.

Marc Malocsay: The only other thing that we've asked in the past too is that if it can be broken up in any way with any kind of a planting, you follow? So instead of looking at a fence, and we know there's a pillars in the gateway, but can there be groups of plants along there?

Lawrence Miri: Along the entire property. I mean we're putting in about half mile's worth of fence?

Chris Daubert: No, like in the front?

Marc Malocsay: Just in the front.

Chris Daubert: Like in the lawn part.

Lawrence Miri: Yeah. We can, we can obviously talk to our landscape contractor, but from the street you wouldn't even see it cause it's the street behind trees.

Marc Malocsay and Chris Daubert: Okay, okay. Okay. Okay.

Chairman Jansen: Anyone from the public? Yes.

Brian Gitt: I have a question—you say the fence is around the entire perimeter front?

Mary Garcia: I'm sorry, can you give your name please?

Brian Gitt: Brian Gitt, 54 Cascade.

Mary Garcia: Can you spell your last name please?

Mary Garcia: Thank you.

Brian Gitt: So is there 6 foot fences around the entire perimeter of the property?

Lawrence Miri: It will be, yeah. It's going to be broken off though. In the front it's going to come in and join the house. We're doing a lot more landscaping in the back because right off the back of the house is a big hill that is, actually the drainage is sinking in. So I'm actually working with someone tomorrow to look at leveling that off. And then we'll continue the fence up towards the...

Marc Malocsay: Just so that you know too, on the 6 foot fence, or a 4 foot fence is allowed. But if he's 75 feet, even if it's the front yard, if he's 75 feet away from the front of the property, there isn't even a variance required. So by putting a fence all the way around the property, it's 6 feet is allowed. It's just in the front it can only be 4 feet unless it's 75 feet back and then it can be 6 feet.

Brian Gitt: My only question to that is regarding, are there going to be animals running freely inside of that like dogs?

Lawrence Miri: Not in the front yard. And that's another reason too. I know we have the wildlife coming in, but neighbors on both sides of me, they both have dogs that are constantly running into our yard.

Brian Gitt: Okay. That would be my only concern is if dogs would be left unattended during the day.

Lawrence Miri: Oh no, absolutely not.

Brian Gitt: Okay. That's my only concern.

Chairman Jansen: Yes ma'am.

Angela DeJohn: I'm the neighbor on one side.

James Mehling: Your name please?

Angela DeJohn: Our dog seemed to respect our perimeters until you moved in. I don't know what she's telling us, but we have started chaining her. We noticed that she was crossing your property. So we have...

Angela DeJohn: We're on 53.

Lawrence Miri: So you're <inaudible> .

Angela DeJohn: Not really.

Lawrence Miri: Yeah. That's not really the concern that we had.

Angela DeJohn: Yeah. The other dog, I've never, I've only seen that dog being walked up their driveway on a leash...

Lawrence Miri: It's constantly walking <inaudible>.

Angela DeJohn: So yeah, I have a lot of kids, I've got a dog. I've never had a problem in two years of any animal eating our vegetation, but I did like the open space. But I'm assuming you're referring to matching your pool gate?

Lawrence Miri: Yes.

Angela DeJohn: So it would still be open air.

Lawrence Miri: And we do have four dogs too.

Angela DeJohn: Oh, I hope they're friendly. I don't know why, maybe that's why she's been curious.

Lawrence Miri: I haven't had them there yet because there's nowhere to leave them <inaudible>.

Angela: <inaudible> She has full range of within our property.

Conversation continues between Angela and Lawrence Miri.

Chairman Jansen: Any other questions or comments? Yes sir.

James Glover: Hi; James Glover, 60 Cascade Road. I'm directly right across the street from your driveway. How far back is your front part of the fence going to be?

Lawrence Miri: Are you familiar with the driveway and then there's a weird like turnaround?

James Glover: Yes.

Lawrence Miri: It's going where?

James Glover: So it's going to be back a little bit.

Lawrence Miri: It's going to be back quite a bit from the street.

James Glover: So if you, the closer it is like the property's already about 6 feet off the ground. Right?

Lawrence Miri: The property's 6 feet?

James Glover: From the road.

Lawrence Miri: I was going to say the property and the house is about 50 feet.

Female with James Glover: From the ridge.

All three speaking at once

Lawrence Miri: Oh yeah, so if you go into the driveway and you kind of, it kind of goes to the left there, there's a big pull off there. That's where...

James Glover: You mean on the other side of the <inaudible>

Female with James Glover (Mrs. Glover?): The little parking fence?

Lawrence Miri: I'm sorry?

Female with James Glover: The little parking fence?

Lawrence Miri: It'll be closer to the house, right about there.

Angela: So then the side fence is not going past all the way to the front?

Lawrence Miri: The side will go down. We're still, I actually had given a plan on where it was going to run. It's not going all the way to the street because that just doesn't make sense.

Lawrence Miri: It's further up. you can't put it where the bricks are cause it has cause of the slope of the property. It has to open out towards the street and we'd literally probably be in your property, but it's gonna be up north of that parking spot that's down on the end, north.

James Glover: Past the utility poles that are on your property also. There's electric lines that go through there.

Lawrence Miri: Yes.

James Glover: And you're hoping to keep the deer out as well?

Lawrence Miri: Your neighbor that I met two days ago told me that all he does is see bear running around, but a 6 foot fence, <inaudible—others talking> but I know it does help.

Chairman Jansen: Yes.

Kristine Filipowski: I live at 58 Cascade Road. A six-foot fence is really not going keep out deer or bear. Is there any reason that we couldn't just do the four foot fence across the front? Which is not a variance issue.

Lawrence Miri: If we go four foot, we are going to go six feet where we can.

Kristine Filipowski: Right.

Lawrence Miri: But whether it's four feet or six feet, six foot fence would also look a lot nicer than a 4 foot fence.

Chairman Jansen: Well generally speaking, the deer pretty much respect the six foot fence. Unless they're being chased. If they're being chased, they'll go a 10 foot fence.

Kristine Filipowski: Exactly.

Lawrence Miri: <inaudible > own house in the village. And I have a big garden back there. And I'm five foot and they trim right along side.

Kristine Filipowski: Okay. But a 4 foot fence would be less of an obstruction.

Lawrence Miri: <inaudible> no difference.

Kristine Filipowski: Do you have anything at all showing like a, photograph with a rendering of the fence?

Lawrence Miri: I know where it's going. I know what it looks like, it's very similar to the one that's around the pool.

Kristine Filipowski: Right. Okay.

Angela: I think the one that's right next door to you is matching his pool.

Kristine Filipowski: Okay.

Angela: But I think that's a 4 foot though, and she never has...

Lawrence Miri: Across the street?

Kristine Filipowski: Oh really?

Lawrence Miri: There's another gentleman who was...

Kristine Filipowski: Martha, you spoke to Martha?

Lawrence Miri: I spoke to um, you pull out of my driveway, you make a right to go down Cascade, it's the first mailbox on the left. I was talking to him; he says there's problems all the time.

Kristine Filipowski: My husband?

Lawrence Miri: Is that your husband? Are you an interior designer?

Kristine Filipowski: That's me. So yeah, we do have, we definitely do have wildlife all the time.

Neighbors communicating at same time

Kristine Filipowski: And their chain link fence is like partially down because the bear got stuck in there and wanted to get out. So that seems like a worse option to have a bear stuck.

Lawrence Miri: Hopefully they won't go in to begin with.

Kristine Filipowski: What was that?

Lawrence Miri: I said hopefully they won't go in to begin with.

Kristine Filipowski: Hopefully...

James Mehling: Hope your neighbors put out better food. Just a question. If I'm reading this plot layout of the fence correctly, it's going to run on either side of the driveway where it meets the road close to the road and then arch up along the of the driveway to form an arch.

Lawrence Miri: Yeah, so I was talking with Nick Cooper who's the person that is supposed to be doing the fence.

James Mehling: Right.

Lawrence Miri: And he has suggested that we don't take it down there. That we just cut it across and leave that space.

James Mehling: Okay, okay. So this is not...

Lawrence Miri: That was the conversation I had with him literally two days ago. I put that rendering for the drawing about a month and a half ago.

James Mehling: Okay. I would say just to keep everything in line and make sure that there's no misconceptions or misrepresentations of anything. I would create another one that shows that reconfigured layout. Just so everything's emphatically clear for everyone and there's no question going forward. You all seem to get along real well in here tonight. I can tell you Cascade Road from being there 30 years, it's a neighborhood. We're diverse, we're eclectic, we're a lot of things. Get together...

Lawrence Miri: I live in the village...

James Mehling: Get together, get together and talk to each other. It solves a lot of problems, seriously.

Lawrence Miri: Oh, that's fine. I'm glad we met, we're not moved in yet. But you know the house was a flip.

Angela: Yeah. I've been trying to find you and now we got the notice <inaudible>.

Lawrence Miri: Very dysfunctional.

Kristine Filipowski: I'd like to maybe see a picture of it or whatever that map is just so we know what's going on.

Lawrence Miri: I have pictures of the fence.

Kristine Filipowski: Okay.

James Mehling: What I would suggest outside, because not that we don't enjoy all of your lovely company, we truly do, but just for the sense of expediency, for the other folks that are coming in tonight for matters that you would probably be better suited for full information if you choose—your call—to get together at a neutral site or whatever, have a cup of Joe and shoot the breeze. Conversation solves many, many, many dilemmas.

Chairman Jansen: So you okay to hold this over till the next month?

Lawrence Miri: Uh, you guys are killing me if that happens. I can't move in until we get the fence up.

Kristine Filipowski: And what's your timeline to get the fence up, if it's approved?

Lawrence Miri: If it was approved, I was having him come over this week. Cause I'm leaving the country on Saturday for a month and we were gonna lay out everything and actually get it purchased and for his timing, it's convenient for him right now to do it because he's not busy. Otherwise we're probably looking at June and July.

Kristine Filipowski: Not that <inaudible> what he's doing. I mean, yeah, we have a lot of wildlife. We have a big garden and lots of vegetation; we really haven't had issues with it being eaten by our ones.

Lawrence Miri: You know we're putting in a lot of money into that house and to make it a lot nicer.

Kristine Filipowski: I understand, that's fine. I don't wanna hold you up. If there's people that are ready to approve it, I don't want be the one to be...

Lawrence Miri: I promise it's not gonna be an eyesore. It's gonna look really nice.

Angela: Can I also ask where on the side between our two properties? Where are you placing it? Are you putting it right on the property line or yours?

Lawrence Miri: Well, I can't put it on anywhere on your property.

Angela: I understand that, I'm just asking if it's on the line.

Lawrence Miri: We had it surveyed, I'm sure you've seen.

Angela : Yeah, yeah, I know.

Lawrence Miri: So it would run up a little bit inside to make sure it wasn't on your property.

Angela: Like a couple of inches inside?

Lawrence Miri: Enough to keep up with the property.

Angela: <inaudible> maintenance.

Lawrence Miri: Oh yeah, that's all <inaudible>.

Chairman Jansen: Does this picture show?

Brian Gitt: Is there a site plan that we can look at where <inaudible> ?

Lawrence Miri: I'm sorry?

Chairman Jansen: Does this show where the fence goes on this?

Lawrence Miri: May I?

Chairman Jansen: Sure.

Lawrence Miri: There's actually, I believe this gentleman has...

James Mehling: So this is the photograph here?

Lawrence Miri: Yes.

James Mehling: He's got the same one.

Chris Daubert: It's the same one.

James Mehling: Yeah, absolutely.

James Mehling: So what I brought up okay was this here, which again, I know the property real well, so I mean you're saying that he's saying this should be brought back up?

Lawrence Miri: He was saying that he thought it was kind of a waste of material.

James Mehling: Yes; that's a lot of extra material. Yes, you bring it back up in here, even there, just come straight across.

Lawrence Miri: So this is the...

James Mehling: That's the road.

Lawrence Miri: Yeah, no, that's the...right,

James Mehling: Turnaround right there.

Lawrence Miri: Yeah, the turnaround. So he was thinking to come down to the turnaround and just going across that way.

James Mehling: Okay, so go there. So you're gonna be bringing the whole thing back?

Lawrence Miri: Yeah.

James Mehling: Okay. So if you want to, you want to show turnaround, right?

Lawrence Miri: This way with it rather than...

James Mehling: Right. Yeah, and that's gonna look really weird, I'm just saying.

Lawrence Miri: Yeah, well that's...

James Mehling: You know, from <inaudible>

Lawrence Miri: To where the gates were just going straight across.

James Mehling: Ok.

James Mehling explaining to Board Members while showing map:

James Mehling: He's talking about they're gonna bring the fence line up to here straight across there and there, which I don't, distance looking...

Marc Malocsay: I tried to figure that out.

James Mehling: Right.

Marc Malocsay: This is probably about 40 feet, but if you went another 30, you wouldn't even need a variance.

James Mehling: True

Chairman Jansen: We've got a lot of time.

James Mehling: True.

Chris Daubert: I guess we can get it off our plate now too.

Chairman Jansen: There you go.

Neighbors continue talking amongst themselves.

James Mehling: So, just so it's stated for, based on a rough estimate on where he's talking about moving the fence from where it originally shows on there from the road, if he went back another 30 foot, he wouldn't need a variance at all. So I mean, he's in good faith...

Angela: Right.

James Mehling: ...down here trying to inform as much as he can. But at the end of the day, people's property is people's property.

Angela: I know, I wish there was a rule on <inaudible>.

Neighbors continue talking amongst themselves.

James Mehling: Again, you're not talking chain link, you're not talking razor wire. You know, if it's...

Angela: Some big PVC wall

James Mehling: Right,

Angela: It's open and I still get a breeze.

James Mehling: No, you're good. You can still blow your leaves into his yard in the fall and vice versa. That's what we do.

Marc Malocsay: Oh I'd hate to be the person taking the minutes for this.

James Mehling: We all good?

Marc Malocsay: Jim—this—get them to...

Marc Malocsay: We're good?

James Mehling: You good?

Marc Malocsay: We're all good?

James Mehling: Good looking guy at the end.

Chairman Jansen: Okay. There's no other comment; I'll close the public hearing. Public hearing is closed. Okay. Proposed action is a type two action and has been determined not to have a significant impact on the environment or is otherwise precluded from the environmental review under an environmental conservation law. Article 8, there is no vote on the negative resolution. Will an undesirable change be produced in the character of the neighborhood and object to went to nearby properties? Yes or no?

James Mehling: No.

Marc Malocsay: No. Um, it's just the front of the property and the, uh, fence goes all the way around the backsides of the property. It's just the front 75 foot setback.

Chairman Jansen: Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue Other than the variance?

Marc Malocsay: No. The, uh, the issue of having this with the, the deer of all of the variances that we've given is the same thing on it's a fence. It's, it's a deterrent.

Chairman Jansen: Is the requested variance numerically substantial or no?

Marc Malocsay: So I wrote down no, because when you think about it, it's six feet all over the property, with the exception of the 75 foot setback in the front.

Chairman Jansen: Right.

Marc Malocsay: Which he's already back at according to scaling at about 40 feet.

Chairman Jansen: Okay. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairman Jansen: No.

James Mehling: No.

Chairman Jansen: The alleged difficulty was self-created or not?

James Mehling: Yes

Marc Malocsay: Yes

Chairman Jansen: Absolutely. Self-created.

Marc Malocsay: Okay. So I'd like to let somebody move it typed as an unlisted action with no adverse effects.

Chris Daubert: So moved.

James Mehling: Second.

Chairman Jansen: Okay. Then let's see. This is still, okay. That's it.

Marc Malocsay: No. Then moved as advertised.

Chairman Jansen: Doesn't ask me for that, but okay. Moved as advertised.

Chris Daubert: So moved.

James Mehling: Second.

Chairman Jansen: All in favor?

Board: Aye.

Chairman Jansen: Any opposed? Motion carried. Thank you.

James Mehling: Welcome to the neighborhood.

PUBLIC HEARING OF Edwin Sobiech, as Trustee for property located at 150 Jessup Road, Warwick, New York, designated on Town tax map Section 17, Block 1, Lot 68, located in an RU District for a variance of the bulk area requirements of the code increasing the size of an existing garage over the maximum square footage of 1200 feet and a variance for the height of the proposed 30'W x 18'H by 18 foot Archway.

Representing the applicants: Edwin & Jody Sobiech, Applicants

Chairman Jansen: So just please identify yourself for the record.

Edwin Sobiech: Edwin Sobiech, and my wife, Jody.

Mary Garcia: I'm sorry, her name?

Jody Sobiech: Jody.

Chairman Jansen: So can you just briefly tell us what you trying to do?

Edwin Sobiech: The garage is existing <inaudible> on the top floor in the back <inaudible> there's still 20 feet extra in the back of the garage; it's 20x40 right now, so <inaudible> top floor so I'm just going to add another 20 feet in the back to the top. And raise the roof. So right now ,the roof <inaudible>, and the sides I get very little use out of it. I'm going raise up the roof and just go back like 20 feet.

Chairman Jansen: Okay. And what's the...

Edwin Sobiech: The arch? It's just a western style of arch, kind of like the driveway that, kind of changing the appearance, dress it up a little bit more like a western type of home. <inaudible> Building Department to get some windows, things like that. And <inaudible> get more of a western style home.

Chairman Jansen: And how many acres you've got on now, around there?

Edwin Sobiech: <inaudible>

Chairman Jansen: So you're not exactly next to a neighbor.

Edwin Sobiech: No.

Jody: No, the cows. You know, it'll fit in with that glove stone base, just the basic wood, think of like Yellowstone, like that kind of basic look.

Edwin Sobiech: Basic.

Jody Sobiech: Yeah but not close to the street because we don't want it to be more people drive by thinking it's a public park or something. So it'll be set back far enough from the street. So, yeah.

Marc Malocsay: I was kind of hoping we could do an interpretation on that gate/fence thing. It's not in the code...

Edwin Sobiech: Yes.

Marc Malocsay: ...and because of that, it's not allowed. So that would be a problem. But an interpretation, this sits further back than the 75 feet. So it can be taller if it were a fence, but it's not a fence, it's a gate.

Edwin Sobiech: Right.

Marc Malocsay: So I truly believe that this doesn't need any kind of a variance whatsoever. That would be, and we should, if somebody can give me an opposite side, why this *does* need a variance. Again, the first thing is it's further than 75 feet from the front of the property. So therefore it isn't a height restriction. It is not a fence. It is however, a structure.

Chairman Jansen: And it's a distinctive feature.

Marc Malocsay: Let me give you an example. A flag pole.

Chairman Jansen: Okay.

Marc Malocsay: Not allowed in the zone, but we have them.

Chairman Jansen: Right.

Marc Malocsay: And they are a certain height.

Chairman Jansen: Okay.

Marc Malocsay: So because the building inspector did want a variance on this, I'm under the impression that it doesn't need a variance because it would be something that would be allowed. And, you know, I wish Bob was here to at least try to give us another side of the story. But again, the flag pole is something that I can say is as close as possible as what this is. It's still a structure. It's higher than the height requirement is.

Chairman Jansen: Well maybe because of the bulk of it, we probably should consider a variance anyway.

Marc Malocsay: Okay...I don't think it needs a variance because it's a variance from what?

Chairman Jansen: Okay.

Marc Malocsay: That's...

James Mehling: I know, your point's out. I mean, it meets the side yard setback. There's no issue there at all.

Marc Malocsay: Yeah. And the front yard setback is the one that is for the hiding.

James Mehling: Right. And that's not an issue either.

Marc Malocsay: I mean, if it turns out that it's something else, we can re-look at it. He's already paid the fee. There's open to the public. We can change our mind. But if we're...

Chairman Jansen: All right, so then let's just deal with the other.

Marc Malocsay: Yes.

Chairman Jansen: All right. Any other questions about that? No, alright, I'll open it up to the public, but Jeff does not want to address it, so...

Marc Malocsay: All right. Like you said, there are very few places left anymore where when you talk about something being out of the character of the neighborhood...surrounded by farms, surrounded by big buildings. Yeah. So it's a very important part of our discussion, and it's pretty clear that it fits right in.

Chairman Jansen: Okay. So public hearing is closed and unless you have other questions, we'll go through the criteria.

James Mehling: Yeah.

Chairman Jansen: All right. An undesirable change will or will not be produced in the character of the neighborhood, and a detriment to nearby properties will or will not be created by granting the area variance?

James Mehling: Will not.

Chairman Jansen: So not?

Marc Malocsay: And I wrote, 'no—many other larger barns in the area.'

Chairman Jansen: Okay. And also you want to comment that on the size?

Marc Malocsay: That's why I said larger barns in the area.

Chairman Jansen: Alright. The benefit sought by the applicant can or cannot be achieved by some method feasible for the applicant to pursue other than a variance?

Marc Malocsay: No.

Chairman Jansen: It's the only way you can get it.

Marc Malocsay: Not for what they need, correct.

Chairman Jansen: The requesting variance is numerically substantial or not substantial? It's substantial, correct?

Marc Malocsay: I'm just going to put yes numerically.

Chairman Jansen: Okay. The proposed variance will or will not have an adverse effect or impact on the physical or the environmental conditions in the neighborhood or district?

Marc Malocsay: I'm writing it as 'yes, will not.'

Chairman Jansen: And the alleged difficulty was self-created.

Marc Malocsay: Oh yeah.

Chairman Jansen: Someone move that the action be typed as an action with no adverse environmental consequences.

Chris Daubert: So moved.

Chairman Jansen: Daubert. Second?

Marc Malocsay: Second.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried. Someone to move that the application for the variance be granted as advertised?

Marc Malocsay: So move

James Mehling and Chris Daubert: Second.

Mary Garcia: Who was second? They were both at the same time.

Marc Malocsay: Yeah. Who is second? I heard them both at the same time.

Mary Garcia: Yeah.

Chairman Jansen: Chris Daubert.

James Mehling: Give it to Chris Daubert.

Mary Garcia: Okay.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried. Thank you.

Chairman Jansen: Now comes the hard part.

Edwin Sobiech: Thank you everybody.

PUBLIC HEARING OF Mark Silvestri - for property located at 85 Four Corners Road, Warwick, New York, designated on the Town tax map as Section 23, Block 1, Lots 26.22, located in an RU District for a variance of the Bulk Area Requirements of the Code permitting construction of a 2,520 square foot accessory building which exceeds the maximum square footage of 1,200 square feet with a proposed 5-foot front yard setback.

Representing the applicants: Jeff DeGraw, Architect

Chairman Jansen: Okay. Do you just want to briefly tell the board what exactly you're trying to do there?

Jeff DeGraw: My client cannot be here tonight. He's traveling, so I'm just here for him.

Mary Garcia: I'm sorry, can you give me your name again, please?

Jeff DeGraw: Yeah, Jeff DeGraw.

Chairman Jansen: DeGraw

Mary Garcia: Thank you.

Chairman Jansen: You guys are being awful noisy back there creating all these problems for us.

Unknown Male leaving from back room: The process continues.

Unknown Female leaving from back room: <inaudible>

Chairman Jansen: Okay Jeff, go ahead.

Jeff DeGraw: <inaudible> on Four Corners Road, right across from the apple orchard. The house is an existing house from the 1800s, beautifully restored. They have a small barn on the property right now.

<Inaudible— maps being opened; rustling sounds too close to the recorder.>

Jeff DeGraw: He's got open fields in the back too, where we're trying to maintain access between the corner of that barn. And so, that's another why the house and barn are scooped over as much as possible. So there's a tree in the access. And it's actually quite consistent with a lot of the old barns. I have photos on the last page that show a lot of similar barns that are <inaudible>.

Chris Daubert: Sir, are you tearing down the other garage?

Jeff DeGraw: Yes, we are. Yeah, it's going to fall down on its own pretty soon.

Chris Daubert: Oh I see.

Chairman Jansen: So why does it have to be only five feet away from the line?

Chris Daubert: Well there's a big tree there.

Chairman Jansen: Uh, trees come down.

Jeff DeGraw: Get new trees, right?

Chris Daubert: Yeah, we get lots of new trees, very easily.

Jeff DeGraw: The reason why we had five is there is an existing drive onto the property, and we had staked out the property and this is where the access and everything fits out really nicely. Obviously, could have come more than five feet. It could, but this is probably what works out best on the property and the access to the property. And also the access to get in the garage. <inaudible—papers rustling>.

Chairman Jansen: Any questions? There's no sense opening it up to the public at this point, but it's open to the public. And the public is closed.

James Mehling: Just, I mean, I've got a couple of questions and then just one point. Comparative to the other barns that are—I mean, beautiful layout presentation by the way, I like that. All of these barns that were illustrated on these on this last page are probably, I'm gonna say probably in the mid to late 1800s. Most of these barns, if not all barns at that time, were built very close to the roads because they didn't want to carry the milk cans that far. Just a matter of local history. Also, most of these roads were not, even though Four Corners is a small road, most of these roads were two road cart paths at the time. So I mean, I can appreciate what you're saying as far as, 'hey, all these other guys did it, why can't we?' That said, it's a big barn. I mean, you've got the bathroom in there.

Jeff DeGraw: Yep.

James Mehling: So obviously you need to be close to the septic. I've driven by the property. It's a beautiful piece of land, it truly, truly is. The house is spectacular. My question is just, five foot off the road? You get two feet of snow when a dull wing plow comes through, you're going to be putting new siding on this barn every five years. I'm just saying.

Jeff DeGraw: <inaudible> Awfully fast.

James Mehling: Yeah. It's just, that's really close to the road—very close to the road. Obviously the other neighbors are not here about the five foot setback on the backside of the barn from parcel. But doing the five foot to the road is...

Jeff DeGraw: Well actually it's five foot to the property line.

James Mehling: Right.

Jeff DeGraw: So to the road you've probably got another 10 feet or so.

James Mehling: Right.

James Mehling: And there's a rock wall located there? Is that correct?

Jeff DeGraw: Yes. It is not right on the road.

Chris Daubert: Okay.

James Mehling: There's a stone wall located there.

Chris Daubert: Yes. I think I know where it is.

James Mehling: ...that's this culvert stone wall and then...

Chairman Jansen: Yeah, the five foot setback is along the property line.

Jeff DeGraw: But like 25 foot off the center of the road you would say, probably.

Chris Daubert: Yeah. That makes more sense, okay. It's sitting back.

Jeff DeGraw: What's that?

Chris Daubert: It's sitting back.

Jeff DeGraw: It's like when you're out there and we've been...

Chris Daubert: I know the property.

Jeff DeGraw: Yeah.

Marc Malocsay: Okay, so this is just me, but I wouldn't want to walk that far to my motorcycle lounge, I'm just saying, it is quite a ways away from the house. But here's another one, just on a technicality, why doesn't it have a front yard setback?

Chairman Jansen: You mean why is that not mentioned in the application?

Marc Malocsay: Yeah. Do you know offhand?

Jeff DeGraw: No, I think we just put it together; these are the variances of what we're going for, so that's it.

Marc Malocsay: And here's the issue. Just say everything's good and we give the variance, if you have to come back before us again, the other variance is null and void because it does tie in with the front yard setback variance.

Chairman Jansen: It's not mentioned there at all.

Marc Malocsay: I know, but I can't see as an interpretation, I'm assuming that the front yard setback in that area is 75 feet, which sounds horrible, but as an interpretation, if the house itself is sitting 30 feet, 35 feet away...

Jeff DeGraw: It's 30 feet off this property line.

Marc Malocsay: ...then usually the old building inspector wouldn't even send it to the Board because it's established that the front of the property is only 30 feet. So, it's definitely going to be an issue when Bob sees this; he will not let it fly. And are we screwing things up by having this held over to next month? Clearly there's nobody here and the application's before us. And truly, I believe that with everything that you've done, yeah, it would be nice to get it a few more feet away. But the bigger one is that now it's going to be right up on the road.

Jeff DeGraw: I mean, is there a number that makes people feel more comfortable on that?

Marc Malocsay: If it were 30 feet away, I don't think anybody would have a problem at all giving a variance. Assuming it's 75 feet. It might be 50, but we moved everything. And sometimes it comes with a bulk table, a requirement. But back to that other question. Chances are everything's going to be fine. Does it matter that we make the decision now? I mean, it always does, but does it ...

Jeff DeGraw: It always matter somehow.

Chairman Jansen: Are you starting to build?

Jeff DeGraw: Honestly? Well, he would love to start to build as soon as possible, but you know, we have to do the right proper thing on you guys too. So would it really hold up anything? No.

Chairman Jansen: I think we would like to have Bob's input on that.

Chris Daubert: Yes.

Jeff DeGraw: The part is that it should have been mentioned that there's a front yard setback.

Chairman Jansen: Yes.

Jeff DeGraw: The only two variances on it are the size of the accessory strike right now.

Chairman Jansen: Right.

Jeff DeGraw: But aren't we saying that we're running in there? Because I think we're in there for five foot.

Chairman Jansen: Yeah, but you have five foot, you've got five foot all the way around. But that really doesn't hold true for the front, if you look at the front.

Marc Malocsay: So if I may, you just pointed this out because the denial letter from the building inspector said ZBA approval required for front yard setback, existing 35.2, where five feet is proposed. So that's on the front yard setback. So on the side yard, on an accessory structure...

James Mehling: I thought it was, is it 10?

Marc Malocsay: No, I think it's five.

Chris Daubert: It is five.

Marc Malocsay: I just think that we can move forward with just that it wasn't properly <sigh> I don't want to make Bob mad either, it makes our life living hell. So anybody else?

<inaudible>

Marc Malocsay: But the advertisement doesn't say that. So the advertisement...

James Mehling: ...is just about exceeding the Bulk requirement...

Chris Daubert: No, it says...

James Mehling: ...for 1200

Chris Daubert: ...1200 square feet composed by foot yard setback.

James Mehling: Oh yeah with a single five foot yard setback.

Marc Malocsay: Oh yeah, yeah.

James Mehling: It does, yep.

Marc Malocsay: The front yard setback. Okay. Okay. So...

Chris Daubert: I mean, it's on there.

Marc Malocsay: Yeah. All right.

Chris Daubert: And he's saying probably if you measured from the middle of the road to the front of the building, it's like 25 Feet.

Marc Malocsay: Yeah, so...

Chris Daubert: But the property line, is five.

Marc Malocsay: So we're all good with the exception of that question. So the five foot setback for an accessory structure is fine.

Marc Malocsay: Sideline—with the exception that it can't be five feet if it's in the front yard, which this one is, but we're giving a front yard setback. So how much further can you move it away from...

Jeff DeGraw: The front?

Marc Malocsay: ...the front—yeah, the road in the front yard?

Jeff DeGraw: I mean...

Marc Malocsay: I looked at the...

James Mehling: You got the septic system there, right?

Jeff DeGraw: Listen, everything is somewhat variable. Right? So...

Chairman Jansen: But the septic system really doesn't infringe.

Jeff DeGraw: We just don't want to drive tractors over the septic. He does have <inaudible> I almost have to look to you guys. Like what's the number that feels comfortable? It is it an additional <inaudible>?

Marc Malocsay: Well, I'm looking at it because you have the approximate area of the septic system.

James Mehling: That's to scale. I don't know if that shading is to scale or not.

Jeff DeGraw: It's the shape of the existing septic system, I think that's our best shot at it.

Marc Malocsay: Okay.

Jeff DeGraw: I mean before...

James Mehling: Which is the case in this area a lot. It really, really is.

Jeff DeGraw: Right. This is before the days of getting <inaudible> septics, you know.

James Mehling: Oh, absolutely. Absolutely.

Jeff DeGraw: But look, if we needed to shorten the building by five foot or something, you know, to pull five back, we would do that.

Chairman Jansen: I wouldn't even shorten the building, I would just move the whole thing back a little.

Jeff DeGraw: We can move it back, yeah. But I know he would be more than happy for that, so...

Marc Malocsay: Okay. And I'm sorry for misreading that. I didn't see it at first because I thought it was for the side yard setback and not the front. And it's funny because on here it's listed as a 30 foot setback for the front and I'm assuming it's because of the existing residence.

Jeff DeGraw: You know, I should know what that is because it came to my office but I'm not positive.

Marc Malocsay: I'm not either, but...

Jeff DeGraw: Because the house is already 30 foot to the line.

Marc Malocsay: Yeah.

James Mehling: Unfortunately a lot of the older properties in town are nonconforming to some degree.

Jeff DeGraw: Oh, I grew up in one of the ones on Pumpkin Hill Road.

James Mehling: So you know why?

Jeff DeGraw: Yeah.

Marc Malocsay: What's the acreage of the lot?

Jeff DeGraw: I'm not sure on this one.

Marc Malocsay: Because you have the Zoning table, but I think that's for a pre-existing small lot.

Jeff DeGraw: I don't know if they maybe got that from Danny or something. Because I'm not quite sure whether Danny checked.

Marc Malocsay: Alright, so let's go back to that question though. Where we're comfortable with that setback on the road.

Chairman Jansen: It's not an unusual thing, I don't think. And it's not impacting anyone. And obviously if the neighbors felt there was an issue there, there would've been a house full.

Marc Malocsay: Yeah.

Chairman Jansen: And there isn't, I mean, not even one, I would've thought the neighbor with the five foot behind would be here.

James Mehling: I would have thought that too, yeah.

Chris Daubert: So that's on him.

Chairman Jansen: What is it?

Chris Daubert: It's on him; his house and he doesn't...

James Mehling: He doesn't care.

Jeff DeGraw: They had a variance two years ago and built an addition that came to within five of this property.

Chris Daubert: Yeah.

Jeff DeGraw: But they never, never came...

James Mehling: That's what good neighbors do. We find ways to get along; we find common ground, get things done.

Chairman Jansen: So, Marc, is there anything wrong with the way the thing was advertised?

Marc Malocsay: No.

Chairman Jansen: All right. If there's nothing wrong with the way it was advertised, let's act on it the way it's presented.

Marc Malocsay: And....yes. We'll have, and the motion will read that. But having it no closer than five feet, so that if you find that you could move this thing further away then, and it looks like 10 feet and you're still not encroaching upon that leech field and then you're 15 feet away, that's half the distance. But Bob wouldn't like that but he's not here. So I think we can get away with it. So like you said, we're giving the variance to the five feet hoping that you can go further back.

Jeff DeGraw: You know what? And if that works out, I'm more than happy to do that. Because we want to be sensible on this whole thing. But it just occurred to me like that parking area; there's actually cars parked right in what would be essentially that last spot right now, so essentially the barn is covering that parking spot. So I realize now like, oh wait a minute. That's how we sort of got to that point. Because it was right there because he doesn't want to do something crazy either, you know? So it feels right when you're out there. But, you know...

Marc Malocsay: Good.

Jeff DeGraw: I'm happy to see if we can push it back a little ways.

Marc Malocsay: Yeah, okay. Okay. And there's nobody here against it, so I think we're gonna be fine moving forward with the way that it's read.

Chairman Jansen: Public hearing's closed and we've asked all the questions. At this point, is there an undesirable change that will or will not be produced in the character of the neighborhood and a detriment to nearby properties will or will not be created by granting the area variance? No change in the character of the neighborhood, right?

Chris Daubert: No.

James Mehling: No.

Chairman Jansen: And there's no detriment to anyone. And you want to put in there that a request was made to move the entire thing further back from the road. You want to put that right in there?

Marc Malocsay: Not in that part. No. No. We'll just on the end, we'll just...

Chairman Jansen: Alright,

Marc Malocsay: ...where we have plus or minus five feet, we're going to be no closer than five feet for the motion.

Chairman Jansen: Okay. The benefit by the applicant can or cannot be achieved by some method feasible for applicant to pursue other than a variance?

Marc Malocsay: I'm putting down 'no' on that mostly because of the leech field—septic.

Chairman Jansen: Because—put that in there—put the reason in there. I told Bob that I was going to make sure that we write these things down this time.

Marc Malocsay: Yep. Yep.

Chairman Jansen: The requested variance is numerically substantial or not substantial?

Marc Malocsay: Yes.

Chairman Jansen: The proposed variance will or will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

James Mehling: No.

Chairman Jansen: No. The alleged difficulty was or was not self...

****Loud sounds near speakers****

Chairman Jansen: Can someone move that the action be typed as an Unlisted Action with no adverse environmental consequences?

James Mehling: So moved.

Chris Daubert: Second.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Someone move that the application for the variances be granted as advertised?

James Mehling: So moved.

Chris Daubert: Second.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried.

Chairman Jansen: Jeff, it's a little cumbersome because Bob is recouped, somewhat recouped and he's not here. We're trying to do the best we can.

Jeff DeGraw: Thank you.