

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Jan Jansen

Attorney Jeremy Havens

Diane Bramich

Jim Mehling

Marc Malocsay

Chris Daubert

Mary Garcia, ZBA Recording Secretary

PUBLIC HEARING OF Elliot Beltzer-Williams & Jeremy Beltzer-Williams - regarding property located at 5 Peach Tree Lane, Warwick, NY 10990, and designated on the Town tax map as Section 18, Block 1, Lot 6.261 and located in the RU district for an interpretation of Town Code §164-41(A), or in the alternative, an area variance of Town Code §140-4(A), in relation to the denial of a building permit for the placement of a hot tub 89" x 89" "in the front yard" where the Zoning Code does not permit swimming pools to be placed within the front yard of the premises.

Representing the Applicants: Ashley Torre, Attorney - Naughton & Torre

Chairman Jansen: Please identify yourself for the record.

Attorney Torre: Hello, my name is Ashley Torre from the law firm Naughton & Torre, for the applicants.

Chairman Jansen: Just briefly tell the Board what you want to do.

Attorney Torre: Sure. The applications are twofold in the first respect, receiving an appeal, the Building Inspector's denial of the permit and the relevant sections are 164-41(A)4 of the code. And the way we read that is that you are able to have an accessory building or structure, which a hot tub would be considered, you can't have it within the required minimum front yard setback, but that you could have it in the front yard as long as it's outside of that 75 foot setback, and in this scenario, it is over that 75 feet. So we would ask in the first instance that you reverse that determination of the Building Inspector and find that the hot tub can be located in the front yard, so long as it's not within the front yard setback. And then in the alternative, our clients are seeking an area variance to allow the hot tub in the front yard. We did go over the five car balancing test in detail in our submission, so I won't rehash everything, but just to give you some key points. The property here is 12.6 acres, it's heavily wooded; we did submit some photos. You can't see the hot tub. You won't be able to see it from the road or from any of the neighboring properties. It's over 90 feet from the closest property lines, and it's over 400 feet from the three closest homes. Specifically 415 feet from the home at 14 Claire Ann Drive, 480 feet from the home at 12 Claire Ann Drive, 590 feet from the home at <inaudible - someone received a phone call>. So although it's considered the front yard under the zoning code where it is in relation to the house, so the way that the house sits on the lot, it's really the rear corner of the home. My clients did look at other potential locations on the property where they can possibly locate it, and this is really the only suitable spot to place the hot tub. The area on the west side of the house has a very extreme slope. It's even difficult to walk up that slope and it would require extensive grading, a substantial retaining wall, and would likely require drain mitigation. So the goal here is to minimize the environmental impact as well. So the area further on the north side, is extremely narrow, has a <inaudible> and many dense trees. So that location also wouldn't work due to the topography and also would require removing many trees. The area on the east side of the house which is actually the front of the home when looking at the front door, that also has a steep slope, has vegetation; it's just not suitable. And then on the south side where the hot tub is proposed, which is considered the legal front yard under your Code, so it wouldn't be allowed there anyway, under the reading of the Code that says you can't have it in the front yard, but also due to the location of the septic, there wouldn't be another possible option there. So the proposed location really is the most appropriate and the most suitable and is the only way to get the desired benefit here without creating any environment-like facts. I'm happy to answer any questions the Board may have or otherwise we'll run on submission.

Chairman Jansen: Thank you.

Attorney Havens: So just for the record: I believe you submitted your certified return receipt proof mailings?

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Attorney Torre: Yes. We did.

Attorney Havens: ...for the notice of hearing?

Attorney Torre: Yes.

Attorney Havens: That's already been received by the secretary. Thank you.

Mary Garcia: Yes.

Attorney Torre: Thank you. I do also have another picture to submit.

Attorney Havens: Sorry?

Attorney Torre: Another photo to submit, just showing the distance from the homes.

Attorney Torre hands out copies of a photo to Board members

Chairman Jansen: Okay, first of all, any questions?

Attorney Havens: Well, just one second. I want to cover the fact that this was referred to Orange County Planning Department on a GML 239 referral due to the fact that the property is within 500 feet of County Route 94. And we did receive a response from the Orange County Planning Department stating that this was a local determination with no further comments or recommendations. So that issue is resolved. I also had to update, I had sent out to all of you comments on this application. And the initial comments as of January 9th stated that there was no outstanding Building Department violations. There was a new violation that was issued I believe January 12th with respect to the hot tub essentially being reinstated, pending the appeal. And so there was a new violation issued for that, that the applicant will have to address and resolve.

Attorney Torre: If I may, the hot tub's been removed once again, so they have contacted the Building Inspector who's been out to the property and verified that it's been removed.

Attorney Havens: Okay, thank you. And if you can simply address for me before we open it up to a public hearing, because sometimes these issues come up. So on the short form EAF—Environmental Assessment Form—with the application, question 13a asks, "Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, State, or local agency?" It was checked off 'yes'. But there wasn't specifically any further clarification. Do you know what wetlands or other waterbodies may be affected by the property?

Attorney Torre: So I don't know if it's... (Attorney Torre asks applicant: do you know if you have any on the actual property? Applicant nods 'no') It might be the adjacent property, but there certainly would be no disturbance or encroachment into any wetlands or regulated waterbodies by the application here.

Attorney Havens: So there's no known wetlands on the property itself?

Attorney Torre: I don't know where.

Members of Board, Applicant, and Attorney Torre state it's all wooded area, no wetlands.

Jeremy Beltzer-Williams: We're like mounted on a hill.

Chairman Jansen: Now you removed this once before, right?

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Jeremy Beltzer-Williams: Yeah, we did. My dad's 80 and he came over for Christmas. We thought it was fine to bring it back in. But we were incorrect. We're first time homeowners, so this is all very new for us. But yeah, we have removed it back to the garage until we can figure out what's the right thing.

Mary Garcia: Can you state your name please?

Jeremy Beltzer-Williams: Jeremy Beltzer-Williams.

Mary Garcia: Thank you.

Attorney Havens: Okay. So if you'd like to open it for the public hearing, if you're prepared to, I don't have any further questions or comments before that.

Chairman Jansen: Any of the other Board members have any questions? At this point, if not, I'd like to open it up to the public. Is there anyone from the public that would like to address this application?

There are no members of the public present

Marc Malocsay: Gentlemen, the way that it's presented to us is that we have an interpretation and or the variance. And I just wanted to see just in which way we were going to move, how the Board felt, if we want to do the interpretation of the variance. So almost always not having a variance, and if we do an interpretation, that interpretation will probably follow through with more applications that might be similar to this. And we've had a few of them. So I wanted just to look at that first on the interpretation of the Code, because it does specifically say two different things. So do you want to...

Attorney Havens: I'm happy to address the interpretation issue, but if we can type it under SEQR first, then we can move forward with the interpretation...

Marc Malocsay: Okay.

Attorney Havens: ...if that works.

Marc Malocsay: Yes.

Attorney Havens: So since this is the placement of a hot tub on residential property, it would qualify as a Type II action under §617.5(c)(12). Under SEQR regulations, would someone care to make a motion typing the action as a Type II action with no adverse environmental impact?

Diane Bramich and Marc Malocsay *simultaneously*: So moved, Second.

Attorney Havens: We got duplicates and duplicates.

Marc Malocsay: Diane made the motion.

Chairman Jansen: Motion by Diane, Seconded by Marc.

Attorney Havens: Thank you.

Chairman Jansen: All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried.

Attorney Havens: We will consider the interpretation first I think. So with respect to the interpretation, Jeremy Beltzer-Williams. Counsel, the application submitted specific interpretation of code §164-41(A) with respect to the front yard setback. There's a separate section in the town code §140-4(A) that

specifically addresses swimming pools. And under the definition of a swimming pool, a hot tub falls under the definition of a swimming pool and therefore it's subject to all the regulations of it. And §140-4(A) specifically states the location of a permanent or temporary swimming pool on the property must not be

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placed in the front yard. Doesn't make any reference to a front yard setback. And then front yard, if you look in the definition of the code, as you mentioned within your application, comprises the line from the front of the house, facing from the house that's parallel to the street that the house fronts on. And so I don't believe that even if we were to make an interpretation that there's ambiguity in §164-41(A), §140-4(A), specifically with respect to swimming pools and hot tubs precludes it from being located within the front yard. That doesn't mean that this Board can't grant you a variance, but with your permission, my recommendation would be to move forward with the request for the variance instead of interpretation. If you agree, I'm happy to provide you with a copy of the section of the code I'm referencing.

Attorney Torre: Yes, I would agree. And I do not doubt that it says it here.

Attorney Havens: So this is the specific section that I'm referencing.

Attorney Torre: Certainly. I would ask that the Board consider the variance application and the Building Inspector's denial didn't specify the section so I did not know that that was a...

Attorney Havens: Yes, not a problem.

Attorney Torre: ...problem.

Attorney Havens: Yes, sometimes there's a lot of different provisions in the code and... Attorney Torre: Of course.

Attorney Havens: ...and depending on how you look at it, they may or may not apply and some of them are hidden so, or hard to find. It's not hidden but hard to find. Alright, so...

Attorney Torre: I do believe the hearing was still open though. I don't know if... Attorney Havens: Yes.

Marc Malocsay: Yes.

Attorney Havens: So Marc, does that address...

Marc Malocsay: Absolutely.

Attorney Havens: ...your question or issue?

Marc Malocsay: Yes because the truth is with our guidelines for the variance, I didn't have a problem with the application, I just thought that if we did an interpretation we wouldn't need a variance. And then it kind of sets the precedence for the Building Inspector later on to know where we came from with ours. So that's fine.

Attorney Havens: Okay, so moving on to consideration of the variance. The applicant submitted the application seeking a variance of the applicable town code §140-4(A), which actually literally and definitively precludes the placement of a swimming pool or hot tub under the definition of swimming pool from being placed in the front yard. And so do the Board members have any further questions or comments for the applicant before we make any determination if a site inspection is necessary?

Marc Malocsay: Well, the applicant went through all of the reasons logic for the hot tub going where it's going. It makes perfect sense and, I also not even knowing about hot tubs not being in the front yard, I had no idea. I always looked at them as the front yard setback. So they have every right to be here. They did a good job of letting us know that that was really the only place where to go.

Chairman Jansen: And looking at the terrain of that piece of property, it's the only ideal place for it to go.

Marc Malocsay: Absolutely.

Attorney Havens: So polling, the Board feels that there's no need for a site inspection?

Chairman Jansen: No

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Jim Mehling: No

Diane Bramich: No need.

Attorney Havens: Okay, great. Do you have any other questions?

Chairman Jansen: The only other question I have is with the pools, you have to have a fence around it. Is that still an issue with the hot tub?

Attorney Havens: The fence doesn't apply to a hot tub.

Jim Mehling: It's a different depth of the water.

Attorney Havens: Right. And it's a different regulation, but what they do have to comply with is a latching top. So the top has to have some kind of pop latch or whatever so that it stays covered.

Jeremy Beltzer-Williams: We have that, yeah. It stays in place though.

Attorney Havens: Yeah. That's the alternative regulation for the hot tub is a latching top.

Jeremy Beltzer-Williams: It's like four inches.

Attorney Havens: It doesn't matter how thick your top is, so long as it physically connects and latches to the body of the hot tub so it doesn't blow open and a kid can climb in and drown.

Attorney Torre: And they will comply with that.

Chairman Jansen: Okay. I'm good with that.

Attorney Havens: Do you have any further questions or comments for the Board?

Attorney Torre: No.

Attorney Havens: Okay.

Chairman Jansen: Anyone from the Board have any more questions or comments? If not, I'd like to close the public hearing. Public hearing is closed.

Attorney Havens: Alright. So going into deliberations here, reviewing the five criteria for the granting of an area variance when the request for an area of variance is submitted with an explanation specified in the application form for the area variance, identifying the five statutory questions, I typically read off the answers when they're brief. In this case, the applicant has submitted a very thorough and detailed explanation regarding each of the five statutorily required considerations. And so we'll rely on the record and the application with respect to their responses. Polling the Board on these issues, "Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the variance that is being requested?" The applicant states no for the reasons specified in the application. Does the Board agree?

Board Members: Yes.

Attorney Havens: Everybody in favor on that?

Board Members: Yes.

Attorney Havens: Can the benefit the applicant seeks be achieved by some feasible method other than the variance? The applicant states no, for the reasons stated in the application. Does the Board agree?

Board Members: Yes.

Attorney Havens: Is the requested variance substantial? The applicant states no. Does the Board agree?

Board Members: Yes.

Marc Malocsay: It's interesting though, it's not a setback. I mean that's usually how we look at them as far as the setback. In this case, it's either a can or a can't go in the front of the property. So is it substantial?

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Attorney Havens: That's for this Board to determine, but I see what you're saying. I think there's a good argument in this case. So it actually might not be.

Marc Malocsay: So in this particular application, I'm going to say yes. Meaning no, meaning yes.

Meaning... Attorney Havens: Do We agree with the applicant?

Marc Malocsay: Yes.

Attorney Havens: That it's not substantial? Everybody agree with that?

Diane Bramich: Yes.

Marc Malocsay: Everybody confused.

Chairman Jansen: Thank you Marc.

Marc Malocsay: Yep, that's what I'm here for.

Attorney Havens: Four. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant stated no for the reasons stated in the application. Does the Board agree with that?

Board Members: Yes.

Attorney Havens: And question number 5, is the alleged difficulty self-created? The applicant states yes. Does the Board agree with that?

Board Members: Yes.

Attorney Havens: Okay. So the Board's in complete agreement with all of the answers of the applicant. Is there any further question?

Jim Mehling: No.

Attorney Havens: Okay. So you stated that the violation's already been corrected?

Attorney Torre: Yes.

Attorney Havens: Okay, wonderful. So then would someone care to make a motion granting or denying the variance as advertised?

Chris Daubert: So moved.

Attorney Havens: Granting or denying?

Chris Daubert: Granting.

Jim Mehling and Marc Malocsay simultaneously: Second.

Chairman Jansen: Motion by Chris, Seconded by Jim. Any further discussion? All in favor? Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried.

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PUBLIC HEARING OF Fred Gannon & Stephanie Gannon - regarding property located at 5 Cranberry Trail, Greenwood Lake, NY 10925, and designated on the Town tax map as Section 74, Block 2, Lot 3 and located in the SM district for an area variance in relation to the denial of a building permit for construction of a 32' x 30'4" two-story addition to a single-family home and the construction of an accessory deck 46'8"x 9', due to side yard setback limitations imposed under SM Zoning District Bulk Tables.

Representing the applicants: Fred Gannon and Stephanie Gannon, Applicants

Chairman Jansen: Please identify yourself for the record and come on up and tell us what you want to do. Fred Gannon: I'm Fred Gannon.

Stephanie Gannon: Stephanie Gannon.

Chairman Jansen: Just briefly tell us what you're trying to do.

Stephanie Gannon: Well we're getting ready for entering our senior years here. We don't have a bathroom. Our bedroom's upstairs, we have to run downstairs in the middle of the night, so we're trying to get a bathroom upstairs. The house was big enough for us and three kids, but now they have spouses and we have grandchildren and we want a dining room because otherwise everybody's sitting with a plate in their lap when they come for the holidays. And we'd like a garage. Again, thinking of old age. We're trying to get our laundry up out of the basement, trying to get more things on one floor. So that's what we're trying to do. We've been there for 40 years and we're not looking to go anywhere. So if we're going to stay, we have to make it a little more senior-friendly.

Chairman Jansen: Do you have any questions at this point?

Attorney Havens: I'm sorry, you're asking me?

Chairman Jansen: Yes.

Attorney Havens: So first of all, did you submit your certified return receipt for the mailings?

Stephanie Gannon: Yes.

Mary Garcia: Yes.

Attorney Havens: Those were submitted?

Mary Garcia: Yes.

Attorney Havens: Okay, great. Thank you. So initial comments, there are no Building Department violations on record that we know of. And there was no GML 239 referral needed because we're dealing with side yard setbacks. Applicant's already discussed it. Let's see, in the application, same question as I had before; 13a, it says that there's some...it's either the parcel itself, the site or the area around it

contains wetlands or other waterbodies regulated by a federal, state, or local agency. Are we familiar?

Fred Gannon: I think they're just referring to Greenwood as to the lake.?

Diane Bramich: The lake is quite a way down.

Fred Gannon: Yeah. There are no wetlands.

Diane Bramich: I was up there yesterday. I drove up there and I thought I lived high on the mountain.

They live high on the mountain!

Fred Gannon: There's no wetlands down there.

Diane Bramich: No, definitely not.

Fred Gannon: It is solid rock.

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Diane Bramich: Yep.

Fred Gannon: Which is going to present a challenge.

Attorney Havens: Alright. So question 15 on the Environmental Assessment Form asks 'Does the site of the proposed action contain any species of animal or associated habitats listed by the state or federal government as threatened or endangered?' And the mapper software identified Timber Rattlesnake and Long Eared Bat. And so I just want to make sure that you're aware that you have endangered species in and around the area. Maybe not specifically on your property, but <inaudible - several speaking at once> and that you need to be careful and cautious and aware of trying not to disturb them.

Fred Gannon: Yeah.

Stephanie Gannon: They stay out of my way, I'll stay out of...

Fred Gannon: As long as the rattlesnakes stay away from me, I got no problem.

Attorney Havens: It's all there, if you want to open it.

Chairman Jansen: I'll open it.

Mary Garcia: Diane had a question.

Attorney Havens: Yes.

Diane Bramich: What do you consider the front of the house?

Fred Gannon: We have pictures.

Stephanie Gannon: The part facing Cranberry Trail.

Diane Bramich: Okay.

Stephanie Gannon: I know, it's a little odd because the door is...

Diane Bramich: I know, I was up...I got pictures of it.

Fred Gannon: So this is the front, that would be considered the front.

Diane Bramich: That's what you consider the front. Okay.

Fred Gannon: As opposed to this where you come in on the ramp and stuff like that over there, where that front door is. This faces Cranberry Trail, this faces Blueberry Hill, coming up the hill.

Diane Bramich: Okay. And you want to put the addition...

Stephanie Gannon: It's going over there where that...

Fred Gannon: Over here.

Diane Bramich: And then the deck would be on the front.

Stephanie Gannon: There's already a deck on this side, but we need to, it's been there forever. So we want to tear that down and then we're just going to continue it across the back of the house.

Fred Gannon: Across the back of the house.

Diane Bramich: Oh, I see what you're doing. Alright.

Fred Gannon: So the deck that's on the back of the house there now, that was originally there when we bought the house and now it needs to come down because it's becoming a hazard. So we're going to go across the front of the house and join up, and that is where the addition is going to go out over there. The dining room and the garage and stuff like that.

Diane Bramich: So the deck will actually come out further than the addition.

Stephanie Gannon: Well, no, it's going to come out halfway across the addition.

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Attorney Havens: See here's the...

Diane Bramich: Oh, in the front. Okay.

Attorney Havens: Yes it's actually...

Diane Bramich: Okay, got it.

Fred Gannon: Okay, so we're in the dining room, there'll be sliding doors so you can go out onto the deck there and stuff like that.

Diane Bramich: It's a beautiful spot, it's...

Stephanie Gannon: At the end of the...?

Diane Bramich: God bless you. I couldn't turn around. I had to back around.

Fred Gannon: Sorry about that.

Diane Bramich: That's okay. I pulled into you next to the truck and I backed out very slowly.

Fred Gannon: It brings out the best when you're driving in the winter.

Stephanie Gannon: That's the first thing people say to us when they come up as they go. How do you get up here in the winter?

Diane Bramich: It's a single road all the way.

Chairman Jansen: Stay home.

Stephanie Gannon: That's it. He's retired now and...

Diane Bramich: That's good. That cleared up what I wanted.

Chairman Jansen: I have nothing else. Anyone else? Nope.

Attorney Havens: You want to open this up for a public hearing?

Sure. Public?

No members of the public are present

Chairman Jansen: The public hearing is closed.

Attorney Havens: Alright. Good enough. So we need to type the action under SEQR and based on the fact that it's an extension or modification of a single family residence, it qualifies as a Type II action under §617.5C, subsections 11, 12 and 17 regarding side yards area variance and expansion of an existing single

family dwelling. So can...

Diane Bramich: I've got another question.

Attorney Havens: Can we finish SEQR first?

Diane Bramich: Yes.

Attorney Havens: Then you can ask a question.

Diane Bramich: Okay.

Attorney Havens: Would someone care to make a motion typing the action as a Type II action with no adverse environmental impact?

Jim Mehling: So moved.

Chairman Jansen: Motion by Jim, Seconded?

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Chris Daubert: Second.

Chairman Jansen: Seconded by Daubert. All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried.

Attorney Havens: Alright, your question?

Diane Bramich: Where's the septic?

Stephanie Gannon: The septic is...

Diane Bramich: It's on this side?

Stephanie Gannon: No, it comes out of this side and then it goes down...

Fred Gannon: To the back yard.

Stephanie Gannon: ...down over here. And then the leech field.

Diane Bramich: That's all, thank you.

Fred Gannon: Yep. That's the only reason why we can go out. That's the only side of the house because we have the well on one side, the septic in the back, and then the leech field on the third side. That's the only way we can go.

Attorney Havens: This is actually an interesting location. It's both traditional neighborhood overlay and ridgeline overlay for this property. You're way up high on the side of the hill. And so it's subject to the ridgeline overlay. And since you are doing expansion and new construction the Board's going to have to consider the visual EAF addendum for the ridgeline overlay regulations. Under current Code we have to determine the visual impact of the proposed improvements that they're seeking a variance for. Would the project be visible from a parcel of land which is dedicated to and available to the public for use enjoyment or appreciation of natural or manmade scenic qualities? We have to identify potential distance from the parcel in question to...

Marc Malocsay: I'm going to interrupt for a second. The Building Inspector has the ability to—on ridgeline overlay—to I'll just say waive some of the requirements. Not that that has to do what we're talking about now, but to answer those questions, is this going to be in any way anything different than what's already there? So you're going to ask the Town Board that kind of question. And what I'm saying is that these questions to us are usually handled before the Planning Board. And in this particular case and ridgeline overlay, the only thing that I'm looking at is the height restriction on it, which is well below what...

Attorney Havens: Yes. 18 feet.

Marc Malocsay: I'm going to say that we don't have the training to know how to answer some of these questions. So I'm not going to speak for everybody here on the Board, but I'm assuming they're going to agree with me. But the other part is if there were anything that this was going to be in any way out of place for what's there. I just, like I said, we let...

Attorney Havens: Let me help you there.

Marc Malocsay: Yes.

Attorney Havens: So Marc, are you making a motion for the Board to make a collective determination without specificity of each of these individual questions?

Marc Malocsay: That's what I said!

Attorney Havens: We can determine that we don't necessarily have to address each individual question in these particular circumstances on this application, and we can just make a determination that it's not going to have a significant negative impact on the ridgeline overlay?

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Marc Malocsay: As long as everybody else agrees with that, yes.

Jim Mehling: I Second it.

Diane Bramich: I agree.

Marc Malocsay: And again, there will be time...

Attorney Havens: Marc made a motion.

Diane Bramich: I'll second it.

Attorney Havens: No, Jim already seconded.

Chairman Jansen: All all in favor?

Board Members: Aye.

Chairman Jansen: Okay. You got it.

Marc Malocsay: There will be times that I know that we're going to have to get more involved with it, but...

Attorney Havens: I'm totally with you.

Marc Malocsay: Okay.

Attorney Havens: My job as the lawyer is to make sure we dot our I's and cross our T's.

Marc Malocsay: And you're doing great.

Jim Mehling: Much appreciated.

Attorney Havens: Does anybody on the Zoning Board feel it's necessary to conduct a site inspection?

Diane Bramich: I did.

Chairman Jansen: Diane did.

Diane Bramich: I did.

Attorney Havens: Diane, do you feel after conducting an inspection that there's any need for the rest of the Board Members to conduct such an inspection?

Diane Bramich: I do not believe they need to.

Attorney Havens: Wonderful. So with respect to the five statutory criteria for the granting of an area variance, which is what they seek, question number 1 is "Will an undesirable change be produced in the

character of the neighborhood or a detriment to the nearby properties be created by the granting of the variance that the applicant requested?" The applicant stated no. And the reason is "The property is located in a mostly wooded area." Does the Board agree with this?

Board Members: Yes.

Attorney Havens: Can the benefit the applicant seeks be achieved by some feasible method other than the variance? The applicant stated no. And the reason given is "Due to location of well and septic, the addition can only be located on the proposed area." Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 3, "Is the requested variance substantial?" The applicant states no. And the reason "Side setback requirement is 18 feet; the addition would only reduce that by 3 feet at the front and 6 feet at the rear." Does the Board agree?

Board Members: Yes.

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Attorney Havens: Question 4, "Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant states no. And the reason given "The property is mostly wooded area with only one other house located on our road, which is a dead end."

Chairman Jansen: Yes.

Diane Bramich: Totally agree.

Attorney Havens: Yes? Everybody agree?

Board Members: Yes.

Attorney Havens: Great. And question number 5, "Is the alleged difficulty self-created? The applicant states no. And the reason given is "We've lived in the house for 40 years and as we age, we need to make changes to our home to make it more senior-friendly."

Diane Bramich: No, it is self-created.

Marc Malocsay: It is self-created, yes.

Attorney Havens: In considering the application, does the Board feel there's any other use restrictions or conditions that need to be imposed?

Board Members: No.

Attorney Havens: So, would someone care to make a motion granting or denying the variance as advertised?

Diane Bramich: I make a motion to grant as advertised.

Marc Malocsay: And I'll second it.

Chairman Jansen: Second. Motion by Diane, Seconded by Marc. All in favor?

Board Members: Aye.

Chairman Jansen: Any opposed? Motion carried.

Stephanie Gannon: Where do we go from here? This is all new.

Attorney Havens: We prepare a determination letter. Once it's been filed, you'll receive a copy from the secretary and you'll take that back to the Building Inspector to get your permit.

Stephanie Gannon: Thank you all, have a great night.

Chairman Jansen: The ZBA Meeting of January 29, 2024 is adjourned.