

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Mark Malocsay

Attorney Jeremy Havens

Diane Bramich

Glenn Ehlers

Aaron Ubides

Bill Cerone

Mary Garcia, ZBA Recording Secretary

Other Considerations:

- ✓ ZBA Minutes of September 22, 2025
 - ✓ Motion to approve made by Glenn Ehlers, Second by Bill Cerone

- ✓ ZBA to Discuss MTAG
 - ✓ Discussion as follows:

Attorney John Ziobro representing the applicant for a Zoning Board of Appeals variance request approaches the Board. Attorney Havens asks John Ziobro if Article 78 was part of a court order. John Ziobro replies that Gary Goldstein is the Applicant's legal representative for the Building Department court hearing.

Attorney Havens: Did Gary Goldstein provide any details regarding any court orders issued by the Town Court with respect to coming before the ZBA?

John Ziobro: It was my impression that there was no court order; there was a pending case that's adjourned until this is resolved.

Attorney Havens: This application is not in reference to Article 78, and because the Building Department did not issue a formal denial, the ZBA can not consider the case. The ZBA only has appellate level jurisdiction so they can only respond to a denial which must be dated within 60 days of the application date. The most recent denial is dated August 2024, beyond the time required. What the applicant needs to do is submit a new application for a Certificate of Occupancy to the Building Department and based on the current litigation that's pending and the prior position of the Building Department, given that no variance has been granted, they would have to deny the Certificate of Occupancy request and therefore you would have a legitimate and legal basis for this ZBA to consider that denial.

PUBLIC HEARING OF Thomas Sibilla & Amy Sibilla - regarding property located in the RU district at 7 Skysail Ln., Warwick, NY 10990, and designated on the Town tax map as Section 27, Block 1, Lot 116 for renewal of a 280(a) variance previously granted on May 22, 2023 to allow for subdivision of land containing four lots with access from a shared private driveway. **Continued from the ZBA Meeting of April 28, 2025.**

Chairman Malocsay: Is there anybody here for this application? They did ask us to postpone it again.

PUBLIC HEARING OF John Turnbull - regarding property located at 56 Pine Island Tpke, Warwick, NY 10990 in the SL district, and designated on the Town tax map as Section 43, Block 1, Lot 17 for an area variance from Town Code §164-47 C(2)(e)[1] & C(2)(h) for a proposed 30'x40' extension to an existing commercial building with a reduced back yard setback of 28.5' where 30' is required; and for an increased lot area coverage from an existing 65% to 75% where 60% is permitted. **Continued from the ZBA Meeting of September 22, 2025.**

Representing the Applicant: Brian Friedler, Friedler Engineering

Attorney Havens: We received a response from Orange County Planning Department September 23rd, 2025. The County had no specific comments, recommendation is a local determination.

Chairman Malocsay: Just a technicality after reviewing after the meeting, the word 'alley'. After reviewing it, we have a property line. We have one business along with the house and this other business. I have a hard time saying it's an alley between them because nowhere is it mentioned. There is enough room at twelve and a half feet to get around the building from that side. I know that the properties are somewhat sharing that drive in and out, but it's technically not an alley. So I would have to go along with the Building Inspector's determination and that we needed a side yard setback, which was the original application. Does the rest of the Board agree?

Attorney Havens: I would like to add a point of clarification. What the Chairman was just referencing, the initial Building Department denial said that it needed a side yard setback variance. And initially in looking at the code, we were thinking it may not unless the ZBA were to make a determination that this was in fact what's called an alley right of way. So under zoning code section 164-47C(2)(e)[3], it provides that rear loaded garages and carports have to have a minimum of 20 feet from the paved edge of an alley or 9 feet to the alley right of way. I think the ZBA would probably concur with my determination that this is a rear loaded garage or carport. It's behind the main building and it's a garage or carport for the storage of vehicles. So the only question is whether or not the side gravel drive on the north side of the property constitutes an alley right of way. The Chairman has suggested that it's not an alley right of way. Can we have further discussion and a motion to determine whether or not this is an alley right of way? If not, then we need the additional variance for the side yard setback because the proposed building is only 10.8 feet on the edge of the property line, whereas otherwise it would require 20 feet.

Diane Bramich: I'll make the motion.

Chairman Malocsay: We have a motion to determine that it is not an alleyway. Do we have a second?

Bill Cerone: I'll second.

Chairman Malocsay: Again, there's no deeded right of way, nothing on paper to show that there is an alleyway. It is simply a property line and it happens that it's shared by both property owners. I believe there was some testimony that even said they realize that the distance is tight and that they're going to have to be going in and out the other side. If the owner (Chris Daubert) ever sells, they can refuse him the right to use that property. By making that determination that it is, seems to also give him a right to use it at a later date. We have a motion and a second that it was not an alleyway. How do we vote?

Bill Cerone: That's not an alleyway.

Chairman Malocsay: I'm saying it's not an alleyway.

Attorney Havens: Brian, can you give the Board a quick summary of the sizes and elevations? Because I don't believe all of the Board members had an opportunity to review them.

Brian Friedler: I think the square footage is going to be a little over 2,800 sq ft.

Brian Friedler approaches the bench and hands out copies of the plans. The Board reviews the plans and discusses them amongst themselves.

Diane Bramich: There's nothing on here that shows the height of the new building.

Attorney Havens: I agree, I don't see any elevations, but it is lower than the preexisting building.

Chairman Malocsay: The one variance is on the build-out of the property. I was under the impression that the blacktop was included in the build-out and we're really looking at more gravel than anything else. Do you concur on the build-out because there's a lot of gravel that could be blacktop?

Attorney Havens: Yes. If you're talking about lot area coverage, from an existing 65% to 75%, where only 60% is permitted.

Brian Friedler: In that 75% I'm counting that gravel as included. So I guess we'll be looking at 3 variances. A side yard, a rear, and lot coverage.

Attorney Havens: So given the square footage that's presented is in fact under 4,000 square feet, therefore this project would qualify as a Type 2 action under SEQR section 617.5(c)(9). Does anybody care to make a motion typing this as a Type 2 with no adverse environmental impact?

Diane Bramich: So moved.

Bill Cerone: Second.

Chairman Malocsay: Any discussion? All in favor?

Board Members: Aye.

Attorney Havens: The Zoning Board needs to determine if a site inspection is necessary.

Chairman Malocsay: I think everybody is familiar with it.

Attorney Havens: So that's a no. The ZBA is to consider any use restrictions and any other conditions to be imposed. The one recommendation that we do have from the Building Department is that certified architectural plans in substantial conformity to the renderings provided to the Zoning Board of Appeals must be submitted to the Building Department prior to issuance of a building permit. Any concern or problem with that condition?

Board Members: No.

Chairman Malocsay: If there's no other discussion, we'll close the public hearing.

Attorney Havens: In considering area variance, the Zoning Board of Appeals has to consider five statutory criteria. And the first one is will an undesirable change be produced in the character of the neighborhood or a detriment to nearby property be created by the granting of the variance requested? The applicant states no. And the reason given is the business has been around for over 30 years. The proposed addition will eliminate the need to park their new dwelling rig outdoors. Does the Board agree with the applicant that this will not produce an undesirable change in the neighborhood or a detriment to nearby properties?

Board Members: Agreed.

Attorney Havens: Question number 2, can the benefit that the applicant seeks be achieved by some feasible method other than the variance? The applicant states no, for the reason given the lot is small and contains a portion of Pine Island Turnpike. The existing building and gravel area take up more than half of the property. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 3, is the requested variance substantial? The applicant states no. The reason given: the rear yard variance is only 1.5 feet, 28.5 feet, where 30 feet is allowed, the lot coverage, 75%, where 60% is allowed. Does the Board agree with the applicant that the variance is not substantial?

Board Members: No.

Attorney Havens: Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? The applicant states no. For the reason given the business has been around for over 30 years with 65% lot coverage, adding a 30x40 addition will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Number 5, is the alleged difficulty self-created? The applicant states yes for the reason given that the applicant is proposing to build the 30x40 addition to store a new drilling rig, does the Board agree with the applicant that the difficulty is self-created?

Board Members: Yes.

Attorney Havens: The published advertised request for a variance included a reduced backyard setback of 28.5 feet where 30 feet is required, and an increased lot area coverage from an existing 65% to 75%, where 60% is permitted. Given the Board's determination earlier that the adjacent drive next to the property to the north is not in fact an alleyway and the Building Department's denial of the application based on not meeting the side yard setback to that property line, we need to amend the application in order to consider a side yard setback. Do we have a motion to amend the application to add a variance of 10.8 feet where 20 feet is required? In addition, we have the condition that certified architectural plans and substantial conformity to the renderings provided to the ZBA must be submitted to the Building Department prior to issuance of a building permit. Do we have a motion to amend the variance requested to include the side yard setback variance?

Aaron Ubides: I make a motion.

Diane Bramich: Second.

Chairman Malocsay: Any further discussion? All in favor?

Board Members: Aye.

Attorney Havens: Would someone care to make a motion granting or denying the variance as amended?

Diane Bramich: I make a motion that we grant the application as amended.

Bill Cerone: Second.

Chairman Malocsay: Any further discussion? If not, how do we vote?

Board Members: Aye.

PUBLIC HEARING OF John Raso - regarding property located at 12 Demarest Rd., Warwick, NY 10990 in the RU district, and designated on the Town tax map as Section 33, Block 1, Lot 4.1 for an area variance from Town Code §164-40N and §164-41A(4) for the construction of a proposed 8'x20' shed with no

electric, 40' from the front property line where a 75' front yard setback is required.

Representing the Applicant: John Raso, Homeowner, and Joe Picone, Owner's Nephew

Mary Garcia: What is your name?

Joe Picone: Joe Picone P-I-C-O-N-E.

Mary Garcia: And you are John Raso?

John Raso: Yes.

Joe Picone: He's asking for 40 feet side yard setback and 30 feet front yard setback. My uncle fixed up the house and was looking to put the shed in the back. But the grade was a lot steeper in the back and there are some trees in the back. So he's asking for the shed to be up front for easier access to the road for him in the snow. That's the best spot he believes the shed would be able to go.

Attorney Havens: I just wanted to provide some additional context for this application. There's no known Building Department violations. No GML239 referral was required because there were no proximity triggers. The initial denial letter from the Building Department was for a permit for a shed size of 12x24 with no electric. The applicant in submitting their ZBA application requested a smaller building size instead of 12x24, 8x20. The application that was submitted dated August 25 had a site plan showing shed dimensions of 8'x20' with a 40 foot front yard setback and a 40 foot side yard setback. And subsequent to submitting this application, and I believe subsequent to the actual publication of the public hearing notice, the applicant submitted an amended request requesting instead of a 40 foot front yard setback, they were looking for a 30 foot front yard setback. So we have a published public hearing notice requesting an 8x20 shed with no electric, 40 feet from the property line where a 75 foot front yard setback is required. And the applicant subsequently submitted a revised site plan requesting a 30 foot front yard setback instead of a 40 foot front yard setback as published. Anybody have any questions?

Diane Bramich: What is the reason for moving it closer to the main road?

Joe Picone: The original plan was a 12 x 24 shed, but my uncle found a more cost effective one so he went with an 8 x 20. My uncle measured from the street back to where the shed would be. But I measured from the property line to the shed so there was a 10 foot difference.

Diane Bramich: And the reason you wanted it closer to the road and not further back on the property was because of the slope?

Joe Picone: Slope, grade, elevation. The elevation change was a lot steeper and there's two chestnut trees right past the house.

John Raso: I don't want to cut them down.

Attorney Havens: Any other questions on the modifications proposed by the applicant before we move on to items identified on the short form EAF? Question 1, does the proposed action only involve the legislative adoption of a plan, local law ordinance, administrative rule, or regulation? It was not answered. I can tell you that's not the case. Are you okay with me amending your form to check 'no'?

John Raso: Yes.

Attorney Havens: Question number 2, does the proposed action require a permit approval or funding from any other government agency? I don't believe it does; are you okay with us checking 'no' because it wasn't answered?

John Raso: Yes.

Attorney Havens: Question 5a, is the proposed action a permitted use under the zoning regulations? It's a shed, residential property, I believe it is in fact a permitted use. Are you okay with us answering 5a as 'yes'?

John Raso: Yes.

Attorney Havens: And 5b, is the proposed action consistent with the adopted comprehensive plan? It's a shed that's under the maximum size permitted under the zoning code. So I don't see how it would violate the comprehensive plan unless one of the Board members feels otherwise.

Chairman Malocsay: Not at all.

Attorney Havens: Are you okay with us checking 5b as 'yes', is consistent with the adopted comprehensive plan?

John Raso: Yes.

Attorney Havens: Question number 12b: for the record, the EAF mapper software automatically filled in 'yes' to the question of 'is the property site or any portion of it located in or adjacent to an area designated as sensitive for archeological sites in New York State Historic Preservation Office SHPO archeological site inventory?' I checked the website because there was a prior determination for this property and it was deemed not eligible for listing on the state or national historic register. That is the only reason I could find on the SHPO website for that to state 'yes'. Question 13a, does any portion of the site of the proposed action or lands joining the proposed action contain wetlands or other water bodies regulated by a federal or state or local agency? That one is also marked 'yes'. Could you explain to the Board what wetlands are associated with your property?

John Raso: No, my neighbor's property. The lake's further down than my property.

Attorney Havens: Where would you say the edge of the water is in relation to your property?

John Raso: About 20, 30 feet.

Attorney Havens: So there's a 100 foot wetland buffer to a lake like that, right? Because you're over by the lake, it's not as steeply sloped, right?

Joe Picone: Correct.

Attorney Havens: So you have approximately a 100 foot wetland buffer that comes up on the back of your property. Is that wetland buffer anywhere near the front of the property where the shed is to be built?

John Raso: No.

Attorney Havens: I don't believe that's a concern. Question 14. Again, it wasn't filled in and this is just identifying the typical habitat types that occur on or likely to be found on the project site. Would you agree that it's a suburban community?

John Raso: Yes.

Attorney Havens: Would you agree given that you're surrounded by an agricultural district that it's also agricultural and grasslands?

John Raso: Yes.

Attorney Havens: Are you okay with me checking those boxes for you?

John Raso: Yes sir.

Attorney Havens: Number 15, does the cite of the proposed action contain any species of animal or associated habitats listed by the state or federal government as a threatened or endangered species? The EAF mapper checked it as yes and identified Indiana bat. Are you familiar with the Indiana bat regulations?

John Raso: Not really.

Attorney Havens: The Indiana bat regulations essentially say that from October 15th to April 30th you're not allowed to cut down any tree that has a diameter of more than 18 inches at breast height. Do you understand?

John Raso: Yes.

Attorney Havens: So if this application were to be granted, you understand that you would be prohibited from cutting down any tree that size without having it inspected by DEC first.

John Raso: No trees are to be cut down, sir.

Chairman Malocsay: Is there anybody from the public that would like to address the application? The public hearing's going to remain open.

Attorney Havens: Given that it's just the construction of a new shed, it doesn't exceed the size limitations under the zoning code that are permissible and therefore it would qualify as a Type 2 action under SEQR section 617.5 C(12) and (16). Would anyone care to make a motion typing the application as a Type 2 action with no adverse environmental impact?

Diane Bramich: Motion.

Glenn Ehlers: Second.

Chairman Malocsay: Any further discussion? How do we vote?

Board Members: Aye.

Attorney Havens: The Zoning Board needs to determine if a site inspection is necessary.

Chairman Malocsay: I am familiar with Demarest Road. There are some older dwellings close by not meeting the front yard setback because it was 50 feet prior to that.

Diane Bramich: Are there trees in front of where you're putting it so you wouldn't actually see it from the road?

John Raso: There's trees on the road where the brick wall is.

Joe Picone: There's a stone wall where the property line is from the street. So from the property line, about about 15 feet in is probably 50 foot pine trees. They line the whole front of the property.

Bill Cerone: No leaves fall off those?

Joe Picone: No, they stay green all year round.

Attorney Havens: Zoning Board to consider whether any use restrictions or any other conditions need to be imposed.

Chairman Malocsay: No.

Attorney Havens: For the ZBA to grant or consider an area variance, they have to consider five statutory criteria. First question, will an undesirable change be produced in character of the neighborhood or a detriment to nearby properties be created by granting the variance? The applicant states no, reason given minimal visibility of the shed from the street. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 2, can the benefit the applicant seeks be achieved by some feasible method other than the variance? The applicant states no. Does the Board agree?

Board Members: Agreed.

Attorney Havens: Question number 3, is the requested variance substantial? The applicant states no. Does the Board agree with the applicant?

Board Members: No.

Attorney Havens: Question number 4, will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district? The applicant states no. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question number 5, is the alleged difficulty self-created?

Board Members: Yes.

Attorney Havens: The applicant has amended their application since it was advertised for a 30 foot front yard setback as opposed to the 40 foot front yard setback that was advertised. Would anyone make a motion to grant the application as advertised with a 40 foot setback or a 30 foot setback as amended?

Diane Bramich: I make the motion—30 foot as amended.

Glenn Ehlers: Second.

Chairman Malocsay: Any further discussion? How do we vote?

Board Members: Aye.

BRADY IRREVOCABLE TRUST, MARY JANE BERINA RAUL, TRUSTEE, and MARK & PAMELA DIGUILIO - regarding property located at 8 Bowen Rd., Warwick, NY 10990 & 204 Brady Rd., Warwick, NY 10990, in the MT district, and designated on the Town tax map as Section 64, Block 1, Lot 75 & Section 64, Block 1, Lot 76 for area variances from Town Code §164-40N, §164-40C for a proposed 3-lot subdivision where, Lot 2 (at ~3.8 acres) and Lot 3 (at ~2.0 acres) do not meet the required 5 acre lot area; and where the newly proposed Lot 3 only has a lot width of 272' where 300' is required.

Representing the Applicant(s): Brian Friedler, Friedler Engineering

Brian Friedler: Brian Friedler with Friedler Engineering. This is a proposed 3-lot subdivision. Right now there's two existing lots; 204 Brady, a little over 7 acres, and 88 Bowen Road just under 5 acres. The applicants are proposing to subdivide it to give equal amount of land to each of the 3 lots. But due to a conservation easement, it's difficult to do that. So proposed lot 3, which will be off of Bowen Road and connect to Brady Road will be about 3.86 acres. Current 88 Bowen Road will go down to 2.054 acres, and 204 Brady Road will be 6.36 acres.

Chairman Malocsay: This is before the Planning Board and the Planning Board can't go ahead further because they're creating substandard lots. Did the Planning Board have any comments?

Brian Friedler: The Planning Board had no negative comments. There are several lots on Brady Road and Bowen Road that are 3 acres/2 acres. There's one that's 1.4 acres. They said 'get your variances, come back and proceed with the Planning work process.'

Attorney Havens: For the record, included in the application is a letter from Planning Board Chairman Benjamin Astorino dated September 18th, 2025, directed to the Town of Warwick ZBA.

Attorney Havens reads:

At the September 15th, 2025 Planning Board meeting, the Board discussed the Brady and DiGuilio 3-lot conventional subdivision and lot line change for two existing dwellings located on Bowen Road and Brady Road with a new proposed dwelling to be located on Bowen Road, AKA Mark and Pam DiGuilio Subdivision situated on tax parcels SBL #64-1-75 & 76, parcels located at 88 Bowen Road and 204 Brady Road in the MT zone and Ridgeline Overlay Number 2, District of the Town of Warwick. The Planning Board came to a consensus on referring the application to the ZBA for area variances needed for lots 2 and 3 lot area, and lot 3 minimum lot width. The lot 2 front yard setback is an unchanged existing non-conforming measurement. Relief may be sought by applying to the Zoning Board of Appeals.

Attorney Havens: There are no current Building Department violations and no GML239 referral is needed because of the subdivision exemption. The applicant needs to address environmental concerns on EAF question 13. Does any portion of the site or proposed action or lands adjoining the proposed action contain wetlands or other water bodies regulated by a federal, state, or local agency? The EAF form states yes. Can you describe that for the Board?

Brian Friedler: Brady Pond is across the street. It's well over 500 feet from any ground disturbance.

Chairman Malocsay: Public hearing is open. Is there anyone from the public that would like to address the application?

Brian Friedler: I have two letters from neighbors speaking in favor of the subdivision.

Chairman Malocsay reads:

To the Warwick ZBA,

Please be advised that we are hopeful that this lot is approved for Mark and Pam (Brady) DiGuilio. Before our family went PDR to give Warwick an exceptional, welcoming, embraceable, gateway into our town, we were promised a building lot for each of our families. Unfortunately, we did not get it in writing since this was the old way. Phil Brady's daughter, Pamela DiGuilio was the only family member who did not

benefit and we are hoping that you finally approval this building lot. Thank you in advance for your cooperation in the matter. Thomas and Patricia Brady, 81 Bowen Road.

This one is dated October 27th, 2025. Dear Mr. Malocsay, my name is Kimberly Brady and I live at 83 Bowen Road with my three children. I was notified about your Zoning Board of Appeals of the Town of Warwick public meeting to discuss the subdivision of the property across the street from my home. I would like the Town of Warwick and Zoning Board to know that I am not opposed to the Bradys and/or the DiGuilios creating this building lot. I would be in favor of having them as neighbors. Please feel free to reach out to me with any further questions. Sincerely Kimberly Brady.

Chairman Malocsay: Brady Farms and PDR. Were these properties in any way a part of that PDR?

Brian Friedler: The conservation easement is located completely on 204 Brady and in the legal description that cannot be subdivided. That's the reason we can't give lots 2 and 3 more land—because we cannot subdivide that conservation easement.

Chairman Malocsay: Does anybody else have any questions on this application?

Attorney Havens: For the record, I've opened the Orange County GIS map showing the lots that are to be subdivided and the conservation easement on one of the lots. On the opposite side of both Bowen Road and Brady Road, there's a much larger easement area that makes up one large conservation easement. And along Bowen Road and Brady Road from the intersection there are numerous small existing residential lots along both roads. The Zoning Board needs to discuss SEQR and given that these are simply lot area and lot width variances, it qualifies as a Type 2 action under SEQR section 617.5C(16) and (17). Would anyone make a motion typing the action as a Type 2 action with no adverse environmental impact?

Bill Cerone: Motion.

Aaron Ubides: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: The next was on the determination of a site inspection. After going through the list of lots that are close in that proximity, there's quite a few of them. So it does fit in the character of the neighborhood. Next one to consider: any use restrictions or other conditions to be imposed. Because it is a new subdivision, the Planning Board will probably take care of most of the things we're not accustomed to on this. Does anybody else have any other questions or comments before we close the public hearing?

Mark DiGuilio: Mark DiGuilio. I don't know when this was determined, but Richard Brady had come before the Board and the farm was grandfathered in under the 3-acre subdivision.

Attorney Havens: Unfortunately, as Counsel I can't comment because there was nothing submitted with the application that specifies these parcels are grandfathered in under the prior zoning code for 3-acres. For the record, perhaps it's spelled out in your conservation declaration. It was recorded, but since it's not in the record before us, we can't reference or rely on that.

Mark DiGuilio: I understand.

Chairman Malocsay: Public Hearing is closed.

Attorney Havens: In considering a variance, the Zoning Board has to consider five statutory criteria. Question number 1, 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 ? The applicant states no. The

reason given is the size of the lots are consistent with those in the immediate area. It will not be out of character with the area and neighborhood. Does the Board agree with the applicant?

Board Members: Agree.

Attorney Havens: Question 2. Can the benefit that the applicant seeks be achieved by some feasible method other than the variance? The applicant states no. The reason given is due to restrictions within the conservation easement, it is not feasible without variances. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question number 3, is the requested variance substantial? The applicant states yes. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question number 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, for the reason that the proposed subdivision will not have an adverse effect or impact on physical or environmental conditions in the neighborhood or district. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Last question, number 5. Is the alleged difficulty self-created? The applicant states yes for the reason the applicants are proposing this subdivision in order to create a building lot for a family member. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Do we have any further discussion? And if not, would someone like to make it into a motion?

Diane Bramich: Motion to grant the application as written.

Aaron Ubides: Second.

Chairman Malocsay: Any further discussion? If not, how do we vote?

Board Members: Aye.