

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

The ZBA discusses cancelling the next (May 26, 2025) hearing due to the upcoming holiday (Memorial Day). It is decided that there will be no meeting held in May. The next hearing will resume as scheduled on June 23, 2025.

Diane Bramich: I'll make a motion that our next Board meeting be held on the 23rd of June and no meeting will be held in May.

Bill Cerone: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

PUBLIC HEARING OF Kraftify Holdings, LLC. – regarding property located in the OI zoning district at 251 State School Road, Warwick, NY 10990, and designated on the Town tax map as Section 46, Block 1, Lot 37 for an Interpretation of Town Code §164-46B(5) and 46E regarding whether or not the applicant’s expansion plans are subject to submission of site plan review and/or special use permit application before the Planning Board, or if a Building Permit may be issued without review, and, if needed various area variances for front and side yard setbacks for proposed improvements. **Continued from the ZBA Meeting of February 24, 2025.**

Attorney Havens: We did receive a request from the applicant for a one month adjournment on the public hearing on that matter. Does anybody have a motion? Any objections, any discussion?

Chairman Malocsay: If they decide that they want to hold off another month is there a timeline?

Attorney Havens: The ZBA is not obligated to accept the request and has the authority to make a determination. We need a motion to grant a request for an adjournment and keep the public hearing open for one more month.

Glenn Ehlers: I'll make that motion.

Diane Bramich: Second.

Chairman Malocsay: We have a motion by Glenn, Second by Diane. All in favor?

Board Members: Aye.

Chairman Malocsay: Motion carried.

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.

Representing the Applicants: John Cappello, Attorney, J & G Law

Attorney Havens: I received correspondence at 4:30 this afternoon from attorneys at Catania Mahon and Rider, PLLC on behalf of neighbors who filed an Article 78 with respect to this application. Orange County Justice McElduff issued a decision dated March 25, 2025 granting the petitioner's application to void the Planning Board approval of the subdivision. Therefore, the prior subdivision approval is null and void and this Board is without legal authority to consider granting relief on an application for a variance because there is no pending application. We need a motion to deny the request based on the inability...

John Cappello: May I approach the Board on behalf of the applicants? I was not provided the courtesy of the letter from the attorney for the petitioner.

Chairman Malocsay: Absolutely. State your name for the record.

John Cappello: John Cappello, J&G Law, on behalf of the Applicants. I disagree with the Petitioner's characterization of the decision. The decision did overturn the Planning Board's determination on a technicality regarding the order that the materials came into the Planning Board.

Attorney Cappello provides further details on the Justice's decision, stating verbatim from the Justice that the ZBA Board's decision was time barred so the Applicant is entitled to the variance. Attorney Cappello further stated they are simply applying for an extension. He stated the Applicants will return to the Planning Board to provide the information in the required sequence.

Attorney Havens: I understand your objection that you didn't have the benefit of reviewing the objections submitted by the petitioner in the Article 78 action. Our Board has not had a chance to review as well. I can share this with you and the Board and we can come back at the next ZBA meeting to discuss it further.

John Cappello: I request that the Board acknowledge receipt of the application from the Applicant in a timely manner since the underlying variance does expire at the end of May, that you received a request to extension and that the Board table that for the June meeting.

Attorney Havens: That sounds fine. How do the other members feel?

Board Members: Good.

Aaron Ubides: I'll make a motion.

Diane Bramich: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed? Motion carried.

PUBLIC HEARING OF Joshua Young & William Young – regarding property located in the RU district at 22 Foley Rd., Warwick, NY 10990, and designated on the Town tax map as Section 29, Block 1, Lot 39.1 for an area variance from Town Code §164-41(A)(1)(a) for a proposed 80'x 30' detached garage with a side open roof overhang with a proposed square footage that exceeds the allowable 1,200 square feet in floor area, and 80' in greatest median dimension where only 48' is permitted.

Representing the Applicant: Joshua Young, Applicant

Chairman Malocsay: Please state your name for the record.

Joshua Young: Joshua Young. This is an application for additional storage; everything's full, basement's full, attic's full. The main reason for the additional storage is an antique car collection that I'm inheriting.

Chairman Malocsay: Does the Board have any questions at this time?

Diane Bramich: Yes. What kind of storage are you storing in a building so big?

Joshua Young: An antique car collection, vintage motorcycle collection, skateboard collection. I have three children that'll be driving soon. We are also looking to apply for agriculture rights in the near future, I'm looking to implement chickens and farming type stuff for my wife and I felt that the overhang and the additional room would give us more capability to do that as well.

Diane Bramich: Is this the only place this garage can be put? This is almost double the size that's allowed.

Joshua Young: Yes. Most of my property is conservation easement. The shaded area on the map is conservation so we can't touch that. The house itself is in the woods; no one can see the house or the property from the road or any adjoining properties. The building we tried to keep in the conservation easement and giving setback so that it wouldn't interfere with any visibility from any level when it's green. That's the only spot it could be implemented.

Chairman Malocsay: Do you have an attached garage?

Joshua Young: There's a two-car garage that is attached to the house.

Chairman Malocsay: The next question is for our attorney: isn't there another accessory structure on the property?

Joshua Young: There is one accessory structure which meets the code, it was approved.

Chairman Malocsay: Can more than one 1200 square foot structure be on the property?

Attorney Havens: So the answer to that question is debatable.

In response to Chairman Malocsay's question, Attorney Havens cites definitions of the code in section 164-22 (floor area of a building) and subsection 164-41a (accessory building).

Attorney Havens: It's subject to determination. The Board has historically granted more than one accessory structure on the property. Whether or not that's permissible under the code is subject to interpretation for the Board to determine. For purposes of statutory interpretation, the courts make it clear when the code is ambiguous, the ZBA is required to interpret the code in favor of the property owner as opposed to contrary interpretation when there are more than one that are equally applicable.

Attorney Havens reminds the Board of the relevant terms to consider by citing the section definition for the term 'building' and code section 164-22 which defines 'private garage'. He provides the definition of 'use' and states to the Board they must consider the intended use of the facility and if it is a permissible accessory use to a primary residence as well.

Chairman Malocsay: Public hearing is open. If anyone wants to address this application, please come up and state your name for the record.

Vikki Garby: My name is Vikki Garby, 38 Warwick Lake Parkway. My backyard abuts Mr. Young's backyard. The pictures show what I see from my kitchen table and my back deck, which is his full barn. Mr. Young says his intent is to store a car collection and motorcycles. But he has a paving business so I'm a little curious as to whether the garage will end up being a storage facility for a commercial paving business. How many buildings can keep going up? What is the precedent if he already has a 1200 square foot pole barn and now he's going to build something twice the size of that? I appreciate that you're saying everything would go in your garage, but there's some equipment that he has behind his barn that's in my view, maybe from his business. My concern is clearly it will be visible from our property. How many more structures can be built?

Joshua Young: I purchased a very large piece of property so I could be secluded and alone with my family. I do not operate my business out of my residence, that is my home and my sanctuary. My business is an asphalt manufacturing corporation where I have 12 acres of commercial property in Hewitt, New Jersey. My trucks and vehicles are registered in New Jersey. All my vehicles are registered in New Jersey. I have a home office which is registered at Holy Road. If I work in the area, I may bring my truck home at night but it is rarely visible. To the left of the photograph is my pool project that went on for two years and we're still trying to get that settled from the construction. I have a lot of drainage and grading problems so I'm constantly under construction trying to rectify. The new building will be on the other side of the pool, which is down in a hole so the grade is much lower than the building you are looking at. I think your concerns are a little bit misplaced in that sense that we don't have a commercial property. I don't want that when I come home at the end of the day, I come home and that's it, I'm looking to shut it down. We do our best not to disturb anybody.

Vikki Garby: Do you have a rendering to show how high the roof would be in relation to your pole barn?

Joshua Young: Yes, we submitted plans with the rendering. Actually this building is shorter than the other building.

Vikki Garby: But do you have like how it would sit up?

Joshua Young: Well, it's in the hole so I would say that the height of the building would be about halfway up to the level of the pool, because the pool and the grading area around the house where the building would be going is probably 15 feet lower than that grade.

Vikki Garby: So where would the roof of the garage be?

Joshua Young: I don't think you could see it. I think this building would cover it, but we're talking about putting it down in the hole at a whole other level. So the grade of my pool is probably level with the foundation of the existing house and the building drops down another 15 feet.

Vikki Garby: That's what we were trying to understand, if it would be as high as the pole barn.

Joshua Young: My property is completely locked by conservation easement, this is the only accessible area. I've worked with many engineers, it's like buried in the ground. So I hope that addresses your concerns and from your line of sight, I think it's going to be camouflaged.

Chairman Malocsay: When we meet again, can you bring in the topo? It's going to be on a survey and it will show the lines. That way we can see that the building is this height at that place. So we see it doesn't interrupt with somebody's view. And if it does it's a possibility for screening, et cetera.

Attorney Havens: Ms. Garby had mentioned they the dimensions of the building being 80 x 30. And the ZBA Board has to make an interpretation as to what the size and square footage of the building is for determining how to classify this application for SEQR purposes. And looking at the the floor plan that I have up on the screen here, it shows the principle accessory building itself has exterior walls of 30 x 80, but there's also an additional 20 foot wide covered area that the applicant mentioned using for storing things. That's an additional 20 x 80 in square footage under the definition of the building as well as the floor area. And so the exterior wall dimensions of this is actually 4,000 square feet as opposed to 2,400 because of the covered storage area.

Joshua Young: It's only one wall. Does that still count? It's open.

Attorney Havens: It's the fact that you have a roof supported by anything, whether it's columns or a wall. It's a roof that is otherwise supported for the purpose of storage or shelter.

Joshua Young: It's not the walls.

Attorney Havens: Correct. You can have an extended overhang up to 3 feet that isn't counted as part of your floor area.

Joshua Young: It's not enclosed, it's open.

Attorney Havens: It's still considered part of the building because it has to be supported and it, and it extends more than three feet beyond the perimeter walls,

Joshua Young: Even though there's no floor.

Attorney Havens: Correct. Even if all you did was put up a carport, 4 poles and a metal roof, that's still a building or structure. Even if it had no walls anywhere.

Chairman Malocsay: There's more people that want to address the application. Sir, do you want to come up? Just remember to state your name.

Michael Sestrick: My name is Michael Sestrick, I live at 30 Warwick Lake Parkway. This is not a 2,400 square foot structure, but a 4,000 square foot structure. I wanted to point out that our neighborhood is a 16-home neighborhood, private road, constructed such that we've got a number of walking trails behind our structures, used quite regularly by the neighbors and children. The walking trails go right next to his property. This structure is very visible to us when we're using those amenities so it's not just the neighbors who are abutting Mr. Young's property, but the entire neighborhood would be affected by putting the structure, 3.5 times the legal non-variance allowed.

Joshua Young: Referring to the walking trails that are on the backside of my property, there's a stone retaining wall that runs there. The building isn't going on that side. It would be literally 700, 800 or 1,000 linear feet from that walking trail, which is in the back, it would be the left side of my property. I don't think the new building's going to be visible on that walking trail because my property corners off in the back.

Chairman Malocsay: Is there anybody else to address this application? We received 9 letters against the application. And that would be most of the neighbors in Warwick Lake Estates.

Joshua Young: How many letters did you receive?

Chairman Malocsay: Nine.

Joshua Young: And they were against it for visibility purposes?

Chairman Malocsay: That and basically the size.

Joshua Young: On the visibility issue, it is specifically why that property was chosen—for that kind of seclusion that we're really not visible by any means.

Chairman Malocsay: The public hearing is going to be held open just in case there's new testimony or the applicant brings something up. Very important, is the topos, because that's going to help us determine the height of the roof from the neighbors and what they're going to be able to see.

Diane Bramich: Why does it have to be so industrial looking?

Joshua Young: Typical to pole barns I'm guessing. We tried to dress it up a little bit. I guess that's a more budget-savvy looking building. A pole barn is very common in this area. That's the go-to building for price and affordability. It is not a steel prefab or a commercial building.

Diane Bramich: It looks very commercial.

Joshua Young: Maybe because it's black and white, I'm not sure. But it is a pole barn.

Diane Bramich: Do you have to have something that large?

Joshua Young: I wasn't aware of what you're actually considering it to be. We thought that was more or less an area for the chickens. It's not fully enclosed. So the fact that you're looking at that as square footage as a part of the building, that makes it sound like it.

Diane Bramich: But you're still going to use that open area for storage?

Joshua Young: No, agricultural. Housing chickens. It would be that 80 x 20 area, which is 1600 square feet with gravel floor. Shelter, yes. I'm not going to put antique cars out there or custom motorcycles or any of that stuff. I would say that area is going to be utilized more for the agriculture side of things and protection, yes, from the weather in some manner.

Diane Bramich: Has everybody seen it?

Chairman Malocsay: So here's one of the issues, everybody's right in that you can only look from the road, see your house, and then look behind it. And it's a long distance. So the pictures really helped.

Joshua Young: It's 3000 feet off the road.

Discussions ensue regarding the distance from the Applicant's house to Pine Island Turnpike compared to the Garby home. Since there is disagreement to the distance, the Board decides a site visit is necessary.

Chairman Malocsay: The public hearing's going to be held open and therefore other neighbors could come to the next meeting. But before we adjourn, we do have business.

Attorney Havens: Yes, in review of the short form EAF application, the answer to question 13 defaults to 'yes' based on County data. The question then asks, 'if yes, identify the wetland or water body and the extent of alteration in square footage or acres.' Can you address that for the benefit of the public and the Board?

Joshua Young: Some of the property is a conservation easement. I'm not exactly sure what's it's called.

Attorney Havens: You pointed out that your property has a stream that runs along the entire length of one side of it. That would constitute a wetland or other regulated water body. If you can address for the record whether or not you're building within 100 feet of that water body.

Joshua Young: That's why the building was proposed in the area that it was proposed because it was far enough away from encroachment to the easement.

Attorney Havens: And question number 15, '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?'

Indiana bat was identified there. If you're planning to clear any trees with a diameter at breast height of 18 inches or greater between March 31st and October 31st, you need to check with the Building Department or DEC and get approval first.

Joshua Young: No, I don't want to take any more down. The property was bought so that it would be secluded and we wouldn't have any of these issues.

Attorney Havens: The final question I need you to address on the EAF, question number 17, 'will the proposed action create stormwater discharge, either from point or non-point sources?' The application states no. You have a 4,000 square foot building with a roof on it that invariably will create storm water discharge of some form. How do you plan on addressing that stormwater discharge?

Joshua Young: From the leader pipes on the building itself, it would be going into the ground around the building. There's no pipe work, no duct work. It would go into the leadering system for the building, and the outflow pipes would come out on the gravel.

Attorney Havens: As noted in the site plans and based on a definition of what constitutes a building—including the supported overhang that's 20 x 80, and the principal accessory storage/garage structure which is 30 x 80, constitutes an overall footprint of 50 x 80, which is 4,000 square feet. Since it is a non-residential building in excess of 4,000 square feet it is an unlisted action under SEQR section 617.5(B). Would someone make a motion typing it as unlisted?

Bill Cerone: Motion.

Glenn Ehlers: Second.

Chairman Malocsay: Any discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed? Motion carried. The public hearing is going to be held open. Any questions? We will give you a call and see about coming over to take a look. The next meeting is June 23rd.

Bill Cerone: Do they need to submit a revised application, 2,400 square feet to 4,000?

Chairman Malocsay: There is also the issue of a second accessory structure. Is it an aggregate?

Attorney Havens: It didn't have the square footage calculated, but it did specify 80 x 30, not 80 x 50. So yes, it would require an amended application to get approval for the 80 x 50.

Joshua Young: So if the building stays as it is, we need to do an amended application.

Attorney Havens: Correct.

Joshua Young: If I delete the overhang, we don't have to.

Attorney Havens: Correct.

Joshua Young: I'd like to play with that myself because I wasn't familiar with that being considered as that may have bearing on footage.

Bill Cerone: And one other item on the site visit, if we do choose to do one for Mr. Young, do we want to wait to see if that overhang is going to be subtracted or included before?

Chairman Malocsay: Because of the size already being more than 1200 square feet, I would rather see it from his property as soon as possible before the leaves come out.

Attorney Havens: Whether there's an overhang or not, your perspective viewing of the site isn't going to be significantly different.

Joshua Young: And you'll call to arrange that?

Chairman Malocsay: Yes. I think you'll end up getting individual calls. If I can team up with one other person and make you only have three visits instead of five.

Board Members discuss scheduling a site visit. Glenn Ehlers states he would like to set a date during this hearing, but other Board Members agree it would take too much time to set a date convenient for all Members on the spot at the moment. There is still another application waiting to be heard as well.

Joshua Young: So you'll advise when that will be?

Chairman Malocsay: Yes.

Joshua Young: Okay, no problem. Is there anything further?

Chairman Malocsay: The topo, it's important. The public hearing is still open and will resume June 23rd at 7:30 pm.

PUBLIC HEARING OF Dale A. Creamer & Sydney Creamer - regarding property located in the MT district at 491 Newport Bridge Rd., Pine Island, NY 10969, and designated on the Town tax map as Section 10, Block 1, Lot 66.72 for an area variance from Town Code §164-41(A)(1)(a) for a proposed 72' x 48' detached garage with a side open roof overhang with a proposed square footage that exceeds the allowable 1,200 square feet in floor area and 80' in greatest median dimension where only 48' is permitted.

Representing the Applicant: Keith Woodruff, Engineering & Surveying Properties

Chairman Malocsay: Please state your name for the record.

Keith Woodruff: Keith Woodruff from Engineering & Surveying Properties. The Applicant proposes a 72' x 48' garage with an 8' overhang on 57 acres. The structure will be 234' from the closest property line and 900+ feet from the nearest residence on Newport Bridge Rd. It's going to have a proposed access off of the existing driveway and 3 bays. The structure height will be less than 26' and the architectural styling will match that of a barn structure.

Keith Woodruff continues to brief the Board and the public with details of the diagram:

Keith Woodruff: The blue outline on this Google imagery is the residence prior to construction. The clearing was performed and the driveway access was constructed. The proposed garage structure's going to be here, and this is the connection point to the existing driveway. There is a State Park to the back.

Attorney Havens: For the benefit of the Board and the public, this application is in the Mountain Zone and also within the Ridgeline Overlay. Keith, can you identify what the blue line is on the property?

Keith Woodruff: Yes, the dark blue line that encompasses the property itself is the Ridgeline Overlay. Any construction of structures within this area has to meet certain design criteria colors so that it is less visible from any other adjacent properties. The dwelling is located outside of the Ridgeline Overlay and the barn structure will also be outside of it.

Attorney Havens: And for the benefit of the public as well as the Board, the Ridgeline Overlay regulates areas of town in excess of 600 feet above sea level. Within the Ridgeline Overlay, construction and buildings are regulated. And so I presume that your elevations are probably below 600.

Keith Woodruff: Correct. The deed for the property has already been restricted against the Ridgeline Overlay notes. So as part of the notes on the plan, it does note the deed and the date it was filed with the Orange County Clerk.

Attorney Havens: Anywhere within these plans, do you happen to have elevations?

Keith Woodruff: Just the rendering.

Attorney Havens: To the best of my knowledge there's no known Building Department violations. GML 239 referral was submitted April 14th because this property is within 500 feet of the Pochuck State Forest Park. There's been no response as of yet so we don't have authority to make the determination.

Keith Woodruff: Does the Board have the ability to...I don't know if they opted into the certain requirements that are allowed like the waivers that the Orange County Planning offered certain municipalities for certain variances?

Attorney Havens: I'd have to look as to whether or not it would've otherwise qualified for an exemption, but with respect to certain limited variances for back and side yard setbacks that's it; this doesn't fall within those specific limited exemptions.

Keith Woodruff: Do you have the date that the GML 239 referral was sent?

Mary Garcia: It was sent on April 14th.

Chairman Malocsay: Does the Board have any questions before we open it up to the public? Because I have one. Why does the building have to be so big?

Keith Woodruff: There's no requirement to it being a certain size. The residence itself is an overly large structure, so the barn structure is smaller than the residence. There's nothing that precludes somebody from building an overly large size home.

Chairman Malocsay: That's not 100% accurate. It's an accessory structure. There has to be a reason that you're asking for more than the 1200 square feet.

Keith Woodruff: It's a 57-acre property. If you store any kind of agricultural equipment, tractors, logging equipment, and you have a large structure or a large property, there is going to be other equipment that could be stored there. This is the only accessory structure on the property that will not be visible from any other adjoining properties. But as far as a classification of what can and can't be put inside the structure, that we don't have. It's not going to be for business use. It's going to be an accessory to the dwelling itself and an accessory to maintaining the property.

Chairman Malocsay: We need a reason that it's going to be that size. It looks like whatever's going in there is going to be pretty big because it looks like they're 14' high doors.

Keith Woodruff: I'm sure it's not going to be tractor trailers. It's not going to be anything that's an overly sized commercial vehicle. You have 50 acres, you have 1 or 2 tractors, that's already half the garage, especially when you take maintenance into account. If you have a stockpile of excess tires, space runs out quick. The code does limit 1200 square feet, but there's nothing that prohibits him from having multiple 1200 square foot barn structures on the property.

Chairman Malocsay: Because of the way that the code reads, we're going to do an interpretation to make sure we're on the same page with that.

Keith Woodruff: We're not exceeding or even getting close to the overall lot coverage for any kind of floor area ratio. So if 57 acres, the ratio itself has the number of dwellings or structures and to your attorney's point, it does have provisions in the code that does list accessory structures, plural. It does have to the aggregate, it does say that you can't have those structures again, plural within the setbacks and so forth. So in this instance, the setbacks are 75'; we're 200'+ away from the setbacks. There is a commercial business across the street which has numerous accessory structures that are of this size or larger. So it's not outside the norm as to what's currently in the neighborhood. It is, again, residential that's going to be an accessory to the primary structure.

Attorney Havens: On the site plan it identifies that the main structure is 48' x 72', that it's 80 linear feet in the longest median dimension, including the overhang, and the overhang is 8' x 8'.

Keith Woodruff: It would be an 8' overhang on the front portion of the building.

Attorney Havens: So we need the long distance on these so that we know the square footage because that is a supported overhang so it counts towards the square footage for purposes of the variance.

Keith Woodruff: It's 8 x 25. So the length dimension along this side is 25' and 25'. So it'll be another 336 square feet. And 3,792 would be the total square footage.

Chairman Malocsay: This application is now open to the public. Would anybody from the public like to address it? State your name for the record.

Bill Streck: Bill Streck. I'm a neighbor and have a question about usage of the structure because we've noticed an increase in TV use after hours and many vehicles late night. I'm wondering if the usage is part of the application?

Chairman Malocsay: As far as late night activities, ATVs, we do have Code Enforcement for those things. Anybody else?

Keith Woodruff: The property owner is here. If you want to answer any questions in regards to either TV usage or if you asking for more clarification as to what's going to be stored within the structure...

Chairman Malocsay: The only question I have is nothing to do with the ATVs, but as far as the storage.

Attorney Havens: So for the benefit of the applicant, the Board and the public, as the Chairman noted earlier, one of the things that the Zoning Board of Appeals is required to consider is what is the hardship or practical difficulty that warrants a variance as opposed to requiring the property owner to conform to the zoning code. And if there isn't some form of hardship or practical difficulty, then what's the rationale and a basis for the ZBA to grant a variance from the code? So essentially the question he's asking is why does it need to be so big in excess of what's permissible?

Dale Creamer: Dale Creamer. A boat on a trailer takes up one full bay of that. We intend on getting a camper trailer, which are 45' long. So those would take another bays. The remaining bay would be for storage shelves. It's a big property so eventually I'd like to get Christmas decorations, sleighs, and that takes up a lot of room. My garage is maxed out; I have stuff outside sitting in the weather.

Attorney Havens: Your 1700 square foot garage is maxed out already?

Dale Creamer: Yes, maxed out. It was prior to me even moving into this house. I had an accessory garage at my previous house as well. So when I moved here I didn't build the accessory garage because I needed the main structure to be in place first. And now I'm trying to do that and it takes a lot of equipment to maintain that. I'm out there quite a bit trying to just keep control of everything. With the ATVs, my neighbor here can attest that I don't know half these people who use my driveway and his driveway without permission.

Chairman Malocsay: Unfortunately, we can't make a decision because we haven't heard back from the County. We will leave the public hearing open for the County response.

Aaron Ubides: I have a question. Because this has changed, does he have to make an amendment for the application? Square footage again.

Attorney Havens: Yes. You should submit a written request to amend the application and to include the additional overhang because we could not articulate based on the plans that were provided to us, what the actual dimensions were.

Keith Woodruff: Okay.

Chairman Malocsay: We do need to address a neighbor complaint letter that was submitted on this application. We received one letter from Susan McCosker dated 4/23/25. Her concerns were mostly about water runoff.

Keith Woodruff: The date she's drawing attention to is July 14th, 2023. We were in the middle of a large rainstorm that carried over 8 days where we received 7.7 inches of rainfall. That was during the time of construction. If you look at the image, *(Keith Woodruff refers to the image that Attorney Havens is showing on the screen of Dale Creamer's property)*, you can see that the dwelling had not been constructed at that time and the driveway wasn't paved. The swale on the side of the driveway wasn't completely constructed at that point either. So the runoff she's referring to was during the construction of the home where grass and drainage paths weren't established. It was just the influx of the storm that caused that runoff.

Chairman Malocsay: So you had more than an acre disturbed and so you had a plan.

Keith Woodruff: The Stormwater Pollution Prevention Plan. As part of that they put in some rain gardens and treatment practices. The swales act as a continuation to the runoff and also provide a little bit of treatment to de-sediment the actual runoff. And to that point the proposed barn structure would also be discharging to some of those practices that would convey and treat the stormwater. The property owner did maintain it. DEC was notified by the adjacent owner, and showed up at the site. No formal written warnings were issued, no citations. DPW has driven by he cleaned the road itself, tried to remedy as much as he could due to that runoff. But subsequent to that, now the construction has been completed. There hasn't been any other complaints and DPW hasn't issued anything else. And I have documentation on the rainfall if you need.

Attorney Havens: So with respect to the EAF short form, question 10, 'Will the proposed action connect to an existing public or private water supply?' The application states yes, private well. Is there going to be water service in the proposed barn/garage?

Keith Woodruff: Not proposed. The answer was yes to number 10 and 11 just because the residence is being served by private water and private sewer. The accessory structure will only have electric use.

Attorney Havens: So then the answer on that should be 'no', because the particular action in question is not going to connect to an existing public or private water supply.

Attorney Havens: Same thing for 11 regarding whether or not it's going to have wastewater, utilities. You can amend question 11 to state no if there's no water or sewer associated with this particular accessory building. Question 13a, 'Does any portion of the site of proposed action or lands adjoining the proposed action contain wetlands or other water bodies regulated by a federal, state, or local agency? Checked off, yes. And stated the property contains existing federal wetlands, no disturbance to them as proposed.

Keith Woodruff: Correct. There is a federal wetland that was previously identified to the south of the structure. We're well outside any proposed disturbance on the wetlands.

Attorney Havens: Number 15, 'Does the site of the proposed action contain any species of animal or associated habitats listed by the state federal government as threatened or endangered? The application states yes and identifies the Indiana bat. Are you aware of the tree cutting limitations from spring to fall?

Keith Woodruff: Yes.

Attorney Havens: Question 17, 'Will the proposed action create stormwater discharge, either from point or non-point sources?' The application states yes but I didn't see any explanation. Please address that for the benefit of the Board and the public.

Keith Woodruff: By creating additional impervious surface, we're going to increase any kind of stormwater runoff. But it will have to travel a tremendous distance before it reaches any adjacent properties. There is existing swales that traverse the paved driveway as it traverses down back towards Newport. The stormwater that would be collected or discharged from the barn structure as well as the pavement would be directed towards those swales.

Attorney Havens: So given that the newly clarified and calculated square footage of the proposed structure is 3,792 square feet, it is a non-residential building under 4,000 square feet and therefore qualifies as a Type 2 action under SEQR section 617.5 C, subsection 9. Would anyone care to make a motion typing the action as Type 2 with no adverse environmental impact?

Bill Cerone: So moved.

Aaron Ubides: Second.

Chairman Malocsay: Any other discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed?

Board Members: No.

Keith Woodruff: So if we're a Type 2 action, do you want us changing the EAF?

Attorney Havens: It's no longer necessary.

Chairman Malocsay: Again, we have we have to hold it open because we need the response from the County. If no one has any other questions, we'll see you June 23rd.

OTHER CONSIDERATIONS:

Chairman Malocsay: We have two months' of ZBA minutes to approve; 2/24/25 & 3/31/25.

Diane Bramich: I make a motion to approve the February 24th minutes.

Glenn Ehlers: Second that one.

Chairman Malocsay: We have a motion and a second. Any other discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Motion carried. Do we have a motion for the March 31st minutes?

Aaron Ubides: I'll make a motion to approve.

Glenn Ehlers: Second.

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

Board Members: Aye.

Chairman Malocsay: Motion carried.

ADJOURNMENT FOR ZBA MEETING APRIL 28, 2025

Diane Bramich: Motion to adjourn.

Seconded by Aaron Ubides; Motion carried.