

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted via Zoom webinar on *Wednesday, August 19th, 2020*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman (absent)
Adrian C. Hunte
Eileen Henry
Thomas Walsh
Frank Franco
Cristin Jacoby
Chris Beloff

Also Present

Chris Kehoe, Deputy Director for Planning
Joshua Subin, Assistant Town attorney

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Mr. David Douglas stated I'll note that Mr. Chin is not able to attend today and on behalf of all the members of the board, I want to wish him a speedy recovery from the medical procedure that he just underwent.

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ADOPTION OF MEETING MINUTES FOR JUNE 17, 2020

Mr. David Douglas asked the first item is the adoption of the meeting minutes from June.

So moved.

Mr. Josh Subin stated you might want to put Chris in so he can vote on the adoption. You've got to put him forward because he's...

Mr. David Douglas stated that's right. Mr. Beloff is an alternate member of the board and he'll be participating in this meeting today. I don't think I need to make a formal motion for that, just a matter noting for the record that Mr. Beloff will be sitting in with us.

Mr. Josh Subin stated the way I think we wrote it was that you put him forward and once you do he's in.

Mr. David Douglas stated I think somebody made a motion for adoption of the minutes for June?

Seconded with all in favor saying "aye".

Mr. David Douglas stated those minutes are adopted.

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ADJOURNED PUBLIC HEARINGS:

- A. Case No. 2019 – 13 Application of Elizabeth Holloway of Station Glo of New England,** for the property of Ibrahim Jamil, for an area variance for additional signage at the existing Mobil Gas Station located at 2225 Crompond Road (Route 202).

Mr. David Douglas stated I believe that at our last meeting we had asked that Mr. Kehoe send a notice to the applicant indicating that if we didn't hear from them and provide the information that we requested the case would be deemed abandoned. Mr. Kehoe, could you fill us in on where that stands?

Mr. Chris Kehoe responded I sent an email and then I followed up with a letter I believe from mid-June I think which I copied and sent to the board. There has not been any communication on this project since probably April or May. So there was no response to the letter warning of the possibility of the project being abandoned.

Mr. David Douglas stated I think that we should probably make a motion to have the case deemed abandoned. Mr. Walsh I think this is your case.

Mr. Thomas Walsh stated it's case number 2019-13 for 2225 Crompond Road for an area variance, I make a motion to close the public hearing and deem it abandoned. Is that correct?

Mr. Chris Kehoe responded correct, and practically speaking, that means if they were to come back they would have to pay a new application fee, be assigned a new number.

Seconded with all in favor saying "aye".

Mr. David Douglas stated the case number 2019-13 is deemed abandoned.

B. Case No. 2019-14 Application of Elizabeth Holloway of Station Glo of New England, for the property of GTY NY Leasing, Inc. for an area variance for additional signage at the existing Mobil Gas Station located at 2072 E. Main St. (Route 6).

Mr. David Douglas stated we've got a similar situation with the next case which is case number 2019-14 which is an application of Elizabeth Holloway of Station Glo New England, this time for the property of GTY NY Leasing seeking an area variance for signage at a gas station that's located at 2072 East Main Street. Mr. Kehoe, the situation's the same for that?

Mr. Chris Kehoe responded yes, same factual circumstances.

Mr. David Douglas stated Ms. Henry, I think this one's yours.

Ms. Eileen Henry stated I move that on case 2019-14 property addressed 2072 East Main Street that we close the public hearing and deem the case abandoned.

Seconded with all in favor saying "aye".

Mr. David Douglas stated case number 2019-14 is deemed abandoned.

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NEW PUBLIC HEARINGS:

A. Case No. 2020 – 5 Application of Ed Mauro on behalf of Brad Fredman for an area variance for accessory structures, a pool and deck, for property located at 1848 Spring Valley Road.

Mr. David Douglas asked Mr. Mauro, you're here?

Ms. Rosemary Boyle responded Mr. Chairman, Mr. Mauro is here. I'm going to promote him to be allowed to talk. Mr. Mauro we're about to have you do that.

Mr. Ed Mauro responded hello board.

Mr. David Douglas stated I'm going to turn this over to Ms. Henry. This is her case.

Ms. Eileen Henry asked Mr. Mauro, do you want to proceed with your presentation?

Mr. Ed Mauro responded yes. I am the architect for the project for Brad Fredman's project. Mr. Fredman is proposing an above-ground pool with a wrap-around deck that estimated square footage is 1,279 square feet. We meet all the zoning code regulations up and to the fact that it

was brought up that the tennis court that resides on the property had never been issued or granted a Zoning Board approval. Due to that it has pushed our accessory structures over the allowable limit. We are seeking approval from the board to be allowed to still build our above-ground pool with wrap-around deck.

Ms. Eileen Henry asked Mr. Mauro, do you know why the tennis court never got Zoning Board approval?

Mr. Ed Mauro responded no. It was my understanding that it was done under prior administration and that it was missed or it might have been ruled as another type of structure at the time that it was submitted. I wasn't involved in that portion of the project. Martin had ruled it that way so we're just going through the process now.

Ms. Eileen Henry asked and Mr. Kehoe, do you have any additional information on that?

Mr. Chris Kehoe responded no. I believe that is my understanding as well. There's going to be a lot of people passing the buck. Between Josh and Martin, and myself, no one was there in that office in 2015 so I don't really know the answer.

Mr. Josh Subin stated the one thing I will say Ms. Henry, I believe in talking to Martin, that it was on the plans at that time whether it was missed or not and not assigning blame or anything, as I said, Chris, I and Martin were not there but it was there at that time. It wasn't hidden by the applicant.

Ms. Eileen Henry asked so what you're saying is the square footage of the proposed tennis court was on the application and the application was fine, it just fell apart after that somehow?

Mr. Chris Kehoe responded my understanding is whatever permits needed to be issued were issued for the tennis court and a certificate of occupancy or completion was also issued. So everything having to do with the construction of the tennis court followed all of the rules and procedure with the exception of the referrals of the Zoning Board.

Ms. Eileen Henry asked Mr. Mauro, do you have more you wanted to add?

Mr. Ed Mauro responded no. Actually, that's where we were hung up is we didn't know where to go with that because of the tennis court which is significantly over the allowable accessible accessory structure.

Ms. Eileen Henry stated okay.

Mr. Ed Mauro stated otherwise we wouldn't – if the tennis court was already approved we'd be fine but we're looking for information from the board or approvals from the board on this.

Ms. Eileen Henry asked I have just a couple of questions. Where would the pool equipment be located?

Mr. Ed Mauro responded the pool equipment will be located under the existing upper deck. There's already an existing upper deck that is tying into the new pool deck that's going to lower it to grade.

Ms. Eileen Henry asked is that visible from...

Mr. Ed Mauro responded it is not. It's going to be tucked in the back corner of the existing structure and screened in.

Mr. Thomas Walsh asked Chris, is there an elevation plan that we could look at?

Mr. Chris Kehoe responded I don't know.

Mr. Ed Mauro responded yes. There is Chris. It should be page – the next page.

Mr. Chris Kehoe stated the drawing set.

Mr. Ed Mauro responded architectural. Yep. I think if you just keep rolling through you'll get to the elevations. That should be a one I believe and then the next page down. There you go. Next page is the – oh wait, nope. I only gave you that, those two elevations it looks like. But that's the side elevation, number two that's on screen, is the side elevation, all the way to the right. The screening is not shown coming down the stairs from the upper deck but the pool equipment where your cursor is, is where the pool equipment is going to be. It's tucked in that back corner. And there'll be lattice coming downstairs. I just didn't show it at the time.

Ms. Eileen Henry asked do you have any idea what the noise level is of the pool equipment?

Mr. Ed Mauro responded I do not, actually.

Ms. Eileen Henry asked and the whole pool is above ground right?

Mr. Ed Mauro responded that is correct.

Ms. Eileen Henry asked and how deep is that?

Mr. Ed Mauro responded I believe it's – I want to say it's 42 inches.

Ms. Eileen Henry asked do you know how the pool will be winterized? I'm not familiar with above-ground pools so I don't know if it has to be drained completely or...

Mr. Ed Mauro responded it will be partially drained and then there'll be a cover put across and secured to the new proposed wooden deck. It's similar to a low-ground one. You just fasten it to the wood deck surface instead of the masonry.

Ms. Eileen Henry asked can you give me an idea of how high that pool and that deck will sit?

Mr. Ed Mauro responded it sits – in the lowest part of the grade it is 7 ½ feet to the top of the railing or 4 ½ feet to where the deck surface is. So 4 ½ feet to the deck surface or top of the pool. The grade drops off a little bit and we do have to cut 6 inches into grade on the uphill side but it would be 4 ½ inches from the back lawn, 4 ½ feet, I'm sorry.

Ms. Eileen Henry asked do any of my colleagues have any questions?

Ms. Adrian Hunte stated I think we requested some information, this is Adrian Hunte, concerning the shed that's 216 square feet whether that has a permit or what the status of that is. Do we have any more information?

Mr. Ed Mauro responded I don't have...

Mr. Chris Kehoe stated I did not confirm that but my impression is based on the information provided by the Code Enforcement office, which we added to the fact sheet, that the 216 square foot shed is included in the overall accessory structure calculations. I have no reason to believe it hasn't been issued a permit but, once again, I should have...

Ms. Rosemary Boyle stated Chris, you cut out while you were talking because you turned your head.

Mr. Chris Kehoe stated I need to confirm whether it actually had been issued a permit. My understanding is the square footage associated with that is included in the calculations.

Mr. Ed Mauro responded that is correct. Martin, the building inspector and I had sat down on quite a few times to work out the coverage of square footage. So we were making sure we were assigning them in the right location. And the shed never came up that it wasn't permitted so maybe Martin would have already assumed that that was permitted or looked at that was already permitted so he never brought it up to my attention.

Mr. Frank Franco asked this is Frank Franco. I was just wondering also on the sides of the pool, is there a plan to put any bushes or foliage in addition to what's already present?

Mr. Ed Mauro responded no. Not at this time. Screening the bottom of the pool for right now. There is another page that actually shows more elevations. No we weren't planning any plantings at this time. Chris, if you go to page A3 in this set it shows you the back elevation of the house looking back in towards the pool above grade, just keep scrolling through those. There you go. Scroll to the – yep. There's the rear elevation of the house with the pool added to it.

Ms. Eileen Henry asked any other of my colleagues with questions? Are there any members of the public who would like to speak about this?

Mr. Ed Mauro stated I believe Mr...

Ms. Rosemary Boyle stated in order to do that, yes I see they're putting up their hands now. I'm going to allow Rosemary Hawkins Sanzari to speak first. Thank you for raising your hand Rosemary.

Ms. Rosemary Boyle – Ms. Sanzari asked can you hear me?

Ms. Sanzari responded yes.

Ms. Rosemary Hawkins Sanzari asked can you see us?

Mr. David Douglas responded no we can't see you.

Ms. Rosemary Hawkins Sanzari stated just audible. Okay. I'm here with my husband Paul Sanzari and we are concerned because, and Paul you interrupt me, this is really your speech. The addition of the tennis court was pretty intense. The number of trees that were removed as well as the rock ledge that was removed in order to put up the tennis court was significant. We just don't understand how all necessary approvals could not have been issued and would like a little more detail on that, and confirmation about the square footage is of the proposed additional structure which would be the pool and the deck. We had sent in a letter asking that the application for a variance be denied because of the number of activities that would be occurring very close to our backyard. If – Paul, do you want to say anything?

Mr. Paul Sanzari responded yes. If I sound hostile, I apologize because I usually am. I'm an architect and I did this subdivision almost 20 years ago. We moved here in 1974 and I've been living here for many years. I want to challenge the architect on one statement that he made. He said the pool was going to be tucked under the overhang of the house.

Ms. Rosemary Hawkins Sanzari stated the equipment.

Mr. Paul Sanzari stated the equipment. It's nowhere near it and I'd like him to prove where he thinks he's going to put all this equipment and how it's not going to be visible, audible and visible to us only a few feet on the other side of the property line.

Mr. Ed Mauro asked Paul do you want me to comment? This is the architect. This is Ed.

Mr. Josh Subin stated Eileen you need to recognize if you're going to turn it over to – if you'd like that question to go to...

Ms. Eileen Henry stated I would like that question to go to Mr. Mauro please.

Mr. Ed Mauro stated Chris, if you can go in that drawing package, the next page I believe it's A1. If you scroll up, if you go up to the foundation plan of the decks a little over to your left, now go up. The pool equipment will come up – just keep going up. The pool equipment is tucked under – the pool equipment is actually tucked right where Chris's cursor is underneath the inside corner of the house so it's protected by a foundation from your house, the noise as opposed to the decibels that the equipment puts out, I do not have that information nor would I actually get an understanding it because I'm not an audio engineer. I'm an architect.

Ms. Eileen Henry asked Mr. Mauro what's the size of the pool?

Mr. Ed Mauro responded it is 14 feet by 30 feet. Sorry, it's on screen.

Ms. Rosemary Hawkins Sanzari stated the pool is [inaudible].

Ms. Adrian Hunte asked can you repeat that. I'm sorry, we couldn't hear.

Ms. Rosemary Hawkins Sanzari asked is that the dimension of the pool or the pool and the deck?

Mr. Ed Mauro responded no, just the pool itself is 14 by 30. It's actually the smallest pool that we found above ground.

Ms. Rosemary Hawkins Sanzari asked how far from our property line would the edge of the deck be and the equipment?

Ms. Eileen Henry asked Mr. Mauro, would you like to take that?

Mr. Ed Mauro responded sure. Give me a second. I have to get to that site plan. The edge of the deck is 71 feet from the property line and the equipment is – I'm going to call the equipment 80 feet away from the property line.

Ms. Rosemary Hawkins Sanzari stated thank you.

Mr. Ed Mauro responded you're welcome.

Mr. Paul Sanzari stated I'd like to chime in again, if I can. Our primary concern here is screening both visually and audibly. I put up, we put up along the property line when the pool, when the tennis court was built, we put in eleven seven-foot trees which have now grown to be twelve foot and has acted as a great screening [inaudible] but now with this addition, it doesn't serve a purpose for the addition. So we need additional screening. In addition, when you go to the end, the back of our screening trees, the children often play in that area, play in the wooded area and they have a clear view into our private spaces in the house. We want to close that off. So we have

surveyed all of this, measured it and know what we need and we would like that brought into the discussion.

Ms. Eileen Henry stated Mr. Sanzari can you provide the Zoning Board with that survey and – we know what your request is.

Mr. Paul Sanzari stated it's a survey that we did, my wife and I, walking the property because it's very close and easy to do and we did that. But somebody wants to look at the trees that we have put in and you're welcome to come here and inspect it. And you can even see the views that we're concerned about. It would be great if a member of the Zoning Board could come and look and let us express our concern. That would be a very useful purpose so everybody knows what we're talking about.

Ms. Eileen Henry stated you should know that I've been out there twice and I've looked around myself and I think that other members — we usually do a drive-by and stop and check out different cases that we have. And like I said, I know I've done it twice. And you've articulated your concerns well in the letter and feel free to take more time now if you'd like. In the beginning of the conversation, Mrs. Sanzari mentioned that the tennis court was intense. Was that a reference to the building of the tennis court or was that a reference to it just being there since 2014?

Mrs. Sanzari responded the building was – what did is it?

Mr. Sanzari responded rock removal.

Mrs. Sanzari continued the rock removal, that was loud but the actual structure itself is – well I refer to it as the Mayan temple. It's big but our tree plantings have provided us with a lot of privacy as they've grown over the years, but that was at cost to us. We had initially requested that there be plantings put in along our side of the property and there weren't so we took the action ourselves. I'd also like to say, we did not get notice of this meeting. A neighbor of ours told us about the sign in front of the Fredman's property so we drove by it and looked. Our activities have been circumscribed by Covid-19 and our age. So we weren't out and about as often as we would normally be.

Ms. Eileen Henry asked Mr. Kehoe, do you want to address that?

Mr. Chris Kehoe responded I have to confirm the mailings. Let me check that.

Mr. Ed Mauro stated this is the architect. Can you still hear me?

Members responded yes.

Mr. Ed Mauro stated if you want I'll look on the screen and I'm sure you already are. These are the photographs we submitted after Mr. Sanzari sent the letter in to the board. This shows the

plantings that currently abut his property line. So we had actually submitted these just to show you what's going there if you guys hadn't actually gone out to the site.

Mr. Paul Sanzari stated those trees you see now in the picture are the trees that we planted. That's our screening on our side of the property line.

Mrs. Sanzari stated no this is theirs. This is from the Fredman's property.

Mr. Sanzari stated I know. Their property looking at our trees over here.

Mrs. Sanzari stated anyway, it's – the location of the pool would be close to our property line and our backyard. We had requested that if the variances be granted for both the existing tennis court and a new pool that some additional planting be provided to help mitigate the sound.

Ms. Eileen Henry stated we do have that request.

Mrs. Sanzari stated thank you.

Ms. Eileen Henry asked Mr. Mauro, are there any trees scheduled to be removed for this construction?

Mr. Ed Mauro responded no, the planned deck and pool are actually almost in line with the existing upper deck right now and they're actually going to be farther away from the property line than the current house by roughly 18 feet farther away than it currently resides.

Ms. Eileen Henry asked and you mentioned that you would have to cut about 6 feet into the ground.

Mr. Ed Mauro responded no, only about 6 inches.

Ms. Eileen Henry stated I'm sorry 6 inches. Terrific.

Mr. Ed Mauro stated the ground is the flattest part of the land of the property.

Mr. Sanzari stated I think it's important to note, regarding the tennis court, 27 trees, major trees were removed from the backyard. It's not just an easy scar to erase. It's there permanently. The trees are gone and I have no reason to believe that there aren't going to be more trees going when they want to go on the other side where the children are playing nowadays in the woods which I'm not so sure it's something they should be doing.

Ms. Eileen Henry asked is there...

Mr. Sanzari asked let me just ask this again, is it possible to have, and I'm not looking to really burden anybody but I chaired the Planning Board in Ossining for many years. I know what an

effort it is. Is it possible to have a representative of the Zoning Board just come here and walk the inside of the property so you could see what our concern is? Not from the street, not from Spring Valley Road but from the backyard. That's where the house is and that's where the windows are. Is that asking too much?

Ms. Eileen Henry asked Mr. Chairman?

Mr. David Douglas responded if members of the board think that it might potentially be helpful to do that sort of a site visit, then we can arrange that. I mean, pre-Covid, we would set up a time that we would all go together. If we have a site visit, because I'd ask Mr. Kehoe, if we could do this in a socially distanced way, is that something that we're still allowed to do under whatever town regulations and maybe rules and procedures during the Covid era?

Mr. Chris Kehoe responded yes, the Planning Board did a site inspection back in May and they're doing one next Sunday. Obviously, everyone comes in separate cars and we wear masks but yes, it's permissible.

Mr. Sanzari stated that would be much appreciated and I think would put a lot of issues to rest so that we don't have to belabor some points. I know the effort it would take and I don't want to repeat myself. I know I've been on your side of the fence for many years so I'm sympathetic to what you have to do and I know you are sympathetic to our feelings. We've been here a long time. I created this subdivision and I don't want this to be an activity area in my backyard because that's where it's headed. It's an activity area of a lot of people and children, and noise, and activity. I think everybody knows what I'm saying.

Mr. David Douglas stated speaking for myself, I do think it might be useful for me to be able to go on such a site visit.

Mr. Sanzari asked who's that speaking?

Mr. David Douglas responded I'm sorry, it's David Douglas.

Mr. Sanzari stated hello David. Thank you.

Mr. David Douglas stated I think that that would be useful for me.

Ms. Eileen Henry stated that would be useful for me as well. I would like to see them.

Mr. Frank Franco stated I agree as well. This is Frank.

Mr. David Douglas stated I think, Chris, what we usually do, we haven't had a site visit in a while. Nobody has gone anywhere for a while, but we usually we try to do it on a Saturday before the next meeting if that works for people.

Mr. Sanzari stated we are available almost any time you may want, during the week or on a weekend. I have to hobble a little bit with a cane, so bear with me.

Mr. David Douglas stated actually, let me retract that because as I'm talking, looking at my calendar and the Saturday before the next meeting is Rosh Hashanah which affects me. I don't know if any other people are affected or not but I can't do it that day.

Mr. Chris Kehoe stated I can't do it the 13th and then the 6th I think, no sorry, the 12th I can't do it and then I think the 5th is the Saturday of Labor Day weekend.

Mr. David Douglas asked can we do it Sunday?

Mr. Josh Subin stated I don't think I need to come unless you guys want me there.

Mr. David Douglas stated no, you're invited but we don't...

Mr. Josh Subin stated I don't think you need my legal representation.

Mr. Ed Mauro asked can I chime in again? This is the architect.

Ms. Eileen Henry stated sure.

Mr. Ed Mauro asked what would the site visit be for?

Mr. David Douglas responded speaking for myself, particularly having to do with screening. I would like to see what...

Mr. Ed Mauro stated more so than what the photographs...

Mr. David Douglas stated I found the photographs quite helpful except that photographs show a certain amount from a certain angle but I think it's helpful to be there...

Mr. Ed Mauro stated the last photograph's actually you'd be at the back of the pool in the middle of the backyard looking towards Mr. Sanzari's, I apologize for your last name, direction. You could see those are [inaudible] trees.

Mr. David Douglas stated the photographs are quite helpful. I just think that the suggestion of a site visit makes sense.

Mr. Ed Mauro stated I thought there was already one completed.

Ms. Eileen Henry stated no, there was not a group site visit.

Mr. Sanzari stated but keep in mind, the photographs show the trees that are there now which are screening for a different purpose. We are now talking about two different areas entirely that are totally unscreened. That's why I'd like to have you out here.

Mr. David Douglas stated I agree. We'll find a date.

Mr. Ed Mauro asked what area is he speaking to? I don't see where we would be responsible to add screening to hide the tennis court that he's...

Mr. Sanzari stated no, I don't want you to hide the tennis court. I want you to hide the side of the building that's going to be exposed...

Mr. Ed Mauro stated we're not going to expose any more of the building.

Mr. Sanzari stated the pool and the activity area will be exposed.

Mr. Ed Mauro asked to where?

Mr. Josh Subin responded the ZBA asks the questions. They don't ask questions to each other generally speaking. The second thing is site visits usually go to the first three factors which are: undesirable change, alternative ways of doing things, and substantiality of what you're looking at and usually that's what boards go to look at. What impact on the environment usually that's more of an expert's type thing. Self-created, there are layers to that one. But the first three can be very helpful with a site visit. So if that's what the Zoning Board would like to see, there are legal justifications for doing that.

Mr. Ed Mauro stated okay.

Mr. David Douglas stated again, I think that we can all agree that a site visit might be useful. Can people do it on Sunday the 20th?

Members responded no.

Mr. Chris Kehoe responded I don't think that's the right date.

Mr. Ed Mauro asked I don't need to be there do I, as the architect?

Mr. David Douglas stated I'm trying to pick a date before the next meeting.

Mr. Chris Kehoe asked 16th is the meeting.

Mr. David Douglas stated the meeting is the 23rd.

Mr. Chris Kehoe asked is it the 23rd?

Mr. Thomas Walsh stated our agenda says the 16th.

Mr. Chris Kehoe stated because of the holiday.

Ms. Adrian Hunte asked because of the holiday it's pushed back to the 23rd>

Mr. David Douglas stated I'm just saying what's in my calendar.

Ms. Eileen Henry stated that's what I have too: the 21st work session, 23rd meeting.

Ms. Cristin Jacoby stated me too.

Mr. David Douglas stated I don't know why it's that day but that's the day that we've got.

Mr. Chris Kehoe stated I'm not available the 20th but you can carry on without me. I'm out of town.

Mr. Thomas Walsh stated I'm out of town that weekend also.

Ms. Adrian Hunte stated I'm not available the 20th.

Mr. David Douglas asked what about the 13th? I was supposed to be on vacation but that obviously is not happening.

Mr. Thomas Walsh stated I'm not available either that weekend.

Ms. Adrian Hunte stated no.

Mr. Chris Kehoe stated sorry.

Mr. Josh Subin stated if we have consent by both parties could you all individually do site visits as long as we had permission to enter the premises from both owners? And that way it wouldn't have to be a coordinated thing and everybody could – as David suggested, do their own Covid-safe walk and see what – and evaluate for themselves.

Mr. David Douglas stated we could do that. I think it's often more useful to have a group because then we can all hear the same, get the same answers and have the benefit of having one person answering all the questions and getting answers to that.

Mr. Chris Kehoe stated you could try to go earlier, at least for me the 29th of August or the 30th of August is fine.

Mr. David Douglas stated that works for me.

Ms. Adrian Hunte stated I'm out of town that weekend. You might as well schedule something and then those who can make it and those who can't, don't because we'll be in December.

Mr. David Douglas stated I agree with Adrian. What day can the most people make it here?

Ms. Cristin Jacoby responded 30th.

Mr. Thomas Walsh stated 30th.

Mr. Chris Kehoe stated I'm good for the 30th.

Mr. Frank Franco stated that works okay for me I think.

Mr. Chris Beloff stated the 30th.

Ms. Eileen Henry stated I'm good for every date mentioned.

Mr. Chris Kehoe stated one of the reasons I'm good for the 30th is at 9:00 in the morning on the 30th I have to do a Planning Board site inspection but it's only one piece of property. I should be done by 10:00. I don't know what time the Zoning Board typically goes out.

Mr. David Douglas stated I think 10 o'clock is pretty standard. We can do whatever time. Chris is that cutting it close for you? You want to make it a little later?

Mr. Chris Kehoe responded 10:30 would be better, and that's a Sunday, correct?

Mr. David Douglas responded that's a Sunday. Sunday, August 30th at 10:30. Mr. Mauro that works for your clients as well?

Mr. Ed Mauro responded I guess I can speak on his behalf and we'll make it work on our behalf.

Mr. David Douglas stated thank you.

Ms. Eileen Henry asked Mr. and Mrs. Sanzari works for you?

Mr. Sanzari responded that's okay for us. We'll make it okay if it isn't. We'll be there. We live very close.

Mr. Chris Kehoe stated just for the record, with respect to mailings, for the Zoning Board cases staff does the mailing, Planning Board cases we make the applicant do the mailing but for the Zoning Board cases, staff does the mailing. The difference with that is I don't have to submit an affidavit of proof of publication but according to my records, I do a spreadsheet from our GIS

system and I have a map and 1 Bethea Drive was on that list so according to my records they were mailed a public hearing notice.

Mr. Sanzari stated never got it. Never got it.

Mr. David Douglas stated that may well be the postal service because, as we all know, there have been certain issues regarding timeliness of various things for the last several months.

Ms. Eileen Henry stated Mr. and Mrs. Sanzari I don't think you have anything else to add correct?

Mr. and Mrs. Sanzari responded no, that's correct. Thank you.

Ms. Eileen Henry stated you're welcome. We'll see you at 10:30 on Sunday the 30th for a site visit between the two properties, okay?

Mrs. Sanzari responded great. Thank you.

Mr. Sanzari responded thank you.

Ms. Eileen Henry asked are there any other members of the public who wish to speak on this particular case?

Ms. Rosemary Boyle stated I'm just going to ask anyone who is viewing to please raise your hand, which you can do at the bottom of the screen on Zoom, if you're interested in speaking on this public hearing. Thank you. Mr. Chairman I don't see anybody else's hands being raised at this time.

Mr. David Douglas asked can I ask just one question of Chris before we adjourn on this case? Am I right that, putting aside the tennis court, if there were no tennis court then the applicant would not need a variance from the ZBA? Correct?

Mr. Chris Kehoe responded that's interesting. I think that was represented at the work session. I have that permitted would be 1,709 square feet and that the proposed pool and deck is 1,279 square feet. So I have – yes, that would be underneath the total amount so I believe the pool and deck, and even if you added the shed to it would still be below what's permitted.

Mr. David Douglas stated thank you.

Ms. Eileen Henry stated Mr. Chairman, we're going to adjourn because we have the site visit. I'm just wondering if we should close the public hearing or...

Mr. David Douglas responded I don't think so because there may be things will come out of the site visit that the applicant or Sanzari's or anybody else might want to address. I think it would be good to have that opportunity to do so if they wish.

Ms. Eileen Henry asked does anybody else want to speak on the committee?

Ms. Adrian Hunte responded no.

Ms. Eileen Henry stated I would make a motion to adjourn case number 2020-5 for the property at 1848 Spring Valley Road, adjourn that to our September, what did we say that date was?

Mr. David Douglas responded the 23rd.

Ms. Adrian Hunte stated the 23rd.

Ms. Eileen Henry stated September 23rd, 2020 meeting.

Seconded with all in favor saying "aye".

Mr. David Douglas stated this case is adjourned to the September meeting and we'll be at the site visit on August 30th at 10:30.

Ms. Eileen Henry stated thank you.

B. Case No. 2020 – 6 Application of Lina Merna for an area variance for two existing sheds located in the front yard for property located at 79 Trolley Road.

Mr. Frank Franco stated this is Frank Franco. This is my case. Before I make any questions or comments, is there anyone in the audience, the owners of the case, the Merna's, would you guys like to make some comments about the request for the sheds?

Ms. Lina Merna responded yes, good evening everyone. I'm here with my husband and if we may, we'll give you a brief overview of our situation regarding the two sheds and then highlight some key points we would very much appreciate all of you considering regarding variances for each. We purchased our in 2006 and quickly realized that we needed some storage space to maintain a nice yard. We then searched the town regulations regarding the sheds and learned that no permit was required for sheds that were 10' x 10' or less in size. We then went ahead and purchased our very first shed 5' x 7' in size. Then in 2009, a need for more space became necessary as the number of tools and our equipment we've accumulated over the years increased, not to mention a growing family where bikes were also in need for storage for the children. Once again, we took at a look at the website and were assured that our new 10' x 10' shed was not in need of a permit. As with our first shed, we were confident that both sheds now were following town rules. Unfortunately, this past April, one of our sheds, and again amongst the pandemic of

course, a tree ended up falling on our shed and destroying it. Not only did we have the stress over keeping our family safe at this time, but now correcting this issue in order to preserve all of our equipment so we decided to purchase a replacement shed, this time 10' x 10' in size. I just wanted to point out that this really was a stressful time. My husband is an essential worker who's been working 15 hour days since the beginning of the pandemic and to get the job done we even contemplated hiring anyone who would come help us relieve the stress and build it but we couldn't even get anyone to come and give us a quote on the property to build a shed for us. This left the job up to my husband, myself, and even our children who work very diligently on this project. Our equipment is very important to us. It's needed. We use it often, and it is very expensive so we wanted nothing more than to just protect them from weather damage or even risk of being stolen in our yard where they have been now sitting there for several months. It wasn't until, of course we're 80% complete with this project and almost 15 years later, and of course again the pandemic that we were notified to stop building the replacement shed immediately because not only was this replacement shed in violation but also our other shed due to the fact that their locations were in the front of our yard. Needless to say we were very confused, and again stressed. We were again under the understanding that no permit was required for 10' x 10' sheds or less. We would never have considered the area in which our sheds exist in our front yard due to the fact that our front door does not face this area or the front street. Mr. Kehoe, at this time, if you would just show that picture, I guess it's up there, that our front door does not face the front of our street. So at this point, it was suggested to us to apply for variances. So we went, sent in the money with the applications and we were actually elated that there might be an opportunity at this very stressful time to keep our sheds as is and not have to find another location and disassemble it piece-by-piece, level a new ground, and rebuild it all over again. And then that takes us to where we are today. Some key points, there's just three that we would really appreciate all of you considering. The first, there would be really no undesirable change produced in the character of the neighborhood. In fact, there are several properties in the area that also have either garages or sheds placed in their front yard. Mr. Kehoe if you wouldn't mind showing those pictures: this is one similar situation, it's another similar situation where sheds are in the front yards and visible. And there are two more examples where surrounding properties have garages in their front yard.

Mr. Chris Kehoe stated sorry. You can keep talking. I'll get to it.

Ms. Lina Merna continued it doesn't seem that anyone is bothered by this. We've actually spoken to several of our neighbors about our sheds. They are totally fine with them. We know that letters were sent out from the town informing our neighbors of these sheds. As we were told last meeting that no one presented an issue or a concern. Our sheds will cause absolutely no detriment at all and haven't for quite some time, buses, garbage trucks, plows never an issue. Our sheds are over 20 feet, I'm sorry, 25 feet from our property line and the street and they are really not noticeable. If you see in this picture here, that's one shed. Those are evergreens that are completely blocking it and that's our second shed where trees and bushes make it hard to see and unnoticeable. The variance we're seeking may not be substantial from the town's perspective, I mean it's just a shed, however in our eyes it really is truly substantial for us. We paid \$1,200 for that replacement shed. It could potentially cost us another \$800 let's say to rent the machine to

move it, even if it would survive, at this point, being whether with the weather and all that to be able to be moved or transported to a different location. Just lastly, we feel that the difficulty that we're having was not all self-created. Yes, we did put the sheds up but it was with confidence that we understood the term of the codes and the regulations as we saw on the website which reads, quote: Building permits are not required for storage sheds and other accessories less than a hundred square feet and not permanently affixed to the ground. In both cases, both our sheds follow the requirements. Just, if there had maybe been some type of link next to that information that could guide residents to further provisions considering where a shed could and could not be built, maybe we might not be here today and we could have better been informed. We thank you and we hope you can consider these factors for us.

Mr. Frank Franco stated thank you for walking us through it. I had one question about the other shed, the one that's being constructed by your husband. I was curious; do you happen to know the height of that shed?

Ms. Lina Merna responded not off hand.

Mr. Frank Franco stated because I guess one of the other things that was going through my head, because I guess as a resident myself I had looked into putting a shed on my own property and I don't know if I saw it in the code or I talked to the Code Enforcement team in Cortlandt but they did highlight the fact that, just like you said, it could be a 10' x 10' but I did catch the detail that it had to be behind the house or in the backyard. I understand your situation but, nonetheless, it is actually in the code. I don't know exactly where it is. Chris I'm sure or Josh could find that clause in there so we can make it clear but one thing that also went through my head was, I think for it to be compliant there was also some details about the height of the shed.

Mr. Josh Subin asked can I say one thing, when the applicant was going through the five factors, you probably already know but substantiality usually applies, the substantiality of the variance, not the burden to the person who's dealing with it. Just so everybody acknowledges they know what the test is. I don't want that in the record that we're implying it incorrectly.

Mr. Frank Franco stated I took it the way you said it Josh but I'm glad you made it clear.

Mr. Josh Subin stated continue. I was just making a comment.

Ms. Lina Merna stated I tried my best.

Mr. Josh Subin stated it's really about how – you understand, it's about how substantial a variance you're asking. It would be the inverse of what you argued. But the board is quite – they'll understand and they'll know how to apply the test.

Mr. Frank Franco stated from a substantial standpoint, I'm not saying it is or it isn't but there are two sheds and they're both 10' x 10's so we're talking 200 square feet of shed in the front yard. I did drive by and I hear what you're saying. There are trees in front and it does obfuscate the view

of the shed depending on where you're sitting but as you're driving by you can see it pretty clearly especially the new one that's being put up. The existing one that's already completed is a little bit more hidden maybe. Is there any plans to put any foliage, etcetera, around the sheds any more than what's currently present?

Ms. Lina Merna responded sure, that can absolutely be done.

Mr. Frank Franco stated like I said, just from, although it's not what's being applied for it might be something just to double check because I believe there is a restriction in the code, Josh maybe check me on this, but I thought there was a check on how high the shed can be. It looked like a pretty nice peak on that one even though the roof isn't totally completed but just the profile of it.

Mr. Josh Subin asked Chris do you know the dimensions off the top of your head or is that something we should circle back on?

Mr. Chris Kehoe responded yes, we'll have to double check on the height requirement.

Mr. Josh Subin stated I can't tell the dimensions from the picture.

Mr. Frank Franco stated I can't either so maybe that's something the Merna's can provide us. Like I said it's not the main issue with the front yard but it would play in if we did approve it, it would be something else we would want to make sure is right not that we had to come back again.

Mr. Thomas Walsh asked are there any other possible locations of the shed that's being rebuilt to be relocated either in the rear yard or the side yard next to the existing of the 35 square foot shed that's a little more – you're coming up to an intersection right there. There's a stop sign and the shed is being rebuilt is close to the edge there and pretty visible. I was wondering if there was an alternate location that it could be relocated to on the property.

Mr. Merna responded anywhere else on our property, the pitch is so bad. We tried to put it in the most level area of our property. That's why we chose to put it where the other shed was because that's the most level area. Our property's pitched towards the street so we'd have to do some serious digging to get some level ground.

Mr. Frank Franco asked does anyone else on the board have any questions?

Ms. Eileen Henry asked I do have a quick question, it's Eileen Henry. Mr. and Mrs. Merna you say the shed existed on the property since 2009, correct?

Ms. Lina Merna responded yes. One of them from 2009...

Mr. Merna stated the white one. The white one that's on the screen right now.

Ms. Lina Merna continued the one that you're at now and the one that we are currently replacing was from when we moved in 2006.

Ms. Eileen Henry asked and when did you move in?

Ms. Lina Merna responded 2006.

Ms. Eileen Henry stated okay great. Thank you.

Mr. David Douglas asked let me follow up on the – this is David Douglas, in terms of other locations, are you saying that there's nowhere else on the property that the sheds could go other than where they are?

Mr. Merna responded no, I'm not saying that. I'm saying that anywhere else on the property there's a big pitch and we'd have to do some serious excavating to get it on level ground.

Mr. David Douglas asked do you know how steep the pitch is?

Mr. Merna responded no, but we've tried to put up those portable pools and those things would never work because of the pitch on the property. But anything that we tried to put up, we would always try to put towards that side of our house because that was the most level area of our property.

Mr. David Douglas asked do you have any photos of the other parts of the property or do you have a survey with elevations?

Mr. Merna responded I don't have one.

Mr. David Douglas stated because I'm looking at the photos that you supplied and I'm trying to see other sections of the property. I just can't see them from what was supplied. Coming from an angle it seems pretty flat.

Mr. Merna stated it's not, trust me.

Mr. David Douglas stated trust but verify as they say. I'm sorry...

Mr. Merna stated it's nowhere near flat. Even where that other shed is, I've had to raise it in multiple areas just to get it on level ground and that's the most level area on our property.

Mr. David Douglas asked any other members have any questions?

Ms. Adrian Hunte responded let me just clarify the code language concerning the size of sheds. It says: Under a hundred square feet and up to 10' x 10'. A hundred square feet requires a permit but under a hundred does not? I know we have the issue of the front yard but in terms of the code

I think we seem to be thinking that a 10' x 10' shed is allowable if it's in a proper location without a permit.

Mr. Josh Subin stated I think I recall, it's been a while, but isn't it something like something like 14 feet to the apex or something like that? I don't remember off the top of my head for the sheds.

Mr. Thomas Walsh stated whether it's a hundred feet...

Mr. Josh Subin stated but the height.

Ms. Adrian Hunte stated no, not the height. It says a hundred square feet I believe. Are we saying it's 10' x 10', a hundred square feet is allowable without a permit or is it under a hundred square feet?

Mr. Chris Kehoe responded I'll confirm that. I've always operated under the assumption that a 10' x 10' shed is permitted without a building permit but we can confirm that.

Ms. Adrian Hunte stated thank you.

Mr. Josh Subin stated and I do believe Martin, there's also a diminimus rule in our code so that if something is right on the border within a couple of inches they have, like 6 inches, to go either which way.

Mr. David Douglas stated I think that has to do with setbacks but I think Ms. Hunte's question is a good one. We should pin down whether it's under a hundred or over a hundred.

Mr. Thomas Walsh stated that would be a building code issue versus a resolution issue.

Ms. Adrian Hunte stated thank you.

Mr. Frank Franco asked is there anyone in the audience who has any comments or questions about the sheds?

Ms. Rosemary stated if you're an attendee I'm going to ask you please that you click at the bottom of your screen to please raise your hand if you'd like to speak on this public hearing, and you're not the applicant. No one has raised their hand to speak further at this time.

Mr. Frank Franco stated at this point I'm thinking we would like a little bit more information about the sheds. I think we maybe want to check the code on some of the situations and – David, would we leave this case open still because we're going to collect more information or would we close it?

Mr. David Douglas asked I would like to see some photographs of the property.

Mr. Frank Franco stated we would like to see some photographs, maybe the height of the shed that's being put in.

Mr. Thomas Walsh stated I would like to also see the other pictures provided for the other neighbors whether – and also pre-zoning but once built, after zoning, whether they were permitted and variances issued for those adjoining properties.

Mr. David Douglas stated what I'd suggest is we keep the matter open and adjourn it until next month so we can get that additional information.

Mr. Frank Franco stated I'd like to make a motion to adjourn case 2020-6 for two sheds in the front yard at 79 Trolley Road so that we could research and get information on the things that we just talked about and adjourn it to the September 23rd meeting.

Seconded with all in favor saying "aye".

Mr. David Douglas stated the case is adjourned until next month and we look forward to receiving more information and just seeing the Merna's in September.

Ms. Lina Merna stated thank you so much.

C. Case No. 2020 – 7 Application of Building Permit Services, on behalf of Larry Caterino for a area variance to legalize an existing open deck on a 3-family non-conforming dwelling in a 1-family zone pursuant to Sections 307-78 and 307-80 of the Town of Cortlandt Code for property located at 18 Travis Avenue.

Mr. David Douglas asked is Mr. Matthews here?

Ms. Rosemary responded he is. I just promoted him to speak. John?

Mr. John Matthews responded hello board. Hello everybody.

Mr. David Douglas stated John before you speak I want to turn this over to Ms. Jacoby who's case it is.

Ms. Cristin Jacoby stated thanks David. I was going to ask John if he wanted to introduce this case.

Mr. John Matthews stated what I'm going to do is I'm going to turn it over to my helper, Nora Hildinger and she's going to elaborate on the position for the property located at 18 Travis. Thank you. I want to thank everybody for being here tonight. Thank you.

Ms. Nora Hildinger stated good evening members of the board, this is Nora Hildinger speaking for this case. It concerns the residents at 18 Travis. 18 Travis is a pre-existing non-conforming three-family home. It has existed as such since prior to October 2nd 1951. It has been continually occupied as a three-family. We are here today to request a variance to expand a pre-existing non-conforming use, specifically to enlarge a rear yard open deck. Previously, the property had a smaller rear yard open deck and a ramp which led to a flagstone patio approximately 400 square feet. The deck ramp and patio had been there for over 30 years and obviously there had been some deterioration. The ramp, deck, and stone patio were replaced with a rear yard open deck and stairs. The new rear yard open deck allows egress from two areas of the rear first floor of the home and covers approximately the same area as the original deck and patio. Moving forward, I want to address this request in two ways. Firstly, the owner wanted to go for an interpretation in which a rear yard open deck is not considered an expansion of a pre-existing non-conforming use. So we're advised to go for a variance as opposed to asking for an interpretation. We took this advice but I'd like to bring this matter to the board's attention. I have two previous ZBA interpretations, copies of which I have submitted in which both Decisions & Orders state that a rear yard open deck is not an expansion of a pre-existing non-conforming use. Furthermore, I have two witnesses that would attest to seeing a resolution stating such, now, and that these matters were previously handled administratively. Proof of this resolution could not be located and I understand that at this time the existence of such a resolution can only be considered hearsay but I wanted to mention it. I also want to mention that Wai Chin, a sitting board member, I hope he's okay, a sitting board member today was also a sitting member for one of the submitted ZBA's. Once again, the Decision & Order for these ZBA interpretations stated that a rear yard open deck was not an expansion of a non-conforming use and in harmony with the general purpose and intent of the Zoning Ordinance. Please take these previous ZBA cases in consideration when making your decision, now, moving onto the variance. Number one; this deck would not produce any undesirable change in the character of the neighborhood. The deck is not visible from the road and to this regard, let it be noted that an adjacent, 8 Travis Ave. is also a three-family pre-existing non-conforming dwelling. It was granted a variance ZBA case 22-87 to build an extension on an existing detached garage. Once again, please take this into consideration when determining the effect on the neighborhood. Number two; there is no other method besides enlarging the deck to create two forms of egress, although not required for code compliance in this situation can be considered to improve safety. Number three; variance requested is not substantial. The replacement of the ramp, flagstone patio and deteriorating deck does not increase the number of bedrooms, the number of dwellings, the size of the foundation or increase habitable space. It is not a large accessory structure. It is to replace an existing deck, which is obviously not habitable space that was deteriorating. Also, under the code 307-89, repairs are allowed within a twelve-month period that do not exceed 25% of the value of the property. This replacement is well within that range to be allowed as well. It should be noted here the deck presently meets far the four area ratio, the rear yard setback, and the side yard setback. This deck does not require any area variances. Number four; the deck will not have any adverse impact on any physical or environmental conditions of the neighborhood. The deck improves conditions because it creates a safe and sturdy egress and ingress to an occupied home. Number five; this difficulty was not self-created. This property has always been a pre-existing non-conforming use. The owner did not create that. The deck needed to be replaced. In

conclusion, I respectfully request you grant this variance. Please take into consideration the two ZBA interpretation cases I have submitted stating that a rear yard open deck is not an expansion of a pre-existing non-conforming use. Also take into consideration the variance is not substantial. It is a repair and a safety enhancement and meets present rear and side yard setbacks. This deck will not alter or change the neighborhood in any way. Please let me note again, the deck is barely visible from the road. There is another pre-existing non-conforming three-family dwelling within close proximity with a large accessory structure on a variance. Furthermore, this dwelling is approximately a hundred yards from Highway Commercial of an HC zone, which is Highway Commercial. This deck will have no adverse impact on the neighborhood. Thank you.

Ms. Cristin Jacoby stated thank you so much Ms. Hildinger. This is Cristin Jacoby. I have one question that comes to mind. You had mentioned that it didn't significantly add to the square footage that had been there previously but I believe you said the patio, deck and ramp are 400 square feet and this new one is 660 square feet? Is that right?

Ms. Nora Hildinger responded correct. The patio is 400 square feet and the deck was approximately 200 square feet. So together the patio and the deck and the ramp were approximately the same amount of coverage as the deck is today.

Ms. Cristin Jacoby asked the difference between the patio and the deck previously was the patio was covered and the deck was not?

Ms. Nora Hildinger responded the patio was just a flagstone patio. The ramp went down into the patio.

Ms. Cristin Jacoby asked so the amount of outdoor space that existed to stand upon remains the same?

Ms. Nora Hildinger responded correct. Yes.

Mr. Thomas Walsh asked do we have any pictures of the exterior, the back of the existing deck?

Ms. Nora Hildinger asked do you have any Chris?

Mr. Thomas Walsh stated I didn't see it as part of my package.

Ms. Cristin Jacoby stated there was one from the front of the yard.

Mr. Thomas Walsh stated yes. I didn't see anything of the rear.

Mr. Chris Kehoe asked I don't believe there's a picture. John or Nora, did you submit?

Mr. John Matthews responded can you do me a favor and zoom in on the survey? It'll clearly show you the deck on the survey in the rear of the property. Mouse your mouse all the way over

Chris, come back. Go up a little bit. Boom! Stop there. No, no come up. Scroll down, scroll down. No, no, no, scroll up okay. Scroll up, stop. Stop there. Stop. Do you see where it says residence? Do you see where it says deck?

Mr. Thomas Walsh responded I see that. I'm just asking if you have pictures of the deck, actual color photos what it looks like in the back.

Mr. John Matthews responded no, all I have is the survey.

Ms. Cristin Jacoby asked was one provided to us? Hold on. I feel like I got one. I also...

Mr. John Matthews stated there's a set a plans with the deck on this plot plan. Keep scrolling forward Chris please. Keep going. There you go. There she is. There's the deck.

Mr. Chris Kehoe stated yes, but I think what Mr. Walsh simply wants to know is photographs. There's a photograph of the front of the residence that I probably provided as part of the fact sheet packet but I don't know if you provided the any exterior photographs of the deck.

Mr. John Matthews responded I did not.

Ms. Cristin Jacoby stated Chris, I'm looking at the picture you provided us and it's not quite clear from the picture but I did drive by the property and you can see the deck but it's – you have to drive at a certain angle and see a little tiny portion of it. It's not in any way an obvious thing that you would drive onto the road and say: "like, oh there's that huge deck." It's in the back of their yard. There's some foliage around the area and it's brown. That's all the details that I have. I didn't see the whole thing. I just saw the minimal portion which you can see from the road. But you can definitely see a portion of it from the road.

Mr. Chris Kehoe stated there's also this tail of property that goes down to Lancaster which is sort of a parallel street. If you were to park on Lancaster at about this space here, you could look all the way down this way and see a little bit of the deck but that's from a different street.

Mr. Thomas Walsh asked does it abut Lancaster and this is actually a front yard?

Mr. Chris Kehoe responded I'd have to double check with Martin. He did not send it here having anything to do with a front yard.

Ms. Cristin Jacoby asked thinking through the five factors that Ms. Hildinger went through, I'm going through them as well myself. In terms of whether or not it has an undesirable affect on the neighborhood, I don't see how it would. Again, it's in the back yard. It's barely visible from the front. Whether or not the benefit can be achieved by some other means; it sounds like a deck is obviously not a necessity but it sounded like they needed to create another means of egress as well as update an old existing structure that may or may not been sound. The area variance; it's not substantial but again, this is not really a variance. It's the extension of a non-conforming

property so it's difficult to assess on that measure. I don't think it will have an adverse affect on the physical or environmental infrastructure. And self-created; again, that's hard to answer since we're coming at this from a different angle. Does anybody else have questions for either Mr. Matthews or Ms. Hildinger?

Mr. David Douglas asked I've got a very quick question. When was the deck built? When was it changed from a patio and the old deck with the ramp to the current deck?

Mr. John Matthews responded that I really am not a hundred percent sure. If I just shoot a number at you, I'm just kind of creating one. But I would say within four years, maybe five. That would be – and again, I'm guessing.

Mr. Chris Kehoe stated but that's similar to issues that have come up in the past. So I guess what you're saying is there was an old deck and some things back there which were replaced and no permit – once again, I'm not saying whether a permit was needed or not, but that never went through any process you're saying five years ago?

Mr. John Matthews asked Chris are you talking to me? I'm sorry.

Mr. Chris Kehoe stated yes.

Mr. John Matthews stated I'm sorry. Go ahead.

Mr. Chris Kehoe asked if you're saying this deck was put up five years ago to replace an old deck, no permits were either obtained or required five years ago when this replacement deck was constructed?

Mr. John Matthews responded I don't know. I don't believe that's true. I think it was just replaced and again, it was a knee-jerk reaction. Obviously we wouldn't be here because we don't have a building permit for it and so obviously no, nobody got a building permit for it. We're trying to get one now. You know that. I'm trying to legalize the deck. So obviously, two years, three years, four years ago it was built without a permit.

Mr. Chris Kehoe asked and then other than the information that you verbally provided, we don't know exactly what was there prior to that?

Mr. John Matthews responded we do. Prior to that was a flagstone patio and a handicap ramp because the gentleman who owned the property was handicapped and that was his way in and out of that portion of the building because that was where he resided on a portion of the first floor and the poor gentleman needed a ramp and a patio to get around because he had a little scooter and he used to park the scooter on this flagstone patio and get himself up to the first floor elevation with that handicap ramp.

Mr. Chris Kehoe asked and there was a 200 square foot deck?

Mr. John Matthews responded I say approximately, yes I think the whole thing with the ramp could have been 200 square foot but again, don't quote me on that. I'm just kind of – I looked at the GIS from old views from ten years ago and made that assumption but it was pretty close.

Ms. Cristin Jacoby asked other questions?

Ms. Rosemary stated we have six attendees so I'm just going to ask if anybody wants to speak on the public hearing to please raise their hand by clicking on the raise hand function if you'd like to speak at this public hearing at this time. I'm recognizing Donna Costenza. Donna you're coming on right now. I'm just going to un-mute you. You may have to un-mute your microphone at the bottom. There you go.

Ms. Donna Costanza asked can you hear me?

Ms. Rosemary responded yes.

Ms. Donna Costanza stated my family owns the house next door at 14 Travis. As you're looking at the front of his house we're on the left. There is, from our view, we see a fence. There is no – it obstructs the view of his backyard. There is nothing – his deck does not protrude anywhere that gets in anybody's line of sight. He's done nothing but made the place look better. If you look to drive by from the front, it's all been beautified. We have no problem with that at all.

Ms. Cristin Jacoby stated thank you.

Mr. David Douglas stated thank you. Anybody else that wants to be heard?

Ms. Rosemary stated once again if you're viewing this Zoom Zoning Board meeting and you'd like to speak on this public hearing, please utilize the raise hand function on the bottom of the screen if you'd like to speak to this public hearing. No one else has raised their hand Mr. Chairman.

Mr. David Douglas asked anybody else have any other questions on the board? What I'd be inclined to do is, I think we have most of the information we need but this is a somewhat, I don't know if convoluted is the right word, but a more complicated situation given the nature of the statutes that are involved and it being a non-conforming situation and whether it's an expansion or not. So what I'd suggest is that rather than us voting today, that we close the public hearing and that we reserve decision which under the law we would then need to issue a decision within the next 62 days. But I believe that we would probably have a decision at the next hearing, the next meeting.

Mr. Chris Kehoe stated I would just like to confirm David – I'd wait to get direction from the board but there would be the possibility that Josh and I would be drafting something between now and the next meeting for consideration at the meeting.

Mr. David Douglas stated right, right we would think through between now and then and have our work session, and then we'd have a D&O would be prepared ready for us to vote on at the next meeting.

Ms. Nora Hildinger asked that would involve this? I'm confused.

Mr. David Douglas stated rather than –what we not infrequently do is sometimes as you know somebody's got an application and we listen to what they say, we draw a conclusion. We vote on that. We vote that evening and they either get what they want or they don't get what they want, positive or negative. In this situation, I think what we'd prefer to do is to mull it over and think through what our conclusion and what the legal basis is of it and what the grounds are for what whichever way we come out on it is, just because it's a little bit – with it being non-conforming and with the language or perhaps not crystal clear language of the town code sections that we want to have that extra time to make sure we get this right.

Mr. Chris Kehoe stated so John and Nora, there would be the possibility of a Decision & Order voted on, on this case at the next meeting.

Mr. David Douglas stated in fact, I think it will be likely. That's the goal. We don't want to delay pass then. If we can't do it, we can't do it but I do think that we should be able to have a decision at the next meeting.

Mr. John Matthews stated I would hope that you would take into consideration that my client is selling the house because he definitely has to sell it. He's not selling it because he's relocating. He needs to...

Ms. Nora Hildinger stated and this particular piece is holding everything up.

Mr. John Matthews stated this is the key...

Mr. David Douglas stated no I understand that, that's why we're going to do everything in our power to have a decision by next month.

Mr. John Matthews stated somebody already lost the commitment on it.

Mr. David Douglas stated we're not trying to delay anything. This is the first time that this matter has been in front of us. It's not unusual for matters to go on for months. We try to be very efficient. I think we are efficient.

Mr. John Matthews stated okay that's fine. If you – I guess I have no other choice in the matter so I hope during the decision making in your 30 days, you think it'll be 30 days?

Mr. David Douglas responded I don't see any reason why we can't have a decision at the next meeting.

Ms. Nora Hildinger asked is there any other information I can provide you in the next bit of time that might help you, that is pertinent particularly to this case and not the whole issue of whether the deck is an expansion of a non-conforming use? Like I feel sort of like this case is getting thrown into a bigger question that the board has instead of just looking at the – on the grounds of the case that I've given that this variance could be granted regardless of whether it's an expansion of a non-conforming use. I think that's where the grey area comes in.

Mr. David Douglas stated I don't think there's any way for us to definitively reach a decision today without looking into those other broader issues. You're not getting dragged in, it's just you have a non-conforming use and the purchaser wants to keep it non-conforming, so we're constrained in certain ways by the terms of the ordinance and we want to think it through. We're going to think it through and then we will have a decision next month.

Ms. Nora Hildinger stated I appreciate that. I just needed to understand and if you need any more information we'll be happy to provide it and I appreciate your time and understood.

Mr. David Douglas stated I personally don't need any more information. I don't know whether any of the other board members – anything specific addition we want them to provide in the next couple of days?

Ms. Adrian Hunte responded I don't think so.

Ms. Cristin Jacoby stated nothing for me.

Mr. Chris Kehoe stated my understanding is it's basically Josh, and to a lesser extent, myself, drafting appropriate language in the Decision & Order that covers the factual circumstances of this case.

Ms. Nora Hildinger stated okay, understood. Okay, great. All right, I appreciate your time and we look forward to meeting again next month.

Ms. Rosemary stated just to clarify the next month's meeting is shown incorrectly on the agenda as September 16th, it's actually September 23rd. If the board chooses to have a work session, it would be September 21st. I just wanted to make sure we have those dates for you guys since we're adjourning.

Mr. Thomas Walsh stated Chris, I would also check with Martin on the two front yards if we wrap it all into the D&O of this.

Mr. Chris Kehoe responded okay.

Mr. Josh Subin stated we will check. I think the language of the two front yards is kind of clear but I'll double check with Martin as well.

Mr. David Douglas stated I don't think it's the matter of the language, it's the matter of whether that piece goes all the way down to Lancaster or not.

Mr. Thomas Walsh stated it does. From the plot plan it does show it going all the way there but it does show it as a separate lot so maybe they're considering it as a – one of the other plans showed it going right to Lancaster, the SP-1 sheet shows it.

Mr. John Matthews stated I don't think that that lot has any frontage on Lancaster, so that's why it's the rear yard.

Mr. Thomas Walsh stated it shows lot 27 going right to Lancaster.

Mr. Chris Kehoe stated we'll look into that.

Ms. Cristin Jacoby stated I would like to make a motion to close and reserve.

Mr. David Douglas stated close the public hearing and to reserve decision.

Seconded with all in favor saying "aye".

Mr. David Douglas stated case number 2020-7, the public hearing is closed and we've reserved decision. Thank you very much.

Ms. Adrian Hunte stated thank you.

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ADJOURNMENT

Ms. Adrian Hunte stated I make a motion that we end the ZBA meeting of August the 19th, 2020.

Seconded with all in favor saying "aye".

Mr. David Douglas stated the ZBA meeting is adjourned. Thank you everybody. I look forward to sometime in the future seeing people in person whenever that might be.

Mr. Chris Kehoe stated thank you Rosemary.

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NEXT REGULAR MEETING WEDNESDAY, SEPTEMBER 23rd, 2020