

Town of Victor Zoning Board of Appeals, November 4, 2019

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, November 4, 2019 at 7:00 PM at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Scott Harter; Fred Salsburg

OTHERS: Mike Campoli, Surmotech; Nicholas Jung; Al Benedict, Town of Victor Code Enforcement Officer; Kim Reese, Secretary; Ed Kahovec, Town Board liaison

Chairman Mike Reinhardt opened the meeting, the Flag was saluted, and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES:

On a motion by Mr. Fred Salsburg, seconded by Mr. Matt Nearpass; RESOLVED that the minutes of October 7, 2019, be approved as submitted:

Mike Reinhardt	Aye
Matt Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Approved: 5 Ayes, 0 Nays

Chairman Reinhardt – First we have two variances for Surmotech.

Mr. Mike Campoli – Hello to the Zoning Board again.

Chairman Reinhardt – If I understand you are looking for two variances. One is for a shed and the other is for some more parking that you're looking for.

Mr. Campoli – Correct. We originally were trying to purchase the land, the twenty feet of land that we needed. Well six lawyers later, they wanted three environmental studies. The cost just got to be astronomical, so our lawyers said to go with a permanent easement agreement with the owner ahead of us, with Swiftlift. And so everybody agreed with that and that's the path that we had to change to.

Chairman Reinhardt – I'm going to interrupt you quick for the record. If you can tell us who you are.

I'm sorry, Mike Campoli.

Chairman Reinhardt – Thanks. I'm sorry go ahead, Mike.

Mr. Campoli – And, so it just got to be unfeasible, so we're giving the owner ahead of us a set of money to use that 20 feet of land because he is going to continue to pay the taxes on it. But the cost to purchase it was just too much for us.

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Chairman Reinhardt – Alright so for two variances, we’re going to do just the parking easement first. We’re going to look at the same criteria, but the criteria may apply differently. So, let’s do the parking first. You’ve explained the easement I think well enough. I need to make sure you understand and I think you do as far as if this board grants a variance, the variance runs with the land and that’s the land that you own. This is an unusual situation in that the easement that you have and the agreement is with your neighbor. But your parking is going to encroach onto your neighbor’s land. Is that right?

Mr. Campoli – Correct. Well our parking is going to go right to the ten feet of his land, but then the other 10 feet is just for the variance of trying to be 10 feet away from the ...

Mr. Nearpass – I think what they are buying isn’t what they’re going to be parking on. It’s the 10 feet for the buffer?

Mr. Campoli – You can see it encroaches a little bit. Here’s our property line, the red line here, but then you can see the 20 foot line extended there and our parking just goes over our current property lines.

Chairman Reinhardt – OK, so when you’re using “just goes over” it does in fact go over onto the neighbor’s property line. That’s the whole purpose of the easement. The point I need to make clear to you is that this variance only goes to your property line. So in theory that your neighbor will also need a variance because the parking albeit that he’s granted you or you’ve purchased an easement, he’s going to need a variance. That’s not your problem, it’s his problem. But just so it’s clear if and whenever you sell that property the variance that’s being granted only goes to the property line. It does not go onto or wherever that easement language speaks of. That’s an apples and oranges situation. Is that clear?

Mr. Campoli – Yep.

Chairman Reinhardt – That’s certainly my interpretation of it. I spoke with Al a little bit and I think we’re on the same page with it.

Mr. Nearpass – Which lot gets the, we’ll call it credit, for the parking spaces? Which lot do the spaces apply to?

Mr. Benedict – Lot 1 according to the drawing here. It should be where Surmotech is.

Mr. Nearpass – So even though they are not on Surmotech’s property. That’s where they fall? They are not taking away spaces from the other.

Chairman Reinhardt – No and I think it makes logical sense to me is a variance needed for the neighbor. They would need a variance and also to prevent and if you’ll discourage if they were to come in and say oh a variance has been granted, now we can have this parking space. That’s on their property and that’s not the case. They would have to come in and request a variance. It’s not going to impact you because you do have, we’re looking at the variance up to the property line and take into consideration in that you have a purchase agreement on board for the easement.

Mr. Campoli – It’s a permanent, exclusive easement agreement with Swiftlift.

Chairman Reinhardt – Right, so there’s two things that are working here. You have an agreement with your neighbor to use that easement as it is in the language of the easement. The variance is something different. The variance goes up to your property line. It does not advance into where that easement is. Alright? Questions?

Mr. Campoli – Nope.

Chairman Reinhardt – Ok, so with that, Fred, do you have any questions?

Mr. Salsburg – No.

Mr. Harter – I just had a couple of observations. One is in the permanent easement, a reference is made to Monroe County instead of Ontario County. You might want to fix that.

Chairman Reinhardt – I think that's been corrected.

Mr. Harter – Ok. And I guess I just have a comment on what's being done here. I think given what the gentleman is speaking about, I think that this is a reasonable solution. I think you're able to achieve the purpose and intent of purchasing the property in another way with this permanent easement. The owner next to you is restricting his property for your benefit and you've worked out some arrangement with him. It is an apples and oranges type of thing, but the purpose and intent is achieved I think. For what you wanted to do. That's all I have to say.

Mr. Nearpass – No further questions. I was going to ask similar along Scott's lines, do we feel this is a reasonable outcome for the applicant? I couldn't remember if there was an alternative that you also proposed that if you didn't buy the land, how you could fit it in with maybe butting up to the property line, so you don't necessarily have to go through the easement or anything like that. But, this is the absolute minimum that you can do?

Mr. Campoli – Correct.

Mr. Nearpass – Alright. No further questions.

Ms. Morley – I'm good.

Chairman Reinhardt – I know that the purchase agreement is for a permanent easement. I would propose for the board that if they grant the variance that that easement needs to stay in place. So if there is whatever any kind of discord or it falls apart or ever were not to continue, I think that I would recommend that there would be a sunset provision in that because without that easement there. Well let me ask the board, how important is it that that easement, albeit it's permanent. Things change. Things that could change.

Mr. Salsburg – If that front property is sold and this easement is not recorded in the deed, there won't be any easement over the line, will there?

Chairman Reinhardt – The easement should be recorded.

Mr. Nearpass – That could be a condition of the variance, right, that the easement is recorded.

Mr. Harter – Subject to filing at the Ontario County Clerk's office.

Chairman Reinhardt – Ok.

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Mr. Nearpass – This does add yet another complication. The one complication this adds is the other property owner's is going to have to come in front of us for a variance for the spots. Is that what you were saying earlier?

Chairman Reinhardt – It doesn't impact this applicant.

Mr. Nearpass – There's going to be another application for this other building, number 820, whoever is there. They are going to have to apply to get an easement, sorry a variance.

Chairman Reinhardt – Correct. But, I think from this applicant's point of view, should this board grant the variance as a condition that the easement needs to be filed with the County Clerk's office. So then it's been recorded and now if you will in theory the world knows that you've purchased the easement and this is the language of the easement which then ties into, if you will, the granting of the variance. That makes sense to me. Is it good with the board?

Any other questions, concerns, thoughts? At least on this.

Mr. Campoli – I understand what you just said there, so that means he doesn't have to come and file for a variance?

Chairman Reinhardt – No, that's your neighbor's problem. What you have in front of you, is you're asking for a variance, but a variance only goes to your property line even though the easement that you purchased allows you to use property and use the property to your neighbor, on your neighbor's property. The variance doesn't go onto the easement. The variance only goes up to your property line.

Mr. Nearpass – So after tonight, if it's approved, I don't think he can start work yet, correct? Until

Mr. Campoli – Well we lost the time frame anyway.

Mr. Harter – So then there needs to be a second part to this.

Mr. Nearpass – No, I think there needs to be another application now. I was trying to think is there a better way or something else. By not buying the land it helped you in that you avoided a lot of the attorney fees, but one result of that now is that there needs to be two variances because you don't own the land that the parking lot, these parking spaces are going to, that other piece of land now also needs the same variance that you requested.

Mr. Harter – So then that neighbor needs to come in and request a variance for parking on this side of their property in order to make this complete. Correct?

Mr. Nearpass – Correct.

Ms. Morley – Does Al see it like, that can I ask?

Mr. Benedict – I see what you're saying, but I was hoping we could try to find a way to keep from doing that.

Mr. Nearpass – I'm with Al. I'm just reiterating what Mike said. Is there a way?

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Mr. Benedict – I'm not sure if you look at it from a standpoint of, code says parking or paved areas can go up within 10 feet. You giving a variance to be less than 10 feet, you're actually granting a variance to go over the line.

Chairman Reinhardt – I don't think we can. I don't think we can grant a variance onto someone else's property unless they are both here. So, it's going to be a zero variance onto the property line, but since there is parking on your neighbor's property your neighbor would also have to request a variance.

Mr. Nearpass – A zero variance.

Chairman Reinhardt – A zero variance for half of the parking spaces that are indicated on your drawing.

Mr. Harter – I think you have to do that.

Mr. Campoli – I just assumed once he agreed with it. Gentleman's hand shake, signed the agreement that is his agreement for us to use it as a permanent easement.

Chairman Reinhardt – Unless someone can tell me that there's another way to do that. You have standing to request a variance on your property. What I mean by standing is, a right. You have something at stake here, it's your property. You can do pretty much what you want with your property. But you don't have any standing to do anything onto your neighbor's property or for that matter, my property or Matt's, or anyone else's unless you have some ownership rights to it. The easement allows you to use it. It doesn't give you necessarily ownership rights to it. If you were to purchase it, like you wanted to earlier that would make this a whole lot easier, but it's not happening here. You have an agreement with your neighbor to use the property in a certain manner.

Mr. Campoli – Correct.

Chairman Reinhardt – So we either can press forward with it or we can come back the next cycle around which would be December 2, have your neighbor apply for a variance that coincides with the variance that you're asking for and then we probably can get this matched up together and done. I'm not detecting any issue with the board. I think they are going in a direction that they want to grant the variance. The problem we're having is that variance that is needed for your neighbor.

Mr. Salsburg – They are going over 8 feet, almost 9 feet, that's a pretty substantial area.

Chairman Reinhardt – Even if it's arguably six inches, it's not his property. He's purchasing the right to use it.

Mr. Benedict – I'm wondering if you could word the easement such that not only allows them to use it, but that also allows them to pursue a variance for that area rather than trying to grant a variance to the other property. Or bringing the other owner in and having to go through the process.

Mr. Harter – I think Mike hit the nail on the head when he said an easement deals with property use and not property ownership. I think we have a property owner and the property use has been declared by virtue of the easement. But we need the other half of this component.

Mr. Nearpass – There's only going to be one variance right? And the variance has to go with a piece of land and in this case there's two pieces of land now instead of one. If you bought it it would still be one property and that variance would be attached to that existing property. I think now that it's two

properties, unfortunately I hate to say it, because I hate to overhead like this. I think you need two variances.

Mr. Campoli – What variance is he going to be asking for?

Mr. Nearpass – He's going to need the exact same variance that you're asking for, but for his property.

Chairman Reinhardt – I'm sorry to interrupt. He's asking for parking as well, but he's going to want a zero variance and the variance that we're going to look at for him we're going to take into consideration that there's an easement but the language of his easement is going to be probably tighter than yours because he's only going to be permitted to have parking exactly as is depicted on your survey map, on your drawing here. So then again, the world knows that you want a variance for parking, he wants a variance for parking as is depicted in this drawing and there's an easement in play allowing you to use some of his property for parking. Now everybody's on the same page, you, your neighbor and the world.

Mr. Campoli – He has no parking there. This is just green grass.

Chairman Reinhardt – He's going to be.

Mr. Nearpass – Just by nature of . . . your spaces are going onto his property, therefore he has parking and you have parking. I think I said it right.

Yes. That's correct.

Mr. Nearpass – They are your spaces because you have an easement within and it says you're allowed to use it for parking and all that other stuff, but because again since it's his property, his property needs a variance that says he can have a parking lot go right up to the lot line just like yours comes up from the other side and marries together.

Mr. Campoli – Ok. I'll talk to him, I mean I don't know if this is going to go over or not. I mean I hate to inconvenience the guy. All this stuff, now he has to come here and file for a variance.

Mr. Harter – It should be no difference to him. I mean if he's agreed with you.

Mr. Nearpass – Can he give him a letter to come in here and act on their behalf and do it like others I think have done, or no? I totally understand where he's coming from. Is there a way, some advice we can give him to simplify it a little bit?

Chairman Reinhardt – So, he would be the proxy for the neighbor to request another variance. Do you know can the town waive the application fee for that?

Mr. Benedict – Not in my court. I don't see any reason why they couldn't do a proxy.

Chairman Reinhardt – Who would know the answer?

Mr. Kahovec – It's a little dicey. In general I'm not in favor of waiving any fees. And know you're taking about the person who wants it is acting as the proxy for somebody that wants the land and it's in his interest, so.

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Chairman Reinhardt – Now we're getting into the conflicts of interest. You really shouldn't be doing that. I apologize. It sounds like it's complicated. I'm trying to keep it as simple as I can, so it sticks.

Mr. Campoli – I'm not saying it's complicated at all. But we've been inconveniencing him for four months now trying to get this with the lawyers. We both use the same lawyer, conflict of interest. We had to get through that and now we have the DEA. We've got everybody involved, environmental and it's just another inconvenience for the gentleman at 820 Swiftlift.

Chairman Reinhardt – You have a couple of variances that have been granted, and I think we agree that it is a unique piece of property you're doing a lot with it and I appreciate what your trying to do with employees and keeping the business running. I understand you need the space, but from my vantage point in looking at it and knowing what I know about variances and property law, that variance is only going to go to your property line and for it to work. It would be one thing if it was just buffering over there, there will be cars half on your property, half on his property. It occurs in the legal world that there are some people that live in one county and another county. Meaning that their property line, it happens. So to make this as clean and clear we're going to need two variances. You would need one, your neighbor needs the other.

Mr. Campoli – So, my variance is already in.

Chairman Reinhardt – Well, we can, that's certainly up to you. We can make and decide on the variance today, just for yours. He's going to need a variance if you want to park on, customers and employees want to park on that area. How do you want to do it? Do you want to keep it all in one and move it to the next meeting or have the board decide on your variance tonight?

Mr. Campoli – You can decide on my variance today and if he just decides it's just too much inconvenience for him, I mean it's going to be nixed. It's going to be null.

Chairman Reinhardt – Well you'll still have parking up to the property line, but as far as the easement goes you're really not going to be able to use it.

Mr. Nearpass – So then you can't put the easement as a condition to the, we were talking about having the easement being filed as a condition to the

Chairman Reinhardt – We still can. I think we still can.

Mr. Harter – Doesn't the board want the satisfaction of knowing that both applications came in and approve both applications simultaneously, so that we have a complete solution?

Chairman Reinhardt – Right, then I'll put it to the board. If you would feel more comfortable.

Mr. Harter – I would.

Chairman Reinhardt – Fred, separate or together?

Mr. Salsburg – I'd like to see it voted on their property here tonight because it shows good faith on our part.

Mr. Nearpass – I'm on the fence. I'm with you. I'm ok with voting tonight. If we vote tonight then we don't put the condition that the zero setback is tied to the filing of the easement that will have to be on the

other property, runs with it. Because if they decide not to do it, then I'm still ok with him having the parking right up to the line, so if the other party backs out for example you would at least still have an easement and maybe there's a way you can move some things around. Also doesn't have the language for the easement being filed with the county. So, I agree that it's probably in a good faith effort should get something done for this applicant tonight.

Ms. Morley – I vote for tonight.

Chairman Reinhardt – OK. Before I forget, does anyone from the public want to speak for or against this application? Hearing none.

Mr. Benedict – There is another possibility you can pursue changing the code. There are numerous other instances of paved or parking areas over property lines. Might be a longer process, but. I don't know how the town board would feel about that.

Chairman Reinhardt – Well ok that's a possibility. If you want to go that route and try to change the code or you want to look at a variance today?

Mr. Campoli – It's too lengthy. It would take months. I have months, I can't do anything until the spring anyway now.

Chairman Reinhardt – So it sounds like it is the board's pleasure to rule on the parking variance tonight. Then if you would, then let your neighbor know he's going to need a variance as well. And I think it's in both your best interests to make that happen and I think it's also in your best interest to file that easement with the county clerk's office.

Mr. Harter – Can we make that a condition, Mike, that variance tonight is conditioned on the neighbor coming in?

Chairman Reinhardt – I don't think so because I don't think to put the onus on this applicant to force his neighbor to come in for a variance because I think like Matt said he could, if he wanted to, he could rearrange that parking and he still has his easement, but if you make it a condition, that forces this applicant's hand to have his neighbor come in and ask for the variance. It could be parallel parking or some other alternative but I don't think putting the onus on this applicant makes sense to me. Agreed? Fred?

Mr. Salsburg – Yes. There would still be an increase in parking in the worst case.

Chairman Reinhardt – Donna, you agree with that?

Ms. Morley – Yes.

Chairman Reinhardt – Ok, so let's look at the criteria for the parking lot expansion. Going through the criteria, zero residents none, for or against, an undesirable change *would not* be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance. I think primarily we're looking at an easement for the purchase of the easement I think is a big factor. His neighbor and this applicant have come to an agreement for the purchase of the easement. Not hearing any objections from the neighbors. Anyone want to add anything else for the first criteria.

Second, the benefit sought by the applicant *cannot* be achieved by some method, feasible for the applicant

to pursue, other than an area variance.

The applicant has indicated that he has made good faith efforts to purchase the property and that caused him all kinds of angst and difficulty which then also led to the purchase of the permanent easement. Anyone want to add anything for the second criteria?

Third, the requested area variance *is* substantial. I would suggest that a zero, right up to the lot line and also the easement, but right up to the lot line is substantial. Anyone want to add anything to the third criteria?

Fourth, the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

I haven't heard anything, seen anything that there would be any detriment to the physical, environmental contributions.

Fifth, the alleged difficulty *is* self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

Does anyone want to add anything else to the criteria? Or anything else that we have before us.

Alright. Have a motion to approve?

Mr. Nearpass – I motion.

Second?

Mr. Salsburg – I'll second.

Any further discussion? All in favor? (Aye) Opposed (none)

Motion carried.

Mr. Campoli – I will probably write up this variance for my neighbor for an inconvenience and if I can run it by you to make sure that I'm wording it correctly. Is this ok?

Chairman Reinhardt – I missed the front end of the question.

Mr. Campoli – I will probably be writing this variance, the paperwork for the variance, myself for my 820 Swiftlift.

Chairman Reinhardt – Oh, the application.

Mr. Campoli – Just to make sure and I'd like to run it be somebody in the town, so I can make sure I've got the right wording before I give it to Swiftlift.

Chairman Reinhardt – If you have questions as far as the legality to it I recommend you seek council for it. But as a suggestion, the application is probably going to mirror what you've already had before us because you're looking for a variance, it deals with the parking, you have an easement, it's just the flip side on your neighbor's property.

Mr. Nearpass – You've got the drawings.

Chairman Reinhardt – Any other questions about that variance?

So, next we're looking at a shed. This would be 10 feet from the west rear property line. 30 feet is required. We're on the same page, it's a 16 x 40 shed.

Mr. Campoli – That is correct.

Chairman Reinhardt – It's 41 feet from the present building. Anything you want to add and let us know about this application?

Mr. Campoli – When we had the stone put in, the back here, when we were laying it out, it just didn't optimize our property. It was coming diagonally there, and so when we took a look at it, if we put it square in the back, 10 feet from our property line, it just makes more sense. I can get three more parking spaces in front of it, by moving it back a little farther. We had Sean (inaudible) out there last week because (inaudible) one of our other permits that we had. He said there's nothing behind this, so he said it looked like it was fine. Just thought I'd share that.

Chairman Reinhardt – Looking for a note, I thought there was.

Mr. Harter – You were here previously and we talked about this, right under another one?

Mr. Salsburg – A sprinkler waiver. And at that time it was going to be 41-40 feet from the place, now it's about 80.

Mr. Campoli – We're still putting the fire extinguishers in there.

Mr. Harter – There's a detention pond or something along the back line here and I think we learned that that's not on an easement, right?

Mr. Campoli – Correct. So this doesn't disturb it at all. Actually you can see the piping that goes to the retention pond is right here. It goes from here.

Mr. Harter – So there's no interference by the structure to that?

Mr. Campoli – No sir.

Chairman Reinhardt – Fred, do you have any questions?

Mr. Salsburg – No, that doesn't seem like a substantial change to something we already saw.

Chairman Reinhardt – What do you think, Scott?

Mr. Harter – I'm ok.

Mr. Nearpass – I'm ok. I remember this from last time.

Ms. Morley – I'm ok.

Chairman Reinhardt – Alright, anyone from the public want to speak for or against? Hearing none, let's run through the criteria.

An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

If I understood Al's note right, the area of disturbance, its crushed stone already? Is that right? Ok. I'm not hearing/seeing anything that the character of the neighborhood or a detriment to nearby properties is going to be caused by the granting of the area variance. Anyone want to add anything else?

Second criteria, the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. Let me just ask quickly, if I understand it right, the sprinkler waiver is for this structure or is it for something?

Mr. Campoli – This structure.

Chairman Reinhardt – Ok, so we've heard this before, we've seen it before, you can't achieve it by some other method. And I think it's tied into the sprinkler waiver application he's had.

The requested area variance *is not* substantial. And again we're tying into the previous application for the sprinkler waiver. The proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Mr. Harter – No comments from the neighbors.

The alleged difficulty *is* self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

Anyone want to add anything else to this application for the variance for the 14 x 60 shed. Hearing none, entertain a motion to approve?

Mr. Harter – So moved.

Ms. Morley – I'll second.

All in favor. (Aye) Further discussion? Ok, it's granted. Thank you. Good luck. Thanks for your patience.

Chairman Reinhardt – Ok, ready? C'mon up. You're the only one left. How about that? Tell us who you are.

Mr. Jung – I'm Nicholas Jung, the applicant for the variance and son of the property owners that this variance applies to. Anything else for that?

Chairman Reinhardt – Your parents own the property? Do you live there? You have ownership rights to it? You're here on their behalf?

Mr. Jung - I had them sign off that they are aware and they approve of it.

Chairman Reinhardt – Very good. This is one where we have an existing shed, structure and you want another one but at least the old one, we call it an old one, the existing one is currently in front of the home, is that right? Al, we talked about this a little. Are we looking at two variances for this?

Mr. Benedict – I would presume if you word it correctly, one variance would cover both of them.

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Chairman Reinhardt – So let's keep that in mind when we're looking at this variance, that there is an existing structure forward of the primary property and you would like another one, correct?

Mr. Jung – That's correct.

Chairman Reinhardt – The size of the existing one is how big?

Mr. Jung – 14 x 16. It mirrors the one that I want to build. Except the one that I want is about two feet taller, but it still remains under 14 feet. It's not that tall of a structure.

Chairman Reinhardt – You have some drawings and some diagrams showing us what it looks like. How close to the existing shed is it going to be?

Mr. Jung – The existing shed? They want it about four feet, five feet away. Just enough that it has some space, but not but up against it.

Chairman Reinhardt – Al, do you have any concerns with it being that close?

Mr. Benedict – No. Code allows it to be as close at 0 feet.

Chairman Reinhardt – And how close to the primary structure is the new shed going to be?

Mr. Jung – I never measured it, but my estimate would be around 40-50 feet away from the main structure.

Chairman Reinhardt – Where your x is and my square is are two different places.

Mr. Jung – Do you mind if I point it out right there? (using pointer and screen)

Chairman Reinhardt – Right, so the new shed is going forward of the existing shed?

Mr. Jung – Yes, just a little bit existing. This is the main structure right here. And since that one is about 14 x 16, estimate would be about 40 – 50 feet away from the main structure.

Chairman Reinhardt – OK, now we're on the same page. Very good. Anything you want to add before we start asking you some questions.

Mr. Jung – Well the main reason is because the house is actually built on the hill, right here, and behind this there is a leach field and the whole thing does have a bit of a slope, so I wanted to make it so the shed doesn't need to be graded, I don't have to grade the ground or put post into the ground, since this is kind of a structure where it's going to store some of my stuff and my parents whole deal with it was, once I'm gone they want it to go, too. So the main idea was to put about six inches of crushed stone on that area and then build the shed on top of it with skids. So there shouldn't be anything that actually goes into the ground and the whole deal with that was if I did it in the back yard because of the slope it would cause, I would have to grade the ground that would be more of a destructive way of doing it.

Mr. Harter – So this is like a temporary situation? Is that what you're saying?

Mr. Jung – Yeah, in a way.

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Chairman Reinhardt – What is your best guess on temporary?

Mr. Jung – Two years at least.

Mr. Nearpass – Al, is it a structure if it's put on skids and not, like a tree house?

Mr. Benedict – By town code it's still an accessory structure.

Mr. Nearpass – Even though there's not footers and all that other stuff?

Mr. Jung – I believe the reasoning was as long as you're able to put a lawnmower or something in there like that easily then it's considered an accessory. I may be wrong.

Ms. Morley – Are you going to have electric in this building?

Mr. Jung – No electric, no water and it's not conditioned, so it's just bare walls, no insulation.

Chairman Reinhardt – Fred, do you have any questions?

Mr. Salsburg – No. After a while I read your writing and where is said there won't be any water, electric. No, it's back so far from the road, next to another one. I assume the other one is already been taken care of with a variance ahead of the house.

Mr. Benedict – That's not correct.

Mr. Nearpass – Today, is for both of them I'm assuming.

Chairman Reinhardt – Right, we're going to do both structures.

Mr. Salsburg – So, we're voting on two sheds then tonight?

Mr. Harter – Double header.

Mr. Jung – When I did ask my parents as to why that one didn't get a variance, they said that that was shortly after they built the house and they asked the town and back then the person that they were talking to said that since it's not going into the ground, that one is on top of bricks, it doesn't require a variance or anything for that. Since it's not going into the ground. And they just never asked about it again.

Ms. Morley – What are you using this building for?

Mr. Jung – Mainly storage. And also I've got a bit of some workout equipment I just want to put there.

Mr. Nearpass – Does it really need to go forward of the house? I was thinking it was going to be for lawn mower type stuff, you wanted to access easy and have it next to the driveway. I mean you could probably really put it anywhere. I mean where it's not sloped. I get the topography.

Mr. Jung – So, it's more of when it does get picked up and taken away, it can be picked up and taken away. Because if we put it in past that moving a 14x16 structure would have to go down the hill.

Mr. Nearpass – What if it was on the other side of the shed? Towards the house.

Mr. Jung – Do you mean on this side? They never really gave me reasoning why it has to be behind that one, but it still falls under the same problem of the variance of it being in front of the main structure.

Mr. Nearpass – Yes, just not as much knowing that it's temporary when that goes, then the most forward one is the current one. Do you know what I mean? That's all. I'm not against it either way, but I just wanted to ask the question. If it was on the other side of it then your parent's permanent structure would then be the closest one to the road and what the variance would be for and then yours would just go on the other side of it, that's all.

Mr. Jung – I think also the reasoning was that it would be easier to access if it were to be picked up by a truck or something since it is closer to the road. We didn't really discuss it THAT much on like why it has to be on that side of the shed, rather than on the other side.

Mr. Nearpass – OK.

Mr. Harter – What dimensions are we using on this one? Do we need dimensions? Do we care about them?

Mr. Salsburg – 14 x 16

Chairman Reinhardt – The current is 14 x 16 and the new one is going to be 14 x 16.

Mr. Nearpass – No, I think he means the distance in the front.

Mr. Harter – In terms of set back from property lines and that sort of thing. So we define its location.

Chairman Reinhardt – I'm going to ask him some questions on how far off the road is it and how far off the side set back is it. Do you know those dimensions?

Mr. Jung – I believe, this is the tree line between us and our neighbor. It's close to a 100 going this way and this I never measured, but it's substantial.

Mr. Nearpass – I think the biggest one at least to me would be how far away is it from the house? How far forward is it from the house, the front of the house?

Mr. Jung – It's about 30 feet in front.

Chairman Reinhardt – The current structure?

Mr. Jung – Oh, the current one is about, actually it's close to being in line with the house. It's probably ten feet at most.

Chairman Reinhardt – The current one?

Mr. Jung – Yeah.

Mr. Nearpass – It looks like it's probably 30 feet in front of the house.

Mr. Harter – The westerly edge.

Ms. Morley – The red circle is that the house?

Mr. Jung – This one? That part of the map. Sorry about that.

Mr. Nearpass – So if you take the front of the house that has the 691 over it and you go to the very front, measure to the very front to the existing shed towards the road, towards Brownsville Road, that's got to be more than 10 feet. That shed itself is 15x14 is that what you said?

Mr. Jung – It's 14 x 16.

Mr. Nearpass – 16 wide?

Mr. Jung – 16 going this way, 14 this way.

Mr. Nearpass – So it's got to be at least 30 feet. Two of those, you can fit another one between it and the house, right?

Mr. Benedict – Don't forget the front line goes parallel to Brownsville and if you look at the map you see it goes at an angle. So it would be less than it appears to be.

Mr. Nearpass – Gotcha. Do we have a drawing then with the front line?

Chairman Reinhardt – I'm hearing what Matt is saying and I understand you're saying that it would be easier to move the shed if it were to the west of the current shed. The discussion is can it go on the east side of the current shed and it looks like there's enough area there and distance between the current shed and the existing house for it to go to the east of.

Mr. Jung – I think another reason why they didn't really want to is because you can't really see it, but there's a small garden behind this shed, right here, just personal vegetables. To the south of it. It just has a little gate right here to the side, so if I were to put something right in front of that that would be right in front of the gate, well the fence.

Mr. Harter – If this is a temporary condition can we do a sunset variance so to speak on the one shed? Where after a certain period of time the variance expires?

Chairman Reinhardt – What's the maximum time you think you're going to need that shed there? I think you said two years, but I don't know what's in your mind, if you tell us a little bit more why you think it's going to be about two years.

Mr. Jung explained his situation.

Chairman Reinhardt – The idea is once you move out of your folks home, you are taking the shed with you.

Mr. Jung – Take it with me or I have to find someone that would buy it or take it from us.

Mr. Nearpass – I'm ok with, they have the right kind of property to almost in my single opinion to put the shed anywhere you want on the property because it's not in a development. The only issue I'm having is we generally need like a number, it's going to be this far from the house and it's going to be this far from

the side, so then we can bound it. And so the one thing that we do know exists there is the existing shed is there and I don't know if we can use that as an anchor, not to be so many feet from that or behind it or one way or the other. We don't have engineer drawings or something that tells us exactly.

Mr. Salsburg – The front of the new shed, be parallel to the front of the existing shed.

Mr. Nearpass – Something like that, no more than 4 feet in between. And the shed size as proposed here.

Mr. Harter – I think that's a good solution, Matt.

Mr. Nearpass – I can see where Scott was going, too. I'm sure as the civil engineer he really wants to see numbers and drawings.

Mr. Salsburg – There's just so much room so far back here.

Mr. Harter – It's low impact, that's for sure.

Mr. Salsburg – Yeah. It's low impact.

Chairman Reinhardt – Thoughts us about a temporary easement, with a sunset provision on this?

Mr. Nearpass – Can we do those?

Mr. Harter – Sure, we can give him five years.

Mr. Nearpass – A variance, a temporary variance?

Mr. Harter – You just indicate the variance expires after 3-5 years.

Chairman Reinhardt – Like Matt was saying, this is a significant buffer in front of it. This isn't a cluster development. Its relatively, it's got to be at least 150 feet deep (buffer). Don't you think, Scott?

Mr. Harter – Yep.

Ms. Morley – You can't see it front the road.

Mr. Nearpass – There's a scale at the bottom.

Mr. Jung – And the neighbor can't see past the tree line either.

Mr. Nearpass – Actually if you look to the right here, it's about 188 feet to the house, so yeah, you're easily 150.

Mr. Salsburg – That's over 400 feet. If the scale is right.

Mr. Nearpass – Oh, yep.

Ms. Morley – And from the road you can't see anything.

Chairman Reinhardt – Ok. We're looking at then because of the size of the buffer and the existing shed there, the necessity to have it a temporary easement is probably outweighed I think by where the land is, the depth of the current buffer. I don't think we need to make it a sunset provision. You ok with that, Fred?

Mr. Salsburg – Yes.

Chairman Reinhardt – Sounds good? Donna? Ok and if we make the conditions first pinpointing, I like the idea of using the current shed as an anchor, and that the new shed must be within five feet of the present shed and no closer to the south lot line than the current shed. We're good with that, Matt, Donna, everybody good? Ok, then, if we run through the criteria, no residents spoke for or against, an undesirable change *would not* be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

The applicant is living with his parents, he's looking for storage. There's no water, there's no electricity. Due to the slope of the land that's behind the property and the topography, the place where he wants to put the new shed is level, it's going to be on crushed stone indicating that it's going to be temporary for a few years, two years or more. Anyone want to add anything more to the first criteria?

Nobody spoke against it. Anything else?

Second criteria, the benefit sought by the applicant *can* be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The size of the property is relatively substantial, but however due to the buffer that's to the west of the primary residence and the current shed, that seems to make the most sense to keep it in close proximity to the current shed as well as the applicant's desire to move the shed at some later date. Anyone want to add anything to the second criteria?

The requested area variance *is not* substantial. Using the criteria that we used on the first criteria just for storage, no water, no electricity, topography, the ground is level and it's going to be on crushed stone and likely to be temporary.

Fourth, the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

It's level. I'm not hearing anything there's going to be any kind of impact on the physical or environmental conditions.

Fifth, the alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance. The conditions that I indicated on the front end that the new shed will be within five feet of the current shed and to the west of the current shed and the new shed will not be any closer to the south lot line than the current shed. Anyone want to add anything to the criteria or the conditions? Hearing none, I'll entertain a motion to approve the area variances for both the new and old shed.

Mr. Harter – So moved.

Ms. Morley – I'll second it.

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All in favor. (Aye) Any further discussion? Ok, motion carried. Thanks so much. Thanks for your patience. Good luck to you.

Mr. Jung – Thanks.

Chairman Reinhardt – Motion to adjourn. Alright. Thank you so much.

Motion to adjourn Mr. Harter, seconded by Mr. Nearpass. It was unanimously agreed and RESOLVED that the meeting was adjourned at 8:00 PM.