

**TOWN OF SOUTHEAST
ZONING BOARD OF APPEALS
Southeast Civic Center
67 Main Street
Brewster, NY 10509
October 18th , 2004**

Board Members

Edward Colello	Chairman	Present
Ronald Kobbe	Vice Chairman	Absent
Thomas Costello	Acting Vice Chairman	Present
Timothy Froessel		Present
Kevin Sheil		Absent
John Gallagher		Absent
Joseph Castellano		Present
Willis Stephens	Town Attorney	Absent
Richard Honeck	Town Board Liaison	Absent
Linda M. Stec	Administrative Assistant	Present

Ed Colello – Let’s get starting. Good evening everyone. Let’s stand for the Pledge of Allegiance. Pledge of Allegiance said. Good evening everyone. Welcome to the October 2004 meeting of the Town of Southeast Zoning Board of Appeals. My name is Ed Colello, Chairman. I would like to introduce you to the four Board members we have tonight. Members introduced. Let’s go over the agenda for this evening and this is order we will be following. Number one is Stephen H. Johnson Family, LLC, number two is William Fraioli, number three is Stephen and Constance Ruland, John and Brenda Hamilton, Stefan and Tara Karlson, Plinio Palmieri, and Ronald and Constance Harper.

**1. Stephen H. Johnson Family, LLC
38 Argonne Road
TM# 68.05-2-30**

Anthony Molé , attorney, Curtiss, Leibel, Schilling appeared for this application.
Anthony Molé – Good evening members of the Board. What I would like to do is go through and answer a few of the questions that the Board raised at the last meeting and make a few points I would like to make to the Board with regard to this application. One of the first questions the Board asked what is the amount of oil/gasoline that was stored on the property when Handy Rental was there. I spoke with the tenant it was 500 gallons of oil and 275 gallons of gasoline. He advised me that it was stored in accordance with the regulations and containers. Last time Mr. Costello asked if there was any taking of the property for the construction of Route 84. My client’s ownership doesn’t go back that far. He has no knowledge, the tenant has no knowledge. I did a little research I couldn’t find anything with regard to that property during construction. There was also a question that there is a side portion of the neighboring property that is leased by the applicant from

the New York State Thruway Authority. I took the liberty of copying it. This is just a simple agreement between the New York State Thruway Authority and the applicant for that small portion of the parcel of land. The applicant said if the Board has issues they can terminate that agreement at any time. Also I believed the Board was planning to do a site walk of the property as well. The area variances with regard to a few points I would like to make, the area variances are necessary for this application I submit as discussed last time would be necessary for any other business that would occupy the site with the exception of the area variance for outside storage which is more subjective. The tenant I spoke to after the meeting and again today to confirm what his plans were with the property as I mentioned last time there is a lease in effect the tenant has the right to purchase the property from the current owner. The tenant advises me that he does plan to purchase the property from the owner and if the variances are granted to lease it to another entity. So if the Board was concerned that Handy Rental All wouldn't be there somebody else would be there, Handy Rental All will in fact not be there as business is going well in the Carmel location. The plan is not to bring a portion of it back here but in fact lease it to another property and he has spoken to some interested parties. The only interested parties have been contractors, people who need basically a small office and outside storage area similar to Handy Rental All. The location of the property as the Board is aware of is behind Route 6 underneath Route 84. It is not really an ideal location for professional services or retail storefront. It is not visible. It is more an ideal location for this type of business, like a Handy Rental All with regard to those issues. There are two storage containers on the property that the applicant stated he can remove one or both if would reduce the area variance requirements for outside storage or open space. They are willing to do that.

Ed Colello – Can I interrupt for a minute?

Anthony Molé – Yes.

Ed Colello – You are asking for all these variances especially for outside storage for a business that we have no clue that is moving in there.

Anthony Molé – With regard to all of the variances with the exception of outside storage they would be necessary for any business to occupy the premises. With regarding the building, the parking, the setbacks, the access grade for vehicles, the screening for the parking.

Ed Colello – But we don't know what business is going in there.

Anthony Molé – I understand that.

Ed Colello – But we don't know if it is a business with multiple trucks or one pickup. Am I right?

Anthony Molé – You will agree that applies to the outside storage variance not to the other variances.

Ed Colello – I have to tell you I would be hard pressed to, personally I am one person, but I would be very hard pressed to vote in favor of any outside storage when I don't know what kind of business is going to go there. Think about. It is carte blanche to do whatever you want.

Anthony Molé – I understand the Board's position with the outside storage variance that is why I accepted that from the statement just made with regard to the other variances.

Ed Colello – You said you were going to take out one or more of the containers that are used for outside storage, correct? That is outside storage is it not? Sure it is, of course.

So you what I am getting at? What I am getting it that I have real issues with this application.

Anthony Molé – With regard to the outside storage or in regard to the overall?

Ed Colello – I have issues with a lot of it in that we don't know what type of business is going in there. I am one person. I am not the Board. Do you understand?

Anthony Molé – I do understand. I would say to the Board understand the applicant's position that to use it as a commercial property which is in a commercial zone all the variances we are requesting would be necessary for no matter what business is going in there they are going to need those variances. With the exception of outside storage, granted I agree with you. But the other variances for anybody to go in there they are going to need those variances. And the applicant suffers a significant economic injury if he can't those variances to get anybody in there. This way he can't lease it, he can't sell it.

Ed Colello – Well, he could because someone could come in as the contractor vendee. If I were in whatever business and I wanted to buy this property I could have an agreement, an option, whatever you want to call it with the seller and I could come before this Board stating exactly what type of business I had, what I am going to be using it for and how many trucks, how much noise, and then the Board can their decision and he could come in or she could come in as the contract vendee.

Anthony Molé – The applicant as well as the tenant has spoke with parties who were interested and all of them were deterred.

Ed Colello – Is that a problem of the Town of Southeast Zoning Board of Appeals?

Anthony Molé – It is not a problem of the Zoning Board of Appeals but in the application for an area variance has to consider economic injury to the applicant. If the applicant, it is not one of the five criteria agreed, but in the case of ?v. Columbo, which is Court of Appeals case in New York it says that if the applicant demonstrates that there is significant injury if the area variances aren't granting then the burden shifts to the municipality to show that the variance will cause substantial damage to the neighborhood.

Ed Colello – The biggest economic damage that was done to the owner of this property is that his tenant moved out. Is that not correct?

Anthony Molé – The tenant would not be able to exist without these variances there.

Ed Colello – But the tenant moved out. The tenant moved on to greener pastures.

Anthony Molé – The tenant did not. The tenant is still the tenant.

Ed Colello – I understand that. But what is the tenant going to do. You just said the tenant wants to get the variances, and dump the property, correct? The tenant is not moving his business back from Carmel to Brewster.

Anthony Molé – The tenant didn't dump the property. The tenant wants to buy the property and lease the property. Not sell the property. The tenant would never do anything if these variances aren't granted because he wouldn't be able to lease the property because no tenant is going to go to a property where OK we will lease you the property but we have to go get these five or six variances first. That is a catch 22 situation really.

Ed Colello – I am not going to debate with you because I am not going to waste the time on it. But I have to tell you that this is a totally self created catch 22 because I think the normal procedure would be for the applicant to find a tenant that they want to lease the

property to and then come in as the contract vendee to state exactly what their business is, how they are going to be running it, what storage has to be done so this Board could have a pretty good picture of what company is going in there. See what your client wants to do now and I don't blame your client for asking for it, but they want all the rights to do everything and then do whatever they want to do with. I have to tell you have real issues with that personally. I don't know how the other Board members but I do.

Anthony Molé – OK, if I could just make clear just for my mind, the statement you just made is that in regard to all the variances or mainly the outside storage.

Ed Colello – The outside storage is the one that jumps right out because I don't know what they will be storing there. Are they going to be storing dump trucks or pigs. I don't know what is going there. Everything this Board has granted a variance for storage we have known what type of business is in there, what type of trucks, how many of them are, you know better than anyone with Brewster Transit, right. We knew exactly how many trucks were going in there, where they were going to be located, how much area, your engineer mapped it all out. Gave us all the measurements, colorized where there trucks and storage would be and you did a good job and your client was happy. Eventually, I think. But you know what the situation is. We are going in blind.

Anthony Molé – I understand the Board's position with the outside storage.

Ed Colello – You understand that one of the criteria is and you know as well as I do for us to grant the minimum amount of relief possible. And we went through this very painstakingly with Brewster Transit and that is exactly what I think the way that the other Board members would feel about any type of outside storage, about any type of business.

Tim Froessel – I don't know how we would make any type of determination on the character of the neighborhood without knowing what is going to be quite honestly. The other variances, the side setback of the building, sure we can vote on that, that is not going to change.

Anthony Molé – Would it be possible to have a discussion as far as which ones, there are separate variances for the building, there is a vehicle access grade, there are some variances here that I think that no matter what the property is used for they need to exist just so the property can stay physically constructed how it is constructed now. Should we submit a letter to the Board trying to bifurcate those issues and submit.

Ed Colello – I think that would be a good start and I will tell you another reason too, as you know there is only four of us tonight not that we are ready to vote on this anyway but I think you would rather have a full house.

Anthony Molé – I agree. I would stated that myself.

Ed Colello – It would be in your client's best interest.

Tim Froessel – The building's side yard setback obviously that is not going to change. It is not going to matter who occupies it, that is something we could vote on. And probably some of these others too. The outside storage, I don't think so.

Anthony Molé – So if I make a proposal to the Board, make a proposal in writing which ones we hope the Board can decide without have a particular business ready to in and any others to resubmit at a point when we do have some...

Ed Colello – I would feel more comfortable, how would you feel with that?

Tom Costello – I don't think we have heard any testimony that the grade cannot be changed so on the grade issue.

Anthony Molé – I can have something from the engineer.

Tom Costello – We need to see some evidence that the lot is unique and in some respect that it cannot be regarded to allow to meet the 10% grade requirement. And then the parking I don't feel comfortable making any decisions on parking until we know what the parking is going to be used for. Maybe it is going to be an office that won't need a lot of parking and there won't be a need for a variance on parking.

Anthony Molé – With the size of the building that much parking isn't necessary and that is why they had those spaces.

Tom Costello – But the requirement in our Code varies according to use. Without knowing the use we can't really tell you how much parking is needed and whether you are going to meet the requirements for parking. I think the building setback is the only one that we can vote on in my mind that isn't going to change no matter what is there.

Ed Colello – Joe, how do you feel, do you agree?

Joseph Castellano – I agree.

Anthony Molé – There is one more thing I wanted to ask, was anyone able to do a site walk or not?

Ed Colello – Honestly, I didn't do a site walk because I don't know what I am looking for and I don't mean to be facetious, I really do. I have been in that building. I have rented things from that business when it was there. I have driven by it a million times. But as **Tom Costello** says unless I know what is going to go there and how much parking they need for a certain business, I don't even know what to look for.

Anthony Molé – Fair enough.

Tim Froessel – And also every other application we have ever had with these types of variances were it was building space and the outside storage and the parking variances, we have usually gotten some sort of survey map with a sketch showing where all the stuff is going to be.

Anthony Molé – We have the one from Handy Rental All which we submitted and it in your file but as you said...

Ed Colello – They are not there. Let me ask is there anyone in the audience that has any questions or thoughts or opinions in regard to this application? OK, so you are going to work on that?

Anthony Molé – I will work on that. I will make a submission to the Board. I will have an engineering statement made to the Board, I will bring the engineer here.

Tom Costello – I will make a motion to continue this application.

Joseph Castellano – Second.

Tom Costello – You don't need to bring the engineer. You can bring a statement that would be OK.

Ed Colello – Thank you. OK. Number two.

2) William Fraioli
63 Bloomer Road
TM# 56.14-1-10

Maureen Fraioli and William Fraioli appeared for this application and were sworn in by Tom Costello.

Ed Colello – Can you walk us through your application please?

Maureen Fraioli – We want to put a deck out from the back of the house and it would be easier for me because I am going to get hip replacements. That is all I know.

William Fraioli – According to the Code we need 20 feet and we don't have 20 feet.

Maureen Fraioli – Every house is the same distance and every house on my block has a deck. We used to have a pool.

Tom Costello – **Tim Froessel** are you the resident expert on this neighborhood are you familiar with this road?

Tim Froessel – I guess I am not.

Ed Colello – You don't have a rear deck now?

Maureen Fraioli – No.

William Fraioli – A patio.

Tom Costello – So what do you have today a set of stairs going down from the door to the yard.

Maureen Fraioli – Down from the kitchen.

William Fraioli – She fell off a horse and has to replace her hips.

Tom Costello – The steps that go from the door to the patio, how many steps is it? Is it in the diagram you submitted?

Maureen Fraioli – Two steps. This is from the kitchen, there is window there, they are going to make a door.

Tom Costello – So there is no door there today?

Maureen Fraioli – No.

Tom Costello – So where is the door that you access to go down to the patio?

William Fraioli – From the basement. There is a family room downstairs.

Tim Froessel – The back of Brewster Heights slopes down.

Tom Costello – From the level that the kitchen is on, what doors do you have from that level out to the outside?

William Fraioli – Just the front door.

Tom Costello – So you only have one door?

William Fraioli – And the garage.

Tom Costello – That is on the same level.

Maureen Fraioli – My next door neighbor has a rear deck. Everybody has one, it is easier for me.

Tom Costello – And as far as you know there was never any deck there?

Maureen Fraioli – Never a deck there. I asked my neighbors.

Linda Stec – Do you have your Affidavit of Mailing notarized?

Maureen Fraioli – Everything is done.

Ed Colello – It doesn't appear to be notarized.

Maureen Fraioli – What had to be notarized?

Ed Colello – This one.

Maureen Fraioli – I spent all this money. I mailed everything out. I asked that lady in Town Hall what I had to do and she said I had to get all these things made for you and go downstairs and get all the labels and mail them out and get them all certified.

William Fraioli – I can take care of that tomorrow down at the school.

Tim Froessel – I can do it for you right now if you show me photo ID.

Tim Froessel – Do you have the original?

William Fraioli – Yes.

Tom Costello – Do you have the measurements of the proposed deck to the property line?

Maureen Fraioli – I will give you what I have.

Tom Costello – This is it. These measurements to the deck who produced those measurements?

Maureen Fraioli – Kenneth Kern.

Tom Costello – Who is he?

Maureen Fraioli – My carpenter.

Tom Costello – Thank you.

Ed Colello – I think I want to take a look at this, would you?

Tom Costello – I would.

Ed Colello – Is there anyone in the audience that has any questions or thoughts or opinions in regard to this application.

Tom Costello – You should be aware though that measurements to the proposed deck made by your contractor those are the ones that we are going to consider in your application. If he is inaccurate and the Building Department comes out and measures and finds it wrong you could have a violation.

William Fraioli – He said there should not be any problems.

Maureen Fraioli – I designed them and then they said because I couldn't figure out when I had that little piece of paper showing where the deck is going from but I did it wrong. And then I took it back to Kenny and he said what are you doing measuring the whole house. He redid it and then I took it back and he did the right measurements because it has to be 50 feet from the back and it has to be 20 feet from the sides.

Ed Colello – Do you have markers to know exactly where your property line is?

Maureen Fraioli – No, we have a fence.

Tom Costello – The letter of denial refers to the fact that it is an enlargement, there are no setback issues.

Tim Froessel – True, but this has to do with the fact that actual side setbacks on the house itself are non-conforming. And that is the case with ever house in Brewster Heights.

Tom Costello – I still think we should view it.

Ed Colello – Absolutely. We are going to take a look at it this month and we will vote on it next month.

Maureen Fraioli – I can't do anything now because now it is winter.

Ed Colello – Our next meeting is November 15. You will be number two on the agenda.

Tom Costello – Normally we hear it one month and we visit the site and we vote on it next month.

Maureen Fraioli – We are having some mason work done.

Tom Costello – Since the yard is fenced in if any of us visit.

Maureen Fraioli – You can just go down the side of my house, both sides are open. Thank you.

3) Stephen and Constance Ruland
109 Blackberry Drive
TM# 56.18-2-8

Stephen Ruland appeared for this application and was sworn in by Tom Costello.

Ed Colello – Could you walk us through your application?

Stephen Ruland – Certainly. What we would like is we would like to enclose our existing deck into a three season sunroom. Our building permit was denied because our house is not 20 feet off the property line. It is 17.186. So I am requesting a setback variance to enclose the deck to a sunroom.

Tom Costello – Does the existing deck have a building permit?

Stephen Ruland – It has a CO.

Tom Costello – And you are not going to enlarge the size of the deck?

Stephen Ruland – No, except for I am going to widen the stairs on the opposite side one foot. The stairs on the deck here are going to be widened one foot towards the shed.

Tom Costello – Do you have to reconstruct the deck or can you build right on the deck?

Stephen Ruland – They are probably going to reconstruct it because they are not sure of the actual footings so they are going to redig the footings.

Tom Costello – What is the size of the deck? 14 by 20?

Stephen Ruland – Yes.

Tom Costello – How long have you owned the house?

Stephen Ruland – Eleven years.

Ed Colello – The proposed addition is not going to jut out to this property?

Stephen Ruland – Actually it is going to come in from the building line on the survey, if you look at the existing deck the railing comes out to the end but the actual footings are about a foot set in, approximately a foot set in from the house.

Ed Colello – Can I see those?

Tom Costello – Are the railings on an angle?

Stephen Ruland – The railings are on an angle. So when they drew the deck it goes right to the house but according to the plans I think there in a foot.

Tom Costello – We had another one with angles on the railings a couple of months ago. There must have been a builder about 15 years ago that liked that style.

Tom Costello – Have you had any discussions with any of your neighbors about your project? Are they generally in favor of it?

Stephen Ruland – Nobody has expressed any concerns about it.

Ed Colello – Are these your shrubs here or your neighbors?

Stephen Ruland – Those are mine but the property line goes beyond in the back.

Ed Colello – So these are all on your property?

Stephen Ruland – Those are all on my property, yes.

Ed Colello – You know where the property line is?

Stephen Ruland – Yes, I measured it out 17 feet. It is just where that gravel is near the driveway.

Tom Costello – Is there anyone here that has comments or questions about this application?

Ed Colello – There is some construction here, did you already start this project?

Stephen Ruland – No, I am having the house sided and new windows put in. That is as far as it can go until we have the variance.

Tom Costello – In this kind of application having a letter from a neighbor particularly one most effected is always helpful for us to gauge the sentiment. If there is no one here that is part of how we judge but also if we have a letter from the neighbor saying they

have no objection that is sometime helpful as well. It is not required, but it is helpful. It looks like you the CO in 1992.

Stephen Ruland – When we purchased the house the CO was in.

Tom Costello – So the deck was built earlier.

Stephen Ruland – When I bought the house the CO came with the deck.

Tom Costello – The deck was constructed already.

Ed Colello – Do you want to go see this?

Tim Froessel – I think I would.

Tom Costello – Yes, I would like to see.

Ed Colello – I will tell you why, I am going to hold this over till next month. Two reasons, one the Board members want to see it and it is a practice of this Board if one or more of the Board members wants to view the property we hold it over which is about 95% of the time. Number two is this is a seven member Board because one is on vacation, one is on business, one being sick, there are only four of us. To receive a variance you must have four positive votes. You wouldn't want us to vote anyway tonight not that we would vote you down but the odds are not in your favor so we always give the applicant when we only have four members, which that rarely happens but once in a while it does, the option is given to the applicant. You have a better chance with seven than four. So we are going to hold this over to next month. We will review the site. Again it is November 15th.

Stephen Ruland – November 15th?

Ed Colello – Right.

Stephen Ruland – Thank you.

4) **John and Brenda Hamilton**

98 Tonetta Lake Way

TM# 56.8-1-21

John Hamilton and Ivaka Olcott, architect, appeared for this application and were sworn in by Tom Costello.

Ed Colello – You were here for a work session?

Ivaka Olcott – Yes. We are proposing a small addition it is just under 200 square feet to a single story, single family home. We are basically squaring off this corner and adding an entrance to it. The site plan shows the existing and proposed addition. We are asking for a side yard variance. We are going from 7.59 feet to 7.31 which is 3.5 inches closer to the property at this corner. The front yard is fine. We are bringing out the ridge so it lines up with the existing ridge of this half of the house. It goes straight and the entrance is in the center, this wall and this one.

Ed Colello – Do you have any pictures of what the house looks like now?

Ivaka Olcott – No.

John Hamilton – The existing is here. There is just a notch back here of 8 feet by 20 foot long. This is the configuration. This comes down so we can move that on the plane.

Ivaka Olcott – And the line of the ridge in the center. The entrance is there. So we are making it come out.

Tom Costello – Is there a map of where it is located? Where is it near?

John Hamilton – It is on Tonetta Lake Way. It is the first house on the right, near the beach. Lake Tonetta Association is my adjacent property. There is 600 feet above the property that can't be built on. It is the homeowners association that owns that. So it is not like some of the neighbors that are right up against house like in Tonetta Lake or Putnam Lake or Brewster Heights. There is nobody here for 600 feet on the side although I am within seven feet of my border.

Joseph Castellano – The seven feet is on the side or the front.

John Hamilton – The side.

Tom Costello – And where is the town beach?

John Hamilton – The town beach is here. There is a cove and this is the south end of the lake and this is my house here, and then there is a string of houses that go up here and around, so it is the first one on that run.

Ed Colello – How are the mailings?

Linda Stec – His I did before.

Ivaka Olcott – As we discussed at the work session that only bulk was an issue.

Ed Colello – Is there anyone in the audience that has any questions or thoughts or opinions in regard to this application? We are definitely going to want to take a look at this while obviously I am glad you told me where the fence was and that the fence is on your property it just gives us a much better lay of the land if we can visualize so I definitely want to see this property.

John Hamilton – I wanted to get this addition started this season is there some way we can do that sooner?

Ed Colello – No.

John Hamilton – What was the purpose of the work session?

Ed Colello – The purpose of the work session is a very informal meeting to get some information and ask questions. This is the formal meeting. So we will be meeting on November 15th.

Tom Costello – How long have you owned the property?

John Hamilton – I purchased the property ten years and I own the house next door to it twenty years ago. I own the adjacent property as well.

Ivaka Olcott – Is there any way you can vote on it tonight?

Ed Colello – No.

Tom Costello – As the Chairman already mentioned to a previous applicant we only have four of our seven members here so if we did vote on it tonight you would need an unanimous vote. As one of the Board members wants to visit the site we need to hold it over to next month.

John Hamilton – Do you see concerns that would negate doing this addition?

Tom Costello – In an area where you are coming closer to the road which is what you are proposing.

John Hamilton – If the road is the factor we are no where near that setback the issue we are here this evening about is that we are making something three inches less the 20 that has already been the case. The front setback from the road is perfectly fine. Does that change your mind about viewing the property?

Ed Colello – Absolutely not.

John Hamilton – Just wanted to represent it clearly.

Ed Colello – We will see you on the 15th.

John Hamilton – Thank you.

5) Stefan and Tara Karlson
277 Guinea Road
TM# 78.1-6

Stefan Karlson appeared for this application and was sworn in by **Tom Costello**.

Stefan Karlson – Good evening, my name is Stefan Karlson and I will be representing myself tonight. We are residing presently at 277 Guinea Road and on the property right now is approximately 1,320 square foot farm house. Recently we had another child added to our family so we are a family of four now currently living in a two bedroom house. What we are proposing to do is add additional space to the back and additional space to the side as well as adding a half of a story on top of this end of the house down here. The additions will give us an enlarged family room and another bedroom, another bathroom and an enlarged kitchen. This property is located on the south end of Guinea Road. Right back is the border of North Salem. Up in here is Salinger's Orchard, this is a really good landmark to know. Back in the '80 is believe it was the area was rezoned and classified as RC zoning which puts us in a criteria of any alterations to an existing non-conforming structure residence requires to come before the Board. The setbacks that we are dealing with are commercial setbacks and you will see here noted for the setback lines and that is what makes our current structure a non-conforming structure. To give you some indication of where the property sits with regard to Guinea Road this is the front view of the house, this is the rear view of the house, another front view and these are also views of the existing houses in the area. As the property sits we are abutted by three other properties, one is Salinger's Orchard, two is the Rivera residence behind us and four will be the Woltz residence over toward the side here across the street is also the orchard. We have presented the project to our neighbors and beside the mailings we presented to the plan, we presented the project to our neighbors, no one has an objection to it. And are in favor of it. I have a letter testifying to that. I submit that to you. These are renderings of the existing house. It is basically it is an 1890's farm house. What we are proposing to do is to add a second story here to give us a master bedroom and bump out the kitchen on this and also increase the family room towards the back of the house.

Ed Colello – Help me out here, top left picture? That is what it looks like right?

Stefan Karlson – Correct. And this will come out on this side, these are the front elevations, so it will come out six feet on this side. The rear side will come out to meet this line six feet, so it will bump out this back end and that will coincide. This will be the second floor and that will bump out the back. These are the proposed renderings which will give us a bay in the front, the rear will come out to facilitate the new kitchen and also the staircase, right now we are dealing with a spiral staircase in the house. This is the front elevation this is where it will bump out six feet and this is the left side where it basically meets that end in the back here. As I mentioned earlier the house right 1,320 square feet it will bump it to 1,620.

Ed Colello – Only 300 square feet? That is all you are picking up?

Stefan Karlson – That is all we are picking up.

Ed Colello – That is a lot of work for 300 square feet.

Stefan Karlson – We love the property. I work in the area. We have put a lot into the property and we want to try to stay there. It is basically the addition to the family that is prompting this addition to the house.

Tom Costello – It is a little baby it doesn't need a little space.

Ed Colello – It looks beautiful, it is hard to believe it is only 300 square feet. I believe you it seems bigger, especially the second story. Approximately how much are you gaining by bumping up the second story like that. That is the bulk of it probably?

Stefan Karlson – The room is 8 by 10 so it is 80 and then the back we are going to bump 6 by 14, so that is 70 something and the kitchen pushes it out 6 x 10 so we have another 60 on that.

Tom Costello – I would have thought the addition on the second level was going to be bigger than that.

Stefan Karlson – It is a one and half story now. This is existing so we are just coming out in here. So it is not a whole second story.

Ed Colello – It is a room on top of a room.

Tom Costello – He said it is only 8 by 10.

Stefan Karlson – It is 8 by 10 correct.

Ed Colello – That you are adding. That is only 10 feet long? That lower story right there.

Stefan Karlson – It shows it on this one.

Ed Colello – For example, take that top left hand picture, where those two windows are?

Stefan Karlson – They remain the same.

Ed Colello – I know that. But that is about 10 feet long? The top left, where that lower roof area is how long is that where those two windows are?

Stefan Karlson – Let me do my math here, 1/4 scale, I am sorry it is 12 feet.

Ed Colello – 12 feet deep and how wide is the house?

Stefan Karlson – 10 feet wide and 10 feet long. The current house now is 30 feet.

Ed Colello – Let me read into the minutes. To the Town of Southeast Zoning Board of Appeals dated October 15, 2004.

“Dear Zoning Board of Appeals Members:

The following letter is to register our adjoining neighbor's approval of our application for a variance. The neighbors have been notified of our intention to alter our existing residence in the designated Rural/ Commercial (RC) zone. They have been informed that our alterations will consist of expanding our existing kitchen and family room. The entire house will be refinished to meet the new additions and renovations.

The listed neighbors have been informed via certified mail according to Zoning Board regulations. All adjoining neighbors have reviewed the submitted plan prepared by Terrence Leonard, dated June 7, 2004.

We respectfully submit this letter in hopes to assist your decision making process to grant our variance.”

Ed Colello – This is signed by Bruce Salinger, Mark Rivera and Kenneth Woltz. This is dated 10/16/04 and 10/18/04. Is there anyone in the audience that has any questions or thoughts or opinions on this application?

Tom Costello – Mr. Karlson on this, I am a two dimensional person if you could show us where the additional square footage will be?

Stefan Karlson – Let's do the footing plan, this is additional.

Tom Costello – So that is this section here?

Stefan Karlson – Correct. This is additional. And then in the second story you are going to gain this as well as this.

Tom Costello – So this is the second story?

Stefan Karlson – Correct.

Tom Costello – So what do you have up there now?

Stefan Karlson – This is existing and then it comes up here and then it goes out. I actually have a better copy here.

Tom Costello – It is use? It is setbacks as well.

Tim Froessel – The letter doesn't mention it.

Stefan Karlson – It is 1.03 acres.

Tom Costello – You see on the map he has that little triangle that is what he can build.

Stefan Karlson – The house has been there since 1890 the zoning has been updated.

Tom Costello – So all this highlighted area is the addition is here?

Stefan Karlson – Correct.

Tom Costello – And this all comes to 300 square feet?

Stefan Karlson – Give or take. I can scale it out and get the exact.

Tom Costello – Is this area going to be new?

Stefan Karlson – The second floor, correct.

Tom Costello – So that should be highlighted. I would like you to check the calculations.

The visual looking at.

Tim Froessel – I am looking at the schedule.

Stefan Karlson – That is right. Less actually.

Tom Costello – I just looked at this is 13 by 10.

Stefan Karlson – 130.

Tom Costello – And that is double that 260. Just this square.

Stefan Karlson – This is existing here. I marked it wrong. See the schedule it is only half of this.

Tom Costello – You have me confused.

Stefan Karlson – 22 that is 220. You are right. Actually 346 is what I come up with.

Tom Costello – We are not going to be able to vote on this tonight so it would probably be helpful at the next meeting if you could schedule out how much you are adding. We recognize that it is an old house and that is small to start with. It would be good to have it. We are going to have to do a little research on that zone. I don't think we have had a variance in that zone before.

Stefan Karlson – There is probably about five houses in that area and the rest is the orchard.

Ed Colello – OK. We will see you on the 15th.

Tom Costello – The pictures were very helpful by the way.

Stefan Karlson – Is there any calculations you require.

Ed Colello – No, you have given us a lot of information. We are going to have to do a little research on this because where your house is by no fault of yours it is sort of a grey area in the RC and it is almost not fish or fowl. I guess our research has to be to make sure we are doing this the right way. It is just a limited area, five houses in the whole district.

Stefan Karlson – If you are familiar with Guinea Road especially the south end of it when the Town was doing their comprehensive plan to make that area a true commercial it would be millions of millions of dollars in infrastructure to try to make that road passable for commercial zone. It is not something, if I personally looking at an ideal commercial spot that is why I am putting money into the house because I think it is going to remain residential because it is not enticing to anyone else because of the commercial location.

Ed Colello – Why don't we take a ten minute break before we finish up the last two.

6) Plinio Palmieri
107 Peaceable Hill Road
TM# 56.20-1-10

Plinio Palmieri and James Nixon, architect appeared for this application and were sworn in by Tom Costello.

Ed Colello – Can you walk us through this?

James Nixon – The Palmieri's own property on Peaceable Hill Road, on the west side of Peaceable Hill Road. There are two houses on that property. It is a small non-conforming lot, non-conforming in its size. There are two houses, there is a two story house in front which is a single family and there is small one story cottage towards the back. According to Building Department records both of those predate zoning. And they are legal in nature. What the applicant proposing to do is to add to the front house, it is a two story house, most of the house is two story a portion of the house is one story and the one story portion in the back which is where the kitchen which is followed by a screened in porch. The applicant proposes to add a second story over that one story portion, over the one story kitchen and over the screened in porch and at the same time to enclose the screened in porch as a front porch. Because of the pre-existing non-conformities specifically with regards to the side yard setback at that portion of the house we have 9.5 feet according to the survey where 20 feet is required. That condition therefore would require a variance for the second story which would be non-conforming in the same way that the first story is non-conforming. Also as the Zoning Enforcement Officer pointed out the front yard is non-conforming. We have 30.5 where 35 feet is required. I had not presented that in the original application Mr. Harper was on vacation when I submitted the application however in the notices that was mailed to the neighbors a front yard variance...

Ed Colello – Do I have one of those? I don't think there was one in the application? I am sorry go ahead.

James Nixon – That pretty much explains construction. This is the house in question as seen from the road this is the two story portion towards the front and you can see that there is a one story portion that is where the second story addition will go. This is taken

from the rear showing the screened in porch as it exists and the one story kitchen wing as it exists so there is where the second story portion would go. As I said before it would be done as a sun porch over a screened porch. Another view from the street which shows the subject house in the center plus a few neighboring house will give you a sense of how with or without the addition the house is in keeping in character with the neighborhood and specifically a shot of the space between the two houses, the applicant's house which is seen on the left in the photograph and the neighboring house to the right which is the closest neighbor to where the addition will be placed.

Ed Colello – Is this the applicant's principal residence?

James Nixon – No, the applicant does not live there right now.

Plinio Palmieri – No, but I would like to live there because of the size, it is too small.

Ed Colello – What about the cottage in the back, what is being done with that?

James Nixon – Right now, nothing. It is rented to someone but there are no plans for construction as part of this application.

Tom Costello – Is there a tenant currently in the house?

James Nixon – Yes, there is tenant in both structures. There is tenant in the two story house in the front and there is tenant in the small cottage in the back. The front is a two bedroom house and it is not very big as you can see, it is only about 1,400 square feet total including the covered screened porch which is why the owner would like to expand. It will maintain two bedroom status because of the septic system and we don't have need to expand beyond that so the intention is to add the additional space, reconfigure the rooms insides so it would be still be a two bedroom house to satisfy the Health Department.

Ed Colello – Have you don't that yet?

James Nixon – Health Department?

Ed Colello – No. do you have the plans how the house is going to reconfigured?

James Nixon – Yes.

Tom Costello – This is new and this existing.

Ed Colello – That is a box.

James Nixon – That is a schematic architectural plan.

Ed Colello – What is the outside of the house going to look like?

James Nixon – That I did not draw. The front of the house will look the same as it does. It is the rear of the house that will change as you saw in the photo there will be a second story added to the first story and basically similar to the architecture that is there which is a box and a roof. It is a pretty simple house.

Ed Colello – I understand that. I am not telling you I need you to wipe out a rain forest with 30 pages of plans here but I would like to see the roof line, I would like to see what it is going to look like, the finished product.

Ed Colello – Is the cottage in the rear completely conforming to the ordinance as it is today as far as a second residence on the lot?

James Nixon – No, it is not, it is pre-existing. Pre-existing non-conforming. One of the things that is non-conforming in it is there is a second residence on the lot and also it has area non-conformities it is even closer to the property line than the house that we are working on.

Ed Colello – So what are you going to do about that?

James Nixon – Leave it as it.

Ed Colello – Correct me, I am going on memory here, with the new ordinances on apartments and second dwellings wasn't your client supposed to file for some sort of a waiver when the rules came down.

Tom Costello – A special permit.

Ed Colello – A special permit.

James Nixon – How new is this regulation that you are referring to?

Ed Colello – A couple of years.

James Nixon – **Plinio Palmieri** has not owned the property that long. He bought the property...

Plinio Palmieri – Less than a year. Eight months.

Ed Colello – When you buy a problem you still inherit a problem, right?

James Nixon – That is correct. To be honest I did not discuss that with the Building Department. What I did discuss with the Building Department was what they had on record for the property. My understanding is that as it stands it is legal.

Ed Colello – The first thing I would like to do before we look at anything on this property is talk to the Enforcement Officer to see if this cottage/apartment/second house, whatever you want to call it is legal. That is the first step. I think it would be very difficult for this Board to allow an applicant to expand a property if, and I am saying "if" they have an illegal second apartment on the property. I think that is the first step.

Plinio Palmieri – Because you mentioned legal, when we bought it the Building Inspector gave us a CO.

Ed Colello – I would like to see that.

Plinio Palmieri – I have it home.

Ed Colello – I would like you to talk to the Building Department.

James Nixon – OK. What **Plinio Palmieri** said it is the same as my understanding with my discussion with Ron Harper in the Building Department but I do not have a copy but we can do that.

Ed Colello – I will talk to them as well. That is number one, number two I don't know how the rest of the Board feels about this.

Tom Costello – What zone is this?

James Nixon – R20.

Ed Colello – But usually when we are looking at any sort of addition we get the whole picture, not only the sides and the dimensions but also the outside as you know one of our criteria does it fit into the character of the neighborhood, right?

James Nixon – That is correct, yes.

Ed Colello – I am not trying to give you a hard time but how can we determine if it fits in the character of that neighborhood if all we see is a box addition. I know it is a simple addition but you have to show us what it is going to look from the inside and the outside. Because the outside determines whether it fits into the character of the neighborhood not just a 10 by 12 box.

James Nixon – That we certainly can do to be honest my thinking was it is a box and the character of the house is there but I can draw a box and the character of the house is there to clarify that.

Tom Costello – The section of the ordinance that applies to accessory apartments is 138-22.

Tim Froessel – Also 56.1.

Tom Costello – It was enacted in '99. There is a section on grandfathering and it should cover that situation.

Ed Colello – Where is the property line, is this the applicant's?

James Nixon – That is not the applicant.

Ed Colello – That goes with that house?

James Nixon – The property line is about 9.5 feet from the applicant's house.

Ed Colello – Which is probably about one foot from the cottage.

James Nixon – According to the survey two feet.

Ed Colello – What is that there?

James Nixon – That black rectangle?

Ed Colello – Yes.

Plinio Palmieri – There was a window there. I eliminated that window because there was too many windows. Everywhere there was windows.

James Nixon – So you are going to put siding there.

Plinio Palmieri – Yes. The first floor is full of windows and in winter time the heat goes like that.

Ed Colello – This roofed area, this is the kitchen?

James Nixon – Yes.

Ed Colello – That is going to remain where it is?

James Nixon – No, that roof would come off.

Ed Colello – This whole thing will be taken off.

James Nixon – The porch will be rebuilt.

Ed Colello – Back up a little bit. What are you calling the porch? This gray thing? What is this, this room?

Plinio Palmieri – That is part of the kitchen.

Ed Colello – Is that coming down or is that staying?

James Nixon – That is staying.

Ed Colello – That is staying and this is coming off?

James Nixon – No, the roof of the kitchen area, that roof comes off and the second story is built on top of that. So the new roof will be the height of the main roof of the house.

Ed Colello – So we know it is not going to look like to coin a phrase which somebody else said the "Peaceable Hill Hilton" OK and I would like to see obviously where the roof lines are going to be, what it is going to look like.

Tom Costello – It would also be helpful to see how this screened porch is going to be converted to a sunroom. How that will look.

James Nixon – That in essence gets rebuilt.

Ed Colello – That get ripped off and we start over.

Plinio Palmieri – Ripped off and start over.

Ed Colello – Come on guys let's be frank. Did that used to be a window too?

Plinio Palmieri – In the bathroom. There is two windows. There is a window in the back this one is where the tub is it couldn't stay here when you took a shower the water would go everywhere and rotting everything I eliminated it and I put a wall with the tiles so I have to put...

James Nixon – So from the inside it is finished.

Plinio Palmieri – Outside all I have to do is shingle but it is hard to find those types.

Ed Colello – Do you have one family living in here?

Plinio Palmieri – Yes, sir.

Ed Colello – How many people?

Plinio Palmieri – Four people.

Ed Colello – Husband and wife and two kids?

Plinio Palmieri – The two kids, yes.

Ed Colello – And the back cottage who is there?

Plinio Palmieri – Two people.

Ed Colello – Husband and wife?

Plinio Palmieri – Two adults.

Ed Colello – Do we have any questions or comments from anyone in the audience in regard to this application? Who wants to start?

Arnold Ratcliffe - My name is **Arnold Ratcliffe**.

Ed Colello – And your address please?

Arnold Ratcliffe – 111 Peaceable Hill right next door.

Ed Colello – To the right or the left, if you were facing the applicant's you are on the right hand side?

Arnold Ratcliffe – Correct. Now to use one of your phrases that you just said, to coin a phrase, "Peaceable Hill Hilton" that is what we have next door. That little cottage years ago one woman lived in there. Right now on an average of any given night you can have 5 -8 people in this house. Never the same people, they play games. They put up a sensor they make that sensor does not come because you are not supposed to see them coming in the house. During the day one comes in around 3:00 PM, 5:00 PM two cars come in, 4-5 come and this is an ongoing process.

Ed Colello – This is the house or the cottage?

Arnold Ratcliffe – This is the cottage. I am going to get to the house in a minute.

Plinio Palmieri – I don't see that.

Audience – You are not there.

Arnold Ratcliffe – You made your oath, let me finish my piece. Any given day, 6:00 AM, 5:45 AM, they pull up in my driveway and pull across my driveway, people on the other side they do the same thing to him. I don't know what it is but they have to come up blowing there horn. Do you know what it is like on Sunday morning to hear a horn blowing 6:00 AM.

Ed Colello – Have you spoken to the applicant?

Arnold Ratcliffe – Many times, many times. I have tried to talk to him about this consistently. Now I will tell you about the people in the front house. He says there is only four people. The front house, let's start, about a month ago, 2:45 AM in the morning was the second time there was policeman in front of my house trying to do something with this guy who was supposedly the woman's boyfriend. He pulls up he is there constantly. There is always four to five cars there every night. There is constant traffic in this house, it is unbelievable! You could be sitting there watching TV and all you hear is cars opening and closing, all day, all night. The weekends are major horror show, major horror show! From, if you look at the front part of their yard they really don't have a lot of parking but for some reason they will park three cars in and then they will park one car parallel to the street, so if you are trying to pull out you can't see. You can't see and for some reason this is not once in a while. I don't know what you are talking about, I have been to your face about this many times and I am not going to get

into it anymore because I am tired of talking. This is an ongoing problem. The constant horn blowing. And one of the guys that is there happens to be this girl's brother who happens to work on speakers. He hooks up speakers. Two Sundays ago I am sleeping in a room and I am hearing this beeping. Could not figure out what it was, I go to the fence. Seven o'clock on a Sunday morning this guy is outside working on a car when you turn the ignition it beeps makes that noise, he is out there working on somebody's speakers. On-going problem. And if you say I am lying I will give you license plates. A lot of these cars, constantly out of state. A lot of them from Connecticut. One of the things that really scares me about this is that this is supposed to be a community. A residential community. I work here in Brewster. Matter of fact my wife does too. As a matter of fact I deliver to this building. I see what goes on here all the time. I have no problems with anybody but I do have a problem when it is time for me to come home to my house to have a little peace and I have to get in an argument with somebody about somebody being on my side of the driveway. And they pull up, talk, and get out of the car and then they say what is the problem. My son, him and his wife decided to live with us so they can do whatever, save some money so they can buy some. They bought a Mercedes car, twice that car was almost hit from people swinging in and out of the driveway. I have had this argument with him about this, many times. And it is just not me. The man on the other side has the same problems.

Ed Colello – Have you ever reported this to the authorities, have you ever called the police?

Arnold Ratcliffe – No, because I thought I could reach through him but I was told and there are other things that I have to do and from here on out everything will be documented and if I have to I will call. I even had one particular man cursing at me because I told somebody else about being on this side of the property. And I said you are renting, I own, could you give me a break and stay on your side. He wanted to make a big fight about this. And I told him you don't want to do this. Of course everything is whatever. It is something that has been ongoing. Like he said he hasn't had the property a year. I have a problem with the previous owner and that was a whole other joke because he was even worse. But the same people that were in that little cottage are still here now. I had a particular incident happen on the 4th of July this year. I had family in my yard, we were in the back yard. My wife was asking me what I am staring at and I happened to look up and this guy is staring at something, and I couldn't figure out what he was doing. He was on the porch on this little house. Now my next door neighbor has young girls. Then it dawned on me until I happened to walk over and pick up something and I looked in the direction he was looking at, he is looking at these girls in their pool. They are in their pool minding their business. These are the things that scare me.

Ed Colello – Can I interrupt you?

Arnold Ratcliffe – Sure.

Ed Colello – There are certain things, and I am not saying these are not concerns for you as a neighbor, but there are certain things that are a little out of this Board's realm to be quite frank. I emphasize with your problems. But the only thing we look at, and I don't mean to sound cold here, is the criteria on whether or not to grant this man a variance. One of the questions is does it fit the character of the neighborhood.

Arnold Ratcliffe – I understand that.

Ed Colello – When you have tenants it is a tough situation, if you don't have good tenants it is a nightmare for everybody. It is a nightmare for you, for the next door neighbor, it might be a nightmare for him being the landlord. The question we look into does this proposed addition fit into the character of the neighborhood. It is going to be too close, it is going to look like to doesn't belong. That is what we have to base our decisions on. And one of the problems we are having and I am not telling you what to do but this Board doesn't have any control, would be the police.

Arnold Ratcliffe – But you are talking about making an addition and you know what that tells me?

Ed Colello – Making the situation worse, probably.

Arnold Ratcliffe – More traffic.

Ed Colello – I am not denying that and that is why we are listening to what you are saying. But I am using the example of the man looking at the kids in the pool. That is not something that really, and I am not saying that is OK, but that doesn't mean anything to what we have to do.

Arnold Ratcliffe – I understand. I am just trying to show you what kind of people are there.

Ed Colello – Obviously, you have a problem. There is not a question to us.

Arnold Ratcliffe – What scares me is by making this addition it is also adding more to it. He is saying there is only four people in the house. I am telling you now every night there is at least six.

Peter Spannaus – Excuse me does this Board have any with the amount of people in terms in how large the house becomes, do you have any concern about how many people are going to be living in that dwelling?

Ed Colello – No, and I will tell you why, not that we don't care, but that is the Board of Health. That is the Board of Health's job so to speak. We have no control over that, we have no authority over that. The Board of Health is supposed to be called in to make sure 32 people living in two bedrooms, hypothetically.

Ed Colello – Can you state your name for the record?

Peter Spannaus – Peter and Lillian Spannus, 14 Birch Avenue.

Ed Colello – And you live around the corner?

Peter Spannaus – We live just around the corner. A lot of our concerns are the same. We have small children, there are a lot of small children and there are a lot of kids that we don't know and I know they don't really care who moves into these places and we are concerned about that and we think the fact that it is going to be a residential place that they are renting out to and I think the Town should be concerned about what that structure is being used. As you were saying to that tenant I don't know what that storage is going to be used what is that dwelling going to be used. Especially if it is for renting since I know you are not going to be living there.

Ed Colello – Understand something, hypothetically, and I don't mean to non-emphatic to your situation but understand you own the home around the corner let's assume that you bought a house three or four blocks up the road for you and your family to move into but you decided not to sell your original house you lived in now and you decided to rent it and that would be perfectly legal, correct. Now this Board has no authority of whether you live in that home or whether you rent that home but the Board of Health has the authority that whether you have four people or forty people living in the house. That

problem of overcrowding and having too many people living in the house that is the Board of Health. Understand something though as I said to Mr. Ratcliffe is that this Board is going to look at the criteria for this variance and one of them is the character of the neighborhood.

Peter Spannaus – I am concerned because I just put a large addition on my home and to me it is not even close to it and my house is not that far enough and a number of people have done the same thing and what they are proposing and what it looks like over there doesn't. It doesn't fit in the neighborhood in the general and that is what we are concerned about.

Bill Smith – My name is **Bill Smith** I live at 100 Peaceable Hill Road I would too like to comment to the architect he has commented that it is characteristic of the neighborhood I would suggest that you use that phraseology because at best there are two homes on what is essentially a half a lot. There are no other situations of which I am aware that there are two homes on a single lot. If you went to Mike's house or my house or across the street for me that are regular size lots not two homes on one lot. I also have a question, if I understand the architectural description and I presume you are here to look at it as well this would not change the footprint of the house, only the height.

James Nixon – That is correct, only the height.

Ed Colello – Hold on a second. It does change the footprint Jimmy if you are ripping off that screened in porch and you are rebuilding it that is changing the footprint.

James Nixon – We are building the porch as the same footprint that it has.

Ed Colello - You can't call that part of the footprint it is on pillars. It is on bricks.

James Nixon – Whatever it is on I believe according to the Zoning Ordinance a covered porch is part of your house.

Ed Colello – When was this addition put on?

James Nixon – Not too recently I don't think.

Ed Colello – I will bet you there is no CO for this.

James Nixon – But he just bought the house less than a year ago.

Ed Colello – Jimmy you know the rules.

Lillian Spannaus – It is not a joke to us!

James Nixon – Architecture is a very serious profession more serious to me than to anybody in this room I would think. So there is nothing to joke about. My point is the screened porch clearly was not added within the last six months.

Ed Colello – No, absolutely. And obviously did not add it at all but I can't believe, we can debate about this later one, I cannot believe that you can call that as part of the footprint of the property when you have a screened in porch that is sitting on, I don't know what that is, I don't know what that piece of wood is or metal on block.

Tom Costello – Well, we can have him bring the CO next month.

James Nixon – I believe it is at least a part of the footprint it is shown on the survey, which the applicant got from the seller at the time of sale. If you have a setback it would bring the setback, the setback would apply to the covered porch.

Ed Colello – I am not going to debate with you I understand where you are coming from and that is not really an issue for us to do now. Understand my opinion on that.

James Nixon – To clarify the gentlemen's question whether it is part of the footprint or not there is an enclosed house and there is a covered porch behind that. Beyond that structure there are no dimensions to be added only height. Only a second story.

Bill Smith – If the footprint is approximately the same and that footprint is placed on the piece of property as a result of a variance in some past time when it comes to revisit the structures on that footprint wouldn't it make sense that rules are in effect now would apply as to opposed to the rules that were in effect when it was first built?

Ed Colello – Well, yes and no. OK, and I know it is a tough issue you mentioned if this was built with a prior variance. A variance stays with a property forever. A variance stays forever. So if you were granted a variance to expand you home ten feet further to the back and let's say for example that rotted out. Say you were going to put a deck and 20 years from now that deck rots but that variance stays with the property so you could rebuild that deck thirty times as long as you didn't expand it further than the variance allows that is why we are very careful with variances because they are forever.

Bill Smith – I guess the gist of my question is related if you expand the house to extent the living area so therefore you must logically expand the septic system because you have a pre-existing septic. You can't expand the septic system because you have two houses on the same lot and you are going to have a problem. Then you will have a house that is not in the character of the neighborhood.

Ed Colello – I hear what you are saying and again this is not my area of expertise but septic systems are measured in size depending on how many bedrooms you have. Now you could have a bedroom that is 9 feet by 10 feet and you can have a bedroom that is 40 feet x 40 feet and there is still one technically one bedroom. When the Board of Health checks to make sure your septic is up code they measure on the number of bedrooms you have.

Bill Smith – The code 1973?

Ed Colello – No, the code today. Well that is where we are going with this the first thing we have to find out is that little cottage in the back. That is what we are trying to find out.

Bill Smith – Can I make one other comment?

Ed Colello – Go ahead.

Bill Smith – My presumption is that we would receive timely notice of this kind of meeting because it is important obviously. I received this notice at 5:30 PM this evening, certified mail. I know one of my neighbors received it Saturday, I know other people who received it tonight, I don't know who is responsible for that, but it is appropriate.

Ed Colello – Do you have your notice?

Bill Smith – Yes.

Ed Colello – May I see it please?

Bill Smith – Yes.

Ed Colello – Do you have your envelope it came in?

Bill Smith – It is dated October 7th. I got it today on the 18th.

Tim Froessel – If he mailed it on the 7th he is OK.

Ed Colello – And here are the receipts which match up, they are dated October 7th.

Arnold Ratcliffe – Trust me it was on time. I would be the first one to admit because I happen to work at the Brewster post office and the first day they came in the carrier came in and gave me mine and I actually filed out my own paper work that I received so they were in the building on time. What happened from there you have to speak to Brewster post office.

Peter Spannaus – The mailman was on vacation.

Arnold Ratcliffe – But still.

Ed Colello – We are here and I understand that but I have receipts in my hand that are all dated October 7th and it is all I can do is to ask the applicant what he or she is supposed to do to get it out on time.

Lillian Spannaus – Absolutely, but we would have had more people here that are unhappy.

Ed Colello – We are going to wait another month. This is not going to be decided tonight anywhere.

Bill Smith – Can I ask if any of us that are a neighbor can have an opportunity to discuss this perhaps with the architect, perhaps with the owner that you delay this next meeting 120 days?

Ed Colello – No, here is what is going to happen. First of all we are not going to do anything tonight because we are going to want to look at the site. As I have asked Mr. Nixon to do some research on back house, to find out on that. Number two because it is on a county road we have to send the application to the County, Putnam County.

Linda Stec – I did.

Ed Colello – You did and we have to give them 30 days to get back to us because they do have a vote on this.

Peter Spannaus – Will they be notifying us also?

Ed Colello – Will they be notifying you, no. It is interesting not to bore you with this but this is the way it works. The County gets a vote. Now there is seven members on this Board if the County votes OK, they have no problem with this, nothing happens. If the County votes that they are opposed to this application that means that is a negative vote against the applicant. If they say they have no problem with it is really null and void. It doesn't mean anything.

Peter Spannaus – I only ask because I know that most of the surrounding neighbors just got this letter like myself tonight. If my wife wasn't here tonight she would be here opposing this. I am sure that we would have another 20 neighbors are opposed to this.

Ed Colello – This is going to be held over to November 15th.

Mike Dyas - Mike Dyas, 114 Peaceable Hill Road. You said that you would scout the area will the landlord and the tenants be told this in advance or is it at your discretion at any time.

Ed Colello – We really don't like to step on other people's property without permission we don't have the authority to walk on somebody's property. A lot of times, and I will ask the applicant right now, this is not a big piece of property, this is not is not a piece of property that you have to walk the property, acres, like some of them we look at. I am sure if drove by the driveway between your house and your house I probably wouldn't even have to get out of the car. Now that I wouldn't get out of the car but from there I probably see 99% of what I need see.

Mike Dyas – If you can get a parking spot. My point is that they might be able to clean up their act.

Mrs. Ratcliffe – If you come during the day there is no one there, they all come in after 5:00 PM.

Ed Colello – I have to tell you and you are probably not going to like what I have to say but the people are not as important to me as the property because that is what we have to base our decision on.

Mrs. Ratcliffe – It doesn't matter that there is that many people.

Ed Colello – I didn't say that. Obviously there is a problem there. But I am never going to be invited to go check to see how many people are in there. Our job is to look at the character of the neighborhood, to look at the size of the variance that they need to see if it excessive. There are five criteria that we look at and that is what we are going to base our decision on primarily on whether or not to give him a variance or not.

Mrs. Ratcliffe – The house in the back they have six men living there and one person used to live there. How is that going to be determined?

Ed Colello – Well, the first thing we are going to find out if it is legal apartment. That is first step and hopefully Jim Nixon will have some answers on November 15th.

James Nixon – One way or another.

Ed Colello – And it would be, I don't like to speak for this Board because I am only one member I have to believe it would almost be impossible for this Board to even consider granting a variance to add onto a home if it had a illegal apartment in the back. I personally couldn't bring myself to do that. So that is the first step to check out the cottage in the back.

Mike Dyas – Does the cottage have bathroom?

Plinio Palmieri – There is a separate septic system for the cottage and there is a separate system for the house in front.

Mike Dyas – He means cesspool.

Plinio Palmieri – No, septic system. A regular septic system. It is in the back. It has nothing to do with the driveway. In the back, behind the house in the front where the grass is there is a septic system. Then you have the cottage and the grass in the back there is another septic system.

Ed Colello – State your name please for the record.

Lynn Eckardt – Lynn Eckardt and I will use my shop address which is 152 Peaceable Hill Road a question I have for Mr. Colello you said the County gets a vote but I am not sure what agency or whom gets the vote?

Ed Colello – County Planning.

Lynn Eckardt – Also and I know you will correct me if I am wrong on this but if the cottage is illegal you couldn't even hear this case until that is cleared up, right?

Ed Colello – I don't know if hear the case is the exact words again I don't as I said earlier I don't want to speak for this Board but I can't see this Board even entertaining the thought of giving a variance until the other problem was remedied. Does that answer you question?

Lynn Eckardt – Again, like Brewster Honda and Envirostar I thought it said they had to be cleared up before...

Ed Colello – That is only if the Zoning Enforcement Officer cites them you them you see. If they are cited by the Enforcement Officer and there is a court case pending as in those situations are then technically we are not to hear anything. We are not at that stage yet, hopefully we won't be, but you never know.

Ed Colello – Any other questions?

James Nixon – Mr. Chairman I would like to clarify something apart from my presentation and now that I have heard from the adjoining neighbors it certainly sounds like your concerns are legitimate and I don't not live in that neighborhood and I am not there and you live there but my reference to being in character of the neighborhood

specifically I am talking about the house and the addition regardless whatever else is on the property is or is not in character of the neighborhood. Admittedly a two family lot is not in character with that neighborhood and as I said before that is one of the reasons it is pre-existing non-conforming. However, see these picture of the three houses in a row and my client's is in the middle, looking at those three houses in a row those houses all have a similar character not only in the size of the houses, a single family two story house, but the proximity to the street. My point is that the addition to that house does not change that character, does not change the character of the house itself and therefore does not change the character of the three houses together. The issue of whether or not there is two family houses on the property, it is another issue which I really don't have a way to address. That is not something that is a part of our application. Our application is to do an addition onto a single family house. Now it is a single family house, yes, admittedly there is another single family structure on that property.

Mrs. Spannuas -We are trying to preserve our neighborhood.

Members of the audience talking over one another.

Ed Colello – Can we stay on the issue.

James Nixon – I am just saying what my role is as the design architect. I am sorry if I was a little terse but I have never had anyone accusing me of not being serious of architecture. I apologize. The second part if want to clarify is the understanding of the approval process beyond this Board and it concerns the number of people in the house. As I stated in my presentation that it is two bedroom house and not a very large two bedroom house and our design will keep it as a two bedroom house and partly because as someone suggested we don't have room to expand the septic system. If we do get the necessary approvals from this Board to go forward with this and though some of you have some opposition we have to go through the process with the Health Department. The Health Department reviews all applications no matter what they are. And they are looking for bedroom count. They need to see that we have two bedrooms are on record now and that we are having two bedrooms in the future or we are increasing that number of bedrooms we would need to be able to increase our septic system. We are not increasing the septic system we are making a two bedroom house and that was explained to the Board and we can reconfigure the inside so it stays within the confines of a definition of a two bedroom house to the satisfaction of the Health Department. And the Health Department people are not dumb you can't go into a bedroom and put a computer and say that is a computer room and now I have two bedrooms and a computer room. It is pretty well defined as to what qualifies as two bedrooms and even with the addition it is a respectively a small house. Your concerns are legitimate and for the most part I don't know how to address that but I think they probably need to be addressed and we will back here on the 15th.

Plinio Palmieri – I would like to say something.

Ed Colello – You can take a couple of minutes.

Plinio Palmieri – I wanted to say that when we bought this home we thought it was with the intention of living here but because we find out it is too small my wife, we live in an apartment right now. We don't live in a house. So we would have liked to live here but because it is not big enough the furniture doesn't fit so we decided to rent it. The previous tenants that were here, he told me many times, then I said OK I see now there are 20 people, I evicted them. We got rid of them now these tenants now, these present

tenants as far as I know it is a lady and two kids. Now if she has guests, I say they tell me, this is what she told me, I can't have guests.

Mrs. Ratcliffe – Cars in the driveway over night that is not guests they are sleeping overnight.

Arnold Ratcliffe – And for more than two months.

Members of audience talk over one another.

Ed Colello – Let's not get into that right now and are you telling me if you put this addition on you and your wife are going to move into the house?

Plinio Palmieri – Yes, you are right. We don't have a home, we have an apartment.

Peter Spannaus – Excuse me do you not own the building in town the big green one, or do you rent it?

Plinio Palmieri – We have an apartment in that building.

Ed Colello – Let's hold this over to the 15th?

Arnold Ratcliffe – I have one meter, can you explain to me why there is three meters?

Ed Colello – I don't have any idea. We will adjourn to the 15th.

7. Ronald and Constance Harper

395 Milltown Road

TM# 58.-1-2

Ronald Harper appeared for this application and was sworn in by Tom Costello.

Ron Harper – I am before the Board tonight to try to obtain a variance in order to get full use of the property I have on Milltown Road. Outlined in this copy of the tax map is an original parcel of 20 acres that existing around 1971 and '72 or '73 the owner subdivided this lot out of that parcel and he maintained the minimum size that was applicable in a R60 zone of 200 feet on a 4 1/2 acre lot that is basically at the 5th hole on the golf course. It is 1,000 feet long, it is basically four acres one right behind the other. Long curve. On that property, on the 20 acres there is only four lots, this one is 4 1/2, this one is 6, this one is 8 and this is 1 1/2 acres. So this is my piece of property. When it was created it could have just easily been 25 feet wider which means I could have accomplished what I want to accomplish without coming before Board. It just so happens he created this 200 feet wide I have to come here to talk about a variance to put a small horse barn on the property. This is the parcel and on it I have drawn the planned location of the barn. It applies with the Code in the 100 foot setback from the northerly side and then the structure itself is planned to be approximately 24 feet wide and 36 to 40 feet long and that results in a setback of 76 feet on the southerly side. Now the property on the southerly side is owned by the Town of Southeast, it is conservation land, it is three acres that was deeded to the Town probably 5, 6 years ago by a gentlemen by the name of Feeney who owns the property beyond it. When it was deeded to the Town it was stipulated that it would be used for passive recreation only. In conversation with Patty Bohrman of the Recreation Department, the Recreation Department has looked at that property from time to time over the past few years and has come to the conclusion that you can't do anything with it. The only thing that would potentially it would be used for is walking, hiking trails kind of things but it is topographically so rough that it doesn't lend to anything with the ADA requirements that kick in for accessible. So there is no plans that the Town has to do with the property at all. So basically it is 53 acres of open space. The property on

this side which is the closest habited piece of property if you will is owned by Mr. and Mrs. Jaskowski. Mr. Jaskowski just happens to be and will be maintained the required setback from that. On Mr. Jaskowski's property is a five stall barn which is presently not in use and corral that is adjacent to my land and the barn is over on the other side. The barn is over here. As far as the area is concerned not only is there barn where there are not any horses at the present time, within an quarter of a mile down the road going down to 22 is a piece of property with the stipulation that it would be able to support five horses and a new corral was just built on this property. Approximately is Harold Lepler's Reinmaker Farm, he as ten or 12 and that is on Joe's Hill Road. And further down Joe's Hill Road going toward Route 6, almost to the top of hill is a road where there is an equestrian center where there are 25 horses.

Ed Colello – Quick question, where is the property that was sold and agreed to maintain five horses, where is that? Is that on Milltown?

Ronald Harper – It is basically across the street from Lyon Court. You know the house that was an old house that was completely torn down and the only thing left was the chimney and he just sold it to somebody and the concern was the number of horses that it would maintain because the family that is buying it has five and they wanted to make sure that the parcel would support five and he just put up the corral.

Ed Colello – How many horses do you have now?

Ronald Harper – None. But I have 12 grandchildren all that live nearby. Not that they are going to be kept in the barn. Some of my granddaughters are interested in riding they have cousins that ride. That is basically where it is going to go. I am not into horses personally. This is for the grandkids. This is basically the floor plan, three is the maximum that would be involved. This is typical, this is a pole barns. One is 24, 36. Two stall is 24, that is one style, this is another style. This is a third style. We haven't decided on one. But basically they are the same. Standard.

Ed Colello – None of those pole barns are wider than 24 feet?

Ronald Harper – That is right.

Ed Colello – So the closest you will come to your property is 76 feet.

Ronald Harper – And that is to the open land.

Ed Colello – I am just curious here. It looks like this corral that was formerly on Jerry Gruen's property is right on your property line. Bear with me, what is a corral?

Ronald Harper – A circle.

Tom Costello – And is there a barn on this property next to you?

Ronald Harper – Yes, there is. This is the shed, this is a barn.

Tom Costello – Is that barn new?

Ronald Harper – No, it has been there for a long time. And I don't think there is any horses in there right. Jerry Gruen had horses.

Ed Colello – Does anyone have any questions or thoughts or opinions on this application?

Tom Costello – Do you have access to riding trails?

Ronald Harper – This is all wooded so there will be some trails cut in through here. This is a distance of about 500 feet by 200 so that is two acres and there will be some trailing riding. I don't know if we can utilize the Town land or not, I would certainly ask as it being right next door to it.

Tom Costello – Does anyone on the Town property today?

Ronald Harper – No. There is no riding there.

Tom Costello – Mrs. Eckardt do you know if riding is permitted on that land?

Lynn Eckardt – No, I don't that. I have a quick question because I am not familiar with where you live, I know some parts of Milltown have wetlands, there are not wetlands close by are there?

Ronald Harper – No, not at all. That is a very nice gradual slope I think it 20 feet in 500, there is a drop beyond that and way in the back far beyond the controlled area is a small stream that goes down and crosses under Gage Drive and eventually winds up in the reservoir.

Tom Costello – You are welcome to come up and look at the map if you want.

Lynn Eckardt reviews maps.

Tom Costello – What road is this?

Ronald Harper – That is actually part of Indian Wells. This property backs up to Indian Wells.

Tom Costello – So that is a real road, not a paper road.

Ronald Harper – No, a real road. My property is separated by this whole stretch of this parcel.

Tom Costello – So you said the man donated the big parcel to the Town owned the land rear?

Ronald Harper – No, this way. If I rotate this the other way around. This is the parcel that was deeded, here is my parcel. This whole section, this whole thing was deeded.

Lynn Eckardt – The 51 acres?

Ronald Harper – Yes. But you see the rock problem. So it is dry land. That was in '73.

Ed Colello – I don't know if the Board members want to look at the site. For me I don't have to

Linda Stec – We have to hear from the County.

Ed Colello – I was going to ask you to hold off till next month, number one if one of us wants to look at it, number two, there is only four of us so you would need 100% plus it a County road so we have to hear from the County whether they are opposed. It is only option to hold it off till November 15th.

Tom Costello – You don't mind if we come over and view it?

Ronald Harper – Not at all. The underbrush is pretty dense. There is no big dogs.

Tom Costello – We will probably check in. The really is no option as the width of the land is 200 feet that would allow you to build anything.

Ronald Harper – There is no, I can't do it. There is nothing. I waited till the new Code came out just in case they did something with the distance to a barn from the property line but they didn't make that change, there is no change in the section. OK, so I will see you on the 15th.

Ed Colello – Good night. Did anyone have a chance to look at the minutes?

Tom Costello – Wasn't **Ed Colello** here last month.

Linda Stec – Yes.

Tom Costello – Ron Kobbe is down as the acting chairman.

Linda Stec – I will change it.

Tom Costello – I will make a motion to accept the minutes.

Joseph Castellano – Second.

Ed Colello – All in favor?

All in favor.
Meeting ended at 10:45 PM.

Submitted by:

Linda M. Stec