

**TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
CIVIC CENTER  
67 MAIN STREET  
BREWSTER, NY 10509  
OCTOBER 17, 2005**

**Board Members**

<b>Edward Colello</b>	Chairman	Present
<b>Thomas Costello</b>	Vice Chairman	Present
<b>Timothy Froessel</b>		Present
<b>Kevin Sheil</b>		Absent
<b>John Gallagher</b>		Present
<b>Joseph Castellano</b>		Present
<b>Paul Vink</b>		Present
<b>Willis Stephens</b>	Town Attorney	Present
<b>Richard Honeck</b>	Town Board Liaison	Absent
<b>Linda M. Stec</b>	Administrative Assistant	Present

**Ed Colello** – Let’s stand for the Pledge of Allegiance. Welcome to the October 2005 meeting of the Town of Southeast Zoning Board of Appeals. My name is **Ed Colello**, Chairman, let me introduce the rest of the Board members. Members introduced. We have eight items on the agenda this evening and this is the order we will follow let me run through them with you. The first is Luis and Sylvia Pauta, number is Jeffrey and Kathryn Ellsworth, number three is Kenneth and Dena Mitchell, number four is Mallory-Kotzen Tire, number five is Paul and **Connie Lavelle**, number six Richard Feuerman and Cherie Ingraham, number seven is **Andrew Suozzi** and number eight is **Michael Walsh**. I believe the first five items are carry overs so we will get right into it.

**1) Luis and Sylvia Pauta**  
**19 Root Avenue**  
**TM# 55.12-1-17**

**Michael Liquori**, attorney, Hogan and Rossi, James Nixon, architect and Luis and Sylvia Pauta appeared for this application.

**Michael Liquori** – My name is Michael Liquori for Luis and Sylvia Pauta’s application for a use variance and application for an area variance for an expansion to their residence which is located on 19 Root Avenue which is on the portion of Root Avenue which is on the opposite side of Route 6. It has been before the Board three times and you are familiar with their application and the site plan which was proposed by Mr. Nixon. I would like to briefly like to go through the criteria for a use variance and just do a small analysis on the zoning for the property and the district that they are in. As you may aware is located right on the corner, here is Root Avenue the property was previously residential multi family across the street was rezoned to GC1 as well as their property and

the small portion of the neighborhood was rezoned to GC1 as well. One of the most important things in connection with this project if we were to start with a blank slate with nothing on the property and they were to try to develop on their own on a commercial piece of property in accordance with the zoning as proposed in the GC1 district they would be permitted to build a building that would look like this, this is a sketch of their parcel, the building with the setbacks, their parcel is 72 feet wide, the setbacks are 35 feet on each side, so they could build something 2 feet wide by 50 feet long. So the property is if we were to start new virtually undevelopable for commercial use if we were to build a new building. I would like to just go through the criteria for a use variance the application has to show unnecessary hardship which can be demonstrated by showing that for each of the permitted uses in the district where the property is located that the applicant cannot realize a reasonable return, that the hardship relating to the property is unique and doesn't apply to a substantial portion of the district or the neighborhood. That the requested variance if granted will not alter the essential character of the neighborhood and the alleged hardship has not been self created. Here if I go backwards it will be a little easier. The alleged hardship is the rezoning which is obviously not self created by the Pauta's in connection with their application. And it is my belief that the essential character of the neighborhood would not be changed by permitting these residential structures to remain to be residential the character would ideally just remain as it is.

**Ed Colello** – Can we go back, let's take the self created one for one second. I understand that it is not the Pauta's it is not their fault for the zoning change that is not their fault nor do I profess it to be their fault but if you look at what you just read by them asking for a variance and asking them to expand a residential use on a commercial site whose fault is that?

**Michael Liquori** – I don't think it is anybody's fault.

**Ed Colello** – Read the last one back again.

**Michael Liquori** – The alleged hardship has not been self created. There is no doubt if the Pauta's did not bring an applicant to expand their residence there would be no hardship, there would be no self created issue, there would no be issues.

**Ed Colello** – So the fact that you are applying for a use variance that is not self created?

**Michael Liquori** – The hardship, it is my understanding, that the hardship goes to what is the cause of why you are bringing the use variance. Here in this case it is the application of the new zoning to a house that has been on a piece of land that has been zoned residential for the last 50 years that can't be developed for a commercial use if they were to convert their existing structure use. The existing structure is 984 square feet. If we went down the list of permitted uses, retail by special permit, office space, you could probably put an office in there, but one of the issues that you run into on one of the submissions I made is that we cannot meet the safety design standards in connection with commercial properties. One of the instances is that a portion of the frontage is along Route 6 therefore we have front setback on two sides of this piece of property which is according to the design standards you cannot back out a car unto a road on a commercial piece of property. So it a really a catch 22 here.

**Ed Colello** – You are absolutely right it is a difficult situation. I am not denying that. Let's move on. I am not going to debate you on that. That is how I feel.

**Michael Liquori** – Back to the essential character of the neighborhood it won't change by permitting it remain residential. Regarding uniqueness other properties in the

neighborhood do suffer similar features the fact that they are small lots that have been rezoned from residential to commercial but other lots are permitted to suffer the same features what makes this particular unique in my opinion the frontage along Route 6 there is additional setback on this piece of property which is another five feet by the length of the property that runs along 6 if they were to convert this to commercial the reduction in the amount of the area that they were be permitted to use would be significantly reduced. In our opinion that feature that they are subject to none of the other parcels that are next to them, with exception of the one across the street suffers that feature. But the one across the street has significant frontage and would be to accommodate some commercial development but again not much. The most thing in this aspect is the reasonable return for the property and that really goes to if the Pauta's were to convert this to a commercial would this be substantially and in our opinion because we couldn't satisfy the criteria we don't think that we would be able to sustain the uses that are permitted in the district. To have a structure that is 984 square feet to permit retail and stay in business with that minimal amount of space would be very difficult and quite frankly it our opinion that that property would never sell for a commercial use. The Pauta's paid two years back close to \$200,000 when commercial land in the Town of Southeast goes for \$125,000 an acre it doesn't make sense for someone to buy something that is non-conforming where they would have to go for variance just for permitted commercial use when economically their money would be better spent somewhere else in another district in the town not in this particular area. For instance in OP1 or OP2 or in an other area where there are sufficiently sized parcels of land that could sustain commercial development that could be developed in a reasonable safe manner.

**Ed Colello** – I agree with you 100% it would be very difficult for the Pauta's to sell the property for a commercial use, etc, there is another alternative to live in the house as it is hypothetically or sell it as it is because it is grandfathered because it is pre-existing, non-conforming. As long as that house is there and there are people living in it etc, the town can't make them tear the house and make it a commercial use.

**Michael Liquori** – We discussed the option when I went through the criteria for a use variance with the Pauta's regarding selling the house and I think unfortunately one of the situations that we have encountered that there is a limited amount of housing that would in the price where this house would sell for. The profit that the Pauta's would make would make would probably not be enough to make they be able to find a similar house but they would be in the same situation. To be in that situation is difficult. To be in a house that is 984 square feet is very tight. Tiny.

**Ed Colello** – To give you an analogy. Let's look at some of the houses in the Lake Tonetta area. What of the people on Peach Lake. I just hesitate from drawing references to those houses because I think unlike I don't when this house was built in the '50's but it was always my understanding that the houses around the lake areas were never intended to be full time residences. They were really summer places. This may have been case. I don't know. I don't suspect it being the case. But it may.

**Ed Colello** – There is a lot of small house in this town but what I have seen and I am not in the real estate business granted they sell for \$600, 800,000 dollars they sell pretty quickly because they are a lot of people looking for starter houses. I don't know what they call them anymore. But that is not an issue. We are not trying to make the Pauta's sell their property.

**Michael Liquori** – They prefer not to. I think they can answer that question right now. I can come up with an alternative situation I had thought of it earlier as an alternative to a use variance and as Willis here and he can let me know if this would fly or shoot me down but under the non-conforming use section of the code there is a provision that provides for a one time expansion for premises that are in the ED and the I can't find the other district it is in but it is unfortunately not in the DC 1 but there is section in the code that provides for a one time 20% expansion if you have a residential use in a commercial district the ED district and one other which I unfortunately cannot seem to find but I don't know if the Board would be amenable I know under the provisions of the Code with the authority of the Board to modify some of the chapters of the Zoning Code in order to accommodate in connection with variances so that the spirit of the chapter would be observed and as long as public safety is not threatened I don't know if the Board would be amendable permitting something like that in lieu of a use variance or instead of a use variance that they would consider.

**Ed Colello** – Can we do that?

**Willis Stephens** – Nice try counselor. This Board is not a legislative Board they can interpret code but they can't rewrite the code. Thinking out of the box.

**Michael Liquori** – I have to try. And the only last thing I would like to direct the Board I believe the Board has granted a use variance in a situation like this across from where Terravest is, across from where the DMV is, I didn't have an opportunity to review the Zoning Board of Appeals's files to see what the particular situation was and the circumstances were but it was my understanding that this was not a first time for the Board.

**Ed Colello** – Do you remember that? That was on 312. If I remember that and it was a long time ago, they had just bought the property they were ready to start building their house and I believe right before they were ready to build the house there was a zoning change does that ring a bell to you? I think what happened they purchased the property. That was a long time ago. That was about 15 years ago.

**Willis Stephens** – I can't remember the name of the family but it was right across the street from Terravest. And the house was there what they were trying to do was expand it. They got the variance I don't know if they were use variances or if they were allowed to expand or if they got a variance from the provision prohibiting the expansion of a pre-existing non-conforming structure but they ultimately did get the approval.

**Ed Colello** – There were factors involved.

**Willis Stephens** – There were serious factors involved. And after they got the variance...

**Ed Colello** – They had a problem with the mortgage.

**Willis Stephens** – Because they were in a non-conforming zone. And I think that is why these people are here looking for a use variance it is probably the wiser way to go because with a use variance they become their lot if successful would in essence would return into a residential lot even though they are in a commercial zone they would be allow to use it so it would no longer be a non-conforming use. And no longer be the same argument that the bank made if they were going to try to finance if they ask if they conform to zoning they would say we conform to zoning because we have a variance.

**Ed Colello** – If a use variance was granted and the Pauta's sold the property tomorrow and someone who purchased it wanted to put a commercial business there that wouldn't be a problem?

**Willis Stephens** – They would have to come back to the Planning Board. The question would become whether or not they were residential or commercial. A variance runs with the land. They could continue to use but as a legally permitted use with the variance but conceivably if someone wanted to convert it back to commercial they could do so without having to get another variance.

**Ed Colello** – That is what I meant. My biggest concern with this applications is that none of us developed the master plan and the master plan is that properties like the Pauta's are eventually supposed to go away. Residences are supposed to away eventually. It could be 200 years from away but eventually they are going to go away and they are going to be commercial properties but philosophically and I am one Board member I have a little bit of a problem going against the master plan. I don't think that is my responsibility nor my job. I understand my job is to offer relief when we have to but philosophically that is what I have an issue with. I am being painfully honest with you I don't know how anyone else feels that is my opinion I could be 180 degrees away from the truth or the facts that is the way I feel about it.

**Michael Liquori** – My response to that just that when you analyze which properties were zoned for what to me in my opinion it just does not make sense in this instance and I understand the master plan. That concept makes perfect sense. But unfortunately in this situation when the apply the tenants of the master plan to the reality of what is out there and the size of the parcel that is out there it doesn't make sense to put 35 foot setbacks that are only 70 feet long.

**Ed Colello** – I agree with you 100% on that but again that is my opinion and I am only one person that is the saving grace in my mind saying wait a minute unless you merge properties together what good is this piece of land going to do for a business. And maybe I am misreading it.

**Michael Liquori** – To answer that is the fact that in order to have a commercial structure whether it be 10 years from now or 200 years we won't know but what will have to happen there will have to be a merger of the next two or three parcels and history has shown us for the last 50 years that these residences subsist because housing isn't cheap and when you find a house that you can afford you buy it and that is why these small residential pieces remain residential because they will never garner as much money as a piece of vacant land or a piece of commercial land will get something that is zoned properly before it and I go back to the \$125,000 an acre for vacant commercial because I think that is the applicable going rate. Nobody in their right mind would say I am going to offer you \$210,000 I am going to tear down your house I am going to offer the neighbor \$210,000 tear down their house, offer you and you, get the four lots and still not have enough to meet the code.

**Ed Colello** – Again, that is your saving grace. Are there any questions or comments from anyone in the room? Lynne?

**Lynne Eckardt**– I understand not want to turn use variances but it just seems so minor to me because of the Brewster Honda use variance of a month ago and that is all I have to say.

**Ed Colello** – I agree it is minor. Any other questions of the applicant?

**Tim Froessel** – I disagree with the comparison of this to Brewster Honda because Brewster Honda really was a very unique situation with a landlocked parcel that had access to it, it was very different. This is just basically these people have a house there has been a zone change and they want to make the house bigger. For better or for worse the town when through this whole master plan they did the rezoning and I know they have had some problems with the bulk requirements but a lot the situations that the counsel is describing is based on a blank slate and there not being anything there. There is something there. It will be pre-existing non-conforming from now to long after all of us are dead. About a conforming use going in there if they wanted they could get an area variance which is a lot easier. The ultimate justification is that these folks want a bigger house and I can't blame them. But what is to stop the guy next door and two houses and three houses and four houses down and in this situation I can see where the use variance become a zoning change down the line.

**Michael Liquori** – I went and researched the tax lots and the next house is 1,500 square feet, two down is residential multi-family structure, this is the last one.

**Tim Froessel** – Are these houses down the line are they zoned the same or are they same?

**Michael Liquori** – No, they are part of, here are the Pauta's, here is the house that is 1,500 square feet, the next one over from the Pauta's is larger than the Pauta's but not quite 1,500 and tax lot 14 here is a multi-family structure that is about 2,800 square feet. So we are practically the only piece left. I think across the street is Morningstar and I am not familiar with that property.

**Paul Vink** – But Tim is right then if we grant a use variance and make this residential then that could start a dominion effect down the line with those other commercial zoned lots wanting to expand further and then the would hold the Pauta's up and say you granted them a use variance why can't we have one.

**Michael Liquori** – The only response we have is those houses are built out. They are already built out twice the size of where they are looking to go and that is the only response that we are closing the door behind us.

**Ed Colello** – Any other questions?

**Tom Costello** – Just to comment the GC zone that was put in place is basically surrounded by residential so it was clearly an attempt by the town to direct these parcels to commercial because it would have to be easy to draw the line to allow it to be residential so somebody in the master plan process I would wants in the long term for the lots to merge and those properties to be formed into a commercial corporate use. So in my mind it seems like a very clear direction in developing the master plan. To address your concern or your comment about part of the zoning ordinance that allows for expansion by 20% I would just like to point out that the proposed expansion is far greater than 20%.

**Michael Liquori** – I know.

**Tom Costello** – So even if we wanted to consider that you are not even close to trying to make that. In my mind this is a totally inappropriate expansion of a non-conforming use in a commercial zone. In my view it shouldn't be granted.

**Ed Colello** – If there are no other questions of the Board would you like to make any other final comments before we close the public hearing?

**Michael Liquori** – Just that I honestly think there was a mistake that the Town Board zoned this property in the fashion that it did. I think there is a knowledge that residential properties persist as residential because they garner the amount of money that could be required in order to convert them to commercial. In this particular instance with the 984 square foot house I would have had to find somebody to move their dental practice or home office or something like that. There is parking for two cars. That is basically all the room there is. I couldn't imagine a store in there or a retail shop by any means. It would never meet any of the criteria required by the Board just from a safety aspect to have people coming and going constantly. Aside from that I don't think this flies in the face of what is trying to be accomplished by the Town Board because I think in this instance there must have been a mistake.

**Ed Colello** – Do you think you have had a fair and adequate opportunity to state your case?

**Michael Liquori** – Yes.

**Ed Colello** – Let's close the public hearing.

Public hearing closed.

**Ed Colello** – I will open it to comments. I would be interested in how the Board feels.

**Tom Costello** – I think Ed you made it very clear there are other options. The family can remain living in the house that is the size when they bought it or they could sell it and then move to a house that is large or has the capability of being enlarged. There is certainly a variety of houses in the town of shapes and costs that should allow them to do that. .

**Ed Colello** – Any other opinions? In my opinion I am really torn with this. I agree with you 100% I really have a problem philosophically going against the master plan or changes against the master plan. I don't think that is our responsibility or our job. I am only assuming that the master plan was designed as I said earlier for all of these four lots to go away at some point, again it may be many moons down the road in which maybe there will be a commercial site in which it will be big enough substantial building on it. I can only think that. On the other aspect when I look at the Pauta's in a 984 square foot and they are saying we just want to put an addition and make our house bigger. It wasn't their fault when they bought it wasn't their fault that the zone change happened so I am very torn with this one personally. I guess I am saying you guys will convince me either way so I will know how to vote. I have to tell you I am right down the middle on this one.

**Jack Gallagher** – I think of the intent of the town in the rezoning was a good intent I think the master plan is for future and you have to have and abide by it is for the great but I do think a lot of these lots are going to have to be bundled together in order to make a suitable sellable commercial lot. I think the Pauta's are hard pressed, it is not their fault. That is probably the only house they can afford. And they went ahead and bought it. And probably on the premises that they were going to someday put an addition on it. This comes along and changes their future. I don't think it is as easy to find a similar house in that price range to do what they would like to do and to live where they would like to live. And I think sometimes you have to look beyond the master plan to make a decision and you look at the fabric and the history of Brewster and these houses are dotted all around Brewster area. And I think going back to where it says here the premises do not meet the minimum bulk requirements for a GC 1 district. That is true it

is going to take a heck of long time before a neighboring property, a strip mall. And I think by that time we will all be dead. So I feel for the Pauta's and again they didn't cause this problem.

**Paul Vink** – But I think if you look at the master plan you are taking the corner lot away and if their intent was to have these lots joined that is the key parcel and if you are taking it out of commercial use and making it residential it is probably not going to change for some time and you are definitely effecting if that is what you believe the master plan was and I don't think we know and you are taking the corner parcel out. That is the one that would be the key, the lynch pin to actually combine these lots.

**Ed Colello** – What Willis says makes me feel better Paul I agree and Willis if I am wrong I trust you will correct me, if the Pauta's were given this use variance and if somewhere down the road someone where buy those parcels and the Pauta's parcel correct me if I am wrong Willis but they can go to the Planning Board and not have to get a use variance to have it changed back and use it for commercial, correct?

**Willis Stephens** – As long as it is still GC 1.

**Ed Colello** – If this Board decides to grant them a use variance we are not changing it to a residential zone we are still keeping it under the commercial heading. But you brought up a good point the corner lot would be very important. Any other discussion? If there is no other discussion I will open it up to any motion either in favor of or opposed. There is one other factor in this one, criteria number one, “the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.” What does that mean? If the Pauta's put there house on the market tomorrow would they be able to sell it? Yes. They may have a financing problem as Willis say that might make some sense. I can't believe the value of their home and land went down because of the fact that is commercial. Because we all know as long as someone buys it and is living in it is residential use pre-existing non-conforming. That is where I have a problem. I don't believe the Pauta's I am trying to look at this purely from the criteria we have to follow have a financial roadblock because of the zoning change. If the property was going to be deemed \$50,000 or 10% or 80% in value I would feel much more comfortable with the use variance criteria. But I don't think that is the case here.

**Tim Froessel** – If it was that devalued why would spend that money to almost double the size?

**Ed Colello** – If there are no motions, I will make a motion to deny the application, do I have a second?

**Tom Costello** – Second.

**Ed Colello** – I will address the criteria.

1) The applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence;

Again as I mentioned earlier I just don't think the applicant cannot realize a reasonable return of property even though the zoning has changed.

2) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood:



How do you look at unique we have four properties that are almost right next to each other that are all the same it is not unique in that we have upzoning, we have zoning changes over the years I don't think I would call this unique.

3) That the requested use variance, if granted, will not alter the essential character of the neighborhood;

No, I don't think it will alter the character of the neighborhood.

4) That the alleged hardship has not been self-created.

Well, it is not self created that the town changed the zoning not the Pauta's but if the Pauta's did not want to put a addition on then we would not have a conversation if you wanted to say they created this situation it would depend how you wanted to define it but again I would think I would lean toward the side that it is not self created.

#### **Roll Call Vote:**

**Joseph Castellano** – In favor

**Tim Froessel** – In favor

**Jack Gallagher** – Opposed

**Tom Costello** – In favor

**Paul Vink** – In favor

**Ed Colello** – In favor

The application was denied by a vote of 5-1, 1 absent.

#### **2) Jeffrey and Kathryn Ellsworth**

**845 Drewsville Road**

**TM# 67.1-10**

Michael Liquori, Hogan and Rossi, and Jeffrey Ellsworth appeared for this application.

**Ed Colello** – This is a carry over from last month. Michael you want to bring us up to speed on this.

**Michael Liquori** – I have a letter here I would like to read into the minutes. The property is located in Drewville where the intersection of Reservoir Road and Drewville Road connect. There is pre-existing residence that doesn't conform to the setbacks that currently existing. The Ellsworth's had a fence constructed on the premises which is not in conformance with the code. The code requires that a fence on the front of a premises be no taller than three feet tall. The fence was constructed on top of a stone wall and the code or a stone wall be not larger than three feet. Here we have a combination of six feet. And there is area of the side of the house where the fence is constructed of a height of six feet where the fence is constructed at a distance of greater than 2/3 of the front setback. Just to refamiliarize the Board with pictures of the fence as you travel along Drewville Road. In our opinion it is very pretty fence. Unfortunately, not in conformance. Kay

Ellsworth, Mr. Ellsworth's wife had an obligation that she could not break away from. She asked me to read a letter to the Board. Essentially what the letter does is request that the portion of the application regarding the fence on the side of the premises be withdrawn and ask the Board just to consider a variance for the fence that goes on top of the stone wall.

"October 16, 2005

Dear Board Members:

I apologize for not being able to attend the second hearing on my husband's and my variance request, but a longstanding work obligation requires me to be out of town on the evening of the hearing.

Although we continue to believe that the fence for which we seek a variance yields a benefit to us as homeowners that is greater than any detriment that the fence causes to the neighborhood, we heard and have now had an opportunity to consider the thoughtful comments that you and several of our neighbors made on the subject last month. We conclude that, based on our neighbors' concerns (particularly those of our next door neighbors on the side where the fence is) we will withdraw our variance request and remove the freestanding 6-foot fence that begins next to the barn or, at a minimum, apply for a permit for just a 30foot fence, as is permitted by the town code.

We also have given more consideration to the Board's and others' suggestions that the Drewville Road area of Southeast is largely comprised of rock walls as, indeed is our property. We have decided, therefore, to apply for a permit that would extend the existing 3-foot rock walls along the road 12 to 16 feet along the driveway on both sides to where the existing gate stands, and reduce the height of the gate to 3 three, as well. We trust that these decisions will meet with the Board's and our neighbors' approval.

I urge the Board, however, and our neighbors if any are attending this evening, to strongly consider granting or supporting our request for a variance solely with respect to the fence that runs approximately 150 feet along the rock wall in front of our house and along Drewville Road. I was thinking about Mr. Colello's comment during last month's hearing, when he said that we had to have known when we purchased the property how busy Drewville Road is. But what we did not and could not have known when we bought the property last year was that when we hired an architect to draw up plans for the best layout for a renovated kitchen for our home (the former owners had a small, galley-style kitchen that was not sufficient for our needs) she would tell us that the kitchen sink go directly in front of the large bay window that faces the driveway, rock wall and Drewville Road. That, she said, was where the best light was and the natural place for the sink and main work areas of the kitchen. And so, with all required permits, we have spent the last eight months renovating the kitchen in the house with the result that an old window on another side of the house was removed and the bay window is the focal point of the new kitchen. We now spend quite a lot of our time directly in front of that window that formerly was a small, infrequently used breakfast area.

I have taken some pictures that my husband will share with you that might help to show the positive effect of the fence on our live. The first picture shows the view of the fence from the kitchen window. You will note that to the left of the wall and fence, in the foreground is a part of large Cousea dogwood that is without its leaves for six months of the year. When it leaves fall, much more of the wall and fence are visible from this vantage point. You can also see an evergreen we already have planted near the fence, but as my husband can tell you, it will take that spruce 10-15 years to start to meaningfully fill that space.

The second picture shows what that part of the wall looked like last winter before the fence was put up. This looks east on Drewville Road, but you can see the stone seating area that was built into the wall. Neither we nor our family or visitors would think of actually sitting there, though, without the fence to protect from the view and noise of the traffic.

The last picture shows what the fence looks like now when a regular vehicle drives by from the east. You can see the top of this yellow car and the driver's head from here. Obviously, trucks and SUV's sit up even higher. This is a view from the second floor of the house, though, so you can see how the fence would block the car and its occupants from our view (and ours from theirs) when we are working or sitting in the kitchen."

**Michael Liquori** - The fence also blocks the headlights which is primarily are one of the arguments that we made at the last meeting.

**Ed Colello** – Let me throw this at you. When I looked at the property. I stopped I drove up and down a few times. I have to tell you the part that I think that would be the most problem with headlights has no fence.

**Michael Liquori** – Not yet it is proposed on the application.

**Ed Colello** – The part that I think would be the biggest problem with headlights would be coming would be north on Drewville from Carmel right around Reservoir Road in that situation where this is no fence there that is where I think you may have a problem with lights but there is no fence but the fence is in the front of the house. If I am going this way and you live here when someone that the fence is blocking the headlights I think the lights are coming in there windows but everyone of us lives on streets and everyone of us sees cars go by and everyone see the tops of people head. I have to tell you it never occurred to watch someone drive by. I see a car go by and someone's head it doesn't offend not enough to put up a six foot high fence.

**Michael Liquori** – I think the primary issue here is how well travel Drewville is. There is no question from the view shown from the kitchen that they do shine directly into the kitchen.

**Ed Colello** – From where?

**Jeffrey Ellsworth** – From the driveway. That is actually when you come into the property that six foot fence would block those headlights. That three foot fence on the wall right now does not block any headlights it is mostly for the noise, the sound.

**Ed Colello** – I can see where headlights coming north around Reservoir Road because before the road bears left in front of your house but the headlights aren't going into your house.

**Jeffrey Ellsworth** – They light up the living room.

**Ed Colello** – So what you are requesting to do is amend you application?

**Michael Liquori** – To amend the application to reflect the six foot fence that is constructed to the side of the house where the barn is taken down that no other six foot fence be proposed for the parcel and to amend just to permit the three foot tall fence along the stone wall.

**Paul Vink** – You indicated the last time you were here to plant along that wall so eventually you wouldn't be able to see it anyway.

**Jeffrey Ellsworth** – Largely to reduce the sound and aesthetics plant evergreens.

**Paul Vink** – Something that you could accomplish without being on top of that wall.

**Jeffrey Ellsworth** – Probably in 10 and 15 years.

**Paul Vink** – I can emphasize with you about the lights and the noise I live on Milltown Road and for the life of me I can never have imaged what the traffic, the noise and the headlights and dirt coming off Milltown Road were like until I live there.

**Jeffrey Ellsworth** – There is a house on Milltown with a stone wall with a three foot fence on top of it.

**Ed Colello** – That has been there since you were wearing short pants. Let's not back there.

**Jeffrey Ellsworth** – That is a precedent.

**Ed Colello** – That is a precedent. That was about 12 guys before me sitting in this chair.

**Michael Liquori** – I would have taken pictures of it.

**Ed Colello** – I know exactly where it is.

**Tim Froessel** – We have had applicants bring up that fence.

**Ed Colello** – I am not trying to be a wise guy but the tree is on the wrong side of the fence.

**Jeffrey Ellsworth** – There is no room on the other side.

**Ed Colello** – But if your argument is that the trees were planted to cover things and they were on the other side of the fence the neighbor's side the street side.

**Michael Liquori** – There was discussion of planting of vine type plants along the front of the fence because that is the only kind that you could sustain along the street side.

**Jeffrey Ellsworth** – The street side isn't on our property.

**Ed Colello** – Do we have any questions or comments from anyone in the audience?

**Tom Costello** – I apologize I was out at last months meeting when did you buy the house?

**Michael Liquori** – In November they just moved up in August.

**Jeffrey Ellsworth** – We have been renovating it.

**Tom Costello** – Did you live in the town before?

**Jeffrey Ellsworth** – We lived in Daisy Lane in Carmel. Actually I ran by the house when was I training for the marathon in the late '90's. Didn't know I would be living in it.

**Tom Costello** – So I would believe you are familiar with Drewville Road then having lived on Daisy Lane which is not far.

**Jeffrey Ellsworth** – I think I am more familiar with Stoneleigh than Drewville.

**Tom Costello** – If you have run by it you are familiar.

**Ed Colello** – Any questions or any comments from anyone in the auditorium?

**Lynne Eckardt**– I would just point to my letter of last month that our concern that mine any how isn't this particular fence but what can happen to this fence over the years I am sure not while the present owners are owners but it can be replaced with a chain link because the variance runs with the property those are my concerns are with this. And also because of consistency this Board Mr. Taublib who lives down the road was denied and he only wanted four feet so I have a real problem with this variance.

**Ed Colello** – Anyone else? Please state your name and address for the record.

**Don Rannellone** – I realize that people without a signed piece of paper are not regarded highly but nonetheless I would like to let you know the feeling of some of the people that have lived there for 50 years or more they are not in favor of a fence. The three foot fence along the wall is most visible. I think these pictures say it most clearly. The fence above the wall I think dominates the picture it takes away from the stone. I am glad to hear that stone will be added in the premises and I think that will be good and in keeping within the area. I believe that you pointed out that the fence along the roadway does little if anything for headlights. We also looked at it from last month we have had an opportunity to consider what was said here and we have failed to see the ability to reduce the headlights there also. As far as a fence on the other side as you pointed out coming from Carmel or Reservoir Road a six foot fence would do nothing there. I don't think you could see a six foot fence. There you would need a tremendous fence to do anything from that particular direction. Keep in mind once again a fence like that people could easily gravitate towards putting a three foot wood fence above a stone wall even though stone walls completely line stone wall. I don't think Drewville Road would maintain its character if that ever was to come about. Thank you.

**Ed Colello** – Anyone else?

**Tom Costello** – One anything else I couldn't get from the minutes of last month's meeting there was a lot of discussion about the capability of the fence company and there assurance that they were going to get all necessary permits. Do we have in evidence a copy of the contract that was signed that said that there were going to do all that?

**Jeffrey Ellsworth** – It was a verbal agreement. That was one of the first questions being new to the town I asked them to look into any zoning if there were any zoning questions and he assured me would do that.

**Tom Costello** – What was the cost of the fence?

**Jeffrey Ellsworth** - \$25,000.

**Tom Costello** – So you had a \$25,000 purchase agreement without any written documents?

**Jeffrey Ellsworth** – No, we signed an agreement to install.

**Tom Costello** – Did the agreement state that the fence company was going to do all the permits?

**Michael Liquori** – We did, because that was the topic of conversation that we had regarding the fence company representing that they would obtain the permit.

**Tom Costello** – Does it say it in the agreement?

**Michael Liquori** – I am going to look now for a copy of the agreement.

**Tim Froessel** – If it doesn't I will bet the contractor's recollection of that conversation of is going to be 180 degrees different that Mr. Ellsworth.

**Jeffrey Ellsworth** – I was just going on 40 years of being in business and being in Mahopac I would have assumed they would have done lots of work or a certain of work in Southeast and would be familiar with whatever zoning, regulations. We had so many projects going around the house I slipped up I should have made sure that they had it.

**Tom Costello** – Did the other work that you had done have building permits?

**Jeffrey Ellsworth** – Yes. We are putting in a green house and we made sure that everything was OK with the town. Permits are not an issue.

**Tom Costello** – And those other permits did you apply or did the contractor apply?

**Jeffrey Ellsworth** – Our contractor did all of them. That is the way we have always done it, the contractors have always done it.

**Michael Liquori** – I believe we did submit the contract to the town according to Kay they had properly copies of their worker's comp insurance naming the Ellsworth's as an additional insured and then...

**Jeffrey Ellsworth** – They had a Putnam County license everything.

**Michael Liquori** – If I had something in particular that I we could just nail to the wall regarding them making a representation that they would get all the permits then I think the Ellsworth's would just walk over to the county and file their lawsuits promptly against the company.

**Ed Colello** – Do we have any other questions of the applicant? Any other final comments you would like to make?

**Michael Liquori** – No.

**Ed Colello** – Do you think you have had a fair and adequate opportunity to state your case?

**Michael Liquori** – Yes.

**Ed Colello** – We will close the public hearing.  
Public hearing closed.

**Ed Colello** – Very briefly I would like to say that over the years we have tried to be consistent in our actions although we know that every application stand on its own merit and one application which is very similar could be approved and not approved etc while Ms. Eckardt mentioned the application on Drewville when the gentleman was turned from going from three to four feet a more similar in my opinion example was the applicant on Allview where that is virtually an identical application where a gentleman, I think a doctor put a beautiful fence on a stone wall with a height of six feet and the Board turned him down. While the other application might be closer to this application in location this one is very, very similar.

**Tim Froessel** – I will just state for the record that I agree with you I feel terrible for these people I think they were in all likelihood that they were taken advantage by a contractor there is a lesson for all of us which is always get it in writing but I think you are right is virtually identical with the application that we had on Allview. There was at least one a couple of years ago on Milltown which was pretty similar. It is the same justifications given, that is traffic, noise, what have you. This one doesn't really stand out for any reason from any of those. And the only differentiation in circumstances is that this one is already up because the contractor gave them a bill of goods but unfortunately we can't have that effect our decision.

**Ed Colello** – I think that I learned this from you Tom when we have an application before us that was done without the right approvals I try to say to myself assume it is not

there, assume the shed, the house, the garage is not there and just said would you grant a variance to allow them to erect it. Did I learn that from you? This is a very

**Tom Costello** – Yes.

**Ed Colello** – This is a very serious issue. I don't see myself voting in favor of this application of this was a brand new application.

**Tom Costello** – My only other comment is there was a lot of discussion about providing screening and noise barrier with the trees and other natural things in the spirit of Jerry Gruen who once sat on this Board I think he over and over demonstrated to us you can do a very effective job with a natural way of providing screening and noise abatement which is a lot more palatable and in character of the neighborhood for our town anyway.

**Ed Colello** – If there are no other comments or discussion I will entertain any motion either in favor or opposed to the application.

**Tom Costello** – I will make a motion to deny the variance requested.

**Tim Froessel** – Second.

**Ed Colello** – Will you address the criteria please.

**Tom Costello** –

1. Whether an undesirable change will be produced in the character of the neighborhood, (or a detriment to nearby properties will be created by the grant of the variance).

I think there will be there was testimony given by neighbors who feel that installing fences on top of the stone wall will create a change in the character of the neighborhood and it would be a detriment to nearby properties because there are very few cases where fences of that height in this town are on the front property line.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

I think the applicant's desire to have some visual and noise screening can be achieved by planting some additional trees and other natural things that would reduce the visual and noise impact on Drewville Road.

3. Whether the requested variance is substantial.

I think the height of a fence on the front property line is three feet permitted and they have asked for a variance of 100% increase up to six feet.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

I can't think of any environmental conditions that would be impacted.

5. Whether the alleged difficulty was self created.

In effect it was self created in that the applicant installed the fence without getting the permit in advance and if he had applied for the permit in advance he would have realized

that a variance would have been required and then he could have applied for it in advance of installing the fence.

**Ed Colello** – Again this is a motion of denial.

**Roll Call Vote:**

**Paul Vink** – In favor

**Tom Costello** – In favor

**Jack Gallagher** – In favor

**Tim Froessel** – In favor

Joseph Castellano – In favor

**Ed Colello** – In favor

The variance was denied by a vote of 6-0, 1 absent.

**Michael Liquori** – Thank you for time gentlemen.

**Ed Colello** – We will take a 10 minute break.

**3) Kenneth and Dena Mitchell**

**10 Sycamore Road**

**TM# 56.12-3-14**

**Kenneth Mitchell** appeared for this application.

**Ed Colello** – Mr. Mitchell can you walk us through your application.

**Kenneth Mitchell** – Just to refresh the Board my wife and my applicant is to add a two story addition to the back of my house. One part of the addition is a family room/sunroom off our dining room and living room and the second part is to expand our bedroom and make it a master suite. I have a contracted with an architect to draw up the final plans. What he has prepared for me is an initial plan of what it would look like showing the original house and what the proposed house. This would be the extension to the master bedroom here and this would be the family room and sunroom in back of the house.

**Jack Gallagher** – Is that the side elevation?

**Kenneth Mitchell** – That is the elevation from the north side which is where the variance is coming from. I can show you a picture from that side. The addition would be back here. I have taken several pictures of the neighborhood just to show you that what we are planning fits in the neighborhood. It is similar to what my neighbors have done. First is at 3 Sycamore Road. The second is 7 Sycamore Road where they added a room off the family room which is what I am proposing. 17 Sycamore Road is a family room is off the back of the house. And then finally there is a corner of the house where the variance is required to show where there is a space there are no views being blocked. I would like to remind the Board that last month I provided two letters from two neighbors that they supported the project and that they have no objection to us proceeding. So the variance is for the side setback which is caused by the diagonal nature of the lot which causes the



dimension to be the shorter side. And as I stated shown in the picture there no views will be blocked from our neighbors and it does fit in with the character of the neighborhood and all the work my neighbors have done throughout the years.

**Tom Costello** – Mr. Mitchell do you have a diagram or a survey that shows the footprint of the addition?

**Kenneth Mitchell** – The architect drew it on the original request. And as you can see on the north side it goes from 21.6 to 16 feet and that is based on the diagonal property line. This is two additions combined into one. Our family is expanding we decided we wanted to increase the size of the house and do everything at once.

**Tom Costello** – On this survey it shows a proposed upper deck and a proposed lower deck? Is that all part of the same application?

**Kenneth Mitchell** – Yes. The land slopes off gently to the rear and we currently have a deck there today in the back. The proposed upper deck would replace the existing one. That would be taken down when we put the family room on and we would put a second deck mid level just to gradual come down to allow us to go to the back yard.

**Tom Costello** – And the addition that is on the south side of the property it looks like it is not flush with the end of the house it looks like it is going to extend out?

**Kenneth Mitchell** – It extends out approximately 18 inches.

**Tom Costello** – Why wouldn't you keep it flush?

**Kenneth Mitchell** – That is just following the footprint of the existing deck which is approximately 18 inches.

**Tom Costello** – But the deck is going to be removed?

**Kenneth Mitchell** – The deck is going to be removed, yes. Once the final plans are done it could extend straight back.

**Tom Costello** – Now that I see what you have in mind here what is on the south side? What are you going to be adding?

**Kenneth Mitchell** – That would be a family room on the upper level, family room/sunroom and the lower level will just be a den.

**Tom Costello** – And the other side?

**Kenneth Mitchell** – And the other side is just additional space for the master bedroom area to make it into a master bedroom suite it has closet space and change the bathroom from a shower into tub and shower.

**Tom Costello** – And what about on the other level?

**Kenneth Mitchell** – That is the garage under there so it will just be additional storage space in the garage.

**Tom Costello** – Did you add up the total square footage of all the additions?

**Kenneth Mitchell** – The maximum is about 825 square feet.

**Tom Costello** – The building part what about the decks?

**Kenneth Mitchell** – I did not add the square footage of the decks. The deck is approximately 16 x 18, the upper deck. And the lower deck is 16 x 10. It basically provides a landing so we have a graceful stairs going down.

**Tom Costello** – Just eyeballing it looks like the opposite. The upper deck looks smaller than the lower deck.

**Kenneth Mitchell** – It is not to scale. It would fill the total area between the bedroom and the wall and the new addition.

**Tom Costello** – So the deck will extend from the one addition to the other?

**Kenneth Mitchell** – Yes.

**Tom Costello** – And the upper deck will come out as far as the sunroom addition?

**Kenneth Mitchell** – Yes. No further than the existing deck which I believe is 18 feet. Here is picture of the back of the house so you can see the existing deck. That same footprint of the existing deck will basically be built in the center of the house between the two additions.

**Ed Colello** – Are there any comments or questions from anyone in the audience?

**Tom Costello** – Do you have a photograph of the front of the house? I did go visit it but it did not strike me as being a ranch.

**Kenneth Mitchell** – It is a contemporary look, it is raised ranch inside. This is the back from another view. This is the front of the house.

**Ed Colello** – Just so we are all on the same page what Mr. Mitchell is asking for is relief from the side yard setback. There are two variances that are requested. He needs a four foot variance from the side yard setback on the north side of the property which as you face the house is on the left side and from the over all setback requirement of 50 feet he is requesting a 14 foot variance. Any other questions of the applicant? Mr. Mitchell do you have any final comments you would like to make before we close the public hearing?

**Kenneth Mitchell** – What I would like to say is what we are proposing to add our house fits in the neighborhood. It does not change the character of the neighborhood at all. Does not pose any view restrictions on my neighbors.

**Ed Colello** – Very good. Do you think you have had a fair and adequate opportunity to state your case?

**Kenneth Mitchell** – Yes.

**Ed Colello** – Please have a seat and make yourself comfortable. We will close the public hearing.

Public hearing closed.

**Ed Colello** – The one think that jumps out at me at this application is you look at what the applicant is requesting I certainly wouldn't call them substantial the variances. On the north side of the 20 foot side yard setback requirement right now he has about 21 feet. With this addition it will bring it down to 16 feet. He was only one foot over the requirement before now he is going to be four feet under. I don't know if I would call that substantial. And the second one is the total side yard requirement combined at 50 feet he currently has 42 he wants to bring that down to 36 so that would be a 14 foot variance. So a four foot and a 14 foot both on the side yard setback is what the applicant is requesting.

**Tim Froessel** – I would also point out because of the orientation of the house on the property, the lot lines it is on an angle so if it was centered squarely you wouldn't be changing the setbacks at all.

**Ed Colello** – That is a very good point.

**Ed Colello** – If there are no other final comments I will entertain any motion either in favor or opposed.

**Tim Froessel** – I will make a motion to grant the applicant a variance of four feet on the side setback requirement on the north side of the property and to grant the applicant a variance of 14 feet from the total required side setback to construct a two story addition as depicted on the documentation submitted to the Board.

**Paul Vink** – Second.

**Ed Colello** – Will you address the criteria please.

**Tim Froessel** –

1. Whether an undesirable change will be produced in the character of the neighborhood, (or a detriment to nearby properties will be created by the grant of the variance).

I think what the applicant is proposing is in character with the neighborhood. I am a recent resident to that part of the town and I walk my dogs around there and there are numerous raised ranches that have additions similar to what the applicant is proposing.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

It really can't because of the orientation of this house on this property. Pretty much any addition that he wants to do. Even if you go straight it is going to take you to the side.

3. Whether the requested variance is substantial.

I don't think it is substantial it is just a few feet in either direction.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

No, I don't think it will.

5. Whether the alleged difficulty was self created.

It is only self created to the extent that is he seeking to add on to his existing house but I think the fact that the way this house is oriented on the property causes the house to encroach into the setbacks more than mitigates any self created difficulty.

**Roll Call Vote:**

**Joseph Castellano** – In favor

**Tim Froessel** – In favor

**Jack Gallagher** – In favor

**Tom Costello** – In favor

**Paul Vink** – In favor

**Ed Colello** – In favor

The variances were approved by a vote of 6-0, 1 absent.

**4) Mallory Kotzen Tire  
North Brewster Road  
TM# 45.16-2-25**

Michael McGrath appeared for this application.

**Ed Colello** – This is a carry over from last month.

**Tom Costello** – Just to remind you that you are still under oath.

**Ed Colello** – One of the things that held us up last month is that we didn't have a response from the Putnam County Department of Planning and they have sent us back approved as submitted so that is all set. Mr. McGrath you want to bring us up to speed a little bit.

**Michael McGrath** – Basically I came before the Board I guess it was three years ago and was granted a variance for the sign and actually it was the company's fault they dragged their feet and then the moratorium came in and after the moratorium was lifted there was a problem with the height. At the time when I applied for the first variance the maximum was 25 feet and I was going for 19 feet. Now I have knocked it down to 16 feet.

**Ed Colello** – You are allowed eight or nine feet?

**Michael McGrath** – Eight.

**Ed Colello** – That was a problem in the delay in the company and the moratorium. There was no problem with the height the first time you came before us but now because of the new restrictions on signage eight feet is the maximum the applicant is looking for a 16 foot sign. For the same size that was approved by the Board a couple of years ago. Again last month I think the key thing I had a question on was the sign will not be lit, there will not be any illumination, no spot lights.

**Tom Costello** – What is the reason you want to put the sign up at 16 feet?

**Michael McGrath** – So it could be see actually we always thought that eight feet was a problem on the roadway, actually too low for people pulling in and out.

**Tom Costello** – What is the size of the sign?

**Ed Colello** – How high is the sign now?

**Michael McGrath** – 13 feet.

**Jack Gallagher** – That is one pole on?

**Michael McGrath** – Yes.

**Ed Colello** – That was an illuminated sign?

**Michael McGrath** – That one was but is no longer.

**Paul Vink** – How does the new sign compare to the one that is currently there?

Forgetting about the height?

**Michael McGrath** – Actually the one that I have now is a single pole sign with just the name up on top. This is going to be a double pole sign with the name on top and insignia on top of that and some brands that hang below. Some brand logos below that.

**Paul Vink** – So the sign below is going to be substantially larger?

**Michael McGrath** – In width, yes. The base of the sign won't be much bigger.

**Ed Colello** – The width won't be much bigger. But the square footage will be bigger.

**Tom Costello** – The size of the sign is 10 feet wide by 5 1/2 feet.

**Michael McGrath** – With the insignia.

**Tom Costello** – If you were going to keep that size sign and keep the maximum height eight feet it would be about two feet off the ground?

**Michael McGrath** – Right, once you hang the logos.

**Tom Costello** – And this is going to be located where on the property?

**Michael McGrath** – Exactly where the one is now. It can't be any closer to the road. So the front hole would go where that one is and the other one would go further back on the property. Which is up near the road. If you are standing looking at the building it is off to the left.

**Tom Costello** – So if someone was pulling out of your driveway and the sign was all the way down two feet from the ground....

**Michael McGrath** – You wouldn't see coming down from Route 312.

**Tom Costello** This one shows about 12 1/1 feet, the bottom of the sign is about 12 1/2 feet above the ground which should give visibility from any vehicle even a truck.

**Michael McGrath** – Pretty much.

**Ed Colello** – And again there is only going to be two tire company names on this?

**Michael McGrath** – Yes.

**Tom Costello** – What was the square footage in the variance you received?

**Michael McGrath** – 204 square feet but that is also including the letters that go across the garage.

**Tom Costello** – It says “three signs two of which are internally illuminated” which are those two?

**Michael McGrath** – The one that is on the building now and they were going to put another one which I don't think is no longer going to happen. They were going to put another on the fascia above the building which I would have had to have taken the Michelin sign off the building that is the agreement I made. If anything is done with that sign they will take the Michelin face out and put a MK tire face on the same sign that is there and that is it. There will be no more signage than there is there now. They would not have the additional sign that they went for in the original. They just want to go for the street sign and if they change the face on the existing sign.

**Tom Costello** – And this is the one that you are proposed then?

**Michael McGrath** – That was then.

**Tom Costello** – It is substantially the same.

**Ed Colello** – So that we just understand that if the applicant is approved he still has to go before the architectural review Board as they have to review the colors. I think you are only allowed two colors. I am not sure of that. Did you have a question? Please state your name for the record.

**Mike Kivel** – 273 North Brewster Road. About visibility being impaired if the sign was lower I don't feel that is accurate at all. I have pictures of the current sign and other signs there. This is a current sign here. I think it is about 12, I am about 6 feet so it is about 12. The road you can see where the sign is situated it is a pretty good distance. You wouldn't pull out anywhere near this sign so whether it is really high in the air or really low there is no way impair anybody pulling in or pulling out like what was stated just a few minutes ago that it was such a big sign people wouldn't be able to see and clearly that is not the case. And the sign is tremendously bigger than what is there now. What is proposed is night and day from what is currently here. Actually a lot of my neighbors weren't aware of the sign I was actually asking earlier during the break what the notification procedures one guy didn't get a letter, one guy got a letter after the meeting, two or three days after that, a couple of guys said what are you talking about. And after the last meeting and then I had other people they must have spoken to themselves were hunting me and asking were you the guy that went to the meeting last time and sure

enough I was a couple of people gave me their phone number and I told them I planned to attend the meeting tonight. I wrote a letter from my own initiative about I felt and a couple of letters asked should I write a letter too. A lot of people can't attend Monday night, kids, work, so one of the people suggested to me why don't you make a petition out of it and this way we wouldn't have to submit individual letters themselves and I got quite a few the one day that I went which was Sunday afternoon but everyone I spoke to was very responsive and said we don't want a big sign there either.

**Ed Colello** – Let me interrupt you there, let's talk about the definition of a "big sign". The size of the sign is approved. You do know that?

**Mike Kivel** – I asked about that earlier. I was never notified. I have lived there my whole life. In the minutes actually say Brewster Hill Road not North Brewster Road which runs parallel to North Brewster Road but it is entirely different street but I don't know if that is a factor or not.

**Ed Colello** – When this approved the size of the sign of the sign was approved two or three years ago.

**Mike Kivel** – I have lived in this house in my whole life.

**Ed Colello** – I can't do anything about that.

**Mike Kivel** – The sign is existing there now.

**Ed Colello** – The size of the sign is not the issue.

**Mike Kivel** – It is but if that is spilled milk it is spilled milk.

**Ed Colello** – Let's move on. The size of the sign is not the issue it is the height of the sign. That is the whole issue. The applicant has the right to put up the sign at that size. What the applicant is asking for is instead of the sign being eight feet in height being 16 feet in height. So let's stay on the height size. All because of the sake of time and complicating issue because that is all we are supposed to concentrate on is the height.

**Mike Kivel** – The height of the sign I have some pictures tonight too also I would like to submit with the letter all the other neighborhood residents opposed to the application. And I took pictures up and down the street. This is the street going up this is the street going down. You can see it is not a very commercial looking street at all. It is mostly houses and the few businesses that are there I took pictures of their signs. All their signs are eight feet. None of their signs are big monstrosity double bridge. This is four businesses here. This is the dentist which is almost opposite the tire place and you see the height of the mailbox, the height of the sign. And then this business Brewster Motors which is probably the busiest business on the street they don't have a sign they have a sign attached to the building itself. It would change the face of the neighborhood dramatically. You are talking about a big sign. Route 6, Route 22, Route 100, this is North Brewster Road. And that is why a lot of residents were very, very concerned. This would definitely detract from the neighborhood. If any of you lived on this street I am sure would concur that you wouldn't want something to look so commercial that is why I don't live in the city that is why I live in Brewster and have my whole life. Also even here tonight the Ellsworth people were denied because the height requirement is three feet and they wanted to go six feet, double, this is pretty much like that. I drove by the fence to take a look at a \$25,000 fence and it did look pretty and I said to myself it is not big detriment that is a beautiful fence and that was denied why because it should be three and not six. This is eight and this guy wants to put it at 16 and if that is not substantial 100% than I don't know what would be and those people got denied and had to spend

\$25,000 on it. There is four businesses with this country looking sign with the pizzeria which is way in the back they might say my business is way in the back I might do better with a nice big sign in the front. You guys set a precedent by granting it to this guy what about us. What about the repair shop, the dentist.

**Ed Colello** – How do you feel about the sign being illuminated?

**Mike Kivel** – I think the size and the height of it is what makes it more at 2 o'clock in the morning the illumination isn't going to bother me. I don't live directly across from it. it is not a heavily traveled road, it is not Route 22 or Route 100 but if you want to make it illuminated. The sign was illuminated a long, long time ago.

**Ed Colello** – I just say for the residents I just think that I would rather have a non illuminated sign than an illuminated sign.

**Mike Kivel** – I have lived there my whole live and when it was illuminated it never bothered me to be honest with me.

**Ed Colello** – Did it ever work?

**Michael McGrath** – Not for a long time.

**Mike Kivel** – The current sign is already four feet higher than what would be permitted for a sign today. If it stays pretty much close to what a lot of people when they change a business they replace the plastic portion of the sign. The deli business across the way a new business went in and went away the just change the Plexiglas on the front of it from one business to another. I have no problem with something comparable to what is there right now. Looking at that sign and looking at what is really there now is not good. Obviously my opinion and a lot of people in the neighborhood it is great that we have the town ordinances or codes I am not sure what they are referred to because it prevents things from being ruined and things looking like they shouldn't look and obviously the town saw it in their wisdom let's work on these current codes and drop it down and make it a little more rural which is what Brewster is and that is why I like to live here as I said earlier and obviously it was their intention to prevent situations just like this. It was to say hey we don't want this big monstrosity things coming in we want to keep it more countryish so I say the whole intent of them revamping it was this and I can understand some people apply for variances in rare cases like Brewster Honda last month that is why you need a Board like this to supercede problems that arise there are specific circumstances that are beyond a persons control let's give this guy a green light it is not a common place thing. Not well this guy has a business let's give this guy whatever he wants. That they exist for a reason you like to think that the code is there. Also on my way I went to the town building today just to find out how more stuff worked. I didn't know this was going on as long as it had. The only reason I knew that is because I had looked up on the internet some of the past minutes and I didn't know that they had variance for this sign. I never got a letter for that and I got a letter for this. And I have to tell you ever business that I passed from my house to here to had small signs, Brewster Rental, Red Fox Gardening, Kobacker's, Kent Iron Works.

**Ed Colello** – Some of those are in the village.

**Mike Kivel** – All the way in the village.

**Ed Colello** – Those are in the village, separate rules.

**Mike Kivel** – I would think that commercial areas would have bigger signs than would a residential street like North Brewster Road. And every business I could find anywhere on North Brewster Road had a small sign. Something that looked like it fit in with the

neighborhood. This just doesn't look like it fits in with the neighborhood. And also my neighbor's agree because they having been calling me and saying whatever I can do, how did you make out.

**Ed Colello** – Are any of the other neighbors here this evening?

**Mike Kivel** - No, they are not. I spoke to a few and then they must have spoke to a few others and they came to my house and rang my bell. A couple of them gave me their phone numbers and a couple were going to write their own letters but somebody had suggested to me actually because I had written my own letter that hey why don't we do a petition kind of thing and I said that was a great idea so that is the way we went about it. And I have their signatures.

**Ed Colello** – Can we read that into the minutes?

**Mike Kivel** – I can read that.

**Ed Colello** – You don't have to read the names just read the letter.

**Mike Kivel** – “North Brewster Residents – Dear Board Members – The intention of this open letter is to convey the concern of the North Brewster Road residents that the proposed Mallory Kotzen Tire sign would negatively impact the overall appearance of the neighborhood. It is our understanding that the currently proposed business sign would be double the height of that which is currently allowed under Town of Southeast ordinance from 8 feet to 16 feet. This coupled with the scope and dimensions of the sign itself we feel are far to too commercial for the neighborhood as it currently exists. We have observed that all other businesses in the immediate area do comply with the currently restrictions and it approved that the precedence set could set into motion numerous other requests for other area businesses to double and triple the size of their signs at the detriment to our community. It is for these reasons that we wish to have our concerns heard and it is our hope that this Board deny this application.”

**Ed Colello** – Can you give that to Linda please with the list of people? How many people are on the list?

**Mike Kivel** – Nine. But as I said a lot of people weren't home. I couple of people who called me I don't know if they were watching the game or what. I didn't have time myself I have two children. I ran out of time. There were other people that indicated their interest. I want to read my impression of the criteria questions is that appropriate?

**Ed Colello** – Please do.

**Mike Kivel** – I don't know if these are right or now again I got these off the internet. Whether a change will be produced in the character of the neighborhood, whether it will be a detriment. Well obviously I believe so. Obviously there are many residents that feel so.

**Ed Colello** – Let me just say this. Change the character of the neighborhood. It is a commercially zoned property. It is a commercial property that has been there for many years. How do I say this gracefully. The property used to look like a dump. It was never a pretty building. Are you in agreement with me?

**Mike Kivel** – It looks like it has always looked to me.

**Ed Colello** – I think it looks a little better than it does when it was Bob's. But that is a whole different story. OK. But it is a commercial building. We have to be emphatic to businesses that are adjacent to residential properties. We have always tried to work out something which I believe is in the middle because there has to be something because



unfortunately in any town there is a part where residents and businesses abut and you have to treat that with kid gloves but the character of the neighborhood is a business we have to understand.

**Mike Kivel** – I do but I think at the expense of everybody else in the neighborhood I am not saying he shouldn't have a sign. A lot of people do. The deli has a business sign. The dentist has a sign. It is the magnitude of it to me that makes it an undesirable change because to me that looks commercial obviously I feel that and all these other people feel that way also that the character and the scope of this sign is a big change. "Whether the benefit sought by the applicant can be achieved by some other feasible method other than a variance." To me that is obviously yes you can certainly scale it down, you can change it you can make it a little lower, there is infinite possibilities.

**Ed Colello** – No, there isn't, let's stay on the issue. The issue is one issue what is that?

**Mike Kivel** – The height.

**Ed Colello** – So the only issue is that he brings it down to eight feet. So there is not infinite possibilities.

**Mike Kivel** – We also talked about the size of the sign if it lower would it impede traffic or visuals. Maybe you can change the what the sign looks like.

**Ed Colello** – We can't do that.

**Mike Kivel** – Obviously it could be achieved by some other method other than the variance. "Whether the requested variance is substantial?" I think 100% of what is currently allowed is substantial by anybody's account is substantial. "Whether the proposed variance will have an adverse effect on environmental conditions", I don't think that is applicable. Number five, "whether the alleged difficulty is self created", well, obviously there is a sign there you can put another sign up like that you can change it so do I think that is self created I certainly do.

**Ed Colello** – So let me ask you this question just so I understand where you are coming from. So you don't have a problem with the sign that is there?

**Mike Kivel** – No. Not at all.

**Ed Colello** – And what do we estimate what that height is?

**Mike Kivel** – 12.

**Ed Colello** – So hypothetically if the applicant were to put the sign they could put up, the sign they want, but instead of being 16 feet, kept it at 12 feet, the same height as what is there how would feel about that.

**Mike Kivel** – It was part of the same exact sign if you were to change the plastic on it.

**Ed Colello** – You have to listen. The applicant has the right to put up the sign. He has already been approved for that. We can't tell him to change the sign. He has the legal right to put up the sign that you don't like.

**Mike Kivel** - OK.

**Ed Colello** – Now, hypothetically, I am trying to figure something here between two neighbors if he put it in the same place the old sign is but if he could do it to a height of 12 feet so that is no high than what the current sign doesn't bother you how would you feel about that.

**Mike Kivel** – I wouldn't be happy about that at all. And the reason being...

**Ed Colello** – So what you are saying is you don't want to be flexible on this. I am just asking.

**Mike Kivel** – I can be flexible in the interest of being a good neighbor. He is one business.

**Ed Colello** – I don't care about Sal's Deli.

**Mike Kivel** – There are other residents. At the expense of the other residents.

**Ed Colello** – You are the only resident I am talking to you. I am asking you, I am saying to you. Do you want to flexible and we will try to work this or do you want to say eight feet or the sign goes away.

**Mike Kivel** – I think it should be eight feet.

**Ed Colello** – So you don't want to be flexible at all. Just say yes or no to me.

**Mike Kivel** – To me flexible is I give a little to you, you give a little bit back to me. At the same time he could drop it four feet and that would be the end of that. I would be very happy with that. If he said I would give you this and we will drop it four feet squish it down and we have three signs for the one big sign what do you think about this.

Certainly when it comes to the table and I am not opposed to him having a sign but the sign itself is very, very commercially that is why everybody is up in arms over the sign.

**Ed Colello** – Up in arms is a funny word there is nobody here but you. That is your definition of up in arms. My definition of up in arms is that they have rakes and pitch forks up front. Let's not define up in arms that way.

**Mike Kivel** – People took the initiative to come down to my house ringing my doorbell, giving me their phone bell, obviously they were concerned.

**Ed Colello** – I am trying to see if there is any way to work this out I don't think there is. I am trying to think of a compromise but I don't think there is. Ms. Eckardt is the one that taught me that we should always have compromise. Anyone else?

**Lynne Eckardt** – A few quick questions what is the zone there now?

**Ed Colello** – NB 1.

**Lynne Eckardt** – Also you guys don't have much with this what is the sign materials?

**Michael McGrath** – A metal pole and I assume some kind of plastic.

**Lynne Eckardt** – My question is I think the eight feet really makes sense granted if it is unsafe obviously the business is going to have adjust their sign if the facility is in fact or they will face legal problems down the road for any accident so eight feet really makes sense especially given this neighborhood. Also I am not sure whether it was part of the deal about it should be illuminated or it seemed like two totally separate...

**Ed Colello** – It was never part of the deal. That was one of the concerns last month that somebody asked that they were concerned about the lighting and the applicant said that it was not going to be lit.

**Lynne Eckardt** – So one way of the other is not going to be lit?

**Ed Colello** – N.

**Lynne Eckardt** – I think that the eight feet I don't have the new ordinance I think the eight feet makes sense to me. If the sign has to be adjusted because they didn't get it up three years ago well they didn't get it up three years ago. Thank you.

**Ed Colello** – I don't understand the point. You are saying if the sign has to be adjusting.

**Lynne Eckardt** – If they have to take out the tire manufacturers underneath so there is better visibility at the eight foot level.

**Ed Colello** – Maybe there is something I am missing on this whole application. I went out and looked at the sign this weekend. That is one ugly piece of crap sign now. It really is.

**Lynne Eckardt**– That is not really pretty.

**Ed Colello** – I don't know if that is pretty. That is the Architectural Review Board. I don't do pretty, my wife does the pretty, I write the checks. But what I am getting at is. I just think that sign that is there is at least ten years past its prime. And it can be illuminated easily. The last thing I would want if I was hypothetically across the street I know you don't but if I was directly across the street the last thing I would want is that crappy illuminated sign.

**Lynne Eckardt**– But is it either or?

**Ed Colello** – I am saying it could. That is the flip side of this whole thing. Leave a 12 foot crappy looking sign or try to figure out something that both parties can live with.

**Lynne Eckardt**– But quite sadly if looks so sad and it definitely looks like this gentleman really would like it to look better.

**Ed Colello** – That is why he would like to get a new sign.

**Lynne Eckardt**– I just think if it is supposed to be at eight feet I don't see the reason where putting it where it is supposed to be and because they didn't do it three years ago, I doesn't seem to me to be either or they leave the crummy sign up.

**Ed Colello** – How many sign applications do you think we are going to get in the next few years?

**Lynne Eckardt**– A lot.

**Ed Colello** – We are going to get a mess of them. You can't convince me that every sign in the Town of Southeast can operate with an eight foot high sign. I don't buy it. Now don't get me wrong. I am not saying we need Home Depot kind of signs. I know that was one of the big concerns those monster signs on 312 but eight foot in height is a small sign. It is great for a business if you know it is there. I know where my dentist is, I don't need a sign to find his house. So if I went to the dentist, my doctor, or my pediatrician, or whatever, but if you are trying to run a business and get street traffic sometimes a sign bigger than eight feet. I am not saying it has to be 16 feet, don't get me wrong but I am saying that is where I am concerned down the road with some of these signs. I am just voicing my concerns.

**Mike Kivel** – The current sign has been there a long, long time. Obviously they have been doing business for quite a number of years.

**Ed Colello** – The business failed.

**Mike Kivel** – No, it was bought over.

**Michael McGrath** – It was financially unsound.

**Mike Kivel** – Because of poor management.

**Michael McGrath** – We took it over.

**Ed Colello** – Before I close this public hearing do we have any other comments?

**Tim Froessel** – I was just thinking out loud a little bit. If he has approval for a sign of a certain sign. A sign of that size at an eight foot height would not look right. It almost might look better a little higher up and I don't know if 16 feet is necessarily appropriate but you could conceivably put up a sign that approved low to the ground and it is going to look like a wall. I will agree with what the gentleman over said I went by there this weekend that sign is set a decent amount back I don't know if there is a real visual problem in terms of leaving his property on the road but just aesthetically what that sign will look like with a couple of poles and plastic right down to the ground.

**Ed Colello** – That is one of the things I was trying to get out if we could bring it down.

**Tim Froessel** – And the visual impact of it that low to the ground you can't see the businesses behind it as you are coming up the road you would almost have more visual impact, I think you need a little bit of space underneath there. It would really be a sore thumb.

**Ed Colello** – Let me ask you this question would you consider amending your application to lower the sign? What if we did this, what if we held this over to next month and you went back and try to figure out the lowest possible height that you would like to apply for and we can discuss it next month.

**Tim Froessel** – If the applicant would also be willing to possibly investigate a different type of sign, a wood sign. Just investigate and let us know if it is something that is feasible.

**Ed Colello** – You think the material of the sign has anything to do with? A wood sign would that matter?

**Mike Kivel** – That looks more countryish which is in par with the neighborhood which is less commercial. It looks very commercial.

**Ed Colello** – Can we hold this over to next month? It is your call if you want us to vote on the application tonight as is we will vote or if you would like to hold it off to next month to talk to your people and try to figure out if you can shrink it down, the height and what you can go forward maximum height and if you can look into wood.

**Michael McGrath** – Is it you who are going to tell me the acceptable height? Across the street is Paul Dingee who lives right across the street, he has not problem with that.

**Ed Colello** – I don't know that. I know that from you.

**Mike Kivel** – I have talked to Paul and he is not happy with the sign either.

**Ed Colello** – He said, you said, unless I have a letter that says either I am in favor or I am opposed that is all I care about. What do you want to do?

**Michael McGrath** – I will hold it off?

**Ed Colello** – When is our next meeting?

**Linda Stec** – The 21<sup>st</sup>?

**Ed Colello** – Number one.

**5) Paul and Connie Lavelle**  
**72 Bloomer Road**  
**TM#56.14-1-35**

Paul and **Connie Lavelle** were sworn in by **Tom Costello**.

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

**Connie Lavelle** – We are the owners of a private home that we bought two years ago and we would like to replace the deck in the rear of the house. We would like to replace it and enlarge it and enclose part of it. We had applied for the application with the town and were denied because of the setbacks. And in addition to what you have I would like to present you with four letters from my neighbors in favor of our proposal and pictures.

**Ed Colello** – These are four different letters?

**Connie Lavelle** – Yes.

**Ed Colello** – Let's just say that we have four letters that are in approval. The first one is from Whitney DiMinno, Charles Howe, Vincent and Barbara Aguigliaro and Brian and

Eileen Barrett. We will put those in the record. Now are you knocking down this deck around the pool?

**Connie Lavelle** – Yes.

**Ed Colello** – What about the pool?

**Connie Lavelle** – The pool is fairly new that will stay.

**Tom Costello** – Are they all the same photos?

**Connie Lavelle** – Yes.

**Tom Costello** – What is wrong with the existing deck?

**Connie Lavelle** – It is about 20 years and in very poor condition. That is basically why we would like to replace it and screen it a portion of it for convenience, for comfort to be able to enjoy the outdoor without bugs while maintaining a large enough area for the pool deck.

**Tom Costello** – Do you have a diagram of the size of the deck?

**Connie Lavelle** – It was submitted with what I already sent in.

**Linda Stec** – I don't have it.

**Ed Colello** – That is OK as you have seen we don't customarily don't vote on applications the first night anyway. We will have it for next month.

**Tom Costello** – You mentioned that you want to screen in a section and enlarge it. It would be good today what is good there today what is there today and what you are planning to do. Is this the current or the enlarged?

**Connie Lavelle** – The enlarged.

**Tim Froessel** – It looks like you are going to going out on the south side?

**Connie Lavelle** – We are squaring it off and it will stay flush with the house.

**Tim Froessel** – How come the letter says that the south side setback is going from 17 feet to 12?

**Connie Lavelle** – The house is at an angle a little bit.

**Tom Costello** – If you look at the survey you will see it a little more clearly.

**Tim Froessel** – The Howe's house is on the strangest shaped lot right behind them. The Howe's have a back yard of about six feet deep. The Howe's were before us for a variance for a deck.

**Tom Costello** – Are the dimensions for the proposed deck and screened in area on that survey?

**Connie Lavelle** – Yes.

**Tom Costello** – And you are not planning to move the pool?

**Connie Lavelle** – No.

**Ed Colello** – Any questions or opinions from anyone in the audience? I think it is important that we go take a look and obviously without the footprint map.

**Tom Costello** – No, we have that but I would like to take a look at it. Before next month's meeting we would come by and take a look at the neighborhood. Some of us might come and want to take a look at the deck see how close it is to the neighbor's property etc. You have some time before you can enjoy it next spring.

**Ed Colello** – Any other questions of the applicant? We will keep the public hearing open so you don't have to renote. The mailings are in order?

**Linda Stec** – Yes.

**Ed Colello** – They should be number two?

**Linda Stec** – Yes.

**6) Richard Feuerman and Cherie Ingraham**  
**366 Allview Avenue**  
**TM# 67.19-1-31**

Richard Feuerman, Cherie Ingraham, and Thomas Nugent, architect appeared for this application and were sworn in by **Tom Costello**.

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

**Richard Feuerman** – The application is for a two story addition on the west side of our house on Allview Avenue already existing on that wall is a foundation wall and a greenhouse that was built before we built the house. On the side of the house there is no other home it is all wooded. I have pictures of the side of the house where the existing greenhouse is and the foundation wall is. We have primarily plans. The addition of two stories. The two story will be approximately 255 feet for an art story for my wife Cherie and second story will be a greenhouse again but a bigger and newer than the existing one that is there. I have three neighbors in the file I handed it in my packet that have no problem with the project. It is a secluded spot that can't be seen from the road and we figured this was the most advantageous spot even though we need the variance because the greenhouse already exists. The rest of the house is all glass windows as you can see from the pictures. And this is where is already the sliding doorway from the top and bottom to get through that.

**Ed Colello** – We have three letters.

**Richard Feuerman** – Those are the neighbors directly across the street. There are no neighbors on the west side it is all wooded.

**Ed Colello** – The three letters that we will put in the minutes one is dated October 17th from Tim and Kathleen Radigan, 365 Allview, from John F. Kelly Jr, 371 Allview and from Mr. and Mrs. Gerard Pettit at 359 Pettit at 359 Allview not opposed to the application. Go ahead.

**Richard Feuerman** – Basically that is what it is. My wife is designer and runs a foundation and does a lot of work at home and we need the extra space for a studio because she has been working in the living room and dining room and we felt that it is the most advantageous space because it is wooded, it is shielded with pine trees, because it is the only part of the house that doesn't have the big glass windows like the front house and obviously the house is on an angle and there is no other homes on that side.

**Ed Colello** – So you need one variance. You are OK with the total side setback. Do have any sketches of what it is going to look like.

**Thomas Nugent** – This is the existing rear view which will be the south view of the existing house. This is the proposed addition the two story addition. At the moment we currently we have a greenhouse occupying the space. The foundations where the additions are being proposed are being proposed is in existence.

**Ed Colello** – Under the greenhouse?

**Thomas Nugent** – The foundations were built originally with the house and they are the same size of the proposed addition so to us this was the ideal location to place this addition simply because the foundations were already in existence. The greenhouse is occupying only partial foundation. Our addition will occupy the foundation fully. This will be demolished. We will build a better greenhouse on the first floor. Second floor

will be a studio and we will utilize the door to gain access into the studio. It is a sliding glass door.

**Ed Colello** – How do you build a greenhouse when you have a building above it? Doesn't that take the greenhouse effect away?

**Thomas Nugent** – We are not looking to add light coming in through the roof of the greenhouse we are just going to utilize the sunlight from the side windows on the south and west exposure of the structure. We do have a survey of the property. We are going to have to come out and see it.

**Richard Feuerman** – Would it be possible for the Board to let us know when you have the field visit scheduled I would like to be there?

**Ed Colello** – We don't do that and I will tell you why. We can't go out as a group because it would constitute a meeting we would have to send out notice. If three of us come to your property at the same time, four of us we have a meeting, that is a problem, we have to give out public notice. We never schedule a date when we all come. We have to be honest with you if you don't mind us walking around the back of your property. Usually if we go around the back we will knock on the door. We will not come in the evening. It will be on a Saturday morning or something like that and we will ask your permission to walk around the back. I have to tell you from your pictures and from this diagram even though I would like to see it I can get a pretty good handle of what you would like to do.

**Thomas Nugent** – My suggestion was would it be better if we marked the corners of the proposed addition so that when you get there it will be fairly obvious what we plan on doing?

**Ed Colello** – Anything you can do to make our job easier I am all for.

**Tom Costello** – Where on Allview is your house located?

**Cherie Ingraham** – The last house on Allview on the left hand side before you come to Route 124. It is the grey cedar white stucco house, flat roof house.

**Tom Costello** – Right off 124?

**Cherie Ingraham** – If you are coming off 124 the first house on your right.

**Ed Colello** – Is there anyone in the audience that has any questions? OK, so I will see you on November 21<sup>st</sup>?

## 7) **Andrew Suozzi**

**4005 Route 6**

**TM# 69.1-12**

Andrew Suozzi and Joseph Buschynski, Bibbo Associates appeared for this application and were sworn in by **Tom Costello**.

**Joseph Buscynski** – Mr. Suozzi owns 1.8 acre parcel out on Route 6, 600-700 feet from the state line on the south side of Route 6 and it is zoned GC 2, general business, he would like to build a 10,000 square foot building for retail office purposes, 5,000 square feet on each floor on the site and the reason why we are here is we were referred by the Planning Board because our proposal is requested encroachment in the 20 foot parking setback in the front and the side and rear a slight infringement in the rear parking setback with our access aisle. The infringement to its greatest extent is 18 feet in the front in the back it is closer to five feet. The reason we are asking for the variance from that setback

is that we truly believe this is the best access circulation of parking arrangement for a modest building. It is not the only alternative for the parcel. There is an alternative which they have tried. In blue you will see the parking setback 20 in front, ten on the side, ten in the rear in this arrangement we forced the access to be within the setback requirements and obviously what we have done has pushed parking well off to the side of the building and actually provides for no parking in the front and minimal in the rear and it is in our opinion an undesirable parking arrangement for a building of this use. We chose to approach this Board with an application.

**Ed Colello** – Mr. Suozzi are you going to use this or are you going to rent?

**Andrew Suozzi** – Rent. Basically when the state took the road they did just come square they took these jogs.

**Ed Colello** – Where is this on Route 6?

**Andrew Suozzi** – It is almost on the Danbury line. It is the last piece of property before entrance to 84.

**Tom Costello** – Isn't there an old house on there?

**Andrew Suozzi** – There was.

**Tom Costello** – They were taken down?

**Andrew Suozzi** – Yes.

**Tom Costello** – So there is nothing there?

**Andrew Suozzi** – One had a fire, one had water damage. They were abandoned for years.

This is the last piece of property than you have the entrance to 84. The state took the land and you have this jog, this one is very slight, and this one is a little bit more.

**Ed Colello** – I hate to do this but can you hold them both side by side. OK, so the one in blue you need no variances for correct?

**Joseph Buscynski** – That is correct. It is a building with access all around it we have some loading spaces as required for the building and it provides for parking off to the west.

**Tom Costello** – Is the building size the same in both?

**Joseph Buscynski** – Yes.

**Tom Costello** – But in different locations?

**Joseph Buscynski** – We made a slight shift to the east.

**Tom Costello** – And the purpose of the building?

**Andrew Suozzi** – There are going to be five stores down below and five offices above.

**Ed Colello** – Five approximately 1,000 square foot tenants.

**Andrew Suozzi** – Yes.

**Ed Colello** – What type of businesses do you envision in there?

**Andrew Suozzi** – Basically service businesses, offices.

**Ed Colello** – The offices would be upstairs, right?

**Andrew Suozzi** – Yes. These will be store fronts, you could use that as an office too, insurance, like Allstate Insurance or something where he needs a sign over the overhead. This makes the circulation 100% better with the access.

**Tom Costello** – And the rear of the building you are figuring would be used for trucks?

**Andrew Suozzi** – Offices.

**Tom Costello** – The rear of the building.

**Joseph Buscynski** – When I say loading I mean the UPS truck.



**Ed Colello** – Where will people get to their offices on the second floor in the back?

**Andrew Suozzi** – Yes. .

**Joseph Buscynski** – The back rises to the second floor.

**Tom Costello** – It will be ground level from the back.

**Joseph Buscynski** – You are going to drive round to the upper level. We should point out that we understand the purpose of the current setback but because of the unusual geometry for this right of way we have significant setback from right of way much beyond what would normally be achieved from the road.

**Andrew Suozzi** – There is almost 50 feet from here to the property line.

**Tom Costello** – Do you know why the taking was that shape?

**Andrew Suozzi** – I have no idea.

**Tom Costello** – Is that a natural rock or ledge or anything?

**Ed Colello** – Didn't we have the same problem with the rental place? He had a similar problem didn't he? He had piece of property between Route 6 there was an issue of who owned it.

**Tom Costello** – This a little different. It was on a different street.

**Andrew Suozzi** – There is a letter from the Zoning Board previously when this was originally subdivided with four other parcels which connects this way. I am the last this way.

**Ed Colello** – From Zoning or Planning?

**Andrew Suozzi** – Zoning.

Tim Froessel – It is in back of the application.

**Joseph Buscynski** – It was ED 2 at that time when they were creating the subdivision.

**Tom Costello** – When they were creating the subdivision?

**Andrew Suozzi** - It was four lots. It is reflected in the letter from the Zoning Board and it states that this property would be entitled to a variance because of the shape of it between two major roads.

**Tom Costello** – You have sufficient?

**Andrew Suozzi** – We meet all the requirements other than this access.

**Tom Costello** – Has the County Planning expressed an opinion on this yet?

**Andrew Suozzi** – No.

**Joseph Buscynski** – There was some discussion with the Planning Board as to whether the parking setback applied to the access side and that was directed to the Town Planner who suggested that it was.

**Tom Costello** – Do both drawings have the same number of parking spaces?

**Andrew Suozzi** – Yes. The square footage of the building, the spaces are identical.

**Tom Costello** – You are completely in conformity with the number and size of spaces?

**Andrew Suozzi** – Yes.

**Tom Costello** – When did you buy the property?

**Andrew Suozzi** – About four years ago.

**Tom Costello** – There is a fair number of trees on that property are they going to be taken down?

**Joseph Buscynski** – I would suspect yes considering this would sewage disposal area and everything within the confines of the building and pavement. This area may be spared.

**Andrew Suozzi** – This area is a field. There is almost no trees in there. These trees are in the front.

**Jack Gallagher** – Are those going to remain?

**Andrew Suozzi** – Whatever is here will stay. It is only where the blacktop is we will have to take the trees down.

**Tom Costello** – He doesn't own them. What about in the rear between the wall the state put in and the 84 are there plantings there now?

**Andrew Suozzi** – I think there are some trees but they are not that tall because 84 came in.

**Ed Colello** – So you need how many variances, three?

**Joseph Buscynski** – We are asking for a variance to infringe on the parking setback on the front and the rear.

**Ed Colello** – That is two.

**Andrew Suozzi** – Parking access aisle.

**Ed Colello** – It is two different locations.

**Andrew Suozzi** – The bigger one is on the front and the minor one is in the back.

**Ed Colello** – The back is how many feet, ten feet?

**Andrew Suozzi** – It goes to zero.

**Joseph Buscynski** – Ten feet.

**Ed Colello** – And the front?

**Joseph Buscynski** – 20.

**Jack Gallagher** – If there was a variance issued on that design there what would you do what that right side there?

**Andrew Suozzi** – This piece, that would remain the same.

**Ed Colello** – Just leave it natural?

**Andrew Suozzi** – Yes.

**Tom Costello** – Is there any chance you could shift it closer to 84 to increase the infringement on the 84 side of the property and decrease it on the Route 6.

**Joseph Buscynski** – It is an embankment up and we have a retaining wall now we wouldn't gain...

**Tom Costello** – Is the retaining wall on your property?

**Joseph Buscynski** – We are proposing one and there is an existing one.

**Andrew Suozzi** – This is the existing one about eight feet high.

**Ed Colello** – Is there a way to shift it so you would only have to get one?

**Joseph Buscynski** – No, I wouldn't be able to gain that much in the back.

**Ed Colello** – If you moved it closer to Route 6?

**Andrew Suozzi** – We are right at the property line here because of these little jogs because of the way the state took the land. If this was straight we wouldn't need anything. If they didn't build the wall.

**Ed Colello** – At first blush I have to tell you I look this one better than the other one because I like having some green areas.

**Andrew Suozzi** – The bigger thing would be the access and the easibility to get around to the parking spaces. This is very difficult you only have little narrow access. These green areas here are going to be landscaped with trees and bushes.

**Ed Colello** – It is always good in my opinion when you have commercial to have some buffers on either side. On that plan you will only have a buffer on one side.

**Tim Froessel** – I would rather have him encroach on 6 and 84 rather than the sides.

**Tom Costello** – What is the distance between the property line and easement on 84?

**Andrew Suozzi** – The actual road? This is the just the property line. The physical 84?

**Joseph Buscynski** – It is above the wall.

**Tom Costello** – I saw a tractor trailer jack knife on 84 tonight I would hate to see one on the roof of your building.

**Andrew Suozzi** – It is probably 50 feet from the property line.

**Joseph Buscynski** – This is the highway.

**Tom Costello** – I think we should go take a look at this.

**Ed Colello** – Yes.

**Tom Costello** – Is there any indication of where you intend to put that driveway? Is there any markings on the property?

**Joseph Buscynski** – You will see two existing driveways. Where the houses were.

**Andrew Suozzi** – There is a lolly columns with a chain across it. Almost to the center of the two. But the grades work perfectly for the drain.

**Ed Colello** – Do we need county approval?

**Linda Stec** – I sent it to them.

**Joseph Buscynski** – Because it is on a state highway they need county approval.

**Ed Colello** – Any questions?

**Lynne Eckardt** – How many parking spaces are there?

**Joseph Buscynski** – 47

**Lynne Eckardt** – There is one retaining wall already?

**Joseph Buscynski** – Yes.

**Lynne Eckardt** – And how tall is that?

**Joseph Buscynski** – 8 feet.

**Lynne Eckardt** – And in addition you will be putting in another retaining wall?

**Joseph Buscynski** – See this is the existing one here we are proposing a five foot high wall along the edge of the access.

**Tom Costello** – Will the water from this property into the pond?

**Joseph Buscynski** – Yes.

**Andrew Suozzi** – Along the front we have drain into a basin and there is two 36 inch pipes to eventually go that way.

**Ed Colello** – All right so we will see you on the 21<sup>st</sup> you will be number four.

**8) Michael Walsh**  
**79 Lakeshore Drive**  
**TM# 79-1-40.97**

**Michael Walsh** was sworn in by **Tom Costello**.

**Michael Walsh** – I am here tonight asking for a variance on the side setback. I live at 79 Lakeshore Drive in Vail's Grove. It used to be a summer community which has been converted to all year round homes. I bought this house one of the last summer cottages still on the land. It is not winterized. My plan is to on the same footprint as you see here to build a house that is an all year round house. I have from neighbors about five letters of approval. I have the letter from the Vail's Grove Co-op that gives permission for me to move forward.

**Ed Colello** – Do we have a copy of that? That is very important. Let me read these names out for the record. Mrs. Mildred Martin at 77 Lakeshore Drive, Maria and John Goff, 24 Locust Road, Ronnie Waltzer, 91 Lakeshore Drive, Chris Bierce, 66 Lakeshore, Thomas Duffy, 67 Lakeshore Drive.

**Michael Walsh** – Vail's Grove is a unique community as you probably know. I don't think any of them are within 40 feet of one another. You can ask your neighbor to pass the Pompon out the window. I brought you some pictures of the houses that people have fixed in the community. It is a modest house and in keeping with the community and it is not a big elephant or anything like that.

**Ed Colello** – We have always, because of the uniqueness of Vail's take a lot of credence and a lot of input in what the Cooperative says. I don't want to give you the impression Vail's runs Vail's and we don't even look at it. More important to us and to me as a member the letters from your neighbor are great but if the Cooperative says it is a good thing and they give you permission that says a lot to this Board that is why it is important. We know there isn't a cottage, house whatever you want to call where you are going to do anything without a variance.

**Michael Walsh** – I have lived there for 30 years so I understand the culture of the community.

**Ed Colello** – You haven't owned this for 30 years?

**Michael Walsh** – No, my family has another house in Vail's.

**Ed Colello** – I don't know there were any cottages without heat.

**Tom Costello** – What are you planning to do?

**Michael Walsh** – Tear down the cottage and on the same footprint, basically the same footprint but a year round two story house.

**Tom Costello** – Are you going to build on the same foundation?

**Michael Walsh** – There is no foundation it is on cinder block.

**Tom Costello** – What are you going to do for septic?

**Michael Walsh** – There is a brand new septic. When we bought the house the guy put a brand new septic in so that was one of the conditions he couldn't sell it without it. The Health Department approved.

**Tom Costello** – The septic is approved for how many bedrooms?

**Michael Walsh** – Three bedroom. Two bath.

**Ed Colello** – On a slab or a foundation?

**Michael Walsh** – On a foundation.

**Tom Costello** – And the height?

**Michael Walsh** – I think the architect's drawing is 24 1/2 the Grove says is OK to go up to 30 feet that is on a slab. My architect goes for 24 1/2 feet.

**Tom Costello** – What is the existing house?

**Michael Walsh** – A one story about eight feet. My neighbors have all seen this and been notified by mail and have all encouraged me and they welcome the cottage to be a nice home.

**Ed Colello** – Where are you in relationship to this?

**Michael Walsh** – This is the golf course, off 121, Vail's Grove Golf Course, go down that ramp, just to the left.

**Ed Colello** – You are two houses to the left. Great it makes it a lot easier.

**Tom Costello** – Do you have a picture of your current house?

**Michael Walsh** – Yes.

**Ed Colello** – Any other questions? Any other questions from the audience? So we will see you on the 21<sup>st</sup> of November.

**Michael Walsh** – I thought it was done tonight.

**Ed Colello** – No, we want to go take a look at it. And we will vote on next month.

**Michael Walsh** – Do I come back for that?

**Ed Colello** – I would. You will be number five on the agenda.

**Tom Costello** – I will make motion to accept September's minutes.

**Ed Colello** – Do we have a second.

**Tim Froessel** – Second.

**Ed Colello** – All in favor.

**Jack Gallagher** – I will make a motion to accept August's minutes.

**Paul Vink** – Second.

**Ed Colello** – All in favor.

Meeting ended at 11:30 PM.

Submitted by:

Linda Stec