TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Mark Malocsay
Attorney Jeremy Havens
Diane Bramich
Glenn Ehlers
Aaron Ubides
Bill Cerone
Mary Garcia, ZBA Recording Secretary

Absent: Bob Larsen - Alternate Member

PUBLIC HEARING OF Diane W. Alford Trustee – regarding property located in the RU district at 5 Whitefield Ave., Warwick, NY 10990, and designated on the Town tax map as Section 29, Block 1, Lot 97 for an area variance from the town code 80A-6(B) to permit a proposed 5' fence in the front yard where a maximum height of 4' is permitted.

Representing the Applicant: Diane Alford, Applicant

Diane Alford: I have a puppy and I also take care of my daughter's dog. Both dogs are very active and can get over a 4-foot fence. Because my property is on the corner, where I'm asking for the fence is actually my side yard, but it's considered a front yard with the town. Unfortunately, the setback line cuts off most of my property to the side, which is where I want to put the fence.

Chairman Malocsay: We're going to open the application to the public. Is there anybody that wants to address this application? The public hearing will remain open. My only concern on the fence at 5 feet is what type of fence it's going to be.

Diane Alford: It's a post and beam and it's going to have a wire fence with 2 gates.

Diane Bramich: Where's the closure? It seems you have a fence in the front yard and it doesn't close anywhere.

Diane Alford: Yes, it closes. It's going from the corner of my house out and then attached to the pool fence. On the other side of the pool, it will go from there to the side of my house.

Chairman Malocsay: Any other questions before we close the public hearing?

Attorney Havens: Question 15 on the short form EAF asks if the site of the proposed action contains any species of animal or associated habitats listed by the state or federal government as threatened or endangered. The answer is yes; it identifies Indiana bat. I raised the issue to make sure you're aware of that because Indiana bats are common in this area. You're prohibited from removing large trees in excess of 18 inches in diameter at breast height for purposes of this project between March and October. If you don't have to cut down any large trees to do this, then it's a non-issue.

Diane Alford: No, we're not cutting any trees down.

Attorney Havens: Because it constitutes the construction or extension of a residential fence, it qualifies as a Type II action under SEQR section 617.5 C subsections 12 and 16. Would anyone care to type the action as a Type II action with no adverse environmental impact?

Aaron Ubides: I make a motion.

Diane Bramich: Second.

Chairman Malocsay: Any discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Five Ayes. I drove by to look. Does anybody want to hold over to look? Okay, no other site inspections. Any other restrictions? Public hearing is closed.

Attorney Havens: Question 1, will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by granting the variance requested? The applicant states no. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 2, can the benefit the applicant seeks be achieved by some feasible method other than granting the variance? The the applicant states no. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 3, is the requested variance substantial? The applicant states no. Does the Board agree?

Board Members: Yes.

Attorney Havens: Question 4, will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant states no because it's a 5-foot fence (post and beam) well within the property and maintains the character of the neighborhood. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 5, is the alleged difficulty self-created? The applicant did not answer. What does the Board think?

Board Members: It's self-created.

Attorney Havens: Any other discussion? Do we have a motion?

Diane Bramich: I motion to grant as advertised.

Aaron Ubides: I second.

Chairman Malocsay: Any other discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Five Ayes.

Diane Alford: Can we move forward?

Attorney Havens: You'll get a determination through the Planning and ZBA office in a little over a week and then you bring that back to the Building Department; they'll issue your permit.

PUBLIC HEARING OF Jason & Gina Velliquette - regarding property located in the SM zoning district at 49 Brook Trail, Warwick, NY 10990, and designated on the Town tax map as Section 72, Block 9, Lot 26.11 for an area variance from Town Code §164-41A(1)(b) & A(4) & C(4)(a) & C(4)(c), §164-45.1C(6) for a wood deck, patio, 4' rear fence, a 10' x 10' shed, and 20' x 12' garage that all partially outside the property lines with no setbacks, and for an 8' x 12' shed with a reduced front yard setback of 10.5' from the front property line where a front yard and rear setback of 30' is required, and where a minimum 10' side yard setback on each side is required; and where both side yard setbacks of 27' is required.

Chairman Malocsay: Tell us about the application.

Jason Velliquette: The 10x10' shed crossing onto Ms. Johnson's property will be removed. The north side of the property with Jason Barry's property, that is where a portion of the fence, deck and patio are crossing over on his property line. We've signed an easement agreement allowing me to continue to keep those structures there. To the west of our property line is Rikki Kipple and the fence in the back of the house crosses over into her property line. She has also granted me an easement agreement and allowed me to keep the fence. The 20x12' garage does cross over the property line as well by about a foot plus. She's okay with that remaining where it is and that's also in the easement agreement. I'm asking for a variance for all of these. The one in question is the 12x20' garage, which is within 5 feet of the property line that borders Ms. Johnson. I'm asking for a variance to be granted there. That garage has been in that specific location since it was installed in 2010 by the previous owner. The gravel driveway has been there prior to 2007 when he bought the property. It is not near anybody else's structures or visible from any other property lines. The last item is the 8x12' shed, which is on the front of the property close to the street. That shed has also been there since 2010 without complaint. I'm also asking for a variance for that.

Chairman Malocsay: We cannot give a variance for something that's on somebody else's property. However, we can give a variance for up to zero feet. Are the easements with the neighbors relevant?

Attorney Havens: The neighbor's granting of an easement to permit the continued encroachment on their property is an absolute requirement for this ZBA to consider granting any variance related to those structures currently in violation. The structure in violation extends beyond the applicant's property line. The applicant is also seeking an additional variance just identified tonight being the shed in the back corner of the property where an easement has not been granted. You need an additional variance for that one because it's within 5 feet of the property line.

Diane Bramich: What happens when one of these properties decides to sell?

Attorney Havens: That's the point of a written and more importantly, recorded easement.

Diane Bramich: Why not fix it? This can be fixed.

Chairman Malocsay: Well we don't have to give the variance. Before we open to the public does anybody have any questions?

Aaron Ubides: If the other owners are okay with everything, we must grant the variance. Is that correct?

Attorney Havens: To the extent that there's an encroachment that doesn't meet the necessary setbacks on the applicant's property, yes.

Chairman Malocsay: Public hearing is open. Does anyone want to address this application?

Maryanne Johnson: My name is Maryanne Johnson. I own the property that we're discussing, where the shed and the gravel driveway are within my property line. Prior to the sale, the owner came to me in November and requested that I give the property to the new owner. I said no. I wrote to both attorneys (sellers' and buyers') that I do not grant any easement, they need to be removed, and I do not grant any encroachment on the property.

Jason Velliquette: I was informed that I had to write a letter to the Town of Warwick acknowledging that these lack of permits were my responsibility if I moved forward with the sale.

Aaron Ubides: So that shed is on your property currently, correct?

Maryanne Johnson: Correct. And the driveway.

Aaron Ubides: And you want them removed?

Maryanne Johnson: I expressed before the sale that they would need to be removed. I expressed both written and verbally that I did not give my consent.

Aaron Ubides: That's one of the variances he's asking for, correct?

Attorney Havens: Correct. However, the applicant clarified that he's not requesting one of the easements anymore because he understands his neighbor would not consent. And if I heard you (Jason Velliquette) correctly, you are planning to remove that shed?

Jason Velliquette: Yes, I will.

Diane Bramich: Do you use that gravel driveway?

Jason Velliquette: You have to because the house sits on a very steep hill. The main driveway then turns right towards the house. In order to get back down, you either have to go backwards with a massive blind spot due to the angle, or you have to back into the driveway and then go down.

Aaron Ubides: The other shed is also close to your property line?

Jason Velliquette: It's on the property line but it does not cross over.

Aaron Ubides: Is that okay with you or not okay?

Maryanne Johnson: No, I'm not okay with it.

Aaron Ubides: What size is that shed?

Jason Velliquette: It's 20 x 12', garage size.

Maryanne Johnson: My family purchased in 1947. The gravel driveway and the sheds didn't exist; the previous owner did all of that.

Jason Velliquette: For clarification, he bought it in 2007 and the gravel driveway was there when he bought it. There was not a complaint because she (Maryanne Johnson) was not aware that property was hers until he brought it to her attention.

Maryanne Johnson: No, my mother was aware. It was just something that didn't come up until the neighbor expressed that he wanted it and now it became an issue.

Jason Velliquette: I respect Ms. Johnson's right to her property so I will be removing the 10'x10' shed. The garage has been there for over 16 years fully visible, without complaint. There's no domicile on this lot, her family home is across the street. This garage is nowhere near anybody or obstructing any view. I'm asking for the variance for being too close to the property line.

Chairman Malocsay: The public hearing's still open. Is there anybody else from the public that wants to address this application?

Argie Bowman: My name is Argie Bowman. I do remember Maryanne's (Johnson) mother complaining. Maybe not formally, but verbally she did. The shed that is being taken down is next to a utility pole.

Attorney Havens: I believe you're talking about the shed near the paved drive along the side of the road.

Argie Bowman: On the road, yes. I look at the utility poles as a reference.

Attorney Havens: That's not the one he's proposing to remove. For clarification, the one he's proposing to remove is at the top of the hill. According to the survey, the shed along the side of the road is ten and

a half feet back from the edge of his property line. The utility pole doesn't have an actual measurement. Most of the time they are on the common right of way, but every now and then they are on people's private property. According to this survey, that utility pole is probably 7 or more feet onto the applicant's property and not in the public right of way.

Argie Bowman, Chairman Malocsay, and Attorney Havens discuss the neighbor's property line as well as the roadway, right of way, and property lines according to utility poles and how some utility poles are on private property.

Chairman Malocsay: Again, public hearing will remain open.

Attorney Havens: The Board needs to discuss SEQR since what the applicant is requesting is associated strictly with accessory structures and granting of specific area variances. The application would qualify as a Type II action under SEQR section 617.5 C subsections 11, 12, 16, and 17. Would anyone care to type the action as a Type II action with no adverse environmental impact?

Chairman Malocsay: I'll make that motion.

Bill Cerone: Second.

Chairman Malocsay: Any further discussion on that? All in favor?

Board Members: Aye.

Attorney Havens: We're going to have to review the easements for legal sufficiency. An additional question that this Zoning Board will have to address is whether or not the applicant is going to be required to get the two property owners who are adjoining his property, even though they granted him an easement, do they have to also join his application for the granting of variances on their parcels too? Because these same improvements would constitute a violation on the neighbor's property as well.

Attorney Havens: If you have a fence or a building straddling the property line, it's a violation for both properties because right now he has a building violation for failure to permit.

Aaron Ubides: So it will create a violation on the other homeowner.

Attorney Havens: Correct.

Glenn Ehlers: He's going to remove the 10'x 10'. So we're down to the 20' x 12'.

Chairman Malocsay: And the one in the front.

Attorney Havens: The one in the front is just a setback.

Glenn Ehlers: The only one that's on a neighboring property is the 20'x 12'. And how far is that over on the neighbor's property?

Chairman Malocsay: It is 1.2 feet I believe.

Glenn Ehlers: It appears to me that's not a permanent structure and it can be moved.

Chairman Malocsay: As well as the fence.

Glenn Ehlers: So what is the hindrance in moving that 20' x 12' that looks to me as a shed?

Jason Velliquette: Yes, it's a garage.

Glenn Ehlers: It doesn't have a foundation...

<Crosstalk>

Glenn Ehlers: ...looks to me like it would be a movable building.

Jason Velliquette: It would be a complete loss of utility. There is nowhere on the property that would fit.

Aaron Ubides: No, but you could slide it ahead is what we're saying.

Jason Velliquette: The layout of the rest of the property would not allow for it.

Glenn Ehlers: To move it 1.7 feet?

Aaron Ubides: To move that just off the line.

Glenn Ehlers: Just move it to get it on your own property. That's a moveable building, it's a shed.

Diane Bramich: Is there any chance of buying some of that land and having a lot line change?

Jason Velliquette: No, she declined. For the shed it's 1.7 feet so I think moving it backwards would be the more reasonable answer. I would still need the setback variance, but it would be off her property.

Aaron Ubides: But then it would only be you that needs the variance, not the other property.

Jason Velliquette: Correct.

Chairman Malocsay: There's a little bit more of an issue. Even if it were moved back further, you can't get to it. How wide is your property at that point?

Jason Velliquette: It's very narrow.

Glenn Ehlers: But at least if it's on his own property, I would be more apt to consider a variance.

Chairman Malocsay: We're looking at a gravel drive that is on the neighbor's property which looks like the way that they're accessing it now...

Glenn Ehlers: An easement for a driveway is different than an easement for a structure.

Chairman Malocsay: But in the conversation with the neighbors, it doesn't look like they're interested in getting any easements.

Board members discussing amongst selves at same time

Jason Velliquette: ...<Inaudible> 10'x10' no easement. The garage is 1.7 over, but that can be moved back and then it's no longer on the easement where <Inaudible> land, then I would only need the setback variance in that case.

Aaron Ubides: He could move that shed so he only needs a setback variance from us, not <inaudible>.

Chairman Malocsay: I understand. But then he trespasses every time he goes to it with something that's wider than 3 feet.

Jason Velliquette: I do not park my vehicle inside the shed.

Chairman Malocsay: I realize. But it doesn't look like your neighbor's willing to give you any kind of an easement even to access the building itself.

Jason Velliquette: There is about a 3-foot width. I could stay on my property and still access the garage.

Diane Bramich: He's not looking to store a car in it.

Jason Velliquette: Correct.

Diane Bramich: At least it wouldn't be encroaching on somebody's land if he moved it back.

Chairman Malocsay: I understand. What I'd like to do is instead of doing a drive-by and looking at it and the character of the neighborhood, that we actually access the property to take a look.

Board Members: It's okay with me, it's fine, yes.

Attorney Havens will review the easement agreements and when we reconvene the Board will comment. The public hearing is going to remain open and it will be held over to our next meeting which is June 22nd.

Jason Velliquette: Before the 22nd, I'll have that 10'x10' removed and I'll have the garage moved back so it's no longer on that corner. Anything else I can do?

Attorney Havens: If there is anything else I'll reach out to you.

PUBLIC HEARING OF Tiedemann Castle – regarding property located in the SM zoning district at 14 Lake Shore Rd, Greenwood Lake, NY 10925, and designated on the Town tax map as Section 75 Block 1 Lots 37 & 38 for the following area variances for construction of a 4 bedroom addition to house on lot 75-1-37, and construction of a 7 bedroom addition to house on lot 75-1-38, addition to caretaker house, and expansion of existing accessory structure: For Lot 1 (tax lot 75-1-37): Side setback expanded dwelling: 10.2', where 18.0' is allowed (§ 164-40N); Front setback expanded dwelling: 10.4', where 30.0' is allowed (§ 164-40N); Garage in front setback §164-41.A(1)(a); Lot coverage: 40.1%, where 30% is allowed (§ 164-40N); and Expansion of pre-existing nonconforming accessory building by 174% where 15% is allowed (§164-45.B.(1) & §164-41.A(1)(a)) [462 sq ft existing + 805 sq ft addition = 1,267 sq ft or 174% increase] For Lot 2 (tax lot 75-1-38): Lot coverage: 31.9%, where 30% is allowed (§ 164-40N); Side setback expanded dwelling: 0.9', where 18.0' is allowed (§ 164-40N); Rear setback: 9.0', where 30.0' is allowed (§ 164-40N); Expansion of pre-existing nonconforming principal dwelling by 66% where 15% is allowed (§164-45.B.(1) & B.(2) & D.) [2,379 sq ft existing + 1,580 addition = 3,959 sq ft or 66% increase]; and Interpretation of a breezeway to create a 2-family home.

Representing the Applicant: John Ziobro, Attorney and Tom Bertussi, Applicant

Chairman Malocsay: First, apologies for the miscommunication. We had the correct date of the 26th, but we had Monday instead of Tuesday for the Public Hearing. Because some people made plans to come on one of the days and can't come the second day, the public hearing will remain open to give anybody else a chance to come to the next meeting. This way there is time for everyone to attend and ask questions if needed. Secondly, there is one piece of property and then there is a second piece of property, but we can address both in common because some concerns might reflect to both. Would anyone like to address the application? Please come up and state your name for the record.

John Ziobro: I'm John Ziobro and I'm the attorney for the applicant.

Tom Bertussi: My name is Tom Bertussi, and I am the property owner.

Tom Bertussi addresses the Board and letters of complaints from neighbors. He explains that he and his wife purchased said property because they have a very large extended family and enjoy spending holidays and summertime together. They spent years searching for a property large enough to house his family while being in close proximity to their home in Pearl River. The past holiday weekend there were approximately 40 people at the home and 90 for their son's graduation party. Wanting to address and explain any issues, they invited several neighbors over to look at the property so they could actually see what they (Mr. & Mrs. Bertussi) are planning to do with the property. Mr. Bertussi agrees that this is a large-scale project. He understands the last time a project was done on this property it entailed years of work, causing disturbances for all. His goal, however, is to have the project completed in 9 months, without interrupting the summer season. This is an environmentally sensitive project. He has hired an architect, surveyor, septic engineer, structural engineer, bulkhead engineer, landscape architect, attorney, and an environmental engineer. They have met with the New York State DEP and ensures this project will be done

per code with all jurisdictions. Regarding rock removal possibly damaging neighbors' homes, while they do not expect any damage because they are not doing nearly the amount of rock removal and construction that the previous owners did, and the homes are far off enough, they are willing to hire an engineering company to video inside and out of the neighbors' homes before and after the construction. If any damage is incurred, they will fix it. Intended use was mentioned that this is going to be used for a hotel or a bed and breakfast. That is not the intention; the intention is for family use. It is a very expensive property and so they need to rent the guest house mainly. Potentially but less so, rent the castle itself to alleviate some of the yearly expenses. Tom Bertussi clarifies the number of bedrooms. We intend to have 5 bedrooms in the guest house and 10 in the main house for a total of 15 between the entire property. The neighbors' concern of the property not in alignment with the neighborhood is correct. The property is not in alignment and never will be because it's a castle. Yes, there will be noise, dust, temporary traffic impediment, and rodents. But he will do the best he can to keep it all to a minimum. Regarding the lagoon affecting drainage, water quality, shoreline stability, and ecological balance, he has hired an environmental engineer working to get a New York State DEP permit. Vehicular traffic and high-density noise was another complaint. Mr. Bertussi addressed this issue by stating that while the previous owners (Derek Jeter's parents) were only 2 people, yes, he will have more people. His kids will be there, and their families will be there. They plan on being there 9 out of the 13 weeks of summer. But he does not believe that the project is going to bring the neighborhood value down. He feels the castle will bring the property value up for everyone in the neighborhood. Another issue that was mentioned in the letters was septic requirements. Brian Friedler, Engineer, has been hired to design one of the best systems. Too many boats on the lake was also stated in a complaint. The boat usage will be minimal compared to the marina right across the street. There seems to be a large concern with water runoff filling in the stream. However, there is no stream, this is just water runoff. Mr. Bertussi states there were pictures taken that show issues with water runoff, this however was before he did any work whatsoever. It's a condition that's been there for decades. Mr. Bertussi had a culvert put in and is diverting water through the property. They also removed concrete, tires, and garbage that was dumped on that property for years. Mr. Bertussi was adamant that they have not contributed to anything but the betterment of the property.

Attorney Havens: So before we open to the public I want to point out that the Orange County Planning Department did confirm that despite the fact that this application has previously been before the Planning Board, and there was already a review by the Orange County Planning Department that they did in fact require an additional GML 239 referral because the property is within 500 feet of New York State 210, within 500 feet of a municipal boundary being the state line and also within 500 feet of Appalachian Trail property. Referral has been submitted; we are awaiting a response. Therefore, the ZBA is without authority to issue any determination until we hear back from Orange County Planning Department.

Chairman Malocsay: Before we open to the public does anybody have any questions, concerns? I may interrupt because some of the answers to your questions are issues that the Planning Board handles. So please come up and state your name.

Dominick Savino: My name is Dominick Savino.

Chairman Malocsay: Dominick, what is your location to the property?

Dominick Savino: I reside at 8 Arianne Court. My property abuts the northern boundary of the proposed development. I have copies of my speech and some pictures for the Board.

Dominick Savino provides Board Members with a copy of his speech along with copies of pictures

My concern is the cumulative transformation of the site through multiple expansions, significant reduced setbacks, infrastructure, continued development on constrained lakefront parcels, and overall intensity of use. They're going to put a 40-foot addition, two and a half story, so I'll be looking at a 35-foot wall. Regarding excavation impacts, there is a cliff that is over 100 years old. Every one of the walls on my property is a retaining wall. The newest retaining wall is on top where the steps go up and that's 35 years old. I'd also like clarification on one of the setbacks because I don't understand 'front setback 30 feet is the code to 18 feet.' The lagoon overgrown by weeds, algae grass, everything they cut every week helped maintain the lagoon so they did not have problems with mosquitoes and such. Mr. Bertussi also mentioned they rent the front property, one bedroom, two guests. They were quiet and polite but I witnessed 6 ladies leaving the property. The increase in bedrooms and occupancy across both lots raises concerns regarding flooding and drainage. There is a stream of water that comes off that mountain. Everything is supposed to go through the two buildings and down into the lagoon. When the Jeters (previous owners) did construction, they elevated the driveway. That creates flooding in my garage and my shed. The proposed breezeway may effectively function as a larger unified occupancy for two-family use. I request clarification regarding how the town clarifies these structures under applicable zoning and building codes. I respectfully ask the Board to consider the precedent an approval of this scale may establish. They are planning to expand the area for the caretaker house but there's zero space between the property lines. I have a root wine cellar that's over 100 years old. The excavation that they're going to do for their garage is 25 feet away from my house. They want to put a swimming pool on the other side of the house, which is on the same ledge. If he puts the caretaker house on top of that building, that driveway is on my property for me and my two neighbors—that's their only egress and ingress. And I respectfully ask whether a geothermal study or structural engineering reports or vibration analysis or pre-construction conditioning assessment has been completed. What happens if the 100-year-old wall falls down? How about the wall that's right outside my house? That wall's as old as the cliff. This is historical. The setbacks from 18 to 10 next to my house, a 40-foot extension, and the proposed garage which is on the property line, is in fact a former greenhouse. I respectfully request clarification regarding whether a private greenhouse footprint permits expansion into a garage structure, 30' x 25' on the property line. Regarding the right of way, I read the deed and it does say 'right of away', which an attorney said it means I can drive through his property. Based on these unresolved concerns and potential impacts, I respectfully request that the Board defer any approvals and all engineering, environmental, zoning, and property right issues fully be addressed and incorporated into the public record. Should approval ultimately be considered I respectfully request enforceable protections for all of our adjoining properties, including pre-construction inspections, documentation of neighboring structures, engineering oversight during excavation activities, occupancy limitations related to short term rentals or event use and performance bonds or some sort of escrow that we know that the money's there. Finally, I invite the Board and the town engineer to conduct a site visit on our property to see it from my standpoint.

Chairman Malocsay: As we talk, it would help that we say lot 37 lake house and lot 38 castle. If you have questions on the lagoon, that is not before our Board. On the breezeway, a lot of times that would be a garage to a house, and it must have a roof. They do have different setbacks because the garage can be a lot closer to the road. We will look at that further to see how they're addressing the garage becoming the

caretaker's house and if that needs an additional variance once it's connected. The right of way, is it something that you have addressed?

Attorney Ziobro: This is brand new to us. When they bought the property, we were not aware of any drivable easement that went from a non-owned property through our property. When we saw the letter, we went to the title company. If he has a legal right of way, I don't believe that affects the variances we're talking about. If it follows the current road that goes around, then what we're proposing to do wouldn't stop any proposed right of way. But we will address that by next week.

Chairman Malocsay: You mentioned a greenhouse/garage. Both are accessory structures and they have a title as to what they are. But a greenhouse that was there that has a foundation and then becoming a garage, chances are you aren't going to need the variances. The setbacks are probably still the same and/or they were preexisting. By putting the garage there, it needs a variance because our definition defines it as the road frontage. As for the bonds, that is a Planning Board issue. Next person that would like to come up to talk about the application please step forward.

Michael King: My name is Michael King. I live at 18 Lake Shore Road, the north corner of Lot 38, the castle. I have to underscore the construction methods and duration. We lived through the Jeter development, and they use ram hoe there 5-6 days a week starting at 7:00am. Because we're on that same rock ledge, the vibration could be heard through the clothes dryer in the basement. It was very intense. Dominick Savino covered a lot of ground; we share a lot of concerns, especially with the structure being on the property line where the garage conversion to a caretaker residence. And to reinforce foundations and everything that's going to require excavation. I'm also concerned about the commercial aspect of it regarding occupancy. You're going to have a caretaker on site and any slight sound on that lake is heard as if it is in our own backyards.

Chairman Malocsay: I will interrupt because some questions are Planning Board issues, such as people in the property or the owners of the property. We're not giving the variances to the applicant; we're giving them to the property. The structure on the property lines is, however, something the ZBA will address.

Attorney Havens: The Zoning Board has received letters expressing concern about it being operated like a hotel. The applicant admits that the intent is to use it predominantly for the benefit of their family, but also to rent both parcels. The question as to whether or not the proposed and intended use is a permissible use on this particular property has been raised by members of the public expressing concern and objection. One of the things I have asked the applicant is to explain why the proposed property, especially Lot 38, the castle, doesn't constitute a country inn use as defined under the code.

Attorney Ziobro: The difference is we're not going to be renting each individual room to different people. This is going to be an Airbnb to one group. We're going to have an innkeeper at the front desk like a hotel, motel, or a bed and breakfast. That makes it different than like a house, where you're renting each individual room to different people.

Chairman Malocsay: Who's next to speak? State your name please.

Phillip Sacco: My name is Phillip Sacco. I've been living at 12 Arianne Court for the last 26 years. I witnessed the Jeter restoration, and it was intrusive. For 7 years they had pile drivers going from 7am to 7pm. The expansion is overzealous and purchasing this property was a bit more than they could handle financially which is why they need to make it an Airbnb. This is a residential area. Whether it's Airbnb or a bed and breakfast, because they need to offset the income is not a valid reason. And if there is any damage, who's going to cover that damage? Is money going to be set aside? If that ledge is affected, that's going to affect my house structurally.

Chairman Malocsay: Who's next on the floor?

Bradley Walker: Hi my name is Bradley Walker. My wife and I moved here about 4 years ago. I understand what you said in terms of you are making a determination of whether the variance is allowed. Am I saying that correctly?

Chairman Malocsay: The relief for what they're asking and there's 5 criteria to it.

Bradley Walker: This letter reads that there's a certain allowance in terms of variances; 18 feet is allowed, they want 10 feet. A 30% expansion is allowed, they want 130. I know those numbers aren't exact, but it seems that this committee is to determine, should they be given permission to exceed these limits. Why do these limits need to be exceeded? They've made statements of it's for family, to recoup part of our costs, etc. I am concerned about this becoming an Airbnb as a hotel. They say it will be predominantly for family. Airbnb publishes that to make a profit, you need to rent it out at 55%. Who is going to define the limit? I'm really concerned about the nature of this expansion. Why is it going to be given permission to exceed all these numbers? There were comments about inconvenience to the neighborhood. This hasn't even started and caretaker vehicles, landscaping vehicles, contractors and so forth, all double park on Lake Shore already. That road is narrow; it's already a problem because two cars that meet head-to-head, one has to give the other room to get through. Closing that end of the road is going to be a major inconvenience. The noise is also going to be a major inconvenience. I'm a voiceover artist and an audio book narrator and I record at home in a studio in my basement. If they're pounding into the ground for 12 hours a day, that's going to affect my ability to work and my income. Those are some things that I'd like you to consider as you weigh whether these exceptions can be made or not.

Chairman Malocsay: Next on the floor please come up.

Paul Patrono: My name is Paul Patrono, 20 Arianne Court. My neighbors have stated most of my arguments, but I have one thing I wanted to comment on. With the great degree of variances these people want, they're changing that zoning of that property. They should have known that they'd have to get variances for this or not buy it. For you to grant them variances like this is telling them that they can get them after the fact and we should not let that happen.

Chairman Malocsay: Yes ma'am, come up and state your name.

Nicole Kase: My name is Nicole Kase. My question is really just for my knowledge, you stated that you would pass the variances and then the Planning Board was <inaudible> with Mike King would go to Planning Board with, but once you pass the variances, you've given them permission to build. What would be the next step? What is the Planning Board's job in this process if you would grant them their variances and permission to build?

Chairman Malocsay: Unfortunately, my answer is that you have to ask the Planning Board.

Nicole Kase: When Mike (King) was speaking, you said that's more for the Planning Board. But if he can't voice that to the Zoning Board who's going to pass this, how does the Planning Board play a part in this?

Attorney Havens: As a matter of practicality, if applicants are required to resolve issues before the Planning Board, without knowing whether or not a variance is going to be granted and then the ZBA says no, now the applicant has to go back to the Planning Board, revise their drawings, and reconsider the same issues again. Then they have to come back to the ZBA to see whether or not they could get a different variance. So out of respect for the applicants, the costs for multiple reviews, neighbors that come to express their concerns, the ZBA can consider an application before all the Planning Board issues are resolved. Because it's a question of whether or not the applicant even has legal authority to do what they're proposing. If they don't have legal authority, the Planning Board can't approve it.

Nicole Kase: So you're going to give them the variances and then the Planning Board will approve if it actually happens?

Attorney Havens: This applicant wants to expand buildings and violates other significant setbacks in other areas, etc. It's much more complicated than usual so it's going to take a little more review. Additionally, under these complicated circumstances, the ZBA usually will set and impose reasonable conditions on the granting of the variance, which requires them to go back to the Planning Board and have other elements reviewed and approved by them before they're allowed to go to the Building Department.

Nicole Kase: Thank you. I appreciate that, that was very helpful.

Attorney Ziobro: Airbnb is a website. They don't make the laws and rules, each town does and the town of Warwick has some of the strictest Airbnb laws. My clients are not seeking variances for that, Airbnbs are allowed. We have a professional property manager in Greenwood Lake with her telephone and email on the website. If you feel something wrong is going on on our property, call and complain.

Bradley Walker: Does this property fall under the jurisdiction of Warwick or does it fall under the jurisdiction of Greenwood Lake Village?

Chairman Malocsay: It is strictly the town of Warwick.

Robert Kowal: My name is Robert Kowal. Is that piece of land residential or commercial?

Chairman Malocsay: It's residential.

Robert Kowal: So how is this being developed so it's rented out?

Chairman Malocsay: As an Airbnb, you can do that with your own home in a residential area. They're not asking for anything that you can't do with your own home.

Robert Kowal: <inaudible> this is a bed and breakfast.

Attorney Havens: No. The applicants are seeking variances from this Zoning Board so they can go back to the Planning Board and do improvements to the property, then rent it out under the short-term rental regulations in the town of Warwick. This Zoning Board has asked the applicant whether it's being used for business purposes as opposed to residential purposes and that will be addressed at a future date. If you'd like to discuss that further, I suggest you show up at the next meeting in June.

Chairman Malocsay: The public hearing will be held open so you'll have time to think about any further questions. With that said, unless anybody from the Board has something they want to ask, this is going to be held over to the June meeting.

PUBLIC HEARING OF Kraftify Holdings, LLC - regarding property located in the OI zoning district at 251 State School Road, Warwick, NY 10990, and designated on the Town tax map as Section 46, Block 1, Lot 37 for an Interpretation of Town Code §164-22 and 46E regarding whether or not the proposed construction requires a variance as the relief sought is less intensive than the current setbacks, and that the firepits do not constitute a structure which would trigger a variance for a rear-yard setback, and, if needed various area variances for front, side or rear yard setbacks for proposed improvements. **Continued from the ZBA Meeting of April 27, 2026. **The ZBA & PB had a site visit on 5/4/26**.**

Representing the Applicant: Elizabeth Cassidy, Attorney, Justin Provencher, LAN Associates Engineering, Roman Zawojski, DeGraw and DeHaan Architects, and Michael Kraai, Owner

Attorney Cassidy will present for this hearing via telephone

Chairman Malocsay: We had an opportunity to visit the site and we have a few questions.

Aaron Ubides: One of the questions Mark (Chairman Malocsay) and I had was regarding the building following the line of State School Road instead of being at a right angle to the building.

Justin Provencher: Justin Provencher from LAN Associates Engineering. There are a few reasons for that. From a site design perspective, it obviously utilizes as much of the property as we can. We certainly have a setback of, of about 11 feet or so from the property line, which is in quite a bit from the building. We're still about 25 feet away from State School Road. It encloses that whole area in a nice way and it would be nice for that space to be enclosed so that kids don't run as far away. By making it a right angle, it cuts off a portion of the property to no benefit to anyone. I feel that the proximity of the building following the length of State School Road is beneficial in the site design and traffic as a traffic comp measure. Traffic calming is obviously a big discussion in the engineering traffic world as far as how do we get cars to realize they have to slow down on their own. I'm sure there's posted speed limit there, but as you're coming through the area, it feels like a small quiet road and you're not looking at the speed limit. Creating a sense of enclosure naturally slows down how you're driving.

Diane Bramich: Exactly why can't you turn it?

Justin Provencher: It's not that we can't turn it. I just don't think it would be better if we turned it. I have an exhibit that I can show you as far as the property and the setbacks in the property.

Justin Provencher sets the plans on an easel to display to Board Members and the public

Michael Kraai: I'm Michael Kraai, property owner. One of the things we want to do on this project as a whole, is to make this very aesthetically pleasing. We don't want to build something that would be eyesore to our neighbors or the neighborhood. There's an architectural and aesthetic design to the way this was built. The reason we're going forward with this addition is because we want to make the property more enjoyable for people and add amenities. So there has to be a certain flow and aesthetic to the property. And if we were to go perpendicular, it really wouldn't function. If you go to any establishment that has a

lot of people, typically there's one entrance in and out and that's exactly what we're creating here, is there's one entrance into the, into the property, and then it opens up into the back. So I would say function and aesthetics are two other major components. And then one of the big aesthetic components is this 100-year-old beautiful brick building. If you were to go put it perpendicular again, aesthetically you'd be covering the large majority of the brick building. And that would not look right.

Diane Bramich: I'm not saying perpendicular. I'm saying angle it more so that it's not so close to the road.

Justin Provencher displays the plans on the easel and explains the reasons for the design

Justin Provencher: This thicker black line is our property line. The lot is an abnormal size and shape. When you offset it to the 50-foot setback, we're left with this very small, doted area. And you can see that none of the other extents of the building really follow the property lines. Trying to create an addition that actually fits within that building envelope is nearly impossible. You'd have to come very far in, which is where the exit to this back area is, into here and try to shoot through, which is where the bar is set up and people are accessing. You'd end up having to stick it through a portion of the building, which again would end up narrowing it to a much smaller area. When the building comes out this way, it will be fairly flat. And then you have a little bit of grading to do because the elevation of the driveway is probably a foot or two above. But you then create this building that's a little bit elevated and a nice central area coming down this way. And so the more that you bring that in, the more you cut it off.

Aaron Ubides: So by doing the building this way, you're maximizing your open area on the inside?

Justin Provencher: And the only neighbors for this are the architects across the street. Which one of these is your office, Roman (Zawojski)?

Roman Zawojski: My name is Roman Zawojski from DeGraw and DeHaan Architects. This is our office here.

Justin Provencher: Roman (Zawojski) works across the street and designed it this way because he thought it would be an aesthetically pleasing way to design a building along this road.

Chairman Malocsay: We'll just look at the pavilion that you have proposed that runs along the road. Pretty safe to say that that entire building is built outside the build-out of the property.

Justin Provencher: Yes. It's a very abnormal envelope as we mentioned before. This is our property line, and we are required to have a 50-foot offset. Was there a determination of the need for a front, side, and a rear yard variance?

Attorney Havens: No.

Chairman Malocsay: The Board usually gives the minimal relief and there has to be a very good reason for that relief. So the building being the same size running perpendicular, but your variance is less because it now sits more in that envelope, it meets better with the roadside setback. We briefly talked and had some interpretations on if a variance was needed for that front yard setback, because the building itself is already 0.7 feet from the property line so at least in my interpretation, it absolutely needs a variance.

Attorney Havens: Applicant's counsel has submitted a written summary of her legal position on whether or not a front yard variance is necessary given the preexisting non-conforming setback of the existing principal structure. Before the ZBA considers any potential motion on that determination, I'd like to grant counsel an opportunity to present her argument.

Attorney Cassidy: Thank you. Can you hear me?

Attorney Havens: Yes.

Attorney Cassidy: My position has been before the Board that the way your definition of front yard reads, I believe that the 0.7 feet is where the line should be measured parallel to State School Road. With that said, I provided you with at least rationale and justification for the variance. I ask that because the conditions are similar for the front yard, and I believe it's the rear yard where the proposed are between the non-conformity and the setback, I ask that the two be treated the same. So if you determine that a front yard variance is not necessary, the same rationale should apply to the rear yard. If you determine that a front yard variance is necessary, I ask that you grant both a front yard and a rear yard variance so that they're given the same treatment.

Chairman Malocsay: One of the things that I would put as a condition is that this pavilion can never be added onto, being a second story.

Attorney Cassidy: We have no objection to that.

Glenn Ehlers: And that it be open.

Chairman Malocsay: The other one is a pavilion in our definition, has 4 open sides. I can understand one side attached to the building to be partially closed off, but at least 3 Board Members—which is a majority—feel that the pavilion should be open on the other sides. We do understand to extend seasons, and it may be a Planning Board issue, to have the drop-down heavy plastic commonly used in restaurants and heaters inside. It always looks like an open space and a pavilion.

Mike Kraai: Is it allowable to have the partial enclosure that's in the current architectural rendering with open windows and then the other sides that are...

Attorney Havens: As the Chairman was just pointing out in looking at the renderings, it appears that the wall closest to State School Road seems to be solid for the center one third, and then there seems to be

either windows, bars, or blinds, but it appears that there's the capacity to visually see through the other two thirds near the ends of this extension along State School Road. Can you please describe what the proposed design is for that back wall?

Roman Zawojski: Internally or externally?

Attorney Havens: It appears in this rendering that you can see through two thirds of that wall, and it's only solidly blocked in the center one third. Is that accurate? And what are the vertical lines within those open areas that you can see through?

Roman Zawojski: The wall is to keep the occupants that are inside the business without leaving the property and vice versa, from having people from the road just walk directly into the building.

Chairman Malocsay: A railing would do the same thing.

Mike Kraai: We are going to have some security. We can't leave this totally open, just for theft and general public access. It's basically 3 open walls similar to our existing building where you sort of have a back stop, but it is open air. Is the Board's concern that you want it to be open air and feel like a pavilion and not a structure? Because we're treating it as a structure in terms of the variance.

Chairman Malocsay: For myself and I believe in talking to the others, we're willing to give the variance as a pavilion, an open structure.

Justin Provencher: You're not going to really see it, that back wall is going to be landscaped. There's a significant amount of landscaping that's going into this project. We planted flowering trees all down the road. It will be open air, but we don't really want to expose that back wall. So the back wall is the middle third is solid, the outer thirds are open windows with some sort of decorative bar or something along those lines that Roman (Zawojski) can talk a little more about.

Aaron Ubides: The center section is a bar; you have wet sinks and stuff like that. So I understand why you want that back solid wall. But what Mark (Chairman Malocsay) and I are saying is how tall are the bars? Does it give you the open look? Could you walk through it?

Justin Provencher: You cannot walk through.

Aaron Ubides: Does it give you the feeling that you could see right through there and see everything else?

Justin Provencher: <Inaudible> ...the bars, I think they go down to 2 feet above the ground to...

Roman Zawojski: Thirty inches above the ground and then to about 7 feet in height.

Justin Provencher and Roman Zawojski discuss with the Board different possible options to make the area appear more open. Such options included a glass ceiling and instead of the open windows with bars perhaps have floor to ceiling glass. Chairman Malocsay emphasizes it should look like a pavilion. Aaron Ubides agrees with the Chairman. Everyone agreed on the open feel.

Chairman Malocsay: So on the renderings that we have, and the one on our screen, looks...

Mike Kraai: This will all be landscaped. There are already flowering dogwoods and ornamental grass along this street.

Chairman Malocsay: We ask that because it does sit close to the road and it breaks it up, with the exception of that one smaller section you need for the back of the bar. But, it definitely looks like more than a third of it is solid wall in this picture.

Aaron Ubides: I agree with Mark (Malocsay) but I get what you're saying. You're going to have landscaping, so you probably won't see the first 30 inches.

Mike Kraai: More than that. There are dogwood trees that are going to be 12 to 15 feet tall. The drive up State School Road is just quite literally flowering trees all along the road. I put about 120 trees.

Chairman Malocsay: My idea is to not have it look like windows but have glass from top to bottom. I can understand a quarter of it in the inside to be solid for the bar area, so you're not looking at the backs of people serving people. I can understand that, but it would look more pavilion-like if it were more open.

Glenn Ehlers: We can open it up a little.

Aaron Ubides: I understand. You're trying to keep everybody in that spot so they don't walk off the property with a drink or somebody else just walk onto the property.

Mike Kraai mentions the site visit and states he received positive comments from Board members during that visit regarding the renovations they have already done compared to the building when it was in disrepair. He praised the Architects for their work as well and promises this will be a beautiful site for everyone including the Town and anyone who sees it from the road.

Chairman Malocsay: If we give the variance, we'll probably have some precise conditions.

Attorney Havens: Before the Board considers variances, because this application has gone through a few iterations with respect to area footage, I'd like to confirm a few calculations based on the most recent submission. Based on that review, one of the variances being requested is that the newly proposed covered porches constitute an expansion of the footprint of the existing non-conforming building. The building, according to your sheet, C0.02 is 9,642 square feet footprint, not gross floor area and not gross

leaseable area. The new covered outdoor area is stated in the table that was presented with your most recent submission as being 7,013 square feet. That represents a 72.7% increase in floor area where only 15% is permitted under town code 164-45 B1. Does anybody have any specific issue that you want to raise with that calculation?

Justin Provencher: Yes, I need to clarify the existing building. We have the first floor eating and drinking, the first floor brewery area, and then on the outside the ground floor includes an open deck that <inaudible> covered patio. Those 3 areas combined are 9,423. Of that 9,423, the 973 that is the covered deck area is being removed and replaced for the 7,013 square foot expansion, which means that the actual expansion is a little bit less. The expansion itself is 6,040 square feet.

Attorney Havens: So you're saying that the current existing second floor deck constitutes covered area of a pre-existing building that wasn't previously included in your calculations?

Justin Provencher: Yes, because that 973 square foot covered area is part of the new covered space, it's not 7,013 total, it's 7,013 minus 973. So the expanded area is 6,040 square feet.

Aaron Ubides: Did you include the downstairs?

Justin Provencher: That's part of the existing and proposed basement gross floor area. So our number ends up being 64% rather than 72.7%.

Aaron Ubides: So the deck that's there, you're going to expand that roof out X amount of feet per...

Justin Provencher: Kind of, yes. The existing deck will probably get shrunk down a little bit to make the covered space. So it's just that area where we double counted. We were counting it as existing covered space, but then we were adding the entire new covered space.

Attorney Havens: I utilized the prior calculated numbers that were presented in the most recent revisions to calculate total floor area of the building and calculation of floor area ratio. So that calculation of floor area ratio would also likewise have to be readjusted.

Justin Provencher: That puts us under the requirement for floor area ratio. We're allowed to have up to 40% for area ratio, and we had come to 39%. Whereas when we accidentally double counted, we ended up at 41%.

Attorney Havens: You're asking for specific variances. Until we know what those figures are with certainty, this Board cannot consider whether or not they're going to grant the variances. I'm asking one last time for a detailed description of what your square footage is; existing, newly proposed, and what the change is. It's the last time I'm going to ask for it.

Justin Provencher: Yes. I'd be happy to present that right now if you would like.

Attorney Havens: I want it in writing so it can be confirmed before this Board considers it.

Justin Provencher: Sure. Would you like me to write it out for you now?

Justin Provencher begins to write down numbers and while Chairman Malocsay states that the legal notice doesn't mention that particular variance. Attorney Havens states that because it's being discussed at a public hearing, applicants are permitted to amend their application with respect to the variances being requested. The notice is intended to give the public an idea of what's being asked for. Therefore, the fact that it was not what was articulated in the initial public hearing notice has no impact on the Board's ability to grant variances. Chairman Malocsay suggests that if the variance for the pavilion is indeed granted, there should be a height restriction.

Attorney Havens: That is a height restriction under the bulk table because it's Use Group XX and that would be applicable whether the applicant needs to apply for a change of use or not. It's still the same Use Group, and the same bulk dimensions. It's subject to a special height limitation in the bulk table. That height restriction is 4 inches per foot of distance to the nearest lot line or 35 feet, whichever is less. Your site plan says it's a 35-foot height limitation when in fact you're essentially permitted under the zoning code 4 inches of height for each 1 foot distance from the nearest lot line. So the proposed height needs to be articulated in your elevations because a specific variance would have to be granted on that unless you want to keep to 40 inches.

Justin Provencher: Our site plan has a building height calculation on it. I think C002 has a building height calculation, which as is stated in the code, based upon mean elevation around the building and the proposed height in the building itself.

Attorney Havens: My point being on your C002 sheet, maximum building height in your zoning table, it says maximum building height required 35 feet existing, 37.75 pre-existing non-conforming. That's the height of the existing building...

Attorney Cassidy: ... I think this is an error; it leads to an absurdity. Everywhere else you can have 35 feet pretty much across the board. It may be a scribner's error, unintended consequence. Certainly, I would argue that that's irrational for granting the variance.

Chairman Malocsay: I understand what you're saying. I don't think anybody has a problem with the height, but we're going to give a variance to what the code says.

Attorney Cassidy: I know Jeremy's (Attorney Havens) working on some issues in the code. We might want to take a quick look at this.

Attorney Havens: I don't see an elevation of the proposed extension along State School Road. If you can provide that, the Board can at least consider it.

Justin Provencher: On sheet C901 on the site plans we did include these elevations. On the C0.02 sheet, we have the building height calculated for the proposed pavilion, which is the highest point to show that the building as it is, is 24 feet high. In total, the variance that we would be asking for would be 25.7 or 26 if you want to round up.

Attorney Havens: According to this, your building height is plus or minus 25.7 feet, correct?

Justin Provencher: Yes.

Chairman Malocsay: Are you comfortable enough that we have the information so we can make a motion?

Attorney Havens: I can't articulate it at this moment.

Chairman Malocsay: Let's work on it so we have it for the next meeting. I want to make sure we're accurate. The condition on the pavilion that I would put is that the roadside can be enclosed with glass and no more than a third of that to be what we consider opaque? That would give you the ability for heat lamps and to keep the wind out but it would give the look of an open pavilion.

Attorney Cassidy: Mr. Chair, I understand you're going to have Jeremy (Attorney Havens) go back and put all this together, but could I ask that the Board close the public hearings in light of the lack of objection?

Diane Bramich: No.

Bill Cerone: No.

Aaron Ubides: No.

Chairman Malocsay: I don't see an issue in not closing the public hearing, but a couple of Board members have said no. If something comes up, it's open to talk about.

Attorney Cassidy: I just want to avoid a situation where the public has had 3 meetings to raise an issue and hasn't. If the Board asks questions of the applicant, that certainly can be done outside of a public hearing.

Diane Bramich: If we close it, we have so many days to make a decision. Right now we are undecided on some of the issues. I do not feel that we should close the public hearing.

Chairman Malocsay: There are three Board members that said no, so we'll keep the public hearing open. I do not expect any issues. Attorney Havens will work on articulating that motion and we will have conditions, and we will make sure that we have all the variances that are requested dealt with.

Attorney Cassidy: The only variance we did not discuss this evening, but is not any change, is Mr. Krahulik asked as just a point of clarification, that we confirm lot area as a change of use. The existing use was classified as 2 acres and we're still at 2. The XX group is 2 acres. We're not changing the lot area, but we're 1.3. I just want to make sure that's incorporated as requested by Mr. Krahulik.

Chairman Malocsay: I'll look into it to be sure. If nobody has anything else, the public hearing is still open. Attorney Havens will get something together for the next meeting. It looks like everything's good, it's just a matter of confirming numbers, etc.

Bill Cerone: I was going to say just the actual numbers and a summary of the variances.

Aaron Ubides: I agree with Bill.

Mike Kraai: Is there anything else that we can provide subject to the next meeting?

Attorney Havens: We were most recently provided with a revised summary table that identified the square foot areas that are applicable between the existing building and the proposed building because that's what we're utilizing for calculations many of the variances as to whether or not it's necessary. And if so, to what extent. I need that articulated and updated and reflected on your site plan so that what is presented to us here is exactly the same that gets presented to the Planning Board after this Board considers it. That way we know exactly what it is that we're considering and not hypothetical numbers.

Aaron Ubides: Do we need to talk about possible change of use variance?

Attorney Havens: We can consider that with the other variances. What has been specifically requested is an interpretation from the ZBA whether or not a lot area variance is necessary for a preexisting non-conforming use because there is a change of use application. That's a question of interpretation and I'll have to summarize the applicable provisions of the code in the notes to the comments and then we can discuss and consider that issue.

Attorney Cassidy: I'm assuming you're finished with me?

Attorney Havens: I am. Thank you very much.

DISCUSSIONS

I. Public hearing start time

Chairman Malocsay:
We are looking to switch back to 7:00pm to be consistent with all of the Town Boards' hearings, which are scheduled to begin at 7:00pm. Is there an issue in anybody coming from work that they know that they can't get here at 7:00 pm?

Attorney Havens:

Meetings are called by either the Board collectively or by call of the Chairman. Do you want to pass a resolution?

Chairman Malocsay:

No, I think everybody's fine with trusting me.

II. April 2026 Minutes

Chairman Malocsay:

The minutes weren't finished so we'll look to see them. They might help us out a little bit with the two applications. Can we legally make a determination without approving the minutes from the previous meeting if they're needed? For example, could we have done that when we didn't approve the minutes from the previous meeting for Kraftify?

Attorney Havens:

To the extent that you haven't received them, they haven't been prepared or presented, there's no legal requirements to review and approve prior minutes before considering a continued application.

Chairman Malocsay:

Motion to adjourn?

Aaron Ubides: Motion to Adjourn.