

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Mark Malocsay

Attorney Jeremy Havens

Diane Bramich

Glenn Ehlers

Aaron Ubides

Bill Cerone

Bob Larsen, Alternate

Mary Garcia, ZBA Recording Secretary

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. **Continued from the ZBA Meeting of May 26, 2026.**

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

Tom Bertussi: I want to address as many concerns as I can and let you know of the changes we've made to the plans, hopefully mediate some of those concerns. First, I reassure you that we will do this work to code. There were concerns about the rock ledge, excessive noise, pounding, worry about a 100-year-old wall, underground stream, geotechnical studies, etc. To fix those issues, we are going to remove the pool from the guest house. Number 2, we will also remove the garage underneath the addition that required drilling into the rock ledge. There will still be some drilling, but none on the main rock ledge. We're going to pin our foundation into the ground when we do some of the bulkheads. But that's manmade concrete and brick walls. For height concerns, we're going to remove the elevator and the stair tower to the guest house addition. The addition will then be no more than 27' above the existing first floor level of the guest house. The second thing is we will keep the garage under 21' from the bottom to the top of the guest garage; where it sits is approximately 5 feet below the first floor level of the guest house. Next we're going to eliminate the caretaker's home. With that, we no longer need the side yard variance or the bridge, eliminating those two concerns. We are going to rearrange the lot lines so we no longer need the front yard or backyard variances to either of the lots. And with the reduction of the pool and several of the other things, we no longer need an area variance for the guest house and we are no longer going to need an area variance for the castle. So basically, we're asking for two variances. One is for the guest house for the garage being in the front yard. It is going where there was a garage or a greenhouse previously. Second variance is the addition; we were able to shrink it so the amount we're going to ask is going to go down from 10.2' to 13'. So our variance would need to go from 18' down to 13', which is a little bit less than 5', for the addition. For the castle, with all the adjustments we've made, we do not need any variance from this Board. We've reduced every variance down to the side yard variance (asking for 5 more feet) and we're asking for a front yard variance for the garage.

John Ziobro: I'm John Ziobro, attorney for the applicant. I'm here to address two of the legal issues that were raised at the last meeting. One is the rights-of-way/easements from neighboring properties that used to be part of this parcel. An issue is there's fencing that's been up for probably 20 plus years. There's two arguments to be made. Adverse possession; we've closed off open, notorious, and hostile. Even if we don't have a right of adverse possession, with what we're proposing, it wouldn't stop use of the right-of-way. They have 18 feet for a private right-of-way or easement, more than enough land. There was another question as to a guest house or a hotel or motel. This does not meet the definition of

those items because there's no parts of the premises that are blocked off from the other. All of the bedrooms have access to all of the kitchens, the family rooms. There's not keyed entry into the separate bedrooms. We're not asking for variances for the 5 more bedrooms. We are now in front of the Orange County Department of Health to see if we have the right septic system. Adding five bedrooms makes this a larger building but it's still a single-family home.

Diane Bramich: This is going to be also a rental to get some of the funds back. You're saying it's strictly for family that is going to live there. You have two places that can be rented.

John Ziobro: Yes.

Diane Bramich: So it's not just family, it's going to be a rental.

John Ziobro: There's going to be Airbnb rentals, yes—on both lots. The one closer to the lake is a separate lot. That will be one contract. The castle will be used less for Airbnb because it does get used a lot by the family. If there is an occasion where they can rent out the main castle, it's going to be a person that wants a nine bedroom house and a castle that size. That will be another contract. The bedrooms are going to be as allowed by Orange County Department of Health.

Attorney Havens: With respect to the proposed addition, the guest house closer to the lake, lot 37, am I correct in understanding that you've modified the height? And I see in this most recent revision that there's a potential change in the lot line? I don't see a change in the setback variance, this one still shows up in the corner, 10.2 feet, whereas we were just told that's going to be changed to 13 feet.

Tom Bertussi: I may have sent you the wrong plan; there's probably 3 revisions. It's supposed to be 13'.

Attorney Havens: I don't see any measurement distances between the proposed addition to the guest house and the rear property line. Can we identify what the distance is? What are the dotted lines in the rear section of the proposed addition?

Tom Bertussi: The addition and the deck.

Attorney Havens: Do you have a measurement from the rear wall of the building to the lot line? Unless the deck is enclosed. If so, we need a distance between the enclosed deck and the lot line.

Tom Bertussi: I have to ask John McGloin for that, I don't have that. It will be an open deck.

Attorney Havens: When doing your final revisions, have the site plan updated to reference that this area is to be an open deck so there's no question because it will change the calculation of the variances.

Diane Bramich: That dotted line across, what is that?

John Ziobro: That's the new proposed lot line.

Diane Bramich: So you're making the lot smaller.

Tom Bertussi: Overall it's smaller. It gets bigger over by the garages then gets smaller. The property where the dock is, that's used by the castle. We want that portion where the Statue of Liberty is to be part of the castle.

John Ziobro: Even though we're making it smaller, it's not small enough that we need a variance.

Attorney Havens: The applicant did update their Bulk Table on the site plan. The smaller of the two lots is tax lot number 37, currently existing at 26,217 square feet. With the new lot line change revisions, the square footage required under the Bulk Table would be 21,780 square feet. As reduced with the new proposed lot line change, it would be 23,734.

Chairman Malocsay: The map shows you own the land that Lake Shore Road is on. Is that correct?.

John Ziobro: That is correct, yes.

Diane Bramich: Who takes care of Lake Shore Road, the town?

John Ziobro: Yes, we own it but the town has taken over the rights. It's subject to the public easement, which has been open to the public for decades.

Attorney Havens: In this case, the town has voluntarily taken over maintenance of what used to be a private right-of-way and has continued to maintain it for more than a decade consistently for the benefit of the public. This creates what's called a 'prescriptive easement'. It precludes the property owner whose property road crosses from ever closing it off and preventing anybody accessing that roadway, even if there isn't anything recorded in the County Clerk's office.

Chairman Malocsay: Does anybody from the Board have questions?

Aaron Ubides: In the one corner from the addition, how close is that corner pin to that property line?

Tom Bertussi: That's 31.5 feet.

John Ziobro: With the new proposed smaller addition, it's over 110' from the closest neighbor's house.

Attorney Havens: We still need to ascertain the distance from the rear of the proposed addition on lot 37 to the property line to see if it meets the 30' setback requirement applicable for a principal building.

Tom Bertussi: I can answer the question about the rear. It does show on the table '1 foot' because they have to go by the existing home which is 1 foot from the backyard. But on the table '*1' says 'preexisting nonconforming'.

Chairman Malocsay: Any questions before we open to the public? The Public hearing is now open. There are only 2 variances before the Board. We are going from the original proposed to 13' where 18' are required, and the garage in a front yard setback. Those are the only two things before this Board, with the exception of the clarification for that deck/proposed addition on tax lot 37 and the rear yard setback to which we don't have the exact numbers at this time. Who would like to come up?

Dominick Dominick Savino: Dominick Savino, 8 Arianne Ct. I don't understand what he's asking for—the setback of 18' to a nonconforming use? Could you clarify that so I understand?

Attorney Havens: There's a significant distinction between a nonconforming building and a nonconforming use. In this case, the proposed use is a residential dwelling, a permissible use. So we're not talking about a non-conforming use, we're talking about a non-conforming building. The nonconformity has to do with the size/location of the building itself as opposed to how it's being used.

Dominick Savino: So we're talking about the addition he wants to sit back from 10' to 13'.

Attorney Havens: No. It's actually 18' setback requirement. They were originally asking for a 10.2' setback. Now they're only requesting a 13' setback, which is a smaller variance. So they're only asking for a 5' variance on the side yard setback.

Dominick Savino: The second one was the garage in the front yard. Is there any setback there? On my deed it classified that space as a greenhouse. That greenhouse was taken down, and they put up a wood shed. If they put a garage there, is there any setback?

Chairman Malocsay: Five feet from a side yard line.

Attorney Havens: Thirty foot front yard setback.

Dominick Savino: So from this wall to here there's going to be 7.2'?

Attorney Havens: Here on the property line is 7.2' for the proposed garage from the property line—not the retaining wall, but from the property line to this corner.

Dominick Savino: I understand. And it's going to be 21 feet high?

John Ziobro: That's going to be 21' high.

Dominick Savino: On the addition, you said it was going to be 27' above the 1st floor level. What does that mean?

Attorney Havens: I don't want to cut you off, I want you to ask questions and make comments. Then we can invite the applicant back up to clarify that particular point.

Dominick Savino: So those are the only two things that we could discuss, right? The right-of-way is not up for discussion? Or re-reading a statement?

Attorney Havens: They've addressed the legal issues. You're allowed to respond on that.

Dominick Savino: I was going to address the whole project.

Attorney Havens: For everybody who came to address issues with the overall project, the applicant presented a scope of work and site plans to the Planning Board, which is the first step in the process. The Planning Board then referred them to the ZBA to see what variances they may or may not be granted before the Planning Board does further detailed analysis about the entire site plan that doesn't

require variances. So as the Chairman stated earlier, there are only two variances before this Board. We are going from the original proposed side yard setback to 13' where 18' are required, and the garage in a front yard setback. Those are the only two things before this Board.

Chairman Malocsay: Anyone else from the public?

Attorney Havens: Before we raise additional points, I want to give the applicant an opportunity to address the expressed concerns.

Tom Bertussi reiterates that the addition will be no more than 27' above the existing first floor level of the guest house. Since the property slopes a little, by the lake it will be less. Down towards where the driveway and gravel is, that will be the foundation. There will be no digging for the foundation, it will be pinned into the existing rock, which may force the foundation to go down a couple more feet below that first floor level.

Attorney Havens: The point that needs to be addressed is, if you look at the Bulk Table on the screen, it identifies that the required building height is not to exceed 35 ft for a residential dwelling. And on the Bulk Table it says existing height is pre-existing and what's proposed is less than the existing or greater than the existing.

Tom Bertussi: It won't be close. What's listed as greater than is the towers at 65/70 feet.

Kathy Buchak: Kathy Buchak. I live on the other end of Arianne Court. Arianne Court used to go all the way through. One of the neighbors petitioned to close the road so he could put his septic system in the road. So the right-of-ways are very important the fact that was closed about 15 years ago creates a problem. We still have problems with delivery trucks going down the road on the end that Mr. Savino lives on not being able to turn around and get out. So the rights-of-way and the width of this road and the roads on Lake Shore Road, it's a problem.

Attorney Havens states there are now two neighbors who have raised an issue with the right-of-way. He goes on to show a black line on the site plan and states that is the property line for the larger parcel, describing it as a single tax lot that runs down the center of Lake Shore Road. The applicant's attorney, Mr. Ziobro, summarized earlier that the applicant had done a title search going back decades to ascertain whether or not the right-of-way mentioned in Mr. Savino's deed is clearly defined in any of the recorded public records. Attorney Havens agreed with Mr. Ziobro from a legal perspective that the right-of-way is what's called 'undefined', meaning it isn't demarcated by metes and bounds. It merely states in general terms in several circumstances that it's a right-of-way for the adjoining owners along Lake Shore Road to have access over the applicant's property to access the public road.

Attorney Havens: Any questions from the Board members?

Aaron Ubides: I agree with Jeremy (Attorney Havens). My interpretation was that Lake Shore Road being as narrow as it is, I believe that's the definition of the right-of-way. But that's for the court.

Diane Bramich: You have Lot 1. You're coming in from Lake Shore Road across Lot 2 to get to Lot 1. Since it's two pieces of property, if one piece is sold, how do you get to the second piece of property?

John Ziobro: We will make sure we have an easement between Lot 1 and Lot 2 which has a metes and bounds description. And we would make it subject to approval either here or at the Planning Board that they can go over the lanes of each other for ingress/egress. Title insurance would also review. They would have an easement by prescription.

Attorney Havens: I concur.

Chairman Malocsay: Public hearing is still open. You may state your name.

Robert Morocco: Robert Morocco, I live at 135 Lake Shore Road. My concern is whether or not Lake Shore Road would need to be closed and what would the detour entail? Lake Shore Road is an easement where 7 houses pull out of their driveway to access Lake Shore Road or Jersey Avenue.

Chairman Malocsay: I'm going to interrupt you because it needs to be in reference to the two area variances that we're looking at. Would anyone else like to come up?

Michael King: My name's Mike King, 18 Lake Shore Road. My question is regarding the variances for the 5 bedrooms you're adding onto the castle and 4 bedrooms in the addition on the lake house, lot 37.

Chairman Malocsay: That's not before us, that's a Planning Board issue. Anyone else for this application?

Robert Kowal: 17 Jersey Ave. I was under the impression that to have an Airbnb you had to be an owner living there 365 days a year, full-time owner of the property, and that had to be your residence. Is that not correct?

Attorney Havens: Technically, no. There's a couple of different alternatives under the recently enacted short term rental regulations in the town of Warwick. One is that the property owner has to reside on the premises. As the other alternative is the property owner can provide a person who is the designated responsible party who resides within Orange County.

Robert Kowal: Wouldn't a short term rental be considered commercial and not residential?

Attorney Havens: Not under our town code. The fact that the applicant is planning to rent it on a short term rental basis does not automatically convert the property to a commercial use, so long as the property was initially a single family residence, which these properties were. One of the reasons we asked the applicant to address the issue of what's the difference between this property, it may have 9 bedrooms on the larger principle dwelling and a country inn. I specifically asked the applicant to address that issue and their counsel addressed the issue earlier this evening when he first presented by pointing out the distinction being that a country inn, hotel, motel, or any other transient type of commercial overnight accommodations would include private use of a particular bedroom where there's the capacity for different people to independently reserve a different bedroom. In this particular case, they're not going to have separate locks on the bedroom doors. They're not going to be renting it one bedroom at a time. They're going to rent the entire property to one person at a time. And that's what's permissible under the Town of Warwick short term rental regulations.

Robert Kowal: Wouldn't the fact that the pool that's there, if it was used by people that rented rooms, turn that into commercial because I think the Warwick zoning says that it's for residential use and their

guests only and not commercial use. So that would have to be a separate issue that it would turn it into a commercial property.

Attorney Havens: Would the applicant's attorney like to address that issue? I don't want to interrupt but was that your last question?

Robert Kowal: I think for tonight, but is there going to be another meeting after this at any time?

Attorney Havens: That's up to this Board as to whether or not they're prepared to move forward.

John Ziobro: That question came up in our workshop, where we met with the Town Planner, Engineer, and Planning Board members. Mr. Krahulik (Town Attorney) and I looked into it and Airbnb in-ground pools are not considered commercial. I also met with Orange County Engineers and clarified what Mr. Krahulik confirmed; if it's a residential house that's also used for Airbnb, a pool is not considered commercial. There's no special requirements other than complying with the Town of Warwick residential pool laws.

Attorney Havens: I investigated it myself earlier on in this application and came to the same conclusion that the applicant's counsel did. The allowance for a residential pool is limited to private single-family dwellings, which is what you must have in order to qualify for under the short term rental regulation. I also looked at the code provisions under both the section applicable to residential pools as well as the language in the short term residential rentals, and I didn't find any conflict that would create an implication that the mere renting out of a private single family residence on Airbnb would constitute public use, which is what's prohibited under the Town code.

Chairman Malocsay: Does anybody else wish to come up on the application? If that deck/addition needs a variance, without knowing that information, I don't want to give a variance, question on another one, and not know anything on a third variance.

Glenn Ehlers: I make the motion to keep the public hearing open.

Tom Bertussi: I will not need a variance for the backyard, I will make sure. I measured it and I think it's right at 30 feet. If it's not, I'll make it 30 feet.

Chairman Malocsay: Come up and state your name.

Michael Vele: I live at 6 Lakeshore Road. I have a question about the basketball court.

Chairman Malocsay: That's not before us.

Attorney Havens: The applicant has done a lot of work revising to eliminate the vast majority of the variances previously requested. Earlier tonight that stated they're only seeking the two variances. However, under town of Warwick code 164-45B(1) and 164-41.A(1)(a) being that tax lot number 37 is a pre-existing non-conforming building with a 1-foot setback from the property line adjacent to Greenwood Lake, any expansion beyond 15% would require its own separate variance. And we would need to know what the actual expansion size is going to be. The applicant just stated that if they need to move the back of the addition on lot 1 tax lot 37, an extra foot or two away from the rear property line in order to avoid the necessity of a rear yard setback that would modify the square footage calculation

for the expansion of the exist pre-existing non-conforming use. And we would be incapable of calculating that without these measurements. And so the Chairman has asked if we should consider holding the public hearing open until we get these final calculations so that the Board can consider all of the applicable variances that may need to be granted in a single session.

John Ziobro: We do not object and we waive the time requirements to the next meeting.

Chairman Malocsay: We're going to hold it over because on this third one, we really need to know some numbers first.

Glenn Ehlers: I make a motion to keep the public hearing open.

Diane Bramich: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Prior to exiting, Robert Kowal hands a letter to Attorney Havens. Attorney Havens stated to him that he would certainly read and evaluate it and then address it at the next public hearing.

PUBLIC HEARING OF Jason & Gina Velliquette - JASON and 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. **Continued from the ZBA Meeting of May 26, 2026.**

Representing the Applicant: Jason Velliquette, Applicant

Chairman Malocsay: The public hearing is still open. Anybody have questions or concerns? I went to the Building Department and looked at the maps and aerial photos. One shed is going to be removed and the other we were talking about moving back further. The one that is on your property is moving to the front of your house where you have room to put it and not need any variances. The dilemma is you can't move it unless you go on your neighbor's property.

Jason Velliquette: My understanding of 'to move it' was to push it back this way (*pointing to the plans*).

Chairman Malocsay: I understand but you still need variances. If there's a way of not giving a variance and making the situation work it's a reason to deny the variance.

Attorney Havens: The applicant submitted a few easement agreements and a revised survey identifying neighboring properties and deed references. There's a deed reference for Offenbach and another for Johnson who owns lot 124, where the 10x10 shed is encroaching onto her property. A significant portion of the gravel driveway is encroaching onto the Johnson property as well. We received an additional objection letter from the Johnson property owner. She explained that she would not be capable of attending tonight, but wanted to reiterate her objection to the granting of any variance, use, or encroachment on any of her family's property.

In summary, Attorney Havens pulled deeds from the Orange County Clerk's office and noted the deed from 1960 has the same references as the applicant's deed with respect to the legal description of the property being lots 125, 126, and 127. Attorney Havens also found that historical subdivision maps from 1930 and 1933 (map 708 of Greenwood Lake Terrace and map 1011 of Indian Park filed in the Orange County Clerk's office) show that lot 74 has always been part of the applicant's deeded property. Both maps show that a single lot was conveyed from four separate lots (125, 126, 127, and 74) and both are referenced in all of the deeds going back to the 1960s. Because lot 74 is landlocked, New York law recognizes an implied right of access across adjoining property if there is no other reasonable way to access it. In support, Attorney Havens cited the 1996 Appellate Division case Stock v. Ostrander, which held that an easement by necessity exists when the properties originally shared common ownership before being divided and access over the neighboring property became necessary after the division. In this particular case, the dominant tenement is the property that is benefited by the easement, not the one that is burdened by the easement. This applicant's property would be benefited by an easement by necessity so he can access/use his parcel. Ms. Johnson's property would be the burden parcel by this easement by necessity. Therefore, Attorney Havens believes the applicant has a legal right to seek an easement by necessity to access lot 74. However, Attorney Havens clearly expressed that neither he nor the Zoning Board has the legal authority to grant or define that easement—only a court can establish the easement.

Attorney Havens: Do you have any questions?

Jason Velliquette: No, but it's quite a bit; I'll review the minutes. Did you receive the letter of no objection from Offenbach?

Attorney Havens: Yes. We did also receive a letter of no objection from the Offenbach neighbor stating very clearly that she had no objection to the granting of whatever variance was necessary so long as the shed stayed on the applicant's property. She also stated she was not granting any easements that would authorize encroachments on her property. Is that a fair summary?

Jason Velliquette: Yes, that's correct.

Attorney Havens: The proposed easements are from the neighbors to the north, formerly Berry at tax lot 72-9-24 and formerly Gilbert as identified on this particular survey, dated October 27th, 2025. On the survey it's identified as tax lot 72-9-3 now or formerly Gilbert. I reviewed the County Clerk public record as far as the tax map information and that particular parcel is still listed as being owned by Gilbert, but the applicant has identified somebody else as a potential owner.

Jason Velliquette: I believe Gilbert is her deceased husband's name. She goes by Ricki Kipple.

Attorney Havens: Can you provide that information for final review prior to approving the easement? Because the name that you have on the draft easement does not match what the County Clerk records show as the owner.

Jason Velliquette: Yes.

Attorney Havens: In further the draft easement agreements, I noted there was a few items of conflicting language within the documents. Does anybody on the Board have any questions with respect to the two subdivision maps?

Chairman Malocsay: That shed/garage exists by itself as an accessory structure. But an accessory to what? Therefore it cannot exist. It's a separate lot.

Attorney Havens: No, it's not a separate tax lot. Under this particular deed, as is the case with many deeds in Greenwood Lake, they did these old subdivisions with tiny micro lots with 20 foot wide lots...

Chairman Malocsay: I am agreeing with you 100%. We were looking at that one, if it's one tax lot now, no problem. But that person has access to that piece of property doesn't mean that they can put a shed there, that has to meet side yard setbacks.

Attorney Havens: I'm not saying they absolutely have that right. That's for this Board to determine.

Chairman Malocsay: I'm asking the rest of the Board. The way I interpreted what you said was that we're looking at this lot as we need a right-of-way to get to it because it has no frontage on a road.

Attorney Havens: Correct.

Chairman Malocsay: The map that we have shows that there's about 3 feet of property that they can walk from that to go to the other piece of property. I think because they can access the property without an easement, I don't think the other holds. So does anybody agree on the garage/shed being there? I'm saying it doesn't have to be there. The variances are substantial.

Diane Bramich: Looking at the width of that piece, that entrance into there, even though it's one piece of property, you can't get a car in there. You cannot get a trailer in there to do anything with the shed unless he crosses other property of which he doesn't have an easement to do that.

Chairman Malocsay: In this particular case, this is not a landlocked piece of property.

Diane Bramich: Not anymore, if it's one piece.

Aaron Ubides: If I understand you, this is one tax map, now?

Attorney Havens: Yes, it is one tax lot.

Aaron Ubides: So then that would be considered an accessory building.

Attorney Havens: Yes. Because it's one tax lot.

Chairman Malocsay: I was looking at it as the way he was describing it as one tax lot. And at that time an easement could be given to that lot. Now there's a way to get to that lot without an easement. All I'm saying is that the shed needs substantial variances. The shed does not have to go there.

Diane Bramich: Let me ask you then, even if he moved it back, he would still need a variance?

Chairman Malocsay: Variances.

Diane Bramich: But how's he going to get rid of it?

Chairman Malocsay: I am sure that the neighbor would allow him to go onto their property to do that.

Aaron Ubides: If he does move it back, are the other owners going to allow or fight the variances?

Chairman Malocsay: We weigh out the options between the detriment to the nearby owners to the applicant.

Aaron Ubides: Yes, because if they're okay with it, his 2 feet would be his issue for another court to decide. As Jeremy (Attorney Havens) explained it, my thought is if the other landowners are okay with him getting variances, he slides it off, and then it's really not a lot to ask if nobody's in objection.

Chairman Malocsay: I agree. Although the variances are pretty substantial it could be relieved by moving the shed someplace else on the property.

Aaron Ubides: True. But my argument is if everybody around them doesn't care, then is it substantial? Because you're not going against anybody.

Jason Velliquette: We have two that don't object; Offenbach back to the south, and Kipple to the west.

Attorney Havens: Mr. Velliquette, I will send you these documents. It identifies a few provisions that you should review with your neighbors because it has internally contradictory and conflicting information regarding the longevity and what you can or cannot do. And that will have to be rectified before I could say yes, this is sufficient for recording. So I'll forward those to you via email. You'll address that with your neighbors. And that'll have to be resolved before I could sign off and say, yes, go ahead and get this signed, assuming they give you the variances.

Chairman Malocsay: Public hearing's open. Just come up and state your name.

Argie Bowman: My name is Argie Bowman. The shed down at the bottom, is that going to be removed?

Attorney Havens: There are two accessory buildings up on the top. The smaller one to the left is to be removed.

Argie Bowman: But you're saying that from day one, that little triangle lot was attached to his property?

Attorney Havens: In looking through the deed records, the triangular portion has been a part of this larger parcel in each successive deed, at least back to the 1960s.

Argie Bowman: I'm confused.

Attorney Havens: Well the question is, was this particular triangle added to the applicant's lot within the last 10 years, or has it been a continuous portion of this lot and subject to prior use for more than 50 years? If it has been adjacent to, owned by, and used in whatever capacity by the particular applicant's predecessors in continuity for more than 50 years, then there's sort of a legal presumption that the applicant would have the continued right to continue to use it, whether the neighbors like it or not. While we're on this matter, at the last meeting there was a discussion about trying to gain access to the property to look at it. Did anybody on the Board have an opportunity to do a site inspection?

Chairman Malocsay: I did from the road and off Google Maps as well because even though it shows on this map, what it shows is a gravel driveway to access both of those sheds.

Attorney Havens: Does anybody feel that a more formal site visit is necessary?

Diane Bramich: I don't think so.

Jason Velliquette: I have additional photos if you need them as well.

Glenn Ehlers: Are you still going to move the large shed backwards to get it off the neighbor's property?

Jason Velliquette: My understanding is if that's what's necessary to get the variance then...

Glenn Ehlers: We can't give you a variance on someone else's property.

Jason Velliquette: She's going to grant me an easement for that.

Glenn Ehlers: So you're not going to move it at all.

Jason Velliquette: No, I got priced out to move because that was my understanding that that needs to happen. I'm trying to sell the small shed and have the movers do everything at once so that I'm not paying them extra to come out multiple times.

Attorney Havens: So Glen, I think your question was whether he is going to move the 12x20 shed so that it's no longer encroaching on anybody's property. Correct?

Glenn Ehlers: Yes. I felt more in an agreement moving it to the rear where no variance would be required. If you move to the rear, you could still get 5 feet all the way around.

Jason Velliquette: No, because if this shifts back, this corner's still going to be pretty close to this property line—she's fine with it—that's acknowledged in the first easement that we discussed. But it would still be within that 5 feet.

Glenn Ehlers: How much is on the other side?

Aaron Ubides: That's my question, if you move it back at an angle, how far will it be off from the other property lines, the side yard?

Jason Velliquette: Definitely not 5 feet, because right now this is less than a foot here. So if you just go straight back, it's still going to be just a foot or two.

Aaron Ubides: Oh, so if you moved it at an angle all the way back, you're still going to need a variance.

Jason Velliquette: That's correct. That's also why I sought the letter of no objection from Offenbach because when we move this all the way back, we would be pretty close to this (Offenbach) line as well.

Aaron Ubides: And those two people are okay with it?

Jason Velliquette: Correct. Ms. Johnson owns this property as well as the one across the street. That is where the domicile is, and this lot is vacant with the exception of a shed and a boat, and that's all at the front of the property. This is a very steep hill, and you cannot see the shed from down below during this time of year with all the trees and leaves. It is not in any way impeding her view, harming her structures, or creating any sort of nuisance. It's been there since 2010 without harm or complaint.

Attorney Havens: I have reviewed the easements, but there is additional language that would need to be clarified with respect to the applicant's rights as well as the applicant's ability to continue to maintain the structures as they exist and/or replace them before the easements could be approved.

Chairman Malocsay: When was the wood deck built?

Jason Velliquette: I don't know. I have an appraisal document from the previous owner from 2013, which shows the deck there at that time. I don't know specifically outside of that.

Chairman Malocsay: How long have you owned the property?

Jason Velliquette: October.

Chairman Malocsay: Is that at the time when they did an abstract and the Building Department came and said that there wasn't a permit for the deck or that it was over the property line?

Jason Velliquette: The deck was never an issue with the permits or the municipal title search. After I got the land survey I was made aware that this is over Mr. Barry's property line, so I reached out to him to get an easement agreement.

Chairman Malocsay: The public hearing is still open. I'd like to get those questions answered in the Building Department, as you're going to have to seek an easement before we give a variance.

Attorney Havens: Well, it's either that or the Zoning Board could consider the variances and set a condition that the easement agreements be edited to the satisfaction of the town attorney.

Chairman Malocsay: I'd like to get just a little bit more information, but I'd also like look at what's there. But like I said, the relocation of that is something that is feasible. I think that we should look at that as an option.

Velliquette: And may I just say you've seen the property, the topography of the rest of the property, there's nowhere level to put that 20x12 size.

Glenn Ehlers: I'll make the motion to leave the public hearing open and continue next month when we have a little bit more information.

Diane Bramich: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed? Motion carried.

Jason Velliquette: I'll work on editing the easement agreements.

Attorney Havens: I'll send those out to you and you can work on that in the meantime.

Jason Velliquette: Then there's also the issue of the tax form approval for the exemption.

Attorney Havens: Yes. Again I want to advise you to avoid having any of those documents signed and executed prior to the granting of the variances, because it raises other legal questions about whether or not granting of that easement was even authorized, et cetera. I did review the tax form, I will work with you with respect to getting the exemption from the transfer tax approved as necessary prior to recording. But I would also advise you not to have the document signed unless and until the ZBA grants your variances.

Jason Velliquette: That's understood. My next question is if we're pushing this out another month, I'm trying to move these two sheds at the same time as to not incur additional costs unnecessarily...

Glenn Ehlers: So if you're moving them, why do you need the easement?

Jason Velliquette: Meaning if I move it this way...

Aaron Ubides: He still needs a side setback.

Attorney Havens: The point I think the applicant's trying to clarify is he was already working on removing the 10x10 shed. I believe what you're asking the Board is how do you coordinate the 12x20 shed and if they're going to have to be removed, can you do that all the same time instead of getting one done and then going back and doing the other, correct?

Jason Velliquette: Correct. And if that shed has to be moved 4 feet this way or removed entirely, I don't want to have to pay for both. I would just prefer to pay for one or the other. That's why I was hoping for the determination before committing.

Chairman Malocsay: You're before the Board right now with a violation in limbo. I understand that you want to remove that but I'd wait another month just to see where we go with it.

Attorney Havens: Any further enforcement of the violation, that may have been issued by the Building Department is stayed so long as it's before the ZBA with an open and pending application and no determination has been made.

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 fire pits 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 May 26, 2026.

Representing the Applicant: Attorney Elizabeth Cassidy, Michael Kraai, Owner, Justin Provencher, PE, LAN Associates

Justin Provencher: We submitted updated plans on June 1st (2026); the architectural plans that reflect the discussed frontage of the building and also the clarification on our site plan title that clarified where all the variances required were located. We clarified for the building addition that there is a 10.93' setback where 50 is required, a side yard setback of 35.25' where 50 is required. The building height requirements for nonconforming buildings that require the 4" per foot height limit which puts our maximum height limit at 3.6 feet whereas we're proposing 25.7". Then we have the ground floor increase of the 64.1% proposed when 15% is allowed. And we also have the change of use from manufacturing to food and drink. In terms of lot size, lot width, depth setbacks, all those things are identical for both uses. The only difference is that food and drink requires less loading space, which is already an existing non-conforming manufacturing. It also requires more parking, which we do have adequate parking from our discussions with the Planning Board where we are expanding a lot to include some gravel spaces in addition.

Attorney Cassidy: We have the lot area which is essentially confirming the existing nonconformity, which is 2 acres to 1.3. That's at the request of the Planning Board Attorney Bob Krahulic, since we're changing from manufacturing to eating and drinking.

Justin Provencher: Similarly, the technical lot width requirement is 200 and lot depth requirement is 200, but the existing nonconforming is 171.6 width and 182.5 depth, are existing non-conforming that are from the manufacturing. We're just reiterating that's the same requirement for the food and drink use. We just want to make sure that's on record.

Chairman Malocsay: Does anybody have any questions before we open to the public? One of the things that we were looking at were the numbers on the square footage, which they are showing now at 64.1 minus the 15%. So we have 49.1, but we had to do the calculations with the floor area.

Attorney Havens: I reviewed and revised the comments provided to the ZBA and my comments to identify the specific setback amounts being recalculated by the applicant on their revised plan to identify what the requested setbacks are. The applicant just summarized them.

Justin Provencher: The other thing that came up last meeting was the floor area ratio, which we clarified we do not need a variance for. We are proposing I think 38.1% where 40% floor area ratio is allowed.

Chairman Malocsay: The public hearing was remained open from last time. Does anyone from the public have any questions or concerns? So that'll stay open. What I'd like to do is to go through the different variances individually, unless you prefer a blanket variance with everything in one variance?

Attorney Havens: That's up to the ZBA. Keep in mind that prior to doing that analysis and/or considering each variance, we do have a few interpretations that need to be finalized.

Chairman Malocsay: We'll take care of the interpretations first. But going forward, unless there's something that you have concerns with in a particular one, I'd rather know about that now and then possibly we could do a blanket variance. Do we have any comments?

Aaron Ubides: What exact variances, name them all.

Attorney Havens: Yes, we should first address the interpretations. Ms. Cassidy asked if the ZBA is going to require a front yard setback for the expanded pavilion, the same should apply for the side yard setback for the new covered patio. That's in part an interpretation this Board needs to pass a resolution on. Counsel's position was that the face of the building nearest the front line of the lot, which constitutes the front yard line of the building projected to the sidelines of the lot, establishes the front yard. And while I don't disagree with Counsel's position on that point I would make a distinction between what constitutes the existing front yard, where the building is and what the front yard setback requirement is under the Bulk Table. I do not see them as being one and the same. Just because the front yard may be smaller, it doesn't mean that the principal building isn't still within the front yard setback and therefore in violation of that setback.

Aaron Ubides: I feel we need a variance because if you change the angle of the building, it wouldn't continue that line at the end. But because we're following the road, I believe it needs a variance.

Diane Bramich: I agree.

Chairman Malocsay: Do we all agree? I'm agreeing too that it needs a variance.

Board Members: Aye.

Chairman Malocsay: Can we have a motion for the front yard setback?

Attorney Havens: The motion being considered is whether or not a front yard setback is necessary for the pavilion expansion along the front property line along State School Road, despite the fact that the pre-existing non-conforming building is closer to the property line than the newly proposed expansion of that building.

Aaron Ubides: I make that motion.

Diane Bramich: I'll second.

Chairman Malocsay: Do we have any discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Did you give an aye?

Bill Cerone: No.

Chairman Malocsay: Four ayes, one nay.

Attorney Havens: So likewise, if we have a 4 to 1 majority requiring a front yard setback variance for the expansion of a preexisting nonconforming building, this applicant has requested that the Board make a similar determination on the side yard setback, where there's to be a covered patio that comes within 32.6 feet where 50 feet is required.

Diane Bramich: I make that motion.

Aaron Ubides: Second.

Chairman Malocsay: Do we have any discussion? All in favor?

Board Members: Aye.

Bill Cerone: No.

Chairman Malocsay: Four ayes. One nay.

Attorney Havens: The Planning Board advised the applicant that a change of use from manufacturing (identified in the Use Table as Use Group xx) to an eating/drinking establishment (also Use Group xx) may require a lot area variance. However, the Use Group, the lot area coverage, and the setbacks are the same. The requirement is 2.0 acres and you have 1.3 acres pre-existing non-conforming. Is that correct?

Attorney Cassidy: Yes. So either an interpretation that it is preexisting nonconforming and the change doesn't alter that, or an area variance. Essentially the same rationale.

Attorney Havens: The lot area is not going to change. It was created through subdivision approval by the Town Board. The question before the Board is: since it is preexisting non-conforming, is the applicant required to get a lot area variance by mere change of proposed use from manufacturing to eating and drinking?

Chairman Malocsay: Would anybody like to make that motion?

Diane Bramich: I'll make the motion.

Aaron Ubides: I'll second.

Chairman Malocsay: This one is a little different because everything seems to be exactly the same. What was brought up a couple of times was parking warehousing requires a certain amount of parking and eating and drinking require a different amount of parking on the square footage. That'll be up to the Planning Board to determine. So for that reason, I feel that this interpretation requires a variance.

Aaron Ubides: I agree.

Chairman Malocsay: We had a motion and a second. Any other further discussion? How do we vote?

Board Members: Aye.

Chairman Malocsay: Five ayes that a variance is in fact required.

Attorney Havens: So if a variance is required, then that would be a 0.7 acre lot area variance.

Chairman Malocsay: We've gone through our interpretations needing variances. Do we want to go through them?

Aaron Ubides: One more variance, or a question about the height?

Attorney Cassidy: I think it's a scrivener's error in your code, so we're going to ask for the variance for the record.

Attorney Havens: For the building height, Use Group xx is subject to a special height limitation which specifies 4 inches of height per foot of distance to the nearest block line or 35', whichever is less. The distance from the pavilion to the front yard lot line results in a 3.63' maximum permissible building height without a variance. The building height for the pavilion based on the average height is 25.7', requiring a variance of 22.1' building height variance. Would the Zoning Board like me to summarize the variances so that they can be considered in their entirety, or does the Zoning Board prefer to consider them separately?

Chairman Malocsay: If somebody has a particular issue with one of the variances that might need some further discussion, I would rather do that now as he (Attorney Havens) creates the larger variances together. Is the Board okay with that?

Board Members: Yes.

Chairman Malocsay: Alright. We're going to go for the approval of all the variances.

Attorney Havens: Would the Board prefer me to summarize all the specific variances and then go through the five statutory criteria? Or do you want to do the five statutory criteria and then summarize the variances?

Glenn Ehlers: Summarize the variances first please.

Attorney Havens: So the variances include:

- A proposed front yard setback from the new pavilion to the front yard line lot line 10.9 feet, where 50 feet is required.
- A Proposed side yard setback for the covered patio of 32.6 feet, where 50 feet is required.
- A proposed side yard setback for both sides of 19.8 feet plus 32.6 feet for the covered patio equals 52.4 feet, where 100 feet is required.
- An area variance of 49.1% of the floor expansion is required because town code 164-45B(1) limits preexisting non-conforming expansion to 15%. In doing the calculations presented by the applicant, that gives us 64.1% increase in ground floor area.
- The permissible building height for the pavilion is 3.63 feet under the special note in the Bulk Table. The average height is 25.7, resulting in a 22.1 foot building height requiring a variance.

- Since a lot area variance was deemed necessary under these circumstances, a 0.7 acre lot area variance would be necessary because the lot requirement is 2 acres, whereas the pre-existing non-conforming lot is only 1.3 acres.

Attorney Cassidy: I think you've already had a resolution on this. The landscaping was the other one. And again, this is confirming the existing loading bay; there's no change. We put it back where it is. Either we treat it as a preexisting non-conforming or the Board...

Attorney Havens: No, the loading zone was previously reviewed and approved by the Planning Board as part of the original subdivision. We don't have to reconsider it if you're leaving it where it was previously approved.

Glenn Ehlers: Question on the two side yards you lumped together, are they the same distance or...

Attorney Havens: No, the two side yard setbacks are different. Under the code, a 100' side yard setback for both sides combined is required where they only have 52.4'. That 52.4' is a combination of 19.8' for the rear covered patio and then 32.6' is out to the parking lot.

Glenn Ehlers: Should we do them separately?

Attorney Havens: No, under the Bulk Table we have a single side yard setback and of 32.6 feet, where 50 is required where there's a new expansion. Then there's both side yard set backs of 19.8 feet, which is pre-existing and a 32.6 feet where there's a new expansion for the covered patio results in both side yards setback of 52.4 feet, where 100 feet is required. The only reason we have to do that is because we've determined that the single side yard setback variance would be required. Therefore, the both side yard setback would be required for the same 32.6 feet. Any other further questions before we consider the five statutory criteria?

Chairman Malocsay: No.

Attorney Havens: The Zoning Board of Appeals is required to consider the five statutory criteria. The first is, will an undesirable change be produced in the character of the neighborhood or detriment to nearby properties be created by the granting of the variance requested? The applicant states no, for the reason that the project proposes an extension of a pre-existing non-conforming side yard setback as set forth in the letter submission, the extension will create a safer and more aesthetically pleasing and cohesive development. Does the Board agree with the applicant?

Board Members: I agree.

Attorney Havens: Can the benefit the applicant seeks be achieved by some feasible method other than the variance? The applicant states no. The reason given is after reviewing several proposals with the architect, this is the only feasible development which maintains the natural beauty of the property and provides benefits for the patrons and adjoining properties. Does the Board agree with the applicant that the benefit they seek cannot be achieved by some feasible method other than granting the variances?

Board Members: Agree.

Attorney Havens: Question 3, is the requested variance substantial? The applicant states no, for the reason the variance is preexisting and is a side yard setback along the roadway.

Board Members: Disagree.

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. The reason given is as set forth in our letter submission, it's the applicant's intent that as part of this expansion, the environmental conditions will be lessened. Does the Board agree with the applicant?

Board Members: Agree.

Attorney Havens: Question 5, is the alleged difficulty self-created? The applicant states no. The side yard setback was non-conforming when the property was acquired, although it has been expanded slightly, this was not created by the applicant. Does the Board agree with the applicant that the alleged difficulty is not self-created?

Board Members: It is self-created.

Attorney Havens: There was previous discussion reflected in the prior minutes, as well as conversations throughout this application regarding potential conditions that the Board needs to consider regarding conditions that many/may not need to be considered.

Aaron Ubides: Can you read off what we have listed?

Attorney Havens: We're going to do these one at a time instead of a mass so we get a determination as to whether the Board feels each specific condition is required and whether each specific condition needs to be modified before determining if it's going to be required. Fair enough?

Board Members: Fair.

Attorney Havens:

The pavilion: (Restriction 1)

1. The road side of the pavilion adjacent to State School Road could be enclosed with glass or some other translucent enclosure such that no more than one third of that side of the pavilion would be opaque.

Attorney Havens: We would have two open walls facing west and south on the pavilion, extending along State School Road that the north wall would be opaque and that the east wall immediately adjacent the State School Road would be not more than one third opaque.

Justin Provencher: If that needs to be clarified, the section parallel to State School Road is one third opaque, two thirds translucent, and then the portion along State School Road, that's not parallel, that's inward a little bit is the sort of serving area. That's the one other spot that will be sort of closed off so that they can serve food from there. The rest of it is open seating area.

Chairman Malocsay: Do we have a motion?

Aaron Ubides: I make a motion.

Bill Cerone: Second.

Chairman Malocsay: Any further discussion? All in favor?

Board Members: Aye.

Attorney Havens: (Restriction 2)

2. The roadside pavilion along State School Road can never be added onto by adding a second story or otherwise expanding it.

Chairman Malocsay: No further expansion. Any further discussion on that?

Glenn Ehlers: I don't know. It seems to me like we're taking a nonconforming building already and making it more nonconforming, so what's the difference if it just goes more nonconforming?

Chairman Malocsay: We are and that's why we're saying no.

Aaron Ubides: Well, it would basically be a map note saying, no, we gave you this with the contingent that you cannot do anything else.

Glenn Ehlers: I disagree with that part.

Chairman Malocsay: Do we have a motion?

Aaron Ubides: I'll make a motion.

Diane Bramich: Second.

Chairman Malocsay: Any further discussion? If there's no further discussion, how do we vote?

Board Members: Aye. (4)

Glenn Ehlers: No. (1)

Chairman Malocsay: Four ayes and one nay.

Attorney Havens: (Restriction 3)

3. The application is subject to further Planning Board site plan review and approval regarding parking and other elements not related to area variances to be reviewed and approved by the Planning Board before the applicant can go to the Building Department for a building permit.

Chairman Malocsay: Do we have a motion?

Bill Cerone: I'll make a motion.

Aaron Ubides: I'll second.

Chairman Malocsay: Any further discussion? All in favor?

Board Members: Aye.

Attorney Havens: Would someone care to make a motion granting or denying the variance as amended?

Bill Cerone: I'll make a motion to grant as amended.

Aaron Ubides: I'll second.

Chairman Malocsay: Any further discussion? All in favor?

Board Members: Aye

Diane Bramich: No.

Chairman Malocsay: Four ayes. One nay.

Attorney Havens: That's a majority. You will have a determination in approximately a week to 10 days.

PUBLIC HEARING OF Thomas Sibilla & Amy Sibilla - regarding property located in the RU district at 7 Skysail Ln., Warwick, NY 10990, and designated on the Town tax map as Section 27, Block 1, Lot 116 for renewal of a 280(a) variance previously granted on May 22, 2023 to allow for subdivision of land containing four lots with access from a shared private driveway. **Continued from the ZBA Meeting of April 28, 2025. Email dated 1/14/26 from Applicant's Attorney John Cappello addressed to the ZBA requesting the application to be adjourned to the ZBA Meeting of June 22, 2026.**

Attorney Havens: There's one more item on the agenda, the Sibilla application.

Chairman Malocsay: We have people calling because it's on the agenda and they (Sibilla) cancel at the last minute. People make plans to be here and are getting very upset with the cancellations.

Attorney Havens: We received a request from Attorney John Capello (representing attorney) once again this afternoon requesting an additional extension, 3 months. The last request was asking for a 2-month extension to today, June 26th, 2026. The applicant has not been here since April 28th, 2025. This is more than a year that the applicant has not appeared to address the Board.

Diane Bramich: Let him reapply. I don't think we should give any more extensions.

Attorney Havens: Does the Board want to consider granting any further extensions of time to consider the application?

Board Members: No.

Attorney Havens: That being said, since the public hearing has been held open since April 28th, 2025, on the request of the applicant and the consent of this Board, does the Board wish to continue holding the public hearing open any further beyond this evening?

Board Members: No.

Chairman Malocsay: The public hearing is closed.

Attorney Havens: The Board now has 62 days to issue a determination on this particular application.

Diane Bramich: Do you need a motion on that?

Attorney Havens: We have 62 days from tonight to make a determination one way or the other. If the Board fails to make a determination within those 62 days, then the application is automatically denied.

Diane Bramich: We've already determined that we're not giving them an extension of time to keep the public hearing open. We've already closed the public hearing. Why can't we make the decision to have them reapply when they're ready?

Attorney Havens: You can't just simply decide you're going to have them reapply. You would either have to deny their application and then they would have to readdress it actually as a rehearing, which would require a super majority vote of the ZBA to even reconsider.

Glenn Ehlers: I'll make the motion to deny.

Diane Bramich: I second it.

Bill Cerone: I'd leave it on until next month.

Diane Bramich: They're not coming.

Glenn Ehlers: Let's just do it now.

Attorney Havens: You have a motion and a second. You have to call a vote on whether or not it's going to be denied or if you want to withhold decision.

Bill Cerone: Can we discuss?

Attorney Havens: Yes, absolutely.

Bill Cerone: So if they have 62 days and they haven't shown up for 13 meetings, what's another two meetings? We could knock them down now or give them one more meeting. Do they come off the agenda when the public hearing closes?

Chairman Malocsay: They do because there's no public hearing.

Bill Cerone: So if you do that, then we're not going to cause that confusion with the public, but still give them their 62 days.

Diane Bramich: To do what?

Attorney Havens: And the Board could consider this and deliberate either next month or the following month for that matter, if the Board so chooses to do so.

Bill Cerone: I want a shorter agenda too, but if they're entitled to 62 days...

Glenn Ehlers: Give them the 62 days.

Chairman Malocsay: We have a motion on the floor and a second, so we just can't get rid of that.

Glenn Ehlers: We can withdraw.

Diane Bramich: I think you're just extending the inevitable. They're not going to show up anyway.

Chairman Malocsay: So for discussion I said the motion was to deny the application.

Diane Bramich: Deny the application.

Chairman Malocsay: All in favor?

Board Members: Aye. (3)

Board Members: No. (2)

Chairman Malocsay: Three ayes and two nays.

Other Considerations:

✓ ZBA Minutes of April 27, 2026

- Motion to approve made by Aaron Ubides, Second by Diane Bramich

✓ ZBA Minutes of May 26, 2026

- Motion to approve made by Aaron Ubides, Second by Diane Bramich

Chairman Malocsay: All in favor?

Board Members: Aye.

Bill Cerone: Motion to adjourn.

Diane Bramich: Second.