

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

OTHER CONSIDERATIONS:

- ✓ ZBA Minutes of 06/22/2026 for ZBA approval
 - Motion to approve by Diane Bramich
 - Second by Bill Cerone

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. **Continued from the ZBA Meeting of June 22, 2026.**

Representing the Applicant: Jason Velliquette

Chairman Malocsay: According to the Planning Department when you purchased the property about a year ago, you knew these violations were in place.

Jason Velliquette: That's correct, we closed on October 3rd.

Chairman Malocsay: Yet you purchased the property without getting variances or seeing if variances were available.

Jason Velliquette: My understanding was that I needed permits and the process was to apply for the permits within 60 days of closing. Then when those permits were denied, seek variances from the ZBA.

Chairman Malocsay: Even though these things were already there, you bought a property that needed several variances. Everyone has a right to ask for that relief, but when something comes up in an abstract, usually those things are taken care of by the previous owner. The variances in total are substantial. Would you agree with the variances in total are fairly substantial?

Jason Velliquette: Just so that I'm clear, and I'm using the right terminology, my understanding is that I needed permits for these things.

Chairman Malocsay: The previous owner needed permits and sold the property to you without resolving these issues and you bought the property knowing about the issues.

Jason Velliquette: Correct. We didn't want to delay the purchase of the home for what we thought was going to be a fairly easy remediation. Two neighbors have agreed to easement agreements. The electrical needed a permit. We got that passed through so we didn't need a variance, permit, or anything along those lines. We are trying to negotiate through the remaining items.

Chairman Malocsay: The public hearing is still open. After quite a bit of conversation at the last meeting on moving a shed, removing a shed, that in fact is a piece of property that's continuous, it is the same piece of property, although there's a 3' access point to it. I don't believe anybody's asked any questions about the variance needed for the roof being too close to a property line. I just wanted to recap to make sure that everybody was up to date with what we were looking for. Do you have any questions at this time? We can't give a variance for something that goes onto somebody else's property. But we were looking for an agreement between the neighbors, that they are allowing it to be on their property.

Attorney Havens: Mr. Velliquette did provide draft agreements from two neighbors. There was some contradictory language within the documents so I sent it back to Mr. Velliquette who can address whether or not those issues have been resolved. Can you advise the Board where you are in that process?

Jason Velliquette: That's going to be revised; the survey has two omissions that need to be added to it. Lanc & Tully provided the survey. I have requested they come back and revise that survey so that it is accurate and I can get the measurements on the fence and patio and anything else that's outside of the bounds so that those specific measurements are on the survey itself. I asked for physical copies of the embossed land survey to submit to you and the Orange County Clerk's office when I go to record those.

Attorney Havens: The applicant's working on getting the approvals in place. Based on my recollection of last month's meeting, there was a question about what's going to be done with the larger shed in the upper corner of the parcel, whether the ZBA is willing to grant variances on that, and he can relocate it so that it's within the bounds of that property. I believe you were holding off on addressing the smaller shed that's completely outside of your property line until we've resolved the issue for the bigger one.

Jason Velliquette: Yes, we're going to tackle both issues at the same time, if it remains necessary for the garage/shed.

Chairman Malocsay: Any other comments?

Diane Bramich: Can we approve or disapprove this without all of this paperwork in?

Attorney Havens: The applicant has his surveyor working on defining the metes and bounds of the various specific easements so that's clarified. And then what the ZBA is contemplating is the ability to grant a zero variance in those areas adjacent to the specifically identified easement areas along the property line.

Chairman Malocsay: I would rather wait until there is something.

Diane Bramich: I would too. I would rather see the new survey before we do anything.

Chairman Malocsay: Is there anybody from the public that would like to address this application?

Argie Bowman: I'm Argie Bowman and I'm representing Indian Park. Is there a comment from Marianne Johnson?

Attorney Havens: Yes. For the record, there was an additional follow-up letter from Ms. Johnson, the neighbor adjoining the applicant's property where the 10x10 shed is encroaching onto her property, and she reiterated her position, that she would request that no variances be granted.

Argie Bowman: There are two variances on the top of the property, and there's still one on the bottom?

Chairman Malocsay: Yes, and there's one on the side that has to do with the roof being too close to the property line. Wood deck structure...and I don't see it on here.

Attorney Havens: The wood deck and the concrete patio would need zero variances. The fence over here would need zero variances.

Argie Bowman: Is that on the north side of the property?

Attorney Havens: Correct, yes.

Argie Bowman: Are you talking about this? The building corner?

Jason Velliquette: I can help. The covered structure in question sits here.

Chairman Malocsay: Yes, but it's not on our plans.

Jason Velliquette: It's not on the survey either, but that's where it's at.

Chairman Malocsay: I'll follow through with the Building Department for the exact setbacks for that.

Attorney Havens: Since you're having your survey updated to identify the metes and bounds areas of the easements on the external areas from your property, if you can also have your surveyor identify the location of the roof structure that you're referencing on the wood deck, then we can update the site plan and address that issue because it may require an additional variance if there's a roof structure on that deck.

Jason Velliquette: Yes.

Argie Bowman: The variance is the bottom one that's closest to the common road. That's the one that's still not approved?

Chairman Malocsay: Correct. We addressed it but we haven't gotten any detail on that because we're working on the rear ones—being the shed and the neighbor's shed. If the public hearing's open, when we get an updated survey, there'll be more information. We can take a look and go from there. Anybody else? We're going to hold it over until August 24th.

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 June 22, 2026.**

Representing the Applicant: John Ziobro, Attorney and John McGloin, Surveyor

John Ziobro: I'm John Ziobro, attorney for this project. We're down to 3 variances. On the side yard is the addition of the guest house, 13.1' instead of 18'. So it's only a 5.1' variance. The garage in the front yard of the guest house, and 56% is the size of the addition, we need a variance for that as well.

Attorney Havens: In looking at the revised submission sent by Brian (Friedler), you have adjusted and reduced the side yard setback for Lot 1 to 13.1' where 18' is required. You have the garage in the front setback, 12.2' where 30' is required. There's also a rear setback. If you recall last month, I was asking for the distance from the rear property line at the lake to the principal dwelling.

John Ziobro: That's 30.4'.

Attorney Havens: The addition is 30.4' and would not require a variance in and of itself but it's actually an expansion of the primary dwelling. While the preexisting dwelling is preexisting non-conforming, if you expand less than 15%, it's allowable by the Planning Board without a variance. However, you are exceeding 15% (you're doing 56%), so it requires a variance for that expansion. In addition, note #8 in the Bulk Table specifies that for areas considered special protected areas under the Town Code, there's a 100' setback for a principle dwelling. Greenwood Lake is classified under the Town Code as a protected area. So we need to consider a variance of approximately 5.5' from the back of the primary dwelling to the property's water frontage property line. Lastly, there is still the 15% limitation on the expansion of a pre-existing non-conforming principle dwelling for Lot 2, and you're expanding to 66%. Is that accurate?

John McGloin: I'm John McGloin (Surveyor). What he's proposing is to go where it says proposed addition. Most of that is on top of the existing dwelling. We're talking about the main house, it's going up more than it's coming out.

Diane Bramich: That isn't the way it was told to us. It was going out.

John McGloin: I'm sorry, I wasn't here. The applicants decided to go on top of the existing building footprint that's already there. By the looks of it around 75-80% of it is on top of the existing dwelling.

Diane Bramich: Is that the new survey of everything?

John McGloin: Yes.

Diane Bramich: Could I see it?

John McGloin provides Diane Bramich with the survey and helps answer her questions

John Ziobro: For the record, if that addition on the main house on Lot 2 is going to slow us down and prohibits us from voting tonight, my client has authorized me to abandon that portion of building.

Attorney Havens: John (McGloin) take a look at your survey map and calculate what the additional square footage is and whether or not it exceeds 15% of the square footage of the existing principal dwelling.

John McGloin: I already did; it's less than 15% or I would've noted it. I'm including all of that structure because it's all attached.

Attorney Havens: My reason for asking if it was still 66% was because that was the last figure I was given. If I recall correctly, that was the figure when you were going to attach a connector to the other building and you were going to convert it to a two-family counting that as part of the principal dwelling.

John McGloin: I was asked to specifically make sure that it came out to less than 15%.

Attorney Havens: So if it's less than 15%, then you wouldn't need that variance. And without the variance, you couldn't build more than that.

John Ziobro: We'd be willing to state that that'll be less than 15% as per Mr. McGloin's measurements.

Attorney Havens: Then you're specifically stating that you don't need that variance for Lot 2 for greater than 15% expansion of the pre-existing non-conforming principal dwelling.

John Ziobro: Yes, correct. Mr. McGloin measured it at less than 15%, so we didn't request that variance.

Attorney Havens: For the record, we did receive two additional correspondences today. In short, neighbor Robert Kowal submitted a letter making the argument that all landlords must be natural persons and not corporations, LLCs, or similar entities. Essentially, because the property is owned in an LLC, then it wouldn't qualify under short-term rental regulations. In light of the arguments presented by Mr. Kowal, I once again further reviewed the short-term rental regulations. Based on my understanding, this is a misinterpretation of the code. Landlords and absentee landlords can hold property in the form of an LLC—permissible under Article 129 of the Town Code. We acknowledge Mr. Kowal's objection, but the basis of it is not supportable in the sense that it is premised on misunderstanding of the actual provisions of the Town Code. Mr. Kowal's letter is part of the public record and is available for review at the Planning Board office. We also received an email from neighbor Dominick Savino, who is objecting to the requested variances, reiterating that they're substantial. He also made note that the public notice identified on the agenda did not include the revised changes to the application. I just want to note that the notice in the agenda does not get modified from month to month. It retains the original public notice published in the

newspaper and Town website as well as the notice mailed to the neighbors. The description of the variances under consideration are also not updated as a matter of administrative procedural policy because the applicant has the ability to modify and amend the application during the process. Mr. Savino was also referencing and relying on the original variances identified in the public notice that was issued, not the revised documents. In light of his response, I did ask our secretary to send Mr. Savino a copy of the updated revised plan that shows the limited variances being requested, to which she did. Mr. Savino's email is part of the public record and available for review at the Planning Board office as well.

John Ziobro: We listened to the Board Members' and public's concerns and tried to pare them down while still being able to go forward with our project.

Attorney Havens: Because of the complexities of this application, there were a number of questions from members of the community as well as members of the Board. There's been significant modification to this application as a result of trying to identify and ascertain the extent and size of what's being done and how it's being used. Mr. Ziobro, you've provided testimony regarding the intended use and why you determined this application is not a Country Inn. The ZBA needs to make a few determinations, interpretations of the code as to how the structure is intended to be used and whether its current use is commercial use or residential use so the Board can take vote and we can type it for SEQR. Then we can move on with consideration of the application. Any further comments or questions before we move on?

John Ziobro: This property is going to be used mainly by my client and his family. There will not be separate keys to separate rooms like in a motel or country inn. It's one contiguous house; a residential, non-commercial property rented on occasion with a local agent following all the town laws and rules.

Diane Bramich: How high is the expansion on the original house going up?

John Ziobro: It's going to be one more story.

Diane Bramich: Higher than the original house?

John Ziobro: No. There's certain height and story requirements under the Town of Warwick Law that we have to comply with. We're not asking for a variance on Lot 2.

Attorney Havens: We're not contemplating any variance on Lot 2 (tax lot 38). We're only dealing with Lot 1 (tax lot 37). Does any Board Member have any question about whether or not that's a residence?

Diane Bramich: The house on Lot 2?

Attorney Havens: Lot 1, the smaller house.

Diane Bramich: Is it a residence?

Attorney Havens: Yes.

Diane Bramich: Yes.

Attorney Havens: Does anybody have a question about that? Can I have a motion that there's a determination that the dwelling on Lot 1 on the site plan is a residence and not commercial?

Aaron Ubides: I'll make that motion.

Bill Cerone: Second.

Chairman Malocsay: Any further discussion? All in favor?

Board Members: Aye.

Attorney Havens: So since it's a residence and what we're looking at is expansion of that residence and individual lot area and other specific area variances, the action would qualify as a Type II action under SEQR section 617.5C, subsections 11 and 16. Would anyone care to make a motion typing the action as a Type II action with no adverse environmental impact?

Glenn Ehlers: So moved.

Aaron Ubides: I'll second it.

Chairman Malocsay: Any further discussion? How do we vote?

Board Members: Aye.

Glenn Ehlers: Can we clarify the variances now?

Attorney Havens: For Lot 1 (tax lot 75-1-37), under contemplation is:

1. a side yard setback expanding the principal dwelling with a 13.1' setback where 18' is required under the Bulk Table
2. a garage within the front yard setback at 12.2' where 30' is required
3. a rear setback of approximately 5.5' feet where 100' is required pursuant to note 8 of the Bulk Table
4. and expansion of a preexisting non-conforming principal building by 56% where 15% is permitted. That's under section 164-45B(1) and 164-41A(1)(a).

Chairman Malocsay: One thing we had discussed and I wanted to see if there was anything new, was the question of an easement/right of way.

John Ziobro: We did a full abstract going back to the 1920s. Historically, older property deeds often used vague language like "an easement from property owned by Jones through property owned by Smith". Or "from lot number blank to lot number blank". And those lots probably don't exist now because of further subdivisions. Our argument was that all of the neighbors who may have had an easement already have access to the public road through easements over their own yards. None of them are restricted from getting to a public road. The next issue is if they went to court, sued us, and won, there's still room; there's more than 15 feet there. So if a judge at one point said they have a right over the Tiedemann property to use their driveway to get to the same road that they currently access, there's room to do so.

Attorney Havens: I want to remind the Board that you (Attorney Ziobro) had sent me that full title report. I reviewed it and could not find or ascertain any specific authority within that entire title report that specified any particular location. It simply said 'across the common way to the public road'. And there is a common way, Lake Shore Road. So unless there's something that somebody has more specific, my

assumption would be that the easement for access across this property to the common road would be the easement that exists in Lake Shore Road, which traverses this property out to State Highway 210.

John Ziobro: Yes, this property owns the portions of Lake Shore Road that are between Lot 2 and the lot across the street where the new septic fields are going in, to the center of Lake Shore Road. So they do have an easement.

Attorney Havens: No, actually, it's one solid tax parcel; Lake Shore Road traverses through the middle of that tax parcel.

John Ziobro: They already had an easement over our property using Lake Shore Road to get to 210. There's nothing blocking them.

Attorney Havens: Any other questions about the easement?

Chairman Malocsay: Public hearing is open. State your name for the record.

Dominick Savino: The right-of-way doesn't go where the driveway comes down the hill. It goes from the first entrance onto their property, down an incline, over their bridge, along the lake, in front of the lake house, into my property. So it goes in front of my house and it circled around and went back out; it has nothing to do with Lake Shore Road. The requested side setback variance for Lot 1 is the issue that mostly affects my property. Although the applicant has revised his plans, a 13' setback (approximately 28% less than the zoning requirement) it is still a substantial variance. At the last ZBA meeting, it was noted that the proposed new structure would be a substantial distance from my house. However, my understanding is that the zoning code measures side yard setbacks from the property line, not from the neighbor's residences. Therefore, the proposed structure would still be 5' closer to my property line than the zoning code permits. I remain opposed to the requested self-imposed side yard setback variance. The applicant has already demonstrated flexibility by revising the project to reduce the building's footprint. This suggests that further modifications are feasible because the remaining variance appears to result from a design preference rather than a hardship that cannot be reasonably addressed. I ask the Board to deny the requested side yard setback variance for Lot 1 or require the applicant to redesign a project so that it complies within the required 18' setback.

Chairman Malocsay: Is there anybody else that would like to address the application?

Robert Kowal: Robert Kowal, 17 Jersey Ave. I didn't say an LLC couldn't hold title to a property. I said that it changed it to make it a commercial property and a commercial property is not allowed in the SM district. The LLC can certainly hold title to the property, but a resident agent can't do what is needed. An LLC cannot fulfill the obligations of this. So if it's going to be an LLC holding the property, it's going to make it commercial.

Attorney Havens: The ownership of residential property held by an LLC does not convert the use of that property to commercial use. Many people convey their rental properties into LLCs, specifically for limited liability protection purposes. It remains a residential property even if the owner is generating income from that property. It doesn't change the use, it simply changes the legal structure of how it's owned.

Robert Kowal: These other places that you've cited, they're in the SM district also?

Attorney Havens: Within every district.

Robert Kowal: It's commercially marketing, operating commercially, staffed commercially, and providing commercial amenities. There's a lot of commercial things going on that seem they're not residential uses. A videographer, DF Photography advertised, "The new owners plan to use the property as a premier venue for events and luxury rentals, ensuring it remains vibrant within the Greenwood Lake community." In The New York Post, the rental agent Lisa Mulcahy says, "Owners use the property as an occasional home and eventually plan to bring the entire compound onto the rental market."

Attorney Havens: We've looked at this issue rather closely and I've reviewed the short-term rental regulations on three separate occasions. We also did hold testimony on more than one occasion as to how the property is going to be used. The applicant has articulated that it's not going to be operated like a hotel with individual rental rooms. It's going to be rented out like anybody's house. Any person who owns real property in the town of Warwick could register their property as a short-term rental. After multiple careful reviews, what they're proposing fits within the definition of what's permissible under the Town Code's Chapter 129 regarding short-term rental regulations. Short-term rental regulations require an annual renewal. So if you believe the property is being used in a way that violates the short-term rental regulations, you have the right to contact the Building Department and notify them. If the applicant has violated the regulations, their permit can be withdrawn.

Lisa Mulcahy: I'm Lisa Mulcahy. It's very difficult to take something like a castle in Greenwood Lake and fit it neatly into the neighborhood. As a resident of Greenwood Lake myself for 20 years, it was really frustrating to see this property sit derelict for so long. We now have an opportunity to preserve this property, make it better, and make it sustainable. The main thing the Bertussis said to me was 'This is primarily for our family; we want to maintain the history'. They sent the Tiedemann shield to get restored and collected antiques from Greenwood Lake. The utmost importance is keeping with the integrity of the history of this property and making sure it's sustainable for the future.

Chairman Malocsay: Is there anybody else from the public? Any questions or concerns?

Glenn Ehlers: What was the main reason for the expansion of the guest house?

John Ziobro: Right now the guest house only has 1 bedroom. He has 15 nieces and nephews, 20 cousins, and 30 people; they want more bedrooms, even just for his own family to use.

Glenn Ehlers: Is that confirmed by anyone else on the Board or do we know it's only 1 bedroom?

John Ziobro: We invited all the Board members to come and we took everybody inside and out. I've been inside and I can verify that right now the guest house has 1 bedroom.

Attorney Havens: To address Glenn's (Ehlers) question, Orange County tax records do currently identify that the total living area of Lot 1 is 1,992 square feet, and it's one bedroom built in 1915 with one full bath, one half bath, and one kitchen.

Chairman Malocsay: Before we close the public hearing, I want to talk about the variances. One is the side yard variance of the addition. There's a 20' setback to the property line. When we look at the character of the neighborhood, most of the houses on that road can't be 5' from the property line. They don't meet that requirement because they were built before that setback was in the zoning. The other is the variance

for the garage in the front yard. By definition, it's in the front because it fronts a road. The distance from the road is substantial; it just happens to be that that's the front. At the last meeting it was said two things we were looking at were variances. We weren't 100% sure of the complete build-out or the expansion, and we needed those numbers. And the other one is a technicality on the existing house. It's 5.5' from what we call the lake. We're giving that a variance because we're adding onto it and again, it's existing. So even though that variance might sound substantial because it's 100', it already exists.

Attorney Havens: The applicant specifically designed the expansion of the smaller dwelling on Lot 1 such that it would not need a backyard variance. Because they're expanding the existing principle dwelling by adding more than 15% of the square foot area, we are required to consider a variance for the entire principal dwelling. The dwelling happens to be pre-existing non-conforming at 5', even though the extension is more than 30' from the backyard property line.

Chairman Malocsay: Is there anybody else from the public that wants to address the application?

Nicole Kase: I'm Nicole Kase. I thought they were not going out, that they stayed within the 15%, but now you're saying they still need the variance?

Chairman Malocsay: Two lots, two different properties.

Nicole Kase: That's where I'm confused. So the front house, they're not going to build all the way over near our property where they need that 13...

Chairman Malocsay: When you say the front house...

Nicole Kase: The one on the water.

Chairman Malocsay: Lot 1.

Nicole Kase: Okay, the one on the water. Are they still asking for that variance to come all the way over?

Diane Bramich: Yes.

Nicole Kase: So the castle would be the Lot 2. They're not asking for any variances?

Chairman Malocsay: No. Anybody else? Public hearing is closed.

Attorney Havens: In the consideration of the granting of an area variance, the ZBA is required to consider five statutory criteria. Item number 1, will an undesirable change be produced in the character of the neighborhood or detriment to nearby properties be created by the granting of the variances requested? The applicant states no for the reason that there's many existing properties and neighboring structures that do not meet current setback requirements. This property is unique and adds to the overall character of the neighborhood. Does the ZBA agree with the applicant that no undesirable change will be produced in the character of the neighborhood?

Board Members: Yes.

Chairman Malocsay: After driving in the area and seeing the proximity of the houses to the property lines, although the variance is substantial, it is not uncommon for that area.

Diane Bramich: But you're adding to the non-conformity.

Attorney Havens: Yes. Question number 2. Can the benefit that the applicant seeks be achieved by some feasible method other than the variance requested? The applicant states no for the reason that due to many existing lot constraints, it's not possible. Does the Board agree with the applicant?

Board Members (3): Agree. (Chairman Malocsay, Aaron Ubides, Bill Cerone)

Diane Bramich: No.

Glenn Ehlers: No, because I believe that you can go up instead of out.

Attorney Havens: We have 3 yeses, 2 nos. Question number 3. Is the requested variance substantial? The applicant states yes for the reason that the variances are substantial.

Attorney Havens: Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 4. Will the proposed variances have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant states no for the reason that all work will conform to New York State DEC standards. Does the Board agree with the applicant that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Board Members: Yes.

Attorney Havens: Question number 5. Is the alleged difficulty self-created? The applicant states yes for the reason the applicant is proposing the additions. Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Any further comments, questions? Would someone care to make a motion granting or denying the variances as amended?

Diane Bramich: I'll make a motion to deny the variances as amended.

Glenn Ehlers: I'll second that motion.

Chairman Malocsay: We have a motion and a second to deny.

Attorney Havens: All in favor of denying the application as amended?

Aaron Ubides: No.

Glenn Ehlers: Yes.

Chairman Malocsay: No.

Diane Bramich: Yes.

Bill Cerone: No.

Attorney Havens: We have 3 nos and 2 yeses on the motion to deny the application as amended.

Chairman Malocsay: Would someone like to make a motion to accept the application as amended?

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

Aaron Ubides: I'll second.

Chairman Malocsay: Any further discussion? Okay, one at a time again. Aaron?

Aaron Ubides: Yes.

Glenn Ehlers: No.

Chairman Malocsay: Yes.

Diane Bramich: No.

Bill Cerone: Yes.

Chairman Malocsay: Motion's granted.

Attorney Havens: Three in favor, two against. You'll get your determination in about a week.

PUBLIC HEARING OF Eric & Amy Alvarez – regarding property located in the SM zoning district at 12 Shepherd Ave, Greenwood Lake, NY 10925, and designated on the Town tax map as Section 77, Block 10, Lot 11 for area variances from Town Code §164-41N and §164-45.1C to permit an existing 3' x 4' extension of the house which would reduce the side yard setback to 1.1' where 18' is required, and a 4' side yard setback variance was previously granted in 2022; and from Town Code §140-4B to permit an existing hot tub located 13.9' from the property line, and 1' from the principal dwelling, where a 15' setback is required; and from Town Code §164-41A to permit an existing 4' x 8' (+/-) shed in the front yard with a front yard setback of 0.5' where 30' is required, and a side yard setback of 2.5' where 5' is required; and from §164-41N to permit 40.4% Lot Coverage where a max. 30% is permitted and a 35% Lot Coverage variance was previously granted in 2022.

Representing the Applicant: Eric Alvarez

Eric Alvarez: I'm Eric Alvarez.

Chairman Malocsay: Tell us about the application and also what happened between granting the variances and now.

Eric Alvarez: When I submitted the application, the main things I was doing was <inaudible> and an addition. The Board approved and over the last 3 years I've been doing the renovations. Because of the layout of my property, it's restricted on one side. You gave me a 3' variance on one corner of the property. That side of the property is just heavy vegetation; my neighbor's trees are coming over my property line and there's a little stream there between our houses. But I have no way to get to that side of my house fence. So I put an attached shed on that corner of the house. That shed allows me access to that side of my property, that's within 1' foot of the property line. In the front of the house, I have a little firewood shed that I can fit one quart of wood in. We have a wood burning stove so it's just for convenience of having the firewood dropped in my driveway and being able to load and store it right there. There's also a utility pole there, so I put it there since I can't use that part of the property. It's not a permanent structure and I can remove it if I need to. The hot tub in the backyard ended up one foot closer to the property line. I had Brian Friedler return and do the new calculation that I had a variance to get to 35% impermeable coverage. After everything is done, it's at 40%. And part of the impermeable coverage is a deck that water can go through.

Chairman Malocsay: Does the Board have any questions? I do remember the application in 2022 and this is not out of place for anything that's in the area.

Eric Alvarez: The way the fence goes along the driveway, you can't see the back of it.

Attorney Havens: Orange County Planning Department GML 239 referral is required for the front yard variance because the property is less than 500 feet from Sterling Forest State Park. This application was initially submitted back in April. We've never received any response from Orange County, so the 30 days for them to respond has expired and we can consider the application. Additionally, from the initial application, I had done a detailed review. And prior to this application being noticed for a public hearing, there were additional variances and calculations that were necessary for us to identify what the proper requested variances would be. The applicant did have their professionals revise the documentation regarding lot coverage with the driveway plus improvements, identifying the dimensions and setbacks for the wood shed by the roadway. What wasn't identified is exactly how far the wood shed is from the stream. It appears that the stream right behind the wood shed runs immediately along the property line itself, but it seems to kind of disappear there.

Eric Alvarez: It only has running water when it rains and it's just between our two properties.

Attorney Havens: So it's a rain runoff kind of thing.

Eric Alvarez: Yes, it starts between our backyards and then it's just the rain coming down the hill. It's not really an active stream. With the shed that's attached to the house, I'm asking for 1', but the neighbor's house is still 35' away.

Chairman Malocsay: Public hearing is open.

Attorney Havens: Regarding the EAF form, section C.2, subsection b, "Is the site of the proposed action within any local or regional special planning district, (Greenway; Brownfield (BOA); designated State or Federal heritage area; or watershed management plan; or other)?" You checked off no. Greenwood Lake is recognized under the town code as a special protection area because Greenwood Lake does in fact collect rain runoff that goes through the Wanaque River where it empties out of Greenwood Lake and feeds reservoirs in New Jersey that are public drinking supply. So it is in fact a protected watershed. I wanted to clarify that and make sure that you're aware of that. Under 'Project Operations', section D.2: d.i, ii, v, and vi, will the proposed action generate liquid wastes? You checked no. What you're asking for is a variance for the location of a hot tub because it's less than 15 feet from your property line and it's less than 15 feet from the house as required under Town Code. Does a hot tub generate liquid waste?

Eric Alvarez: No.

Attorney Havens: When you clean your hot tub, what do you do with the water? That's the principle question. The DEC regulates the disposal of swimming pool and hot tub water when you drain it for cleaning and maintenance purposes. You need to be aware of those regulations and the fact that you're required to drain those systems onto your own lawn, and not divert them into the drainage stream that goes right down into Greenwood Lake. Your hot tub and swimming pool are going to have chlorine, bromine, other chemicals and elements, and all kinds of oils and so forth that can contaminate the lake. I want to make sure we're clear that that should not be drained into the drainage stream that goes next to your house.

Eric Alvarez: Yes.

Attorney Havens: Being that the applicant is requesting area variances and expansion of a residential facility, the action does qualify under SEQRA Section 617.5C as a Type II action, subsections 11 and 16.

Would someone care to make a motion typing the action as a Type II action with no adverse environmental impact?

Diane Bramich: So Moved.

Aaron Ubides: Second.

Chairman Malocsay: Any discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Any further discussion?

Attorney Havens: In consideration of the granting of an area variance, the ZBA is statutorily required to consider five criteria. Number 1, 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 "we were approved for most of the work, I just needed to add a shed to access one side of the property." Does the Board agree with the applicant? No undesirable change will be produced in the character of the neighborhood.

Chairman Malocsay: No, it does not change the character of the neighborhood.

Attorney Havens: Everybody's agreed on that?

Board Members: Yes.

Attorney Havens: Question number 2. Can the benefit the applicant seeks be achieved by some feasible method other than the variance? The applicant states no for the reason that "we're limited on space on one side and a natural stream prevents access to the north side. Our property is also an irregular shape." Does the Board agree with the applicant that the benefit he seeks cannot be achieved by some feasible method other than the granting of the variance?

Board Members: Agree.

Attorney Havens: Question 3, is the requested variance substantial? The applicant states no, for the reason "we just need a small attached shed to do this. We were approved to build to within 3 feet of the property line. The corner of this shed will be within 1.1 feet." Does the Board agree with the applicant?

Chairman Malocsay: It's substantial. I'm disagreeing. The wood shed, the build-out of the property, they're all fairly substantial. Rest of the Board?

Board Members: Agree with the Chairman.

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 for the reason that the small shed will not affect the forest or the neighborhood. Does the Board agree with the applicant that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

Board Members: Agree.

Attorney Havens: Question 5. Is the alleged difficulty self-created? The applicant says yes. Does the Board agree with the applicant?

Board Members: Yes.

Chairman Malocsay: Do we have a motion to grant this as advertised?

Diane Bramich: Motion.

Aaron Ubides: I'll second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: Motion carried.

Aaron Ubides: Motion to adjourn.