

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Mark Malocsay

Attorney Jeremy Havens

Diane Bramich

Glenn Ehlers

Aaron Ubides

Bill Cerone

Mary Garcia, ZBA Recording Secretary

OTHER CONSIDERATIONS:

ZBA Minutes of 4/28/2025 for ZBA approval

- Motion to approve by Aaron Ubides. Seconded by Diane Bramich. Motion carried.

PUBLIC HEARING OF Andrew T. Foord - regarding property located in the SM district at 118 Woods Rd., Greenwood Lake, NY 10925, and designated on the Town tax map as Section 78, Block 3, Lot 30 for an area variance from Town Code §164-40N and §164-41C(4) for the reconstruction of a one-family dwelling with a proposed front porch setback of 24 feet where a 30 foot front yard setback is required.

Representing the Applicant: Andrew Foord, Applicant

Chairman Malocsay: Please state your name for the record and tell us a little bit about the application.

Andrew Foord: Andrew Foord. My house was taken down by the tornado May 23rd and it was just unbuildable. I asked local architect Joe Irace to draw a 10 foot deck out the front of the house. I needed to get a new survey done and it turns out that I had 50 feet from the street to the house, but I'm 6 feet over on the deck so that's the variance that I'm seeking.

Chairman Malocsay: Before we open up to the public, does anybody have any questions or comments?

Diane Bramich: I went down and looked at the property. Is the new building going on the old footprint?

Andrew Foord: The exact old footprint. The only thing we did was square out the corner that had a staircase that went up and the corner was sort of cut out. So we just squared that corner and took that 10 x 10 because that stair's no longer there. But otherwise it's sitting exactly where it was exact same square footage. It's higher, but it's not bigger.

Aaron Ubides: Did it have a deck in the front before?

Andrew Foord: It did not have a deck. It had an enclosed porch that wrapped around. I always wanted a deck across the front so I could see the lake. And so when he drew the new plan we drew a deck not knowing that I was within setback rules.

Aaron Ubides: Was the footing to the foundation? Or was that a porch that you enclosed?

Andrew Foord: The new deck?

Aaron Ubides: No, the porch that was there.

Andrew Foord: It was on the old foundation. It had a very high fieldstone wall in front. **It's** a long porch that turns, that's covered.

Aaron Ubides: Is this new deck you're proposing replace that?

Andrew Foord: No, it's from there beyond that. We have three sliders and then you go out to the deck. Its 10 foot by the whole 30 across the front.

Chairman Malocsay: Address potential environmental concerns before we open up to the public?

Attorney Havens: There was no GML 239 referral needed under these circumstances. To make sure that our paper record is accurate when you filled out the short form EAF, question number 1: does the proposed action involve the legislative adoption of a plan, local law ordinance, administrative rule, or regulation? There was no answer. Based on the nature of the application, the answer would be no. Are you okay with me confirming your application that it's no?

Andrew Foord: Yes. I just didn't know the answer.

Attorney Havens: Question number 2. Does the proposed action require a permit approval or funding from any other government agency? Again, based on the nature of the application, I can confirm for you that it does not. Are you okay with us updating your EAF by saying 'no' to number 2?

Andrew Foord: Yes sir.

Attorney Havens: Question number 5 was not answered. Is the proposed action a permitted use under the zoning regulations given that this is the reconstruction and or expansion of a residential facility on a residential lot within the same essential location? I can tell you the answer would be yes. Are you okay with me checking off 'yes' to 5a?

Andrew Foord: Yes.

Attorney Havens: And 5b, is the proposed action consistent with the adopted comprehensive plan? This is just a reconstruction and slight expansion of a residential dwelling on residential property. And so it is consistent with a comprehensive plan. Can I check off 'yes' to 5b?

Andrew Foord: Yes.

Attorney Havens: Question 13, does any portion of the site of the proposed action or lands adjoining the proposed action contain wetlands or other water bodies regulated by a federal, state, or local agency? The answer in the EAF, that's a prefilled check mark from the the system that generates it and it states 'yes'. Are you familiar specifically whether there's any particular wetlands on your property?

Andrew Foord: I don't believe there's any wetlands on my property. I thought they were talking about the lake when I read that, I wasn't sure. But that was pre-filled for me when I read it.

Attorney Havens: I was just curious because I didn't see anything myself.

Andrew Foord: No, it's a mountain.

Attorney Havens: Number 14, identify the typical habitat types that occur on or are likely to be found at the project site. And urban was checked off, which clearly this isn't an urban area. It's more suburban.

Andrew Foord: I don't know. I wasn't sure how to answer that. It's forested.

Attorney Havens: If it's okay with you, I'm just going to correct that to suburban.

Andrew Foord: Yes.

Attorney Havens: Question number 15. Does the site of the proposed action contain any species of animal or associated habitats listed by the state or federal government as threatened or endangered? It's preselected through the system to identify northern long-eared bat and timber rattler. I want to make sure that you're aware that there are those species there. And with respect to protection of the bat, you're not supposed to be cutting down any trees that are in excess of 18 inches in diameter at breast height between March 31st and October 31st. So if you need to cut down any large trees during that time period between the spring and the fall you'll need to contact the building inspector and have them come and review it and make sure that it's not going to endanger some protected species habitat.

Chairman Malocsay: We're going to open it up to the public. Is there anybody from the public that wants to address this application?

John Neillands: My name is John Neillands. I live on the adjoining property on Forest Knolls. My concern is that you're able to build something with no variance correction and then you have the ability to come before the Building Board after the structures already up. It's how did an architect and the building inspectors knowing that the variance wasn't proper, allow it to happen?

Chairman Malocsay: He's seeking a variance. The building that he wants to construct sits on the same foundation.

John Neillands: I'm just wondering how it can take place when the variance doesn't allow it.

Chairman Malocsay: They're before the Board to get a variance. We didn't issue a building permit for the deck itself. Sometimes these are caught later on.

Attorney Havens: We have a letter dated May 20th, 2025 from Anthony Pascullo, Building Inspector for the Town of Warwick, directed to the applicant. And it says, "Dear Mr. Foord, the Building Department has received your proposed survey for the reconstruction of the one-family dwelling. However, it has come to our attention that the proposed front porch setback of 24 feet encroaches into the front yard setback minimum requirements of 30 feet. As a result, in order to proceed with the construction as planned, a variance would be required from the Zoning Board of Appeals." For the reconstruction of the house, the applicant would not have needed any variance because you can reconstruct what was already there. It was only the addition of the porch which required an additional survey. And so once the survey was reviewed by the building inspector, that's when they came to realize even it's pretty far back with this addition of the porch, it's actually going to be closer. And here's the distinction: when the building inspector goes out and looks at it, this is the edge of Woods Road (*Attorney Havens shows the survey on the TV screen*) where the survey shows the edge of the pavement is. This black line here is actually the front of the property line. And that's the line we measure off of for front yard setbacks. We don't measure off the edge of the paved road. What wound up happening is this shows that the front of the house is over 30 feet back from the front of their property line. But with the addition of the porch, it's probably 50 feet, even with the porch addition from the edge of the roadway. But it's only 24 feet from the front edge of this 10 foot porch addition to the front yard property line. When he initially went out to do a site visit to issue the building permit for the principal dwelling, he looked at it and thought 'this is 50, 60 feet back, not going to be an issue. It was only after reviewing the survey that included the boundary lines that they realized in order to add this porch, a variance was needed.

John Neillands: Thank you for explaining that.

Chairman Malocsay: Anybody else? We're going to leave the public hearing open, the Zoning Board to discuss SEQR.

Attorney Havens: Because this is the reconstruction of a single family dwelling and the enlargement of a single family residential dwelling on residential lot, the action qualifies as a Type 2 action under SEQRA section 617.5 subsection C paragraphs 2, 11, 16, and 17. Would someone care to make a motion typing the action as a Type 2 action with no adverse environmental impact?

Diane Bramich: Motion.

Glenn Ehlers: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed? Motion carried. On an inspection we almost always rely exclusively on Diane for these areas.

Attorney Havens: For the record Diane, did you actually visit the site?

Diane Bramich: Yes, I did.

Chairman Malocsay: Any other restrictions or conditions to be imposed? No? Ok. We're going to close the public hearing. Any other comments before we make a motion?

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

Board Members: Agreed.

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

Board Members: Yes.

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

Board Members: Yes.

Attorney Havens: 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. Does the Board agree?

Board Members: Agree.

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

Board Members: It's always self-created.

Attorney Havens: Any further deliberations or questions?

Diane Bramich: I'll make the motion granting as advertised.

Aaron Ubides: I'll second it.

Chairman Malocsay: Any discussion? All in favor?

Board Members: Aye.

Chairman Malocsay: Any opposed? Motion carried.

PUBLIC HEARING OF Joshua Young & William Young – regarding property located in the RU district at 22 Foley Rd., Warwick, NY 10990, and designated on the Town tax map as Section 29, Block 1, Lot 39.1 for an area variance from Town Code §164-41(A)(1)(a) for a proposed 80'x 30' detached garage with a side open roof overhang with a proposed square footage that exceeds the allowable 1,200 square feet in floor area, and 80' in greatest median dimension where only 48' is permitted. **Continued from the ZBA Meeting of April 28, 2025.**

Representing the Applicant: Joshua Young, Applicant

Chairman Malocsay: The site visit was important because neighbors said they could see the property fairly well from their properties. I went and from Warwick Lake Parkway it is very difficult to see because the elevation that your other building and the house are going to be are sitting much higher than that building. And it'd be very difficult to see it from any of those properties. On the other side you would be along Pine Island Turnpike. There's houses there but there's quite a bit of foliage in between. If we move towards a variance, I'd make the recommendation that we put in some evergreens just to break up the size.

Attorney Havens: So the difficulty is identifying based on the size and scope of what's proposed to be an accessory garage structure in the application. An accessory residential structure is limited under the town code to 1200 square feet. We clarified that your 20 foot wide x 80 foot long awning turned a 2,400 square foot building into a 4,000 square foot building and that would change the application. You were going to get back to us about whether you were going to eliminate that and keep your 2,400 square foot building. Can you please address the Board on that issue?

Joshua Young: If that is the main issue and going to prevent me from moving forward, I can easily redesign the plan and lose the awning.

Attorney Havens: So would you now officially present that you want to remove the awning altogether? Is that what you're proposing for the Board to consider?

Chairman Malocsay: 30 x 80 is an odd size for a large building. Maybe 40 x 50, 40 x 60... But 30 feet, looking at the land, it would make sense that you couldn't have something wider because you still have to be able to drive around it. Primarily it was for storage of antique cars, but I'm still having a problem with the size.

Joshua Young: If I push further width-wise, it pushes me into my conservation easement. And it would also push me to open up more forestry than I would like to. I want that buffer.

Chairman Malocsay: One of the other dilemmas is that you're limited to three cars in our code.

Attorney Havens: Yes, 164-22 of the Town code defines a private garage as a garage used for storage purposes only, having a capacity of not more than 3 automobiles. The other provision of the Town code says that a storage building is for the holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods. And an accessory use for residential purposes is a use that's customarily, incidental and subordinate to the principal use of a building being the primary residence and located at the same lot with such principal use of the building. So the difficulty we're facing is we have a separate section of the Town code 164-40 subsection (J) regarding generic descriptions. And that says special permit uses are identified by generic words or descriptions. Planning Board shall determine whether a specific use shall be construed to be part of such generic class in making such determination. The Planning Board shall consider to what extent a proposed use is similar to the class of other uses indicated in the Table of Use requirements. If a use is listed elsewhere in the Table of Use requirements, it's excluded from a generic classification. While we could say the applicant is proposing a pole barn type garage structure, pole barn is a construction method. There's nothing in the code that defines a barn as being allowed to be used for this purpose except in one

location, and that's an accessory to a commercial farming operation. The other two uses is storage and warehouse. And with the generic description limitation, it says if there's a use that's specifically listed elsewhere in the Table of Use requirements, it's excluded from a generic classification. The Board is going to be struggling with the idea of what are we calling this? There's only two different kinds of garages; a private garage or a public garage. A storage building and a warehouse is considered commercial use, not residential. And storage buildings and warehouses under the zoning code are not permitted accessory uses for a residence. What this Board has to determine—given the applicant's stated reason for why he's seeking a variance—to what extent does this Board have the ability to grant an area variance for a private garage that doesn't become more than that and actually change the use where we're not just granting an area variance, we're granting a use variance to authorize storage or warehouse, which is more of a commercial use.

Joshua Young: But if it doesn't exceed the three vehicles, that doesn't limit me to other items, correct? That's vehicles, that's not motorcycles or lights.

Chairman Malocsay: In an accessory structure that's a garage, we're saying it's three vehicles, but in there you can have the lawn tractor, you can have other household stuff. You're at 2,400 square feet after taking off the overhang.

Glenn Ehlers: Does anybody know how many letters of opposition we have to this originally?

Mary Garcia: Nine.

Chairman Malocsay: What's interesting is that we have that many, but nobody could see it from their house.

Glenn Ehlers: I could see where you could see it seasonally. This time of year, you're not going to see it. There's an option to go back to the Planning Board and apply for a home occupation or home business if you want to build that size building.

Attorney Havens: No, the Planning Board would have to kick it back to us because it still needs a variance. It's still an accessory to a residence with primary use. I think what you're talking about would require a change of zoning, which would require the Town Board, not the Planning Board. Board. The applicant would have to submit an application for spot zoning approval to modify the zoning to actually rezone the parcel itself in order for the Planning Board to grant something like this without an area variance.

Glenn Ehlers: Then he could probably keep the original full size building. So there's ways to do this.

Joshua Young: Which is going to further complicate or drag it out. I have plenty of commercial property elsewhere, this is really a storage problem. My attics are full, crawl spaces are full, basements are full.

Diane Bramich: Are you saying that you're going to take the overhang off now? Do we need new plans for that?

Chairman Malocsay: No, because it's more restrictive than what was presented to us.

Glenn Ehlers: It's still going to be 100%.

Diane Bramich: So when he goes back to the building inspector with his plans, is this still going to be on there?

Attorney Havens: No, he has to remove it.

Diane Bramich: And then he is only going to have 2 end entrances, and 2 doors.

Chairman Malocsay: Yes. When we give the variance, it will be for a building that will be 30 x 80. And then when he presents those to the building inspector, the building inspector will look and it has to be the same or less than 30 x 80. I don't want to hold this over, but I see that the Board is mixed. What I would really like to see from you is on the 30 x 80, exactly what you think is going in there. Put it in a letter format and

give it to Connie; it will become part of the record. If we're going to give the variance, we have to know what's going in there to justify that size. It might not change somebody else's mind because it's big and there was opposition. There is 1 property from those 9 letters that could see your house and the other barn and you can't see the pool because it drops downhill and you're not going to be able to see this because it's down the hill further.

Glenn Ehlers: The code was designed for a reason. I would be comfortable with a 30 x 50, 1500 square feet. We give you 20, 30% more than the code allows. But even to go to 2,400, you're still asking for 100% more than what the code allows.

Joshua Young: When I build a 1200 square feet driveway, you can't even turn a car around. You start stacking shelves and put 2 or 3 vehicles in there at best, even though it looks like it's doubling, it's tight space. It's really not as big as you might think.

Aaron Ubides: My concern is 15% is what we normally go over. We're way over that. And I understand what you're saying. I know the limit. But for us, it seems like a lot to give.

Chairman Malocsay: We bring this up occasionally and that's the option that he builds (2) 1200 square foot buildings and he doesn't need a variance from us. Ultimately it takes up more space because there has to be space in between them.

Glenn Ehlers: Can we build 3 buildings and have 9 cars in them on a residential lot?

Attorney Havens: You would still be limited to the 3 vehicles regardless of how many buildings.

Diane Bramich: I'm looking at the plans that you gave us with the drawing, that's where you are going to put it?

Joshua Young: That's about the area, yes.

Diane Bramich: How are you getting to these doors? There's no driveway to these doors.

Joshua Young: There's a driveway from here that was cut in for the pool construction.

Diane Bramich: That's not on here.

Joshua Young: No, it's an access route, not a driveway. It's just gravel that comes in from the front down to this area because this area on the side is where the pool was constructed. So they had to access it.

Diane Bramich: Okay. So you're putting two doors. How are you going to get into that one?

Joshua Young: The 14' doors are just so you can get in and out easily with any item. I didn't want to close myself in on the back end. I felt that having bigger doors you can get things in and out easily. It sounds big, but it's really not as far as swinging or maneuvering even one vehicle. A large pickup is 22, 24 feet long. So if I were to try to back in and swing around the garage, I don't think you could turn around.

Chairman Malocsay: A best example is where he's taking off the overhang. There's plenty of room to drive alongside to get to the other side and it's all clear right to the wood lot.

Diane Bramich: I have a problem with the size.

Chairman Malocsay: Make a list of what you want stored in the building and we can see about the variance.

Attorney Havens: The reason the Chairman is asking for a more detailed list of what you plan on storing in the building is because you're asking for 100% of the allowable square footage. And in order for the Board to grant the variance, you have to establish to the satisfaction of the Board that you're facing some sort of particular and unique hardship or limitation that's imposed by the code. If you can provide that to the Board, then that gives them something to consider.

Chairman Malocsay: Please get that list to Connie so we can discuss it and see if we can justify the size. The public hearing is still open so we will make a decision that night.

PUBLIC HEARING OF Dale A. Creamer & Sydney Creamer - regarding property located in the MT district at 491 Newport Bridge Rd., Pine Island, NY 10969, and designated on the Town tax map as Section 10, Block 1, Lot 66.72 for an area variance from Town Code §164-41(A)(1)(a) for a proposed 72' x 48' detached garage with a side open roof overhang with a proposed square footage that exceeds the allowable 1,200 square feet in floor area and 80' in greatest median dimension where only 48' is permitted. **Continued from the ZBA Meeting of April 28, 2025.**

Representing the Applicant: Keith Woodruff, Engineering & Surveying Properties

Keith Woodruff: Keith Woodruff from Engineering & Surveying Properties. We revised the application listing the reason for the large structure as storage of a camper trailer. We revised the Agricultural Data Statement listing it as a 72 x 48 structure with an 8 x 25 overhang on two sides for a total of square footage of 3,792 on a 57.8 acre property. And then we revised the plans to also provide the additional dimensions. The square footage is to describe the overhang on the structure itself and then the square footage.

Chairman Malocsay: The public hearing is still open from this application.

Attorney Havens: GML 239 referral was submitted to the Orange County Planning Department because the property is within 500 feet of Pochuck State Forest Park. On May 1st, 2025 the Town received a response from Orange County Planning stating that the submitted materials regarding the appeal for an area variance on a 57 acre parcel in the mountain zoning district were reviewed. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the applicant with potential impacts on the surrounding area, it does not appear that inter-municipal or countywide impact could result if the Board finds granting relief is warranted. Orange County made a recommendation of making a local determination without their further input.

Diane Bramich: What about the wetland?

Keith Woodruff: We show the wetland limit line on the plans and we are keeping a buffer between the wetlands themselves. That was a wetland delineation I believe done by ERS Consultants.

Diane Bramich: So you're only 15 feet from the wetland?

Chairman Malocsay: No, the delineation is usually...is it 200 feet from a wetland?

Keith Woodruff: No, if it was a DEC state regulated wetland you'd have to be 100 feet. If it's a Federal or Army Corps jurisdictional wetland, there is no offset. You're actually allowed to serve up to 1/10 of an acre filing a permit with each of the the Army Corps of Engineer. But we're keeping 15 feet, even though there is no setback requirements from a federal wetland.

Chairman Malocsay: The number of 12.4 acres in size is DEC jurisdiction, but the Army Corps of Engineers is down to 1/3 of an acre. Does anyone have any questions? The public hearing is still open. From what I remember previously we talked about why the building was so big. One of them was for an RV, and the other one was for a boat.

Keith Woodruff: Yes, a 45' camper, a 35' boat with trailer, and miscellaneous tractors and lawn equipment.

Chairman Malocsay: There was a question of the actual size, and then that was on the revised plans now, so that we know on the variance that we're given exactly the square footage that we have to give.

Attorney Havens: For the variance requested here, the footprint would be 3,792 square feet including a 336 square foot overhang with the outdoor canopies on the corner.

Discussions occur on whether a boat is considered an automobile for the purpose of storage in a garage.

With the TV screen displaying the map of the property, Keith Woodruff describes how the proposed structure will not be visible to neighbors because the property is almost centered on a lot consisting of 57 acres, densely wooded and backed by Pochuck State Park, approximately 245 feet from the property line.

Chairman Malocsay: So question: in a garage, are you allowed to store a boat?

Attorney Havens: The code says automobiles technically yes, but I can't imagine why the building inspector would object to a boat as opposed to a car.

Chairman Malocsay: If our code does not define boat storage, we have the ability to interpret if it would be allowed to be stored in the garage.

Attorney Havens: Sure.

Diane Bramich: So are you saying that the motor home and boat, that's 2, so he is only allowed to store 1 more car in there?

Chairman Malocsay: The way we're interpreting it, yes, that's correct.

Diane Bramich: Okay. That's still big. It's huge for the motor home and the boat and one vehicle.

Chairman Malocsay: It is, but for the size of what he's putting in there, it's not.

Diane Bramich: Yes it is.

Chairman Malocsay: It's big, but to hold those two, it's not big.

Keith Woodruff: It's a 45 foot camper trailer and you have 48 feet in the garage. That gives you just enough room to just get around the trailer. Because if you park it in the middle, you have a foot and a half on the wall and a foot and a half by the door.

Glenn Ehlers: <Inaudible>

Keith Woodruff: But to get the boat in we're not traversing inside the structure...

Glenn Ehlers: <Inaudible> takes up another 10. So we still have 52 feet...

Keith Woodruff: In the architectural plan there's 3 bays. Bay 1: camper. Bay 2: boat, trailer. Bay 3: tractors, other miscellaneous stuff.

Chairman Malocsay: If I may, I want to hear what he has to say. Your name?

Dale Creamer: Dale Creamer. So camper trailer, 45 foot long, 11 foot wide. Boat 35, beam is about 13. So it's wider than a normal boat plus the spacing. Then I have an 8-wheel tractor. I have a skid steer. No actual cars are being parked in there; I have my garage. Skid steer and an excavator, my kids' stuff all stay in there and then I have a little section left for shelving.

Chairman Malocsay: Does anybody have any other questions?

Glenn Ehlers: I think they should concede a little bit of square footage just to be fair to the Board.

Aaron Ubides: The one is 72, but when you put the overhang it's 80 feet.

Glenn Ehlers: We're going for 4,000 square feet, 2,400 is allowed.

Diane Bramich: Is the overhang necessary?

Dale Creamer: I was going to put chairs under it to sit there. Just chairs and flower pots to make it look nice.

Glenn Ehlers: And what's the square footage of that?

Dale Creamer: Three hundred thirty-six.

Chairman Malocsay: The way the code is read, because it has poles holding up an overhang, unfortunately it's added on as square footage. But if you think about it, it is open space. So again, we have the ability to interpret the code.

Dale Creamer: What if I remove the post and it's a cantilever?

Chairman Malocsay: It's still considered to be part of the square footage.

Attorney Havens: There's a separate provision of code that says it's considered an eave of a structure if it doesn't extend more than 3 feet from the wall of the building. Anything more than 3 feet is considered an extension of the structure itself.

Dale Creamer: Can I shrink it? I'd like some kind of coverage just to sit there.

Glenn Ehlers: I wasn't concerned with that part. That part is aesthetically pleasing to your building. I'm just looking at the overall square footage of the building. Can we alleviate a little? Can we go to 48 x 60?

Dale Creamer and Keith Woodruff discuss further details for the reasons regarding the proposed size, which include price, location, and aesthetics. An agricultural license was mentioned as well as benefits for future real estate. Dale Creamer proposes to make the overhang smaller or relocate the building. He advises that he plans to use earth tone colors ensuring less visibility. Board Members agree the size of the overhang is not an issue. Discussion also includes the need for the large sized equipment (skid steer, excavator, etc) to maintain the property. Glenn Ehlers maintains his position that the applicant should seek an ulterior method such as an agricultural license. Dale Creamer explains how he will accommodate storage with 2 bays instead of the original 3 he had proposed.

Dale Creamer: The doors are 14' wide x 14' high.

Diane Bramich: So with the 2 doors...

Dale Creamer: I can fit the trailer on dollies and push it over and the boat can go in one and then everything else goes around around that.

Chairman Malocsay: Three of us seem to be okay with the application, so we will move forward and see what we come up with when we go through our criteria.

Attorney Havens: We did type it in the last meeting as a Type 2 action specifically after doing the recalculations with the additional square footage of the 336 square foot overhang for combined total overall footprint, 3,792 square feet. It qualifies as a Type 2 action under SEQR section 617.5 C, subsection 9.

Keith Woodruff: <Inaudible due to crosstalk>

Attorney Havens: Correct. Under 4,000 square foot residential structure.

Chairman Malocsay: On number 10, ZBA to consider use restrictions and any other conditions to be imposed. Ordinarily, there might be screening but I don't see a any reason for that. Does anyone else have any comments on that? Any other restrictions? Public hearing is closed. Are there any other discussions?

Attorney Havens: Question number 1, will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by granting the variance requested by the applicant? The applicant states no. And the reason given: "the detached garage is 234 feet away from rear property lines and 720 feet away from the front property line. The lot is also heavily wooded so neighboring properties won't see the detached garage". Does the Board agree with the applicant that it will not produce an undesirable change in the character of the neighborhood or detriment to nearby properties?

Board Members: Yes.

Attorney Havens: Question 2, can the benefit that the applicant seeks be achieved by some feasible method other than the variance? The applicant states yes. The reason given: "that it could be made smaller to meet the code with multiple buildings," does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 3. Is the required variance substantial? The applicant states yes. And the reason given: "The square footage exceeds the maximum area and largest building dimension". Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question 4, will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant states no. The reason given: "No, there's no impact on the physical or environmental conditions in the neighborhood because the lot is very large and the detached garage is located in a wooded area." Does the Board agree with the applicant?

Board Members: Yes.

Attorney Havens: Question number 5, is the alleged difficulty self-created? The applicant states yes. The reason given, "The owner/applicant proposing new structure exceeding the maximum accessory building requirements". Does the Board agree with the applicant?

Board Members: Yes.

Chairman Malocsay: Without any further discussion, does somebody want to make a motion to approve or deny?

Diane Bramich: Motion to approve.

Bill Cerone: Second.

Chairman Malocsay: All in favor?

Board Members: Aye.

Chairman Malocsay: Anyone opposed? Motion carried.