

“Minutes are not official until approved by their respective board.”

TOWN OF FALLSBURG ZONING BOARD MEETING

May 19th, 2016

Steve Burke, Chairman, Peter Frunzi, Joe Puccio, Paul Lucyk, Board Members, George Sarvis, Code Enforcement, Paula E. Kay, Deputy Town Attorney.

- Steve Burke called the meeting to order.
- April meeting minutes approved.

NEW BUSINESS:

1. CALOGERO GIANNONE (VISEU ESTATES) – SBL# 7-1-37.16 – Requests a use variance to add another dwelling unit to an existing non-conforming multi-family property used for rentals, where an increase in the number of dwelling units is prohibited. Zone: REC-2. Acres: 8.07. Location: 299 & 304 Wade Rd., Liberty.

- Calogero Giannone represented.
- Calogero Giannone: I have a building, I want to convert it into a studio apartment. It is no work to be done, everything is there. Bathroom and shower.
- Steven Burke: The more information you give us, the better it is for you.
- Calogero Giannone: I have 8 apartments there. Between my mortgage and paying all the bills for the apartments, every month I am short. I thought this would help me out to catch up. It is tough, you have a tenant come in and stay a couple months, then leave without paying the rent.
- Steven Burke: Do you have any proof of what you just said? Your losses?
- Calogero Giannone: My total bills are over \$8,000.00
- Steven Burke: Do you have documentation?
- Calogero Giannone: I have that here.
- Steven Burke: You have late mortgage information?
- Calogero Giannone: I am caught up there, I had that rented. Now that it is empty, I don't know if I will be keeping up. I had to get rid of the lady who was living there. I'm still behind, this is insurance, \$4,400.00 a year. The gas is \$2,800.00.
- Steven Burke: Those are your expenses. This is your business.

- Paula E Kay: When did you buy the house?
- Calogero Giannone: Almost 10 years.
- Paula E Kay: There are 8 units?
- Calogero Giannone: Yes.
- Paula E Kay: There were 8 residential units allowed, now you are asking for a use variance to convert the club house into a studio. Our code and state law requires for a use variance, the applicant has to demonstrate to the board that for each and every permitted use under the zoning regulations for the district, that the applicant cannot provide a reasonable return.
- Steven Burke: Okay. When you made the statement that you are behind and this is a financial drain, I just can't take that from your mouth as gospel. Not the bills, you have to show me that you are behind. You saying you need this because this is a business not doing well, I'm just asking you for it. It's not a rule, you made the statement and I would like to see, it may make a difference in someone's opinion. I don't know what would cost you to run that business, I need to verify that statement that you are behind. You don't need the variance now.
- Calogero Giannone: I have more on the table. 2 months ago, I gave them the note they had not paid me in a couple months. When they don't pay me, it is money that comes out of my pocket.
- Peter Frunzi: What is the square footage of each of these units?
- Calogero Giannone: The three I have in this building are 3 studio apartments. Downstairs is 560 square feet, the one I want to convert. The upstairs, the 3 are really small. That is the building with the 3 studio, and I want to convert the downstairs to a studio.
- Joe Puccio: You have 2 buildings?
- Calogero Giannone: There are 2 more apartments in the front and back, with 2 in each one. Right there are 7.
- Steven Burke: Anything else you would like to add? Anybody have any questions? No questions. Have a seat. Let us open it to the public. Anyone like to speak? No, okay. So we will close the public portion. Any violations George?
- George Sarvis: No there are not.
- Steven Burke: Okay, onto board comments. Let's run down some...
- Paula E Kay: I want to point out that this is the REC-2 zoning district. It is probably about 15 to 20 permitted uses or uses with site plan approval that this property can be used for. That needs to be looked at. What he has to show you is that none of these are the uses. He can demonstrate financial gain by using the property as a home, a hotel, or a motel and motor lodge, camp recommended.
- Steven Burke: Basically, you want to just add another rental, to hopefully prevent you from falling behind. This is a preventative measure. In this case, honesty may not be the best policy, but I appreciate your honesty.
- Peter Frunzi: Was this a laundry room?

- Cali Giann: When I bought it, it was a little club house. They play cards, pool, everything is there though. I want to rent it just the way it is. I don't need to do any work.
- Paul Lucyk: How many access do you have going out of that?
- Cali Giann: 3.
- Paul Lucyk: Are your utilities in that?
- Cali Giann: Yes, everything is in there. This is the bathroom, this is the front door, this is the side door.
- Peter Frunzi: Have your tenants upstairs become reliant on this?
- Cali Giann: It wasn't for them, it was for the gentleman that built it. I then used it for storage, and then this here could help me out so I emptied so I could rent it.
- Steven Burke: So we are going to run down the criteria. Cannot realize a reasonable return substantial as shown by competent financial evidence?
- 1 board member says it cannot, 2 say it can.
- Peter Frunzi: If we vote before he has the opportunity to come back. Sir come back up. Before we go ahead and vote, if you could provide us with some kind of proof, but more substantial evidence to show what your revenue has been, show your hardships so we can see it. Some kind of comprehensive format, something we can legitimize and make sense of. If we vote today, odds are you won't get the approval. If you come back next month, I'm sure Code Enforcement can help you getting the proof. Another thing that our attorney suggested, you also have to prove that there is not other uses that you can realize a reasonable return. It probably won't require a lot of time, the risk reward is huge here.
- Cali Giann: They asked me to get all my bills, all my expenses.
- Paula E Kay: Yes but the board hasn't had time to review them. You have to make copies for all the board members. Just like you did for the application. You're going to go through, we will make you a copy of the permitted uses in the zone and will have to go through that and show that you can't make money using the property any other way than you are using it now. You are asking for a use variance. It's very difficult to get and for the board to grant, you have to provide these proofs for them for them to feel comfortable. Even if you do that, I'm not sure what they will do. This will at least give you more of an opportunity.
- Steven Burke: You don't tell us just the expenses, you have to tell us how much you are bringing in. Bring in copies, show the expenses and show what you are bringing in. If everything is rented, in my head I can't grant a variance hoping you are going to rent it all year long. You lose one, you gain one, it is business. We're going to give you the option to come back in 30 days with that information. Not bills you paid. You stated you are losing money, I need to see that. You and other people will come in say you are losing money, but it doesn't work that way. We can grant a variance on a financial hardship but you have to prove it.
- Paula E Kay: Do you have any copies?
- Cali Giann: Yes. I have receipts from the process. So I have to call the bank and

get the letter from them?

- Steven Burke: If you think that will help you.
- Cali Giann: You want a letter from the oil company?
- Steven Burke: It will help you. It is very hard to grant a variance to a business. It's your business, if you want to stay in business and lose money, that's your business. I can't tell you what to do. It's better for you to come a little bit more prepared and give yourself a better chance. Do you want a 30 day?
- Cali Giann: Yes.
- Steven Burke: Mr. Frunzi happened to be right, I don't think it would have passed under the circumstances that you have brought. I am not saying it will pass, but it will give you a better chance.
- Peter Frunzi: Your accountant, this is what they specialize in. Have them call Code Enforcement, they will know exactly what we are looking for.

2. MICHAEL KLUSSMAN – SBL# 59-1-2.3 – Requests an area and use variance to allow the re-use of a non-conforming dwelling unit under 31 feet from another structure and allow the minimum floor area to be less than required by the bulk table for REC-1. Zone: REC-1. Acres: 5.88. Location: 1416 CR 56, Mountaindale.

- Michael Klussman represented.
- Michael Klussman: I'd like to take an existing structure on my property and fix it up for my father-in-law, he is 86 years old This property is on our property, we have lived there since 1988. It was in total disrepair, this is the final building that needs fixing up. For the aesthetics and taking care of my father-in-law, that is why we applied for the variance.
- Steven Burke: Anything else?
- Michael Klussman: No, other than the fact that we are very fortunate, I am one of the few folks in Sullivan County where my son has left, joined the military, returned and has a wife and kids, we're a big family living on this compound. It would do nothing more than make my father-in-law watching his great grandkids growing for his final years. No business involved.
- Peter Frunzi: Jason or David?
- Michael Klussman: David is my son that lives with me. Jason is my older, David is my middle. My daughter is in Virginia.
- Steven Burke: It is under 31 feet from the other structure.
- Michael Klussman: 27 feet.
- Steven Burke: Anyone have any questions?
- Peter Frunzi: The variances being requested, the structures are too close in proximity.
- Steven Burke: That's the area, it's also a non-occupied dwelling.
- Paula E Kay: It's non-occupied, and it wasn't occupied for over 2 years.

- Steven Burke: I can't combine these 2. If 1 doesn't get it, then the other doesn't go right?
- Paula E Kay: In this case, that's probably not true.
- Steven Burke: Any questions?
- Peter Frunzi: Any pictures? What is the size?
- Michael Klussman: 450 square feet.
- Steven Burke: Any questions?
- Paul Lucyk: Violations?
- George Sarvis: No violations. They started some work, some siding, Gregg rolled up on it and put a work order on it for starting without a permit. It didn't get into the violation area, we sent the letter of violation to stop the work, he did. He applied for a permit, we denied it, and he is here before you.
- Michael Klussman: There was no official work stop, no sign, it was verbal.
- George Sarvis: The work he was doing at the time was just siding, you don't need a permit. When we found out what it was for, then it came to this.
- Steven Burke: Did he go inside and see any other work being done?
- George Sarvis: No other work. It hasn't been worked on since then. It still remains unfinished.
- Peter Frunzi: What was the dwelling in the past?
- Michael Klussman: It was a bungalow in the past.
- Peter Frunzi: Winterized?
- Michael Klussman: Yes.
- George Sarvis: If the board grants it, it will have to meet 2010 codes and 2015...
- Steven Burke: Okay. You will end up doing that, makes no sense to come here if you're not. Anybody else? You can have a seat. Anyone from the public?
- Bob Hutchinson: We are directly across from Mike, I think what he is doing is great. I am just here to support him.
- Steven Burke: Thank you. Anyone else? No, close the public portion. Board comments?
- Peter Frunzi: A picture would have been great. Being that we heard from your neighbor, I guess that is somewhat satisfactory. No additional comments.
- Joe Puccio: You say it is too small.
- George Sarvis: Based on the bulk tables, it requires x amount of 12 inch square feet. It would be 800 square feet, or another cabin would 360 square feet. It depends on the table you use. In an REC-1, it would be 1,200 square feet for a single family home.
- Paul Lucyk: How many other residences on the property?
- Michael Klussman: I have my main residence and 1 other unit.
- Paula E Kay: Cabins are allowed in us, in actuality the area variance is not that extreme. 600 square feet is what is allowed.
- Steven Burke: In my opinion I didn't think it was. We still have to run down. We'll

do the use first. Cannot realize a reasonable return substantial as shown by competent financial evidence.

- 3 board members say no, 1 says yes.
- Steven Burke: Alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood?
- 2 board members say no, 2 board members say yes.
- Steven Burke: Requested variance will not alter essential character of the neighborhood?
- All board members say no.
- Steven Burke: Hardship has been self-created?
- All board members say yes.
- Steven Burke: Negative dec. Lead agency?
 - MOTION:
 - Peter Frunzi motions for lead agency. Paul Lucyk seconds. All in favor.
 - Peter Frunzi motions for negative dec. Paul Lucyk seconds. All in favor.
- Steven Burke: On the use variance, for to reuse a nonconforming dwelling, do I have a motion to deny or grant?
 - MOTION:
 - Paul Lucyk motions to approve the use variance. Joe Puccio seconds. All in favor.
- Steven Burke: Your use variance is granted with the condition that you have to get your other variance. Now we will run down the criteria for the area variance. Whether the benefit can be achieved by other means feasible to the applicant?
- All board members say no.
- Steven Burke: Undesirable change in neighborhood character or nearby properties?
- All board members say no.
- Steven Burke: Whether the request is substantial?
- All board members say no.
- Steven Burke: Whether request will have adverse physical or environmental effects?
- All board members say no.
- Steven Burke: Whether alleged difficulty is self-created?
- All board members say yes.
- Steven Burke: Lead agency?
 - Joe Puccio motions for lead agency. Paul Lucyk seconds. All in favor.
 - Peter Frunzi motions for lead agency. Joe Puccio seconds. All in favor.
- Steven Burke: On the under 31 feet from a dwelling, I put on the application it is 27 feet, it comes under the bulk table of the floor requirements, do I have a motion to grant?
 - MOTION:

- Paul Lucyk motions to grant the area variance. Peter Frunzi seconds. All in favor.
- Steven Burke: So both were granted.

3. 371 INC. – SBL# 14-1-33.5 – Requests an area variance to construct an addition of 528 S.F to unit #21A (60% increase in size of unit) which exceeds the allowable size increase of 25%. Zone: REC-1. Acres: 36.21. Location: 184 Hasbrouck Dr., Woodbourne.

- Jay Zeiger represented.
- Jay Zeiger: This is an area variance, we have an existing bungalow colony. Most of the bungalows are currently occupied by members of the same family. It's basically parents and the other bungalows are their children and their siblings. The bungalow in question is currently occupied by the daughter of the shareholders of the company. She's been there for a bunch of years. Here's a picture of what we're talking about. This is the existing bungalow we are talking about, the deck which is over here. The proposal is to build a family room in the area where that deck is. This is a bungalow where if you saw the map that is in your packet is kind of out of the loop of where the other bungalows are. It's only area is these big open fields, it's a big distance from the property line and anything else. You can kind of see that from the pictures as well. This is a bungalow colony that is not currently densely populated. The bungalow colony itself is 35.72 acres. The current area that is occupied is 13,280 square feet, so it's 3/10s of an acre. It's less than 1% of the acres is currently occupied by buildings. If this variance is granted, they will still be well below the 1% occupancy. The reason for the variance is because the size of the addition, currently the building is 860 square feet, the proposal is to increase the size by 528 square feet. Under your bungalow colonies, if you go over 25% you need a variance. The increase in size is 60%. The question I ask is if 25% is allowed, then is 60% substantial? I think the answer is clearly no. You've heard my argument on substantial, it's not measured by mathematical but by observation. The leading case, a flag pole, a community didn't have a 30 foot height and the flag pole was 100 feet, that was a big increase in the height, but being that it was just a flag pole, the court ruled it not substantial. Less than 1% is occupied by buildings, we're not putting up new buildings, we're just adding an addition that is bigger in size than allowed. The property will still be less 1% occupied after the construction takes place. There's no neighbors that this impacting on, the addition is being built toward the field.
- Steven Burke: So it's number 21A. How many units in this development?
- George Sarvis: I'm guessing 6 or 7. They were here some time ago, they made a cabin out of an accessory structure, you denied it.
- Jay Zeiger: I would say 6 to 10.

- Steven Burke: When I see unit 21, what do we number every 3rd unit? Were there 25 units?
- Jay Zeiger: It's the result of a subdivision and it is a prior colony.
- George Sarvis: It was a duplex, they built an addition on it and called it 21A. There are 3 separate dwelling units.
- Jay Zeiger: After this addition it will still be 3.
- Steven Burke: The other question I have for you, the other units, do they have decks similar in size to this one?
- George Sarvis: No, the other 2 have 1 big long combined deck with a roof over it, and then a small entry deck at the far end.
- Steven Burke: Just 1 unit has a deck like that? The other units in the development?
- George Sarvis: All units have some kind of deck.
- Steven Burke: Where I'm going with that, in such a development, it sets a precedence if we allow this. I like your presentation about the flag pole, but this is not a flagpole, this is a home that people want to use more of. Then what happens, none of it affects the inside of this circle. A lot of these developments, they don't mind if they are living on top of each other. It may not be the safest, but that is why this board is created. Left to the public, they would say they need to build a bedroom 1 foot off the road and just attempt it.
- Jay Zeiger: That's why this colony is unique, there are only 6 or 7 buildings and their occupancy is less than 1%.
- Steven Burke: I would pass this project, it's a lot nicer than is used to be. I stopped to commend the guy.
- Jay Zeiger: It's 1 family that is control of this. I think they bought it from the same owners of the Alladin. They've been looking to increase and improve, they're not here to say there is 4 acres and 25 houses on top of each other, this is the opposite. This is a small colony and they are building out in the field. I think that distinguishes this one from the typical.
- Paula E Kay: There's no issue with separation distance and there are no other area variances requested or needed, not too close to the road.
- Steven Burke: It has to match the same, if it is allowed it will be an extension of what is there.
- Jay Zeiger: Getting to the other criteria, that's the case on substantial. In terms of the other issue, undesirable change to the character of the neighborhood, this is in the middle of the bungalow colony, it's not observed at all. It's going to be a bungalow colony before and after, it will make the building a bit bigger and nicer. There's no adverse environmental issues, there's plenty of building separation. You can say it is self-created, we could build smaller. The bungalow colony law in the town is so restrictive and there is already a small building, it is 800 square feet, I submit that increasing it by 500 square feet, it is not self-created.
- Steven Burke: It is self-created.

- Jay Zeiger: Under the town law that creates the need for an area variance even if self-created..
- Steven Burke: Anyone have any questions?
- Peter Frunzi: I agree with the fact that out of most bungalow colonies, it is one of the cleaner I have ever come across.
- Paul Lucyk: Is there any plans for expansion?
- Jay Zeiger: Currently, nothing. Currently it is occupied by family. Children and siblings of the owners.
- Steven Burke: Any questions? The only thing I would like to say on this stuff is I could almost guarantee....I have experience in this kind of stuff. When you have this kind of dwelling area, the minute you give permission to do it, your argument is who knows, maybe not, right now there is none. That is correct, right now there is none. Right now this is in front of us. My past experience, especially in bungalow colonies, when you give one unit an increase, you can almost guarantee that it's going to come back for the other units, you set a precedence, it's tough to give to one and not the other. If you don't, then they take you to County Court, then we set a precedence. Then this town has no leg to stand on. I mean this board is here to protect this town, it is here to be fair to the applicant as well. It's tough being on this board. On one hand you don't want to see somebody lose something, but then on the other hand there are a lot of stories that aren't true.
- Jay Zeiger: I think Paula can tell you that by granting the variance in this instance doesn't obligate you to
- Steven Burke: Can you tell me that? It doesn't obligate us?
- Paula E Kay: No.
- Steven Burke: So if the next applicant comes and say we gave it to them, why can't they get it?
- Paula E Kay: What you have to do is, Jay has given you a lot of material that's particular to this applicant. This is in a colony, they have an existing structure that they're removing and replacing with a larger structure, but it is more than half of it is existing, their lot coverage is good. All those things help you. If another one comes along and the lot coverage is pretty bad, or their buildings are new, then you can differentiate that from this. However, you do have your code, and this section to the code is specific to increasing bungalow colonies, and it does specifically say no increase more than 25%, this is a bigger increase. You have to balance the 2. In this case, the number as Jay said, is 60% is a lot coverage of .008 more than allowed. There is a lot that isn't utilized. At some point they may come in with an entire new site plan.
- Steven Burke: They can build 25%, they want to build 60%. It's not that they can't do this without coming here. It can be done.
- Paula E Kay: Basically what they could do is take the existing depth and convert it right now to the same size.

- Jay Zeiger: You're standing the 25% against a really small number to begin with.
- Steven Burke: On the other hand these units were purchased knowing what they are. It's in my opinion it is self-created. Not that that is a bad thing. If you buy something, you know what it is. They didn't build it.
- Jay Zeiger: One more thing, when Paula went over why this is distinguishable from the other bungalow colonies that you are accustomed to seeing, the most important instance here is that this is the only unit where the addition is out here in an empty field. It's nowhere near anything what the addition is going toward. We have a lot of unique qualities for this bungalow colony that distinguishes it from the typical bungalow colony and I have been here on behalf of many of those on many occasions. Because of the small number of bungalows in comparison to the size of the property and the lot coverage being less than 1%.
- Steven Burke: Any violations?
- George Sarvis: No but I have to share. Sometime last year, the owner sat before this board, applied for a variance to expand unit 21 beyond the 25%. The board granted that. She decided before the permit became finalized, to reduce the size down to the 25% so she could just get a regular building permit. She was granted a variance that exceeded 25% and she decided not to use it. I don't expect the board to remember it, we already granted her one already and she didn't use it. No way am I advocating for it.
- Steven Burke: Anyone here from the public who would like to speak on this matter?
- Michael Lucyk: What are the dimensions of the addition?
- Jay Zeiger: It is 24 by 22.
- Michael Lucyk: This is a living room?
- Jay Zeiger: Family room.
- Michael Lucyk: It's a 3 family triplex? Is it all 1 big family or is it 3 different families living in this 1 triplex?
- Jay Zeiger: There are 3 different families living in the triplex, but one member of each of the families are related to the mother, Simma.
- Michael Lucyk: It's not like the parents living in one room, the kids in another?
- Jay Zeiger: Simma lives at the colony, this is her daughter. She has another daughter in one of these. She has a son, she has siblings. The daughter here has a family, the other daughter has families.
- Michael Lucyk: That is all.
- Steven Burke: Anyone else? No, we will close the public portion. Board comments?
- Peter Frunzi: Going back to the flagpole. We're only starting 1,100 square feet. It's not a 60% square feet.
- Jay Zeiger: We are starting with 864 square feet. We are adding 520 to it.
- Peter Frunzi: Oh that is 60%. So it's even smaller. Again, you think about 60%, it

does sound large, but relatively speaking with taking that information into consideration, 800 square feet is hard to occupy a family. I am in favor in that respect.

- Steven Burke: I do understand what you are saying, 60% is still 60%. I understand what you're saying, it is small to begin with but I didn't buy the house. I bought the house knowing I would have had to come for a variance to get something. I bought a piece of property where I have enough to do whatever I want to do, like that big building. If I could do it another way.
- Joe Puccio: These buildings look new. Have they been updated?
- Steven Burke: They've been worked on. I will say it is nicer than what I have seen. I remember what used to be there. It was horrendous. Even 20 years ago.
- Paul Lucyk: If they want to do their vision, cover their porch, go with that. That 60% increase.
- Paula E Kay: Is there a lesser number for the applicant could ask for?
- Jay Zeiger: I have spoken to them, this is what they would like to do based on the footprint that of the porch.
- Paula E Kay: It is not looking great at 60%, maybe you want to go back and see if she wants to do something less.
- Steven Burke: This is my opinion, if she was willing to do something less, she wouldn't be here, less than is half, and half is almost 25%. If she said to me, I know 25 I can do but I really need 30, that's not substantial. That's almost understandable. To say I need double what is allowed plus 10 more percent. That to me is substantial.
- Jay Zeiger: In the eyes of the impact, it's certainly is not substantial. Given the low density and the low occupancy in this colony, it is far from substantial. Mathematically it is 60%, impact on the community and property, it is not.
- Steven Burke: I do understand, I break things down into simple mathematics. 60% is 60%. Whether it is a flagpole or a residence, it's still 60%. On a flagpole it doesn't feel as substantial, but using a home it does.
- Peter Frunzi: I just can't help but think about some of the other applicants that have been before us recently, it seems like every other one where these bungalows are plotted all over the place. This isn't a colony like that. You look at the picture and you don't really see any other dwellings around it where some, they are just all over. I sympathize with this situation. I'd like to pick apart some others.
- Steven Burke: Any other board comments? No. Let's run down the criteria. Whether the benefit can be achieved by other means feasible to the applicant?
- 3 board members say yes, 1 says no.
- Steven Burke: Undesirable change in neighborhood character or nearby properties?
- All board members say no.
- Steven Burke: Whether request is substantial?

- 2 board members say yes, 2 board members say yes.
- Steven Burke: Whether request will have adverse environmental or physical effects?
- All board members say no.
- Steven Burke: Whether alleged difficulty is self-created?
- All board members say yes.
- Steven Burke: Lead agency?
 - MOTION:
 - Peter Frunzi motions for lead agency. Joe Puccio seconds. All in favor.
 - Peter Frunzi motions for negative dec. Joe Puccio seconds. All in favor.
- Steven Burke: Do I have a motion?
 - MOTION:
 - Peter Frunzi motions to approve. Paul Lucyk seconds. Joe Puccio and Steven Burke deny. Motion denied.

4. STEVEN TRIGOBOFF – SBL# 38-1-1 – Requests a use variance to allow a shipping container for storage in an R-1. Zone: R-1. Acres: 3.61. Location: 34 Tierney Pl., So. Fallsburg.

- Richard Newburgh represented.
- Richard Newburgh: We are here because the applicant wants a storage container. The applicant owns what he is says is a priceless deal. It is a unregistered 1961 Lincoln Continental. He has no place to put it where it will be safe. He has is stored in New York. The car is a unique car. He owns a property, you have a site plan here, it's just under 4 acres, with a single family house. It's on a clear, very small portion of his property. His property is triangular in size. Behind the house is a forest. He owns this storage container which is 40 feet long, 8 feet wide, 8 and a half feet high. It is self-contained, it has the car. Locked and secured. He wants to put it in his forest, where no one can see it. No one from the Rails for Trails. It can't be seen from any of the neighboring properties. I know this, about 3 and a half weeks, I went out before the buds were on the trees, I went to the area he wants to put it. The area is covered by pine trees, you can't see through it at any time of the year. That's to the neighbors and his benefit. He doesn't want anyone near that thing. It is unregistered, he won't be going to it often at all. Just to check on it. He could build a garage or shed, he wants this use variance because he wants to protect the car from being stolen. My reading of the zoning ordinance has changed a lot since I was here. You don't want storage containers. It looks like if you were going to grant it with whatever conditions, you can only grant it for 18 months. He is aware of that, but that will give him

time to do something with it. It is a unique hardship. He is asking to put this in a place where no one will see it, it will not change the character of the neighborhood. I don't think it is self-created. He just wants to protect his car. I was thinking of alternatives. There are no other.

- Paula E Kay: The alternative has to do with the property, not to with the car. It's a good argument, except they have to look at the property but I understand that the purpose is to contain the automobile. The storage container is specifically prohibited.
- Richard Newburgh: Except for a use variance.
- Paula E Kay: They are prohibited subject to a use variance from this board and shall not be approved for more than 18 months. Must be screened.
- Richard Newburgh: If you want it screened,
- Paula E Kay: That is what the code says.
- Richard Newburgh: That would make it more obvious.
- Steven Burke: So you have it already?
- Richard Newburgh: It's there.
- Steven Burke: When you opened up you said he wants to put one there. He doesn't want to put it there, it is there already.
- Richard Newburgh: He wants to keep it.
- Paula E Kay: How long has it been there?
- Richard Newburgh: I don't know.
- Paula E Kay: It is only allowed for 18 months.
- Richard Newburgh: We're here because it was a violation.
- Paula E Kay: That is an issue that the board has to look at. There is an 18 month period, when did it get there?
- Peter Frunzi: How did this come about?
- Richard Newburgh: We're really here asking, it doesn't have any adverse effect. You can't see it, where he is going to put it is surrounded by trees.
- Paul Lucyk: Is there a house on this property?
- Richard Newburgh: Yes.
- Paul Lucyk: Does the house have a garage?
- Richard Newburgh: I don't know. That won't secure it.
- George Sarvis: Is the option based on the land to stick up a metal shed and put this thing inside of it?
- Richard Newburgh: But we want to hide it too
- George Sarvis: In a steel building?
- Richard Newburgh: In the woods.
- Georeg Sarvis: I'm thinking steel building, put your storage unit in it.
- Richard Newburgh: If I can show you that this is what we have. It is hidden. No one will find it. You won't find it on the trails.
- Steven Burke: Somebody found it today.
- Richard Newburgh: It's not sitting over there. He thought it was on his property, I told him it's not, or I didn't think it was. I remember how wide the

railroad beds are. If you look at it, there's the track that you can tell that the railroad was there. There is overgrowth, and there is another path that I believe was part of the railroad but he thought was part of his property.

- Peter Frunzi: You're not going to take this out for a Sunday drive?
- Audience: No it is a collectible.
- Ricard Neper: No we want to hide it.
- Steven Burke: There are violations, because it shouldn't be there.
- Paula E Kay: Well it sounds like it's not on his property.
- Steven Burke: Okay.
- Richard Newburgh: If someone wants to see where he wants to put it.
- Steven Burke: You showed us the picture.
- Paul Lucyk: What is the name of this adjoining property?
- Steven Burke: You'll see if someone is here from the public.
- Peter Frunzi: Paula you mentioned something about this isn't on his property being an issue of itself.
- Richard Newburgh: I don't know if it is on his property.
- Steven Burke: It's disputed right now.
- Richard Newburgh: We don't want to leave it that way.
- Steven Burke: Anything else?
- Richard Newburgh: That's all I have. I'd like to comment and I have it in my application, as far your first requirement for use variance, reasonable return, that has no relevance to this. How do you talk about a reasonable return of money when you're talking about placing a storage container for 18 months? Use variance is with the land and goes forever. This is over in 18 months.
- Steven Burke: You should write your inquiry to the New York Planning Federation.
- Richard Newburgh: I've studied this a little bit. That requirement, and I'm sure you know, that requirement has a little relevance to a lot of your use applicants. That was put in about 100 years ago when zoning first came into being. The state put that in as a requirement to limit your power.
- Peter Frunzi: I question a lot, I think we could get on the same page with a lot of issues there. We have to follow it.
- Steven Burke: So we will open it to the public. Anyone here?
- Robert Hunter: I am a resident of South Fallsburg, I live on an adjoining property. There must have been a time in the past where this board approved a zoning variation to put in the New Hope community home on the adjacent side of my property, I want to commend you for it. They are excellent neighbors. In respect to the application before you, I have a few comments. One is it is a large vessel, almost 40 feet long. It is sitting right alongside the Rail Trail. I would agree that from my vantage point, once you cross that little stream, it's just woods. I don't know how he will get it in the spot, but if you put it there I don't think I'd ever be able to see it. When I first got the notice, my fear was that it would be some storage facility right near the house. When

I saw the map and looked at the plan, I don't think it will be visible. The thought that occurs to me is it doesn't belong in the neighborhood. If you grant a variance here, who else will come along and ask for similar variances. I don't know the effect of having a precedence like that. In my being, it is self-created because it isn't like there was a change here, there was a change in zoning. The other is, I have lived there 9 years and this gentleman owns the property, but he doesn't reside there. It doesn't sit well that he is taking this thing is a monstrosity and he is living in the city. I am a little ambivalent, maybe a little more against it, but I don't think it would ever be visible.

- Steven Burke: Anyone else from the public?
- Steve Trigoboff: This is my property. I have some thoughts, does anyone want to ask me questions?
- Steven Burke: You just say what you have to say.
- Steve Trigoboff: I am living in Manhattan, I can't put it in the garage, the people renting have a few cars. This is the most secure option. These are valuable cars. Yes I could build a garage or build a carport, but I had a local locksmith add security to this container which already had locks for making it secure. I have it hidden, no one would see it where I want to move it. That combined with, in case someone does, it's very well secured.
- Joe Puccio: I've had collector cars, but in your case with putting it back in the woods like that, what about hunters or kids shooting their guns? I have seen it happen, hunters out there and they see the container, they shoot it, and their goes their car.
- Steve Trigoboff: There are signs for that, but I am willing to chance that.
- Paula E Kay: The two thoughts I have, I think there is an issue with precedent, I haven't been with this board long enough to say, but I have never seen you grant a shipping container in the zone.
- Steven Burke: I don't think we've done a shipping container at all.
- Paula E Kay: That is a concern. Also an exit strategy, so what is the goal at the end of 18 months? Then it becomes an enforcement issue?
- Paul Lucyk: Wouldn't a storage facility be better for that car?
- Steve Trigoboff: From what I've heard about storage, there are so many things stolen and they are inside jobs, a friend of mine has 40 collectible guitars stolen and they had a friend tipping off someone inside. If not for worrying about theft, it would be a good answer. The cargo containers are water proof, and moisture free. They are on top of ships. I feel climate wise I am okay there. The car has been in New York for winter. I feel this is the most secure.
- Paul Lucyk: We have our codes to go by for storage containers. Just last month we found out that someone had a storage container on the property and was asked to remove it. How does that look for us to approve you, when we just had one that we had removed.
- Steve Trigoboff: I can only speak for myself, I am law abiding, I have had the

- home since the year 2000, no violations. I like to think I am a good neighbor.
- Richard Newburgh: One thing please keep in mind, this is a limited amount of time, not forever. A short period of time. I don't think you're setting a precedent because this is being placed in the literal middle of a forest. It can't be viewed by somebody else.
 - Paul Lucyk: It is viewed by someone else, you have a neighbor who is viewing it and he is not happy.
 - Steven Burke: He said he couldn't see it from where it is going.
 - Paul Lucyk: He'd rather not.
 - Richard Newburgh: In reality he will know it is there, but he won't see it. You're not setting a precedent because it's not something where it will be viewable, and it is a unique problem.
 - Paul Lucyk: I understand what he is up against.
 - Paula E Kay: I think George has a pretty helpful suggestion.
 - George Sarvis: Build a temporary garage, the best of both worlds. More than 18 months, your safe storage is in a garage, you don't need the 18 months and you don't even need to be here.
 - Richard Newburgh: But the storage container is on the property, even though it is inside.
 - George Sarvis: It's inside. I would have no jurisdiction over there.
 - Richard Newburgh: I think it would still be a violation.
 - Paula E Kay: No. It's not visible, what the town would be approving is the garage, what you put in your garage, unless illegal, is up to you.
 - George Sarvis: When it comes to unlicensed or junk vehicles, we tell them the same thing, get rid of it or store it in the garage.
 - Richard Newburgh: The only thing I would say is he is looking for security. You heard the neighbor there is a fellow walking around with burglar tools.
 - Steve Trigoboff: I'd also like to not disturb the aesthetic of the house as far as adding on a garage to where there is already a garage.
 - Paul Lucyk: We're talking about one of those steel buildings set back in the woods.
 - Steve Trigoboff: A completely enclosed steel building?
 - Paul Lucyk: Sure.
 - Steve Trigoboff: I need permission from you guys?
 - George Sarvis: A simple building permit as long as it is not over 1,000 square feet. Then you need site plan approval.
 - Paul Lucyk: You could do 40 foot long container.
 - Steven Burke: Basically what the board is saying is there are other options. It is hard for us to approve something where you have other avenues. The cost of those other avenues is not out problem. You have to decide. You have to understand that part of it. I would venture to say that if you look through the records, we've never approved any of these, but they are all over the woods because people never tell us. You are telling us. We run into these things all

- the time, we run into homes built in the middle of the woods, with generators.
- Richard Newburgh: Why would someone put a storage container out in the woods?
 - Steven Burke: It's 100 acres and it is a hunting property. They have their 4-wheelers and guns, they have huge amounts of equipment. We had one right on Divine Corners Road, the guy said he had it there because he had bulldozers. I don't think we've ever approved one.
 - Peter Frunzi: Assuming you did, what is your plan after 18 months?
 - Steve Trigoboff: I am planning to move to California, and that is where you can enjoy a car like that.
 - Steven Burke: I didn't close the public yet.
 - Robert Hunter: I appreciate the suggestion you made. If I may, they are small lots where the homes sit. If there were a choice between putting this container by the homes or back in the woods, it would be better in the woods.
 - Paul Lucyk: How much property do you own?
 - Steve Trigoboff: There is a parcel for 3.78, and then a little over a quarter of an acre. I own both.
 - Steven Burke: So rather than have a huge hut with this thing stuck inside, you'd rather have this in the middle of the woods the way it is.
 - Robert Hunter: Yes. It wouldn't fit in the neighborhood, it's a small home and a small lot. It would be preferable, put that structure back there.
 - Steven Burke: Anyone else from the public? No. Close the public portion. Board comments?
 - Paul Lucyk: What I am looking at is if you let him do this for 18 months, we're going to have a lot of situations with other people with shipping containers coming here for this option. I think it is a good idea about putting it into the woods, but it is 18 months. I don't believe that I feel that it is....I don't have a good answer, or a good feeling about this.
 - Peter Frunzi: I venture a guess that not too many people jump on the Town's website and read the minutes. I don't know that everyone is looking to go out and buy a shipping container, and it is only 18 months.
 - Steven Burke: No comment from me. Let's run down the criteria. Cannot realize reasonable return substantial as shown by competent financial evidence?
 - All board members say no.
 - Steven Burke: Alleged hardship is unique and does not apply to substantial portion of the neighborhood or district.
 - All board members say it is unique.
 - Steven Burke: Requested variance will not alter essential character of the neighborhood?
 - 2 board members say no, 2 board members say yes.
 - Steven Burke: Alleged hardship has not been self-created?
 - All board members say it has been.

- Peter Frunzi: I have yet to see an applicant come before us that it has been self-created.
- Paula E Kay: When the Town changes the zoning on a parcel, the density.
- Steven Burke: Like that project down by Glen Wild, it changed in the middle so they were granted the variance because it changed in the middle. Lead agency?
 - MOTION:
 - Peter Frunzi motions for lead agency. Paul Lucyk seconds all in favor.
 - MOTION:
 - Peter Frunzi motions for lead agency. Paul Lucyk seconds. All in favor.
 - MOTION:
 - Peter Frunzi motions to approve for 18 months. No second motion,
- Steven Burke: There is no motion to grant, so it is denied, correct? Do I need to motion to deny?
- Paula E Kay: You don't need to.
- Steven Burke: You do have other options. It is hard to grant on a storage container.
- Steve Trigoboff: Do I have a certain amount of time to remove?
- Steven Burke: Work that out with Code Enforcement.

Peter Frunzi motions to close. Paul Lucyk seconds. All in favor.