

"Minutes are not official until approved by their respective board."

12TOWN OF FALLSBURG ZONING BOARD MEETING

September 23, 2021

Steve Burke, Chairman, Mike Bensimon, Neil Sapolsky, Board Members,
Larry Zierler Thomas Little, Alternate Board Member, Ellayne Hutchinson,
George Sarvis, Marisol Torrens, Code Enforcement, Paula E Kay, Town Attorney,
Jennifer Edwards

- Steve Burke: I would like to welcome everybody to the Town of Fallsburg Zoning Board Meeting, do I have a motion to accept the minutes from last month?
- All in favor, one didn't receive
- OLD BUSINESS:
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 - JAMES WASSERMAN – SBL# 58B-4-5 – Requests an area variance to allow a 6' fence where 4' is the maximum allowable height. Zone: PUD. Location: 47 Alpine Dr., Woodridge. Cross Roads: Edelweiss Dr.
- Steve Burke: So we left it open to the public, Paula should I let the applicant go over again, or are we done with that?
- Paula Kay: This is the James Wasserman application?
- Steve Burke: Yes
- Paula Kay: You are correct it was left open, and you had directed the applicant to talk to the neighbor, so I think you are looking for a report back from the applicant.
- Steve Burke: Not a whole opening
- Paula Kay: No
- Steve Burke: Mr. & Mrs. Wasserman, I believe that is their last name, Mr. Wasserman, are you the one going forward with this?
- Jim Wasserman: Yes, we are both going forward with this.
- Steve Burke: Ok, so what you are to do, is instruct us on how you went to the neighbor and try to resolve this, that is where we left off.
- Carmen Wasserman: On the very next day, we went over, read through a handwritten note that we had submitted to the Board. That the Board had made a suggestion that was based on the statement by Tracy at the hearing on the 19th, that if the shed and the materials that were in the picture that we submitted with our initial statement of the 19th. That if those were removed then we would not need a six foot fence and that we would

go with the four foot fence. We have not received a reply, we texted, we texted again, as you know we live here in Brooklyn, so we were leaving the very next day, but we have not received a response. Miss Dennise Corbett called and spoke to Jim to ask what happened, he informed her that we had texted him and given him this handwritten note, given them, both of them. There was no response then she communicated with Greg, who said that he would do this hearing in person today. We summarized what we did in the letter and submitted it to Dennise, who informed Jim that the summary had been distributed to the Board members.

- Steve Burke: Ok, we got the letter, anything else
- Carmen Wasserman: No, we just wanted to go over again what we said at the first hearing, if we are allowed to do that which is that, you know as early as April we communicated with our neighbors, we did a review of what of what we thought were the right applicable regulations, our understanding was that a six foot or eight foot fence was allowed in the back or in the front. Having now realized that that's not allowed, we are now asking for a variance. But we want to make the record very clear that we did engage in communication with our neighbor beginning in April, the fence was not installed until July 27. And it came as quite a surprise to us, not only now that they are objecting, but that Tracy at the hearing on the 19th, claimed to not know what the plan was. But we recognize what the regulations are now. Our proposal has been, that if the shed which is eleven feet in height is removed, and all of those construction materials are removed then we don't need the six feet, we thought we were proposing what the Board suggested that we propose as a resolution. Thank you, so that is our statement.
- Steve Burke: Thank you, anybody here from the public? Please step up and state your name.
- Tracy Lashinsky: Hi, I am not good at speaking in public so please forgive me, Greg Lashinsky (Public Speaker), so actually when we left the meeting last time, we were not here in person, I don't know how much, we were unprepared last time, we didn't really know what the issues where they were bringing up, so I actually made packets for everyone.
- Paula Kay: Tracy, we are also going to have to get a packet to the applicant. Because the applicant is appearing by Zoom
- Tracy Lashinsky: To make everyone aware, I didn't get any of the pictures that were submitted or any of the letters that were submitted by the applicant.
- Paula Kay: Ok, we are going to make sure the applicant gets a copy of this.
- Tracy Lashinsky: I actually have copies of them, I can give one to Marisol
- Paula Kay: Ok, Marisol can scan them over.
- Tracy Lashinsky: Again, thank you all for being here tonight. Let me start by saying that we are very disappointed in the way that our neighbors have approached this issue. After 22 years of being neighbors where they have never had an issue, or at least voiced any issue of their issues with the way our yard was kept, it's very disappointing and shocking to hear what they said at last month's meeting. We are very taken back and unprepared in hearing the reasons they claim they are asking for this variance because of that shed, and what Carmen called construction equipment and materials. If you look at the text and photos of the text messages that Carmen presented to you last month,

you'll see back in April of 2021 Carmen text us and told us that they were looking to do a fence because they had concerns of their grandson running around and getting into people's stuff, and for running into the street. We actually thought what they were referring to when they text us about, was the broken glass on the side of the house between them and the other neighbor at 49 Alpine where the actual garbage that's in that neighbors yard and I'll refer you to the photos on page seven, eight, nine and ten, where you can see those. We didn't think they were referring to a shed, a shed that was constructed somewhere between 10 and 12 years ago in our yard. Jim and Carmen have been our neighbors there since we moved in 1999, with that being said, animosity with our neighbors of 22 years is nothing we or any others have asked for, they've created a very tense situation with this, and it's nothing anyone wants to deal with, especially neighbors that use the property only a couple times a year. We've always been very civil with them, allowing them to use our garbage disposal, us to park in their driveway, and my husband shoveling the driveway for them. After last month's meeting we were very grateful and very willing to have the opportunity to have a discussion with Jim and Carmen as recommended by yourselves, in order to come up with a resolution that would satisfy both parties, however, the next day, as Jim and Carmen were heading out, like she said. Carmen walked over to our house, we were home, left this yellow envelope along with a card, which is on the last page, page 14, and it's a very confrontational letter as how I took it. A little while later, Jim and Carmen sent my husband a text basically telling us that the Zoning Board has concluded that we must remove the shed completely, all of the building material and equipment from the rear yard and they will withdraw the application. So let us know if we agree with that, she further went on to state that this was disgusting text messages, four months prior to the fencing installed, between the text messages in April, this note and dealing with Carmen at times in person, I took this as argumentative and did not desire to respond, and I simply had no interest in creating a situation that would become worse. I thought she had mostly misunderstood what happened the night before and the statements that I had made, and what you had asked us to do. Let me be very clear, that last month's meeting I never said that we would remove the shed. What I said is that had Jim and Carmen spoken to us about the stuff in the backyard prior, we would have gladly moved it, if that was their concern for their grandson, not remove the shed. The shed is a beautiful well kept shed, it has been there for many years and there has never been a complaint from them as a matter of fact, when we were building the shed years ago, we spoke to them about putting it closer to the property line, aesthetically it would line up better with our deck, they had no issue with it, and again for the last 10 to 15 years, somewhere in there. After the ongoing attacks from Jim and Carmen, here publicly at the Zoning Board meeting, mentioning that I work for the Town, which has nothing to do with this, I feel that this is nothing more than harassment from them. I also feel our opinions and voices should be heard, I've printed out a few pictures for you label 1-15, showing what's been going on. Photos 1-3 just to give you an idea of the house setup where we are, some of the houses are different in Davos. When you are looking at photo 1, that's a picture of the front of our house, which is 45 Alpine, and Jim and Carmens are attached to us, which is 47, 49 is actually in the back of their house, further back, but their

driveways are attached. Photo 4 was taken, prior to us moving the Shed, showing what was in the backyard around the shed. Unlike what Carmen had stated last month's Zoning Board, it's not construction debris or equipment, there's a rowboat, a ladder, a wheel barrel, extra roofing material and shingles which was left over from when we redid those things on our house, some buckets and my son's winter tires, shovels and rakes. They are not construction equipment or material, they are items for our house, which we are allowed to have. In any event this point is mute now, because a four foot fence would cover any of those items from their view. Photos number 8, 9, 11 and 12 show our shed from the backs of our deck, looking straight out, that is the view a similar view from what Jim and Carmen have from their shed, from their deck side, it also shows two other sheds in the same area of ours. I would point out the condition of those two sheds, they have never been maintained in the 22 years that we have lived there, doors are partially broken, and never painted I'll also point out their location on the property, and to those property lines, which Jim and Carmen do not seem to care about, they discussed no dislike in seeing those, only our shed. In addition, photos 7 through 10, you can see the broken glass, standing, which has been there for over a year, the people that moved in at number 49 Alpine Drive over a year ago. I would have thought that was what Jim and Carmen were concerned about with that was what their Grandson getting into, you can also see the garbage, a large pile of garbage in that backyard, directly behind Jim and Carmens house, in plain view of where their Grandson can easily run, and again, they have no interest in even putting fence to block that, let alone a six foot fence. It's just funny to me, how there are fences everywhere, our fence is well kept, they asked for a six foot fence to be able to block the view from. (inaudible) Photos number 12 and 13 show the shed, before the shed was moved, and photos number 5 and 7 show the view after the shed after it was moved from Jim and Carmens yard. Photo number 6 is from our deck, standing on our deck, looking directly over at their deck and as you can see, the six foot fence doesn't even come up to deck height, it makes no difference in how they are viewing our shed. We've never had an issue with them putting a fence up, as long as it is compliant with code as well. We spoke to them where that shed went on our property, and they did not have an issue with it, after 15 years almost they have an issue with it. As you can see in the text messages from April that Carmen submitted to you last month, you can also see in there that we actually referred them to the specific code Town of Fallsburg New York, planned unit development number 4 Davos. For her to say that she didn't know about this or that we should have told her about this, because my husband is a contractor, is completely insulting. Maybe when Jim and Carmen purchased their house here years ago, it was simply summer residents, weekenders, or people that used their house sporadically throughout the year like they do. Those times have truly changed, many of the homes in there now are year round residents and people accumulate items. When we first moved in there, fences weren't even allowed. They changed that, and they changed that probably because they know that people accumulate items, and people are there year round, and want to protect themselves from other peoples items. A four foot fence does just that. No matter where in our backyard we would move the shed, they will still see it and the six foot fence they are requesting does not avoid them from seeing it. As you can see from the code, we could

have made that shed as high as 17 feet tall, not 11, again we don't want to do that because it would ruin the woodsy feel of Davos. In any event, we have a permit for the shed, my husband has moved the shed 12 feet from the property line, and as you can see in photo 5, we've cleaned up the backyard, as suggested by you. A neighbor having a shed, is not a reason to put up a six foot fence, as you would always see it anyway. I feel the 4 feet fence blocks what they need to be blocking and allows for the safety of their Grandson. Thank you

- Steve Burke: Anybody else? No, anybody else from the Public?
- Mike Bensimon: Should we close the Public portion?
- Steve Burke: Any violations George, on this property?
- George Sarvis: Not now
- Steve Burke: Board comments
- Paula Kay: George, when you said not now, where there violations, because I understand the fence was partially built after and then was it continued
- Marisol Torrens: He was confused he thought it was Tracy's property
- Paula Kay: Oh no, that's not the property at issue.
- Marisol Torrens: Violation is still standing
- George Sarvis: So there is violation on this property
- Steve Burke: On the applicants property
- Paula Kay: Yes
- Steve Burke: Ok, what's the violation
- Mike Bensimon: The fence is out of code
- Paula Kay: They completed a portion of the fence after the building department was out to tell them that it was not code compliant.
- Steve Burke: So Board comments
- Larry Zierler: I'm just curious, the rationale between four and six feet. I understand it's two feet, but in terms of passing something over a four foot fence, a four foot fence might actually be more of a demarcation then actually something that keeps things out. Six feet already, but there is a difference (inaudible) and certain legal systems between actually four feet and six feet. Because six feet is already the height of a regular human being, and that person can't either jump over the fence, so there is some wisdom to six feet. But obviously when the code was written, it was written considering four feet as enough of a barrier
- Steve Burke: So we can't argue the point, based on the idea
- Mike Bensimon: So I see this case as a good reason for having setbacks in the first place, setbacks usually make for good neighbors. This is a situation where you had a shed right up next to a property line, that the neighbor may or may not have been ok with at some point. But over the years, felt, well at least according to the applicant, felt that this was an eyesore and therefore needed some kind of remediation, and sought to put up a fence, which goes against the Zoning Law. Now the issue here is, does the shed actually belong right up against the property line, turns out it did not, and now it has been moved to a spot where it meets all of the local ordinances and zoning laws, and has that set back from the neighbors. So really the main issue that the neighbor had, or the applicant had, in creating this fence, has now been litigated by the fact that the shed has

now been moved to a place where they are legally permitted to have it. So in my opinion, I do not see any kind of hardship or any kind of extenuating circumstances here, you know, the Zoning law should apply. Especially if it is going to create a little bit of eyesore with that four foot six foot back to four foot situation, and I really don't see the hardship there.

- Thomas Little: I was going to say the exact same words.
- Steve Burke: Like I said before, the thing is, that the applicant was told stop, not go further, and the applicant just kept going and decided to build the fence, and then take it to the Zoning Board, and really the way that I kinda see it, is kinda like you said there was never an issue with the shed. First of all the shed has nothing really to do with this, because you are allowed to have a shed. You just maybe weren't allowed to have it where they had it, but they moved it. They ratified it was never a problem until they wanted to put a six foot fence in one particular area, and then four foot the rest of the time, so that's how I feel about it. So we'll go through the criteria, whether the benefit can be achieved by other means feasible to the applicant,
- Yes, all say Yes
- Steve Burke: Undesirable change in neighborhood character or nearby properties
- Larry Zierler: Undesirable
- Steve Burke: Yes, like having a fence like this and then like that, is that desirable or
- Larry Zierler: No, that's undesirable, I agree it's undesirable.
- All say Yes
- Steve Burke: Where the request will have adverse physical or environmental effects
- Paula Kay: Feel free to explain your vote, also
- Larry Zierler: I'm trying to understand physical, I mean that you safely say physical to have this effect, so I sort of would say it would have adverse effects.
- Steve Burke: So you say yes
- Mike Bensimon: It would be a no
- Steve Burke: It would be a no, but a yes
- Mike Bensimon: So I would say no it would not have a physical environmental effect
- Steve Burke: And I also say no, whether the alleged difficulty was self created
- All say Yes
- Steve Burke: So a Lead Agency
- Paula Kay: You don't need to do that
- Steve Burke: Ok, so do I have a motion
- All Deny
- Steve Burke: Ok, so your application for the site was denied. Next on the agenda:
 - **New Business:**
 - **ANGELICA RAMIREZ – SBL# 59-1-37.2 – Requests an area variance for a two lot subdivision to create an undersized lot of less than 3 acres. Zone: REC. Acres: 10.39 acres. Location: 116 Spring Glen Rd., Mountindale. Cross Roads: Park Hill Rd.**
- Angel Martinez representing for his niece and nephew
- Paula Kay: Do we have an applicant for this
- Steve Burke: We do, whoever is going to represent, has to come up and state your

- name and what you want to do.
- Paula Kay: I'll say, as I'm in the audience tonight on Zoom, we can't see it all. The map and the lighting. It's the lighting, we're going to have to figure it out for the next meeting.
 - Angel Martinez: Good Evening, I am representing my nephew and my niece, and we went through the Planning Board to apply for a subdivision of lot 116 Spring Glen Rd. Advised by the Planning Board, they told us subdivision was not (inaudible) because of the road (inaudible Paper shuffling) The Planning Board told us it wasn't a suitable situation because this piece of land was not going to be useable, so they recommended us to work with the Zoning Board, and that is the reason why we are here, we would like to get these two lots subdivision, out to the road, what the Town did want, and this is just to make up for that, but this was the issue, so the second line would be on the other side of the stream and we would like to know. At the beginning we had asked some of the neighbors. You can see that two of them were here, they wanted to address their concerns, but he's not here anymore.
 - Paula Kay: So the issue here is it's a two lot subdivision and one of the two lots will be less than 3 acres. I believe 2.8 acres is what's proposed as proposed to 3 acres. So that's why they are here.
 - Angel Martinez: I would like to show you this picture, as to how the place was before, the Main house and the house that was there, what it was like and what it is now, we would like to invite all of you to come and check it out, the neighbors and also the other ones. We have made a major improvement to that place. We work for real low prices too, but what we invest in that place is a game change. I mean all of the neighbors know, by improving this place, we have raised the value of their property, I mean big time, and they know. So, are there any concerns why we can't do this subdivision, and yet we are here
 - Larry Zierler: This is the existing house?
 - Angel Martinez: Yes,
 - Larry Zierler: The one that's marked house.
 - Mike Bensimon: May I ask a question, do you plan on building anything on the 6
 - Angel Martinez: Yes, we would like to build a house, completely out this way, somewhere in here, completely out of the neighbors house, would be completely in the back
 - Steve Burke: Is that just for you to live in, that's a pretty big house
 - Angel Martinez: Not this one, we actually went overboard on the numbers. No actually I have it at 5,920 square feet state of the art and everything, and my neighbor can see, we pulled 4,600 feet
 - Steve Burke: Do you live in this house
 - Angel Martinez: No not yet, because we don't have a CO yet. So however,
 - Larry Zierler: Is it a Hotel or Motel
 - Angel Martinez: No, it's just a house. So, however we have 4,620 square feet of fine quality with quartz, marble I mean the best quality buys. So all of you are more than welcome to visit whenever you please, the doors are opened daily, and we are trying to do something on the site, to the other house.
 - Larry Zierler: What are you going to build on the 2.8

- Mike Bensimon: It's already there,
- Steve Burke: The house is there, the 2.8 is there, and then there's 3 on each,
- Ellayne Hutchinson: No because the house already existed and was legal with the full 10 acres, but once he divided it, it was no longer within the
- Larry Zierler: Alright
- Mike Bensimon: So the applicant is asking us to allow them to subdivide the 10 acres into 2.8 and 6.46, whereas a matter of right, they can subdivide it to 3 acres, however in order to make that work they would have to take a chunk of land from across the street, which now creates a bit of an eyesore and another issue, so as a matter of right, they can do that, but they are asking us, probably to do something more aesthetically pleasing, and subdivide into this one 2.8 acre lot, which is continuous and you don't have to go across the street to get to the other part of that property.
- Paula Kay: It makes more sense legally too, and from a planning perspective, because you have the entire parcel, each parcel is on one side of the road. Yes, they could do it the other way but I think for potential purchasers, it just doesn't make sense from a planning perspective.
- Steve Burke: To have .28 is just dead on the other side of the road, just for the sake of making it (inaudible) makes no sense to me, anyway
- Larry Zierler: So this is land though, and you could build a house if you approved it.
- Paula Kay: Yes, on the other lot, on the 6 acre parcel
- Steve Burke: Anything else, anybody else would like to speak
- Angel Martinez: No, Thank you
- Steve Burke: Do you have any questions, anybody, anybody have any questions? Kind of like we gotta (inaudible) also realize that the .2 acres on the other side can be done, but it's useless. That's the way I feel, anybody here from the Public? Please step up, state your name and let us know what you would like to say.
- Henry Modeno: We live right next door to you and see our property on the thing. I like to say that I took my time, the last time we came, we weren't really aware of what was going on. So I took the time to speak to and go around their home, they did in fact make the home that you guys see in the picture, they made it very beautiful and they added a lot to the neighborhood. But what they plan to do next is going to interfere very heavily with our own property already. I have a picture of what he plans, I'll just say what he plans to do. I spoke to him directly and he plans to make an entrance right here to make access to his house. The last time we came someone was supposed to go and check if there's actually even access there and I called the city a couple of times to see if anyone actually showed up to do that. I don't know if that ever happened, but if it did, I wasn't aware of it. So I do not disagree that there could be access there, but what he is going to have to do to have access there is pretty much destroy the whole hill and that is going to affect us directly on our property, because we are right there. I'll show you a picture here very quickly. I only have one, I'm not as prepared as other people, I apologize, what I'm pointing to is roughly my property will end at that speed sign, and I'm pointing to where he is planning on making the access. You can see it's all green land, it's all a hill, I don't disagree he can build something there if he wants to, where there's a will, there's a way, if you have the money, you can totally do it, but I believe that it will destroy most

of our view from the house right there. You can see my house, you can see the fence in my house right there, that's my house and my property right there. So we've been living in this property for three years, we bought it specially for the situation that it was in, it's very unique. All of the appraisers that came in after we bought the house said they've never seen a house like it. We have a stream going up the right side of our driveway, the house is situated well above the street level as you can see. Our situation is very private, very unique you're never going to find anything else like this, we had to look for a very long time to do that, we haven't been able to replicate it anywhere else. So I have no position to anyone making money and buying land and splitting it and making it into new homes. But when it interferes directly with my way of life, I have to step up and say no. My wife and I both have a very unique situation where we get to spend a lot of time on our property, we're not 9 to 5 people, we specifically picked this property for that reason, we feel that building a house right behind our home, on higher ground will pretty much negate the privacy we have now, that we enjoy on our property. He will be destroying all of the valuable green spaces that we feel are very strongly for our quality of life just to build his driveway, we've spoken to all of our neighbors, all of them are against it, I was told to come in here

- Steve Burke: That's what he said
- Henry Modeno: Yes, that could be hearsay, understood, they texted me and told me that they were going to come, but the rain probably stopped them. Disregard that, it doesn't count. So I would also like to point out, if you guys owned the property that I owned and the way that it was set up, no one would be happy with someone coming in destroying the field to make a driveway so they can build a house behind your house. Which literally they would be able to see into our bedroom from where they are, it's that close, we have a greenhouse that would be 100 feet from the home, it would be up the hill, higher up. Now I specifically walked the area with him, and I asked him for permission to walk in there and look around, just so I know specifically what it is that he was planning to do because again, I don't want to destroy his idea, I didn't want to just show up and say no for whatever reason I wanted to be sure that this is what it was going to be what it was and once I spoke to him, I really couldn't really go along with what he was trying to say. I understand this is just for the split, it's not really for the home, but this is the first step of the whole thing, and we can't possibly agree to this
- Steve Burke: I just want you to know, and I don't want to interrupt you, that you are addressing something that isn't there. We are really talking about the house that is there so everything in there that you just said, has nothing to do with the variance that this man is asking for.
- Henry Modeno: Well the destruction of the hill
- Steve Burke: Destruction hasn't taken place yet
- Henry Modeno: Like you said last time, we can't let the property be split if it doesn't have a valuable use, I know the point. Did anyone actually go and check to see if there's an actually entry way there, because last time
- Paula Kay: Sir, that was the Planning Board, this is the Zoning Board meeting,
- Henry Modeno: No, what I'm trying to get at
- Paula Kay: Right, I understand

- Henry Modeno: You guys said that you were going to check if there's even a way, because if there is no way, you guys cannot allow it.
- Paula Kay: But again, that's a different board.
- Ellyane Hutchinson: This board is just the subdivision, so we were not aware of any of the Zoning issues
- Henry Modeno: This is not the same thing like last time
- Paula Kay: No
- Henry Modeno: Ok, so last time was Planning Board and this is
- Ellayne Hutchinson: Zoning Board
- Henry Modeno: But they were going to have someone from code go in and see
- Paula Kay: Yes before the Planning Board
- Henry Modeno: If there is no access, then you guys wouldn't be doing it anyway
- Steve Burke: If there is no access he wouldn't be able to do what he wants to do
- Henry Modeno: What I understood, was you couldn't split it if there was going to be no access.
- Paula Kay: Sir, the Planning Board is going to look at those issues, when and if it gets back to the Planning Board. What's at issue tonight is whether or not the Zoning Board permits that they grant what's known as an area variance to allow a lot that is smaller than 3 acres, that's the only thing at issue. Assuming that the Zoning Board does grant the variance it will go back to the Planning Board to determine or not if there is a valid access that works and where that access should be. But that's not something that's really on the table tonight.
- Henry Modeno: Ok, then it was my misunderstanding, I apologize. Ok, then that's where I will end it, I have no valid point.
- Steve Burke: No issues on separating
- Henry Modeno: Well I know what he is planning to do, so I have an issue with it already, but if he is just going to split it and leave it like that, I guess what can I say, it up to you guys.
- Steve Burke: Anybody else
- Marisol Torrens: I have one person live, Gary Koutcher, do you want to speak, no. Ok, he don't want to speak
- Steve Burke: Anybody else from the Public
- Henry Modeno: I have a quick question, will there be another meeting like this for the process as it continues on
- Steve Burke: No, we'll close the Public portion. Board comments
- Mike Bensimon: Just to address what you were mentioning, that is something that would concern me, as far as the access, the tearing down of all of that stuff, however it is on a County road with a County bridge right there. They are going to need approvals from the County, the DOT. It's going to be a long process for them to go that route, just for the driveway alone, I think there's some regulatory safeguards there for you going forward. However, just so you know, if we vote to deny tonight they can as a matter of right, subdivide this with that little piece of property across the street.
- Henry Modeno: I understand.
- Mike Bensimon: That's kinda what we are looking to prevent, that's going to create a

number of issues when you do something like that. Just on that little piece alone, I think that's what we are kinda focusing on right now, there are other avenues and if that's how we go, hopefully the Planning Board will address that and we can be done in a way that everyone is happy.

- Steve Burke: And I agree with what Mike said, it is going to have to go back to the County, they are going to have to look at it and get the approval on, it's a County road, you just can't put a driveway anywhere you want, it's a County Road. I mean you can, but it's not legal. Ok, so any violations? So let's run down on some of the criteria on this one as well. Whether the benefit can be achieved by other means visible to the applicant
- Yes
- Steve Burke: Undesirable change in nearby character
- Larry Zierler: That's a tough one, I can't say that I would be prejudice by what I heard,
- Steve Burke: Is that a yes
- Larry Zierler: That doesn't change anything, it's a fact, It's a discussion that led into a certain place, it's making it very difficult for me to consider this.
- Steve Burke: So in other words, if we change that, and if we don't, he can move everything around, let me make it easier for you, he can leave everything right where it is, and just go ahead and take those .2 acres on this side, if we give him the variance he's doesn't need to do that, is that going to change anything, is it going to make it undesirable?
- All say no
- Steve Burke: Whether the request was substantial
- No
- Steve Burke: Will the request have adverse physical or environmental effects
- No
- Steve Burke: And whether the alleged difficulty is self created?
- One No rest Yes
- Steve Burke: Ok, so Lead Agency, motion accepting?
- Paula Kay: No go,
- Steve Burke: Don't need it?
- Paula Kay: No it's a type two action
- Steve Burke: So do I have a motion
- Motion to approve
- Second
- Yes
- Steve Burke: So you have your variance.
- Paula Kay: So now that the applicant and the members of the Public understand, it will go back to the Planning Board, and the Planning Board will take up all of these issues, including someone from Code Enforcement.
- Steve Burke: Motion to close
- All in favor.

