

Minutes of the Town of Lake George Zoning Board of Appeals regular meeting held on October 17, 2013 at 6:00 pm at the Town Center, 20 Old Post Road, Lake George, New York 12845.

**Members Present:** Whitney Russell, Chairman  
Thomas Jenne  
Janie Green  
Peter Bauer  
Peter Keating

**Alternate Members:** Karen Hanchett

**Also Present:** Keith Osborne, Adele Behrmann, Curt Dybas, Richard Barton, Michael O'Connor, Dan Pasek, Jim Grey, Chris Ryan, Fred Early, Chuck Chisolm and others.

Chairman Russell calls the meeting to order at 6:00 p.m.

**Acceptance of Minutes:**

The minutes of September 19, 2013 are not ready.

**PUBLIC HEARINGS**

**Chairman Russell:** the minutes for September 19<sup>th</sup> are not ready and so we don't have to worry about accepting them. The first applicant of the evening is Chris Ryan who has asked to be heard at the end of the meeting and so we'll wait until he comes in and then we'll review his application. Our second item on the agenda is:

1. **Application for Area Variance AV18-2013 submitted by Curtis Dybas as agent for Richard Barton requesting relief from the shoreline setback requirement of the RSH zone for proposed relocation of deck stairs; for property located at 3 Rose Point Lane. Tax Map #264.07-2-6. Lot size is 0.15 acres. Zoning Classification is RSH and code reference is 175-16.**

Peter Keating asks to recuse himself since the applicant is his neighbor; Karen Hanchett joins the Board in his place.

Chairman Russell asks Tom Jenne to read the application into the record. Tom Jenne announces that generally the first area variance is read completely so that everyone knows the criteria involved and the variance and then the following variances are shortened to pertinent information only.

**A motion is introduced by Janie Green; seconded by Karen Hanchett to accept the application as read.**

**All in favor, motion carried.**

**Curt Dybas:** for the record, Curt Dybas representing the Bartons. I was before this Board I believe in March for an area variance for this new home on a non-conforming piece of property. That was granted; the home is under construction on schedule and hopefully by January or February it will be completed. The Bartons, once we had the home framed as the photographs show in your packet and by-the-way there was also a dock that was constructed in the late summer, they walked out the stairs onto the covered deck and said "that's the way we want to go to our dock." I said "well, we have a stair that goes to the north," and they stated that they don't want to go that way. I told them that we have to go to the process because the stair will encroach on the 50 ft. setback, which is why I am here this evening. Before you the request is to move the stair and I believe it would project 3.2 ft. into the setback; it is an uncovered stair, there is no roof above it, supported by raisers and in reviewing the site we've eliminated stairs that are on the site by giving back 14 sq. ft. permeable area. We are basically reducing the amount of impermeability and constructing a new stair which is basically the short of the request before the Board.

**Chairman Russell:** Keith, I am going to put you on the spot. When we originally did this, that stair going to the north would have been within the variance that was approved because that side of the building was one of the areas that we granted the variance for.

**Keith Osborne:** I can't speak to that because I wasn't here at that time but it does sound consistent.

**Chairman Russell:** ok, I'll ask you Mr. Dybas; I believe that that stair on the north side was part of the discussion and that it encroaches on the property on that side.

**Curt Dybas:** that entire area north side of the building encroaches on the 15 ft. setback. The variance was granted for 7 ft. As you recall the original structure was less than ½ ft. from the property line in fact the roof overhang was over the property line.

**Chairman Russell:** the next question I have for you is that you're talking about 4 risers, on the plan that you presented to us the last you were here you didn't have your planting plan done. After that you went to the Planning Board and the planting plan was approved by the Board. So, my question is with the rain gardens that are going to be installed in the front will they raise the grade?

**Curt Dybas:** no, the grade will stay the way it is currently on the site; those rain gardens will be incorporated into that lower area. The original site is basically the way it is, you have an upper level and a lower level on the lakeside; that hasn't changed.

**Chairman Russell:** that's the only question I have, does anybody else have anything?

**Karen Hanchett:** so basically coming off the side of the covered porch vs. coming straight off the porch and therefore causing the variance request?

**Curt Dybas:** yes, you come out and you come out the sliding glass door and you turn left and the front of that structure is 50 ft. from the lake right now and just a click over and so the stair would encroach into that 50 ft. setback. The stair that was approved back in March, you walked across the length of the porch and down was facing north.

**Karen Hanchett:** you walked down the stairs but coming down the stairs you're still facing the lake.

**Curt Dybas:** no, you're coming down facing north.

**Karen Hanchett:** you're coming down facing north and then you have to walk around.

**Curt Dybas:** yes, where now you have come out the door, turn left; go down the stairs facing the dock.

**Karen Hanchett:** it's a matter of esthetic I guess.

**Curt Dybas:** the picture that's in your packet is taken from the end of the dock and it's looking right at that covered porch and if you look at that opening you don't see the door because the door is on that right end wall.

**Peter Bauer:** Mr. Dybas was your client aware of the north facing stairs back in March?

**Curt Dybas:** yes it was on the drawings.

**Peter Bauer:** and they didn't anticipate any problems with that?

**Curt Dybas:** no, they didn't.

**Peter Bauer:** was there a decision or conversation made about withholding it at that time so that it would make the variance passing a little easier?

**Curt Dybas:** no.

**Peter Bauer:** do you anticipate coming back for any other variances?

**Curt Dybas:** no.

**Tom Jenne:** if I understand this correctly and please let me know if I do understand it correctly, you were given 14 sq. ft. of permeable surface back again reducing the setback requirement that was given to you by 4 or 5 ft. and now you're only

asking for a little bit of uncovered stairs heading towards the lake which would impede about 3.2 ft. into the 50 ft. setback, right?

**Curt Dybas:** yes, that is correct.

**Chairman Russell:** the stairs that are on the south side that you're showing on your application as being deleted, was that a landscape stair or a wooden (interrupted).

**Curt Dybas:** that was a hard surface stair and again as an afterthought but there is no reason to go that way, to come down and face Bailey's house. There is no reason to proceed in that direction and so we just eliminated it.

**Chairman Russell:** does anyone else have any questions, comments or concerns? Ok, I guess we're ready to open the public hearing. If there is anyone in the room who has any comments on this and because this is the first item of the night I'll just repeat what I do every time and that's that we ask that you keep any comments you have directed towards the application. Remember that you're speaking to the Board and not the applicant, if you have any comments or concerns please direct them at us and last but not least, keep them brief. We try to stick to the 3 minute time frame, it rarely works but we would appreciate it if you keep them brief. With that being said is anyone in the room that would like to speak? Alright, there being none for the record I would like to entertain a motion to close the public hearing.

**A motion is introduced by Janie Green; seconded by Tom Jenne to close the public hearing.**

**All in favor, motion carried.**

**Chairman Russell:** alright, any more questions for the applicant? (No response). Then I will entertain a motion if anyone would like to make one.

**A motion is introduced by Tom Jenne; seconded by Janie Green to approve Area Variance 18-2013 as submitted.**

**Peter Bauer:** I will be voting against the motion, I voted yes for this variance back in March I believe, in driving by and I tell myself in review of these things that the finished product is always worse compared to what you see on charts and maps; it is a jarring place in that neighborhood. I have been for 10 months at these meetings and I think I had that one wrong, I am troubled that I voted for it because I don't think it's a good project by the lake and I think yet again this is another bite at the apple; I realize that the rest of the Board doesn't share that sentiment most likely but I'll be voting no on this and I regret my vote back in March.

Tom Jenne reads in the criteria for the approval:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***It will not because it is a matter of 3.2 sq. ft. and this variance is a matter of some stairs.***

- 2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***Yes there is; they could leave it as is, as approved as the stairs facing the north.***

- 3) Whether the requested area variance is substantial.

***Absolutely not.***

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***No, not with that 12 sq. ft. of change.***

- 5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

*Sure it was self-created but it's not detrimental enough to award a denial of the variance.*

Ayes: 4 Green, Jenne, Hanchett, Chairman Russell  
Nays: 1 Bauer

**Motion passed.**

Board Member Peter Keating joins the Board while Karen Hanchett steps down.

2. **Application for Area Variance AV19-2013 submitted by LG Plaza, LLC with Michael O'Connor, Esq. as agent proposing a 30 ft. tall, 160 sq. ft. freestanding sign; relief requested for height and size of proposed sign. Further, applicant proposes 10 wall signs on the main building; relief requested from total signs count and size; for property located at NYS Route 9 and Prosser Rd. Tax Map #211.03-1-12. Lot size is 9.05 acres. Zoning Classifications are RCG & TC-A with code reference 175-32.**

**Chairman Russell reads the application into the record with correction required as follows:**

- SEQR should be indicated as a "yes" on the application since it is an unlisted item.

**Tom Jenne:** I'd just like to mention that I don't believe that the application is complete in its entirety due to the specific variance requested section where there are no criteria as to the amount of the variance; whether it'd be placement, number and height limitations. There is a variance being requested that has no specific criteria to it and so I have a problem with the application.

**Michael O'Connor, Esq.:** Mr. Chairman the specifics are included in the letter from the Zoning Administrator which is included with the application as a reference. He actually specifies each variance that is required and the denial letter is part of that application.

**Tom Jenne:** it is not attached with the application.

**Michael O'Connor:** it was submitted with the application as part of the application.

Chairman Russell finds the letter in question.

**Tom Jenne:** so how do we proceed, do we (interrupted).

**Keith Osborne:** these are the actual variances they are requesting based on my determination. The received my determination before the application was submitted and included it as part of the application; I don't have an issue with it.

**Tom Jenne:** so, can we add that on to the application?

**Keith Osborne:** yes, it was part of the application; it was submitted as part of the application.

**Chairman Russell:** so do you want me to read the specific variances, will everyone be happy with that?

**Tom Jenne:** yes.

**Chairman Russell:** there are three specific variances that were determined to be needed by the Director of Planning and Zoning. Item #1 was relief requested for height and size of the proposed freestanding sign, which I believe would be the main sign out on the road. The height size proposed is 30 ft. and they are looking to have 160 sq. ft. It is allowed to be 20 ft. in height with 48 sq. ft. and so the relief requested is 10 ft. in height and 112 sq. ft. in surface area.

The second variance requested is the relief in the amount of wall signs. The amount proposed is 10, the amount required by the regulation is one; the relief requested is 9 wall signs.

The third item is relief required for the size of the wall signs. The size proposed for the main sign is 176.25 sq. ft. and the side wall sign is 22.88 sq. ft.; the allowed size is 48 sq. ft. and so the total size relief for all 9 wall signs is 399.73 sq. ft. proposed and 48 sq. ft. is allowed.

**Keith Osborne:** that's a minus from that calculation resulting in 351.73 sq. ft.

**Chairman Russell:** ok, thank you. Minus the 48 that they're allowed is 351.73 sq. ft. With that being said I accept the motion to accept the application as read.

**Tom Jenne:** thank you.

**A motion is introduced by Peter Keating; seconded by Janie Green to accept the application as read with the above correction noted.**

**All in favor, motion carried.**

**Michael O'Connor:** for the record, I am Michael O'Connor from the firm Little & O'Connor, with me tonight is a representative of the project, Chuck Chisolm, and also with me is the contractor for the signs, Fred Early. I think this is a little bit confusing and the simplest way to begin is to actually show you the signs we are requesting and then I will get into the presentation as to why we think we qualify for the variance we're requesting. Fred will describe the signs and where they're going to be, you all have a copy of the colored sign layout, I believe. (he confirms with the Board Members that they have this layout which SW 101).

**Fred Early:** from Signworks in Queensbury. We are the outside sign contractor for Golub Corporation who does business as Price Chopper. This store like many other ones that Price Chopper has been doing is on a smaller scale in smaller towns and villages. In the last few years Price Chopper has been trying to change their image a little in the store fronts and for that reason you're seeing multiple signs across the store front. I would like to draw attention to these smaller plaques which are non-illuminated departmental plaques. Basically for each store that the plaques are placed on, they give an indication to the general public of what they can find in the different departments within that store. Some stores that are larger have more specialized things like sushi, kosher foods etc. but these are more generalized especially for folks who are not local and show up here and the tourist trade which will be a big portion of the revenue for the store. During the season they would like to let people know what they can find when they go in the store and so it is important to them. There is no pharmacy or things of that nature since they just built a pharmacy up the road in the Town of Warrensburg. This is a smaller store, on the larger stores like the one in the Town of Queensbury, when you approach that store you see the full size letters set i.e. the larger letter is the 52" which is the letter C. With the smaller stores we are talking about a 36" letter set. I always ask villages and towns to try to get over the shock of the numbers because by the numbers alone what we're asking for is quite massive but when you actually look at the store, look at the signs, look at the application and the architectural features of what these signs are doing and it has a totally different presence and in fact it becomes quite pleasing. Part of Price Chopper re-imaging effect was to get away from the box store look; technically a large store front, one big sign on one place in the store front and nothing else such as the Lowes and Home Depot kind of effect and by putting the smaller plaques especially with the shape of this plaque which has an older style shape to it. The plaques are aluminum, they have a raised plastic letter on them which is architectural, prism shape letter, it is gold and they are quite pleasant and they are not lit and for all intents and purposes you wouldn't be able to read these plaques from the highway or the road on the approach. Up on the plateau where the store is that's the only place that they are going to be visible and they're really for the public just like the 24 hr. sign because if you approach the newer stores with the darkened glass fronts, the lights are on but you don't know if it's open and so we basically have to tell the public something about the fact that the store is open 24 hours. The plaques are similar in nature, they give you an idea that they might have these other items inside the store and if you're from out of town in any fashion you might want to know that there is prepared food in there which means that one might want to go there and know that there is roasted chicken sandwich or something else that has been prepared and take it out. This is an important feature if you're from out of town and you're hungry, if you are traveling down from Canada, you get off the highway, you spot hopefully the larger sign they are asking for, you come up onto this plaza and you'll have the opportunity to know that when you're in there, you'll be looking for that department and so that's the intent of these plaques but mostly the architectural fact as well as the public information fact. There are a number of them; they are set to give the appearance of smaller shops than the larger storefront which is nicer in smaller towns and villages. I can't tell you how many small towns and village I have been to since they started this type of re-imaging I have had to ask people to look at it from an architectural perspective because from a hardship perspective there is no hardship involved in asking for those plaques; there is nothing I can tell you about needing more store signs but from an architectural perspective which is what many Boards really consider and they say "You know I really like the looks of that," and I didn't think we would get that; they wanted that because they wanted that image. Also with the additional tenants, it keeps the image because the other store front will also have their own signs within that you'll have the village quad kind of look and Price Chopper won't eliminate itself from that effect, they won't have just the one big sign saying "Price Chopper" they like to have this appearance which is the reason we are asking for these signs. The main sign, as you see, has a 36" letter set and it is illuminated with LED lighting which is pretty common; the smaller signs have no illumination. They will only have the ambient light at night or the parking lot lighting and so there is no additional affect to the environment as far as lighting goes and with the LED lights I think we switched them over from neon about 7 years ago and so you'll have a lot less luminal output that you had with old the signs they used to illuminate the store fronts, about

1/10<sup>th</sup> less. You get a nice, smoother look but it is illuminated internally and it doesn't have that kind of aggressiveness that the older signs used to have when they were lit with the neon behind the plastic. We're also asking for one sign on the side wall facing Prosser Rd. We don't know, it is very hard to determine at this point how much of the building will be visible. If you've been to the site, you've driven around and if you're like me when I get there, there is a big mountain of dirt and then I drove up Prosser Rd, I look down and there is a big hole there and someplace in all that mess there will be a store front but it's going to be at a higher elevation consequently there may not be too many of these signs that are going to be visible from the road. Even the 36" letter set if you really take a look at it the larger letter is going to be from here to here and then drop back about 700 ft. down the road from your car going 40 mph or whatever the speed limit is and decide how easily you're going to be able to read these signs. These signs are going to be barely visible, the plaques not visible on the plateau; the main sign and the side wall sign will have, we hope, a little bit of visibility from specific angles on the approach but you know that the store on the plaza is at an oblique angle to the highway so everything is going to be a little more difficult to see. Identification is important for all businesses, although this is in your town, the folks in Warrensburg would like to have a new store up in that area but then the folks that come over the hill from Lake George and possibly from the village to go up there and shop instead of going to Queensbury I think they're going to see that as well. So, this is strictly identification and then an architectural look. Price Chopper has tried in other plazas; they've been in plazas where there other buildings affects, they've adjusted the building, they have peeks on them, they've done all kinds of architectural features but nothing gives you the effect of individual store fronts as a sign with some copy on and because of this copy on it these are just plaques, you could put them there and nobody would say a word but because there is copy they're considered to be signs however I do want you to take them into consideration as being an architectural feature to the betterment of the property. With the pylon sign, I was asked by the property owner to give something that had some type of an architectural look that had an Adirondack look to it. There is stonework on the front of the store so we added some stone work to match down at the base of the sign. The sign is 30 ft. tall and the sign box is 8 ft. x 8 ft. with Price Chopper on it and an 8 ft. x 10 ft. box. There is 80 sq. ft. on top of Price Chopper; it's 80 sq. ft. divided by the tenants that will additionally be in there and so their signs are about 2 ft. x 10 ft. which is what they get for a visible copy area for their signs. If they all had a separate, free standing sign they would not be asking for much and all of their signs for their businesses would be conforming however when you package them all together you get this size sign. If you've been to the property, when you come off the exit ramp, you know that the zoning is a very small angle to see the corner of that property where the entrance is and the reason is because there are other businesses blocking the view of the property itself and so we felt that this size and this height sign would be necessary to get any kind of visibility especially for the tourists, the ones that are coming south and getting off the ramp and coming into that portion of town that they would be able to spot this sign; above and in between there is a couple of telephone poles in the front corner of their property and someplace just to the right or left of those telephone poles is where you're going to see the signs. Coming south it is a little different, you'll have a little better view of the sign but that's it because everything sits at an oblique angle of the highway you have very little viewing time to actually see, take note and make a decision. Traffic wise we always, always have to address the problems of traffic; there is a lot of traffic coming off that exit in the summer time, you know that it is a traffic hazard if you don't spot something and want to make a turn and don't signal in time and so we want to make a sign with a height that could counteract the problems with the traffic so the average person who is not sure where they're going has time to see it, read it, figure out that it is not on the main road, put on the signal and make a left hand turn if he is going north or a right hand turn if he is going south. All of these things are factors in the design of the sign. With that I will turn this over to Mr. O'Connor.

**Keith Osborne:** I do want to point to a clarification from what Chuck said; you're only allowed one sign per parcel and not per business; I just want to make sure that that's clear; each tenant could not have their own free standing sign without relief from this Board.

**Michael O'Connor:** thank you again Mr. Chairman. A little bit of background, this project received site plan approval on April 11, 2012. When the elevations for that site plan received approval these wall signs were all on that building and at that time the Planning Board said that the wall signs and I quote it directly "shall remain as submitted on the plans" and so truthfully we thought that at that time the wall signs were approved. This property then came to your Board I believe in February of 2012 and this Board granted an area variance for setback for an outdoor sales area along Prosser Lane, at that time all the signs were shown on the application and on the elevations that were submitted. It is my position and argument, although I am prepared to justify all of the signs, that we have a grandfathered approval because the Town did not decide to adopt or to enforce the Lake George Park Commission rules on signs until April 28, 2012 which is some 16 months after, it's a long time, I have got the wrong months but it's a long time after the two prior approvals. In that site plan approval there was a specific mention of the pylon sign and our answer at that time was that we would apply for a variance. It said that the pylon sign must comply with the Lake George Park Commission rules and regulations and so I acknowledge that we're principally here for the pylon sign but we're also asking clarification and affirm, if you will, the prior approvals for the wall signs.

**Peter Bauer:** can I just have a clarification and you provided the minutes as part of the package from the Planning Board?

**Michael O'Connor:** I believe I did.

**Peter Bauer:** and that was April 2012?

**Michael O'Connor:** yes.

**Peter Bauer:** and in the minutes, if I am reading them correctly and I may not be, on page 14 it says that they identified 3 waivers that you would need? Is that what you (not clear) about being grandfathered?

**Michael O'Connor:** no, actually what I am talking about is the actual resolution and it's also in the minutes but I am not sure what page it is on.

**Peter Bauer:** the resolution from?

**Michael O'Connor:** from the site plan approval.

**Peter Bauer:** and that was 16 months prior to April 2012?

**Michael O'Connor:** that was April of 2012 not 16 months but 12 months.

**Peter Bauer:** I am confused.

**Michael O'Connor:** yes, it could be 16 months because it is from April 2012 to August 2013.

**Peter Bauer:** what was the official action on August of 2013?

**Michael O'Connor:** that was when the Town Board said that they would enforce the (interrupted).

**Keith Osborne:** that was in August of 2012 not August of 2013.

**Tom Jenne:** Keith, when were we doing the setbacks on Prosser Road for the outdoor?

**Michael O'Connor:** in February.

**Tom Jenne:** that was February right?

**Keith Osborne:** it was way before they had site plan approval and so obviously before 2012.

**Chairman Russell:** in the motion, items #6 & 7, item #6, this was a motion introduced by Mr. Portes and seconded by Mr. LaFerriere, stating that signs need to meet current Park Commission Regulations in height and size and item #7 was pylon sign shall meet Park Commission Regulations; so whether it was in effect or not they said that they had to comply with that, right?

**Keith Osborne:** yes, it is not a very clean condition either because the next sentence says that all signs are acceptable as submitted then if you go to #6, so hence why we're here.

**Michael O'Connor:** that's why we're here.

**Janie Green:** it's interpretation.

**Michael O'Connor:** secondly, when we talked about signs we went to DOT to see if we can soften our request at all by getting some highway signs exits but we have been told that we cannot do that at this exit. This is part of a construction project that was sponsored with a limitation that you cannot put signs on the highway like you normally see such as available gas, restaurants or names of restaurants that you see.

**Peter Bauer:** is it exit 23?

**Michael O'Connor:** the exit for Warrensburg. The other thing which I think I did submit was an overall site and I highlighted where the pylon sign is going to be. We have also done, and I have a copy to submit to you, a profile of the site and of the signs from where you can see the signs. This is from Route 9 and if you follow that line you can see just below the small wall signs we are talking about; that's what is visible. If you are on Prosser Road and you look over the embankment where the wall is going to be built, you don't even actually see the building. This is taken from the entrance on Prosser Rd. The pylon sign that we're talking about is going to be placed right here and it's going to be below the grade of the platform for the parking; it is probably 2 ft. to 5 ft. below that and you take a look at the showing here the difference in elevations. We're asking for a 30 ft. height that is actually going to be below the parking lot.

**Peter Bauer:** the lines on you chart what increments are they?

Michael O'Connor's comments not audible.

**Chairman Russell:** so you're saying that this line basically here is where the pylon sign located.

**Michael O'Connor:** yes, about 300 ft. from where Route 9 is; distance and size I think have great importance to each other. This is not a sign that is going to be 15 ft. off the highway.

**Tom Jenne:** so, these are 50 ft. increments.

**Peter Bauer:** so it's 32 ft. up Prosser and 300 ft. off of Route 9? 150 ft.

Several members agree with Peter Bauer's statement of 150 ft.

**Tom Jenne:** these are 50 ft. increments.

**Chairman Russell:** so the grade that's there now, the slope that they have started to create that they've got some grass growing on, they are going to be probably about 2/3<sup>rd</sup> of the way up that rise as well?

**Michael O'Connor:** I believe so. If you look at the other map that we have, I don't know if you can relate that directly to the structure, but on this map here you'll see that they have (He directs the Board Members to a map however his comments are not audible). The sign that we're talking about is right here. This is an internal retaining wall which actually lowers the site and the sign will be located near the road coming in. If you look at the map there, the area in orange is the visibility of the pylon sign if you're traveling east and it is 950 ft. that you'll be able to see that sign, you have get past this building to see that. If you're traveling in a westerly direction, the visibility of the sign is 350 ft.

**Chairman Russell:** which is basically from the garden center building down to the other side of the Mobil station.

**Michael O'Connor:** yes.

**Peter Bauer:** how high is that wall?

Michael O'Connor does not know the answer to the above question but refers the question to Chuck Chisolm whose reply is that he is not sure.

**Peter Bauer:** is this basically like the Lake Placid store?

**Chuck Chisolm:** no, the Lake Placid store is 40,000 sq. ft. while this is 30,000 sq. ft. We just built a store in Alexandria Bay that has the same footprint and is comparable to this one.

**Peter Bauer:** and the one in the Village is?

**Chuck Chisolm:** the one down here is about 8,000 sq. ft. The one on Cooper Street in Glens Falls is probably around 20,000 to 25,000 sq. ft. (The remainders of his comments are not audible since he is away from the microphone).

**Michael O'Connor:** the other two areas that show, this is the visibility site of the building. It looks like this is going easterly by the way they have it set up and this is the building view here which is 325 ft. The site itself is unique, this is not a store that's built right on the highway; when we went through all the approval processes including those before the Industrial Development Agency, this was approved as a Tourist Designation because it is going to serve as much of the local

people, people that are here in campsites, motels, people that aren't familiar with the area. Yesterday I heard someone say that they have two levels of business in the same store; one level is for the summer and the other for the winter.

**Peter Bauer:** I guess that's my question. You talk about in the previous presentation about people casually driving by meaning new business to people that are going grocery shopping, they know where they're going.

**Chuck Chisolm:** there are two different kinds of stores; there are stores that basically service a conventional type of trade area, people know it's there and go there on a regular basis and then you have stores like this store in Lake George where there is almost probably (interrupted).

**Peter Bauer:** but even if it's seasonal (interrupted).

**Chuck Chisolm:** 5 to 6 times difference between what we do in the summer time vs. what we do in the winter.

**Peter Bauer:** that's not casual, people still know it's there.

**Chuck Chisolm:** true. For this store to be successful it will have to capture the tourists coming into Warren County after driving 20 to 25 miles; they're going to get one shot at seeing the store.

**Peter Bauer:** my point is that they'll know it's there, they know it's at exit 23.

**Chuck Chisolm:** no, the problem is that it will take three to four years. There are a lot of people that come up here, how many people vacation in an area and you might go there once every couple of years and particularly in this area where there are a lot of campgrounds; I think there are five or six campgrounds within 10 miles of the store which is repeat business. We get one shot when they come in for them to see our store because once they are passed and are going across the bridge they are not coming back.

**Peter Bauer:** and you have data about the people that come to your stores whether they come by casually and they did not know it was there and they decided to stop (interrupted).

**Chuck Chisolm:** when we projected this store, we projected seasonality to it and for this store to be successful we need to be able to capture that seasonal business.

**Janie Green:** Chairman Russell I have to excuse myself, I have to leave but I'd like to make a comment on the sign, the greater variance for the height; if I could stay and vote on it, I would vote yes for this application. Signage has always been an issue with the Zoning Board because our Town does not have a clear code on signs which is why the Planning Board suggested on going on the regs of the Park Commission. I personally do not agree with that; in the past we've always called a sign a structure. Our code says that a structure has a height of 40 ft. and this is 30 ft. and so I don't have a problem with this; it is going to be a successful business and add to our Town's economy and I'd like to say that I would definitely approve it.

Janie Green leaves and is replaced by Karen Hanchett.

**Michael O'Connor:** the applicants have tried to make this as unobtrusive as possible but it still has to function and there has to be a balance. What is the visibility of this site, how will people identify it. People will get used to it but they are still going to be coming in the first time and they are going to see "Ok now we have to go shopping," since you don't necessarily bring all your provisions when you go to the campsite or cabin that you're staying at and then they are going to say "where is the closest full service grocery store? It's in Warrensburg near the exit." They're going to come and will be looking for groceries; it's not going to be a casual drive in the country where someone says "oh, it's time to get groceries." They're on a mission but when they get down there they're going to be wondering and that's not a good thing from a safety point of view. Someone may tell them that it's just across the bridge or look for it across from McDonalds; these people are going to have a better time since they are going to be better able to identify it but an awful lot of people aren't. If you take a look at the backside, look at this here, who are we impacting by the sign, not a great deal of people. Everybody that has a view of it is a business, they have their own signs; they actually have signs closer to the road not necessary the same height or size but probably more effective signs that we do. We're not trying to compete with them but it's not something new to the character of the neighborhood, it is so unobtrusive that it really doesn't affect the character of the neighborhood. If you go through the 5 criteria for an area variance, I think we meet each one of those. Will it have an impact on the character of the neighborhood, I don't think so. This is a unique piece of property because it is hamlet zoned in fact I do believe that it is the only piece in the Town of Lake George that's hamlet zoned; the Village is but the rest of the Town is not.

**Keith Osborne:** Mike, you are correct, it is the only piece in the Town that's hamlet zoned.

**Michael O'Connor:** that's one of the reasons that the applicant went there. It has a local commercial zoning and it's the only place near the Northway that is hamlet and the only place where you can get that type of operation. This is a good profile of the site, unfortunately it isn't built, we can't go and put a balloon up showing this is 30 ft., here's 20 ft. or whatever. At 20 ft. the sign is now here and actually from a practical point of view you have an immediate wall behind it of 6 ft. to 8 ft. We have looked at alternatives and we don't think that there is anything that can be workable.

**Chairman Russell:** I have one question for the gentleman from the sign company; I am sorry I don't remember the name, I should have written it down. With this drawing that you've submitted showing the view lines, it's a pretty strategic point that you've picked to put the sign in by your drawing.

**Fred Early:** it's the only place where it can be seen heading north as you turn off the exit ramp. You've been up to the site so you know that when you get off the exit ramp or even coming down on Route 9 you've got lots of visual competition; when it's busy up there, there is a stream of traffic, you're watching the people as you make that yield sign as you get into the stream and so you're looking back this way, the Mobil has their stuff, the Dunkin Donuts has their stuff, McDonalds has their stuff, they're right on the highway, they're the first thing you see. Now you look across the street, what do you see? You see a motel, you see another building, you see a bunch of cars and trucks if they have them out and then if you're lucky you're going to spot this sign at that oblique angle. Look at the angle of Prosser Road to Route 9, this is not a straight on view, you're looking at something out of your car window at a drive time of 2 seconds if you're lucky; that's how much time you have to spot this and then it's all over. If you put a little conforming sign there at 20 ft. and I'll give you an idea what happens, I tried to make one at 20 ft., that's 24 ft. the box will actually be on the ground; they're totally useless and so allowing a sign that's totally useless is worse to give to a business than allowing a sign that might have a chance. Giving them a chance is allowing a very tiny window to view this sign and this structure and you still have to read it and these letters are not at all the size of the letters on the building. Now, if there is a bank in there which is the top tenant and you don't know what that bank is because if you're from out of town how are you going to know that that is a bank in the plaza and it's your bank unless you can spot it. When talking about visual hardship, this is it; this is a distinct visual hardship unlike any other properties along the Route 9 corridor in this area and everything is commercial there and everybody is looking for attention and that stream of traffic in the summer time there is deadly. You have to picture yourself and coming from out of town; you have to go to another town and try to figure out where things are when you don't have an absolute clue where they are; that's what we are trying to deal with. Local Boards don't get that because you're local and know where everything is but when you're out of town, you don't know where it is and you're so happy to see a sign that says whatever is you want so you can get there. We're hoping in fact that this sign will be adequate to do the job at that particular angle at that kind of distance.

**Peter Bauer:** I can understand all that, the hardships and the challenge that you're facing but you must realize that it's a challenge completely 100% of your own making, right? You went into this with your eyes wide open, not you but Price Chopper which is a very successful corporation, they know what they're doing and so to use the word hardship I think it's a real stretch. It's a real challenge for you to make it work but you guys went into this with your eyes wide open.

**Michael O'Connor:** I don't agree with that because there is a great deal of practical difficulty here. There is a great individualism that makes this site unique; the only qualification that we have for this type of variance, they touched for a minute on the fact that part of this 30 ft. is architectural to give it the Adirondack look. You can actually look at the body of the sign you're talking about two panels that are 8 ft. high each and so you have 16 ft. of advertising on that. If you take the top off and you move the sign to the upper level it might be shorter but it needs to be someplace where it has visibility.

**Chuck Chisolm:** the further back we go on the sign, the less visible it is.

**Chairman Russell:** that's kind of, when I looked at this originally prior to hearing your proposal one of the things I looked at after visiting the site was that you're going to put this at the bottom of the hill, the hill is 10 ft. tall you have a 30 ft. sign at the bottom of a 10 ft. hill if you put the sign on the top of the hill you have a 20 ft. sign and you get the same profile but what that is going to do is that it is going to move it back which is going to affect your sight line.

**Michael O'Connor:** you can do a mathematical thing, I can't do it in my head but at certain speeds what is your visibility? I am doing one on the Northway right now where there are two sites, one is 20 ft. at 55 mph and the other is 12 ft. at 65 mph, you really cannot be driving when you look at that. This has been supported by the Town Board of the Town of Lake George, by the Town of Warrensburg, they've entered into other district users contracts, was supported by Water and Sewer, the Warrensburg school district who consented to a pilot agreement.

**Chairman Russell:** we approved the variance for it.

**Tom Jenne:** yes, but it had nothing to do with the signage. It was handed in but we were looking at one criterion only and that was setbacks for the outdoor sales area, it had nothing to do with how pretty the building itself looks, I just want to make that clear.

**Michael O'Connor:** that's why we made the presentation asking for the variance this time. I discussed it with Keith to make sure that there were no issues in submitting the application and include those signs in the application. Those signs at a minimum are more of an architectural feature. If you look at the site here, those signs are 614 ft. from the place where they're visible and I think they're 14 sq. ft.?

**Fred Early:** yes some of them are 14.7 sq. ft. and some of them are 25.7 sq. ft.; the longer ones are 25.07 sq. ft.

**Michael O'Connor:** the lettering on there is 10" tall which even with my glasses I probably can't read it from 600 or 700 ft. from Route 9; they have no significant impact.

**Chuck Chisolm:** I just want to add that for some sites signage isn't important if they are very visible and sit on the road; generally you try to put the building in the back with parking in the front, this is not the case here. When we first got into this project we weren't sure where the building was going to sit and what the grades would be; the building moved several times and the site plan changed several times. Originally the building wasn't going to sit up as high as it is going to be but it ended up being a lot of give and take and spending a lot of time on the site trying to determine where the ledge height was. This is also unique in the sense that it is a tourist driven location and we believe that it is going to be a successful store but how successful it is will also determine how many jobs we bring in and how many people we hire.

**Michael O'Connor:** one other point I'd like to make, this is the submittal we made with the site plan and at the time with the area variance. They downsized what's on here, the entire glass across the front of the building and tried to make it look "Adirondacky" and not like a big box store. (Some of the comments are not audible and clear). Keith, I am not sure, you talked about wall signs and said that there are 10 does it include the directional signs?

**Keith Osborne:** and thank you for bringing that up. In reality there are 9 wall signs at this point and so the relief is actually 8 for the wall signs, I must have miscounted somewhere along the line and so the relief is actually less and not more than advertised.

**Tom Jenne:** so, what do we do that as far as entering that into the application because obviously now this is a part of the application and so can we just state that the application has been revised?

**Keith Osborne:** yes, you can state that especially since it is less relief that they're asking for as opposed to my determination.

**Tom Jenne:** right, so let's make a statement that the application has been changed in regards to the relief requested for wall signs to make the relief requested go down one wall sign from 9 to 8.

**Michael O'Connor:** applicant so stipulates.

**Keith Osborne:** potentially I may have counted the "Open 24 hours" sign but that's really not part of this at all.

**Chairman Russell:** the Price Chopper illuminated sign on the side of the building is one of those 8?

**Keith Osborne:** you have 7 of those bakery/deli signs and then 2 of those wall signs.

**Chairman Russell:** the "24 hours" one we said it is not part of this but we have the main Price Chopper Logo over the entry door and the Price Chopper Logo on the side wall that are illuminated and everything else is just on the building.

**Tom Jenne:** so, how does that fit in because you have 7 of the wall signs and then you have 2 Price Chopper signs? Oh, ok the "24 hours" was not considered a sign.

**Keith Osborne:** that's correct.

**Peter Bauer:** and what is it?

**Keith Osborne:** it is just a "24 hours" sign, it's not a brand. Those 7 deli signs, those are Price Chopper brand and that's the way I treat them.

**Fred Early:** actually one of them is almost a directional sign.

**Keith Osborne:** it is for the models but it is part of that suite signs.

**Chairman Russell:** one of the other issues is that we have to weigh here is that this is the first application of this sign ordinance if we want to refer to it as that and so anything that we do from this point forward we are definitely laying some ground work.

**Keith Osborne:** you're saying precedence but obviously every application stands on its own merits.

**Peter Bauer:** can you explain that to me? Why is this the first, is it because prior to this the Town had not chosen to adopt the Park Commission standards for sign?

**Keith Osborne:** two administrations ago and I am not sure of the date but it goes back in the 90s, the Town Board elected to pass a resolution stating that "we will not be enforcing the sign code." This administration came in and overturned (interrupted).

**Peter Bauer:** did everybody have to go to the Park Commission to get a sign or they just didn't do it?

**Keith Osborne:** the Park Commission didn't enforce it either, absolutely no one enforced it.

**Peter Bauer:** so the sign at the Forum which is not a small sign did not receive a permit or was it part of the site plan?

**Keith Osborne:** I am not sure if they received a permit however I am sure that it was reviewed as part of the site plan.

**Michael O'Connor:** that was before the Forum was built and before my connection with the Forum and so I can't tell you how happened.

**Chairman Russell:** alright, does anyone else have any other questions for the applicant; we can start moving along here a little bit.

**Tom Jenne:** I just want to make a question/statement, Mike had said that the setbacks when we as a Board approved the setback variance on the Prosser Road side due to the outside sales area, that those features were on the schematics that were given to us, the walls signs and also the pictures of the building even though it was with the glass front. I just want to make clear that as I was also part of making the variance decision that at no time I have whatsoever considered the aesthetics of the signage as being part of the decision for the area variance and hence as far as I am concerned it had no impact on the decision and also was not seen as an approval of the signage since that was not part of the criteria.

**Michael O'Connor:** at that time the Town did not have a sign ordinance or it had elected not to enforce a sign ordinance and so it would not be an issue and we would not have talked about it.

**Chairman Russell:** so, basically the whole point is irrelevant, is that what it boils down to? The fact that it was on the print it does not make any difference because now we have a sign ordinance, they want to put signs up now and we have to follow the sign ordinance.

**Tom Jenne:** right but I just want to make clear that just because it was there it had nothing to do with the variance or the approval factor; it was not accepted or approved.

**Michael O'Connor:** respectfully there may be a different legal basis on that but I reserve my right to challenge that if that's an issue because typically before you get an application to the table, a decision is supposed to be made as to what if any variances are required and there was no requirement for a variance for those signs and so that was part of the site plan obviously; they even mentioned the wall signs as part of the site plan.

**Keith Osborne:** it is not easy the way the Planning Board left it to be honest with you; it's not easy with the way that the Town was handling signs. When the current Board enacted to enforce that code, it is specific in the Resolution and it states "any new applications for signs must be compliant," and that's the basis for my determination.

**Chairman Russell:** if things don't go the way that they are requesting, he just stated that he is going to reserve his right to challenge our decision and go back on that which I don't have a problem with because it is his right. As far as what Tom said, that wasn't part of what we looked at; it wasn't part of the plan and it up to a Judge to figure it out.

**Michael O'Connor:** lawyers are very afraid of silence.

**Chairman Russell:** we're going to leave that alone and go back to where we were.

**Peter Bauer:** one last question and I get your argument about the limited amount of time that your potential customers have to see a sign from Route 9, please don't go there with your answer, I get it, I have heard it and I am sensitive to it. My question though is that this is a massive structure, a billboard, it's unlike anything else you see in Warrensburg, it's unlike anything else you see in Lake George. You've done a lot of signs around here, Price Chopper has done a lot of these projects it is not like for some of the reasons you stated; this is huge, help me understand why it is not such a big deal to approve something that big and I'd rather hear from your two people (interrupted).

**Michael O'Connor:** the only thing I would add is that the topographic features of the site and sign locations are significant to that because if you actually look at the advertising panels it is not the size (remainder of comments not audible).

**Fred Early:** let's fall back to conformity, let's talk about conformity. If you take one side of the wall at 48 sq. ft. and look at the sidewalk sign at 78 sq. ft., half that, squish the sign down which proportionally the sign will come down this way and then consider that that would be the only sign for this building on this property and then all the other tenants, of course, on a 48 sq. ft. sign would be little tiny panels below some portion that was given to Price Chopper.

**Chuck Chisolm:** I think the question was directed to the pylon, was it not?

**Fred Early:** well for all the signs, I am just saying because I want you to consider conforming because if you say no then we have to conform and this is what would happen. So now at 20 ft. in the air, down at that grade at 48 sq. ft. with 6 tenants, Price Chopper and the 5 other tenants, you'll have a sign that at that kind of distance you're going to see a little tiny slot about maybe 6 to 8 ft. wide and it's going to say somebody's bank, etc. and you won't have a clue what that is. That's the problem that we're facing, if a Board brings us into conformity just to make us conform then we have a serious problem with the viability of the project. You have approved the project to be there and that you take away the signage at this scale and then suddenly it is being reduced to a place where it really is not affective and no one will see the place or the other businesses. In fact the other businesses can't be seen unless you're on the property and so without their little sign they don't exist at all to the public.

**Tom Jenne:** Keith, I have a question as far as, might as well open up a can of worms and make it good, let's say TD Bank and Chuck's Barbecue when they ask for a sign on their part of the structure or the premises they have to go through the whole thing again, right?

**Keith Osborne:** each business is allowed one wall sign.

**Tom Jenne:** each business is allowed a wall sign, that's already in there and they're saying 48 sq. ft.?

**Keith Osborne:** that's correct and I might sound like I'm siding with them, most codes typically allow a 100 sq. ft. sign.

**Tom Jenne:** what I am asking is that each business will be allowed to have a sign even though they're not owners or it is one parcel (interrupted).

**Keith Osborne:** yes, it's specific; it says each tenant is allowed to have one wall sign for tenant but you can only have one free standing sign on which you're allowed to have tenants on it if you so allow that.

**Tom Jenne:** so, could each tenant use the space on this sign as their sign.

**Keith Osborne:** on the free standing sign?

**Tom Jenne:** yes.

**Keith Osborne:** if they so choose but they would also be allowed to have a wall sign also.

**Tom Jenne:** so they can have one or the other.

The Board Members advise him that they can have both.

**Peter Bauer:** they can choose to have one but they can have both.

**Michael O'Connor:** that's the reason why the pylon is as large as it is; it is to allow space from the tenants because from the highway they have no identification. The wall sign is an in plaza identification, you can see that from your sight line. The pylon sign is built so we can accommodate people, the tenants so they have some identification from Route 9.

**Tom Jenne:** but my questions as far as the legality of it is let's say that this 30 ft. sign didn't have the middle section and just had a blank spot there and let's say that a tenant came in let's say TD Bank and say "I have a sign on my building and I also want to have one the free standing sign," they would be able to take one of the spots on there and it would not be a problem, correct?

**Keith Osborne:** if it was recently approved and if that sign area was 48 sq. ft. or less.

**Michael O'Connor:** you're not approving copy on those tenants 'spots and so we can assign those to each tenant as a matter of fact we would be required and cannot imagine anyone coming into the plaza without it and maybe as a distinction to what Mr. Bauer said about not knowing if there is another sign like this or of this size in Warrensburg, I don't think there is a plaza like this in Warrensburg. This is in line more with something that you actually see in Queensbury and there you have a plaza sign and then you have wall signs. A plaza sign identifies the plaza, some carry copy for the tenants it depends upon (interrupted).

**Peter Bauer:** you made my point for me. Keith, help me understand one other thing and maybe you too counselor. When the Town adopted the LG Park Commission sign ordinance, the sign ordinance is just for the Lake George Park or did the Town make it town wide?

**Keith Osborne:** it specifically stated in the code that it's town wide.

**Peter Bauer:** even though this is outside of the Lake George Park, correct?

**Keith Osborne:** yes.

**Peter Bauer:** but it drains into the Schroom.

**Keith Osborne:** but it specifically states that it is town wide.

**Chuck Chisolm:** if I could add to what Fred said the other things that makes this different particularly if you compare it to other shopping centers is that with this center the entrance sits so far back from Route 9 which is the main road. Generally we would have access to Route 9 and the sign would be right on Route 9. Also this pylon even though it may be 30 ft. tall is really going to be framed by the hillside with the bank building on top and you're not going to see a big free standing sign out there, you're going to see the sign behind that you are going to see the big grassy hill side with the retaining wall and you'll see the bank building and may see some part of our building but again framed by the bank building. Again, it's not going to be this big free standing monstrosity out there on Route 9.

**Fred Early:** if this was on Route 9 I could give you a smaller sign and it would be enough to get everybody on because it would be right on the road but we don't have that option here.

**Karen Hanchett:** you also have some buildings in the front that will minimize the sign thing.

**Chairman Russell:** Keith, I have a question for you in the regs that you were so nice to provide a copy of and I thank you for that. I am looking a 646 7.6 Size, Placement, Number, Height, etc. on page 47 of the copy you provided for me. Item #B the middle part of the paragraph "Business is located on a parcel having access to 100 ft. of road frontage granting permit for two free standing signs" and they can supplement with one wall sign and so what we're saying is that in the number signs, the Price Chopper sign over the door is the second sign basically right? Because they do have over 100 ft. of road frontage.

**Keith Osborne:** well, they do have over 100 ft. of road frontage but this speaks to free standing signs.

**Chairman Russell:** right but then it says that you can substitute one of those free standing signs for a wall sign, correct? So you get one wall sign and one free standing sign if you have over 100 ft. of road frontage if I am reading that correctly.

**Peter Bauer:** it still has to conform to the size.

**Chairman Russell:** yes, size is still an issue, there is no doubt about that; I am stuck on the number thing.

**Keith Osborne:** no, I think that the number is still consistent with my determination.

**Chairman Russell:** ok, if you think we're right then I'll stick with that.

**Keith Osborne:** I do.

**Chairman Russell:** are there any other questions for the applicant at this point?

**Peter Keating:** none for me.

Chairman Russell opens the meeting to the public for comments.

Mr. Earhart distributes pictures to the Board Members.

**Mr. Earhart:** I suggest that they to make a deal with me to lease the sign that I have, the Adirondack Trader sign, which is right in front of their project and it's conforming to the Town ordinance. It would relieve them of all of their problems of the location where Price Chopper is. That's all I have to say about it and they wouldn't have any problems to find them on Route 9.

**Fred Early:** it's an off premise sign which is not allowed and we would still have to come in for a variance.

**Keith Osborne:** yes, you would still have to get a variance but I see what the gentleman is saying.

**Mr. Earhart:** you would certainly see it a lot better than the one you have. It's just a thought.

**Chairman Russell:** no other comments from the public, I'll entertain a motion to close the public hearing.

**Keith Osborne:** you might want to wait until after the SEQR to do that. You may want to poll the Board first.

**Peter Bauer:** and why is that?

**Keith Osborne:** because if you poll the Board and it's a negative they may wish to table it and come back.

**Chairman Russell:** but the point is that if we read in the SEQR there may be more comments or questions from the public which is part of the process.

**Peter Bauer:** before we do that, can we ask questions before we deal with the public hearing?

**Keith Osborne:** absolutely, you've already dealt with the public hearing as far as the public is concerned; it hasn't been closed, but sure you can ask.

**Peter Bauer:** Mr. O'Connor could you just walk us through what alternatives have you looked at, i.e. offsite locations on other properties; was that explored?

**Michael O'Connor:** because of the regulations we did not. Because we haven't had any success in dealing with the people that adjoin the site for other items, we did not. We had a hard time getting a reconfiguration of Prosser Road and at that time we explored options with other property owners and it just was totally, economically unfeasible and it would have killed the project. This is the first I've heard about anybody offering a site without details as to the length of the lease, what it would cost. It is totally new to me and it would be to the applicant; I don't think that there has ever been any discussion about that. This is a site that wants to be self-sufficient, I don't know of developers that like to be not self-sufficient and I really think that the impact here is very insignificant.

**Peter Bauer:** duly noted, thank you.

**Chairman Russell:** this is one application with three legs to it and so we have to break each one of them down.

**Keith Osborne:** not necessarily; it depends on how you want to go about with your conditions or how you want to approach it. Obviously you cannot give more relief than what has been determined that they need, you can give less.

**Peter Keating:** you can include all three in one.

**Keith Osborne:** you may want to start with the first one, the wall signs.

**Tom Jenne:** I'll say what I think which is as far as the free standing sign, I don't like it; the wall signs number I don't have a problem with.

**Peter Bauer:** you don't like the free standing sign because you don't think they should have it or (interrupted).

**Tom Jenne:** I don't like the size since we're going from 48 sq. ft. to 160 sq. ft.; I don't like the setting of precedence for such a mammoth sign; it doesn't sit well with me.

**Chairman Russell:** height, square footage or both?

**Tom Jenne:** height and square footage; both. As far as my looking at the wall signs, there're about the same as if you were inside a mall; you can't see them from the street, you can't see them from anywhere else and basically the only time you can see them is when you're on the property itself and so I don't have any problems with them because they don't have an optical impact.

**Peter Keating:** my feeling is that the topography of the land that the structure is built on and the size and height of the signs all inclusive, I feel that they are appropriate for it and I wish and hope that they do the job that they're designed for.

**Karen Hanchett:** well, I am in agreement that given the location of the project sitting back off the main highway and the impediments of the visual issues you have when you come off the Northway and take that exit north to come in, how many people know that there is a Super 8 sitting back there, how can you see that. Yes there is a sign there but then there is another building; it's a side street, a left hand turn that you might drive by going north that you can't see unless you turn around and look at it and you're also approaching a bridge. So, you have a lot of issues, you have an exit from McDonald, you have an exit from a gas station that backs up and so you have a lot of issues in that area during the peak season. Yes, it is sitting way back and I think that the visual impact of having a sign there buffered by the backside of the embankment plus the plaza itself with other tenants certainly would want to be noticed in there. Yes it's a large sign but I think it is sitting back off the highway enough that you're not really going to see it as much as if it was sitting right on Route 9. I think that it is appropriate for the project.

**Peter Bauer:** I am not troubled by the interior wall signs. The billboard aspect and the precedence aspect trouble me; I can understand the challenges of the site but I am also mindful of, if you look at the doughnut shop and the gas station with the awning and the colors make the whole building a sign and the same is for McDonalds because of the shape, everybody knows what that is and it is not a unique and sensitive part of the aesthetics of what the park is all about. What I am troubled about is that Price Chopper went into this site knowing the difficulties and they're asking for fairly substantial variances to make this site work.

**Michael O'Connor:** this is the only variance; we are not utilizing the variance for that outside sales area. This is the only variance that I am aware of through all the different agencies that we had to go through to get to a point of final approval; sorry for the interruption.

**Peter Bauer:** so, thank you for that correction. While I am uncomfortable with it I don't know that I would vote against that billboard sign and so I will not be putting Chairman Russell on the hot seat.

**Chairman Russell:** the other thing is, Peter to bring up your point, I think that's one of the things that we don't look at enough as a Board, in my personal opinion. What did they know they had when they bought it especially in a development, people come in and buy a little thing next thing you know they want to turn it into a mansion on a postage stamp lot. We didn't have a sign ordinance when they decided to do this and so they kind of got stuck in the Town stepping up with

(interrupted). My concern is the height; I am still stuck on the height. I understand that the reality is that the bottom of the sign isn't going to be here because with the hill, it is going to be behind it (interrupted).

**Peter Keating:** you also have to realize that sitting back as far as it is the height of that sign will be minimized to the eye because it is further away and it is not going to be an intrusive massive sign that is going to be high and wide.

**Keith Osborne:** you talk about precedence and you are 100% right on that but you're also setting a precedence as to why, if you were to approve it, why you're doing it; this is unique and then again I am not espousing this at all but just keep in mind that as Board you're setting a precedence but you're also explaining why you're doing it.

**Tom Jenne:** the bottom part of the sign, the legs, if you will, they're basically going to be at the same height as the parking lot, correct?

**Michael O'Connor:** they are going to start lower; they're about 10 ft. lower than the top of the retaining wall that they would be back grounded by; I don't know the distance, what's the distance for this?

**Fred Early:** the pylon sign will be right down in here (rest of comments not audible).

**Michael O'Connor:** the stone Fred says it's about 8 ft. to 10 ft. (interrupted).

**Chairman Russell:** they're saying that that's a 6 ft. man standing next to the sign which is probably 3 ft. to 4 ft. above his head and that's basically the retaining wall. They should have made that a 12 ft. tall man and then how it would look, and guess they'll know for next time.

**Fred Early:** the pylon sign is going to sit on the slope; this is a 6 ft., 7 ft., 8 ft. retaining wall; that stone is going to be sitting below (interrupted).

**Peter Keating:** and so it is going to look like the sign is sitting on the flat portion.

**Fred Early:** you also have to remember that the bank building is going to be right here and so the bank building is going to be the backdrop for the signs.

**Peter Bauer:** and you don't know the height of that?

**Fred Early:** it has to be at least 23 ft.

**Chairman Russell:** so basically the sign will cover the front of the bank.

**Fred Early:** how big do you think the old Chevron sign which is now McDonalds' sign at the old gas station appears to you? It is 100 sq. ft. and is up above 7 ft. in the air and so distance back makes a huge difference. You look at that sign and you don't think that that sign is 100 sq. ft., put that sign down 20 ft. above grade and you're going to find it insurmountable and wonder how they ever got this in the town. This will give you some idea on proportionality and distances.

**Chairman Russell:** so I think we've all had enough discussion here and have an idea where we headed and so to summarize, if I am understanding what most people are saying and if you think differently, jump in. Wall signs I think that no one has issues with it.

All the Board Members and agreeing with the above statement.

**Chairman Russell:** most of the people have an issue with the big sign based on height and some on size and that's basically where we stand.

**Peter Keating:** Keith, I was going to add that for the record could you read in again about the signage law. I am worried about setting a precedent and before you said words that it's all done on an individual case basis or words to that affect.

**Keith Osborne:** it's right on there and it says "that each application stands on its own merit."

**Chairman Russell:** anybody that would come along down the road and put up a sign would have to either follow the sign ordinance or would have to come to us for a variance.

**Peter Keating:** I understand, but if we had to go back and defend because somebody says that we set precedence with this, I want it in our minutes that it's on an individual case basis.

**Keith Osborne:** absolutely and it has already been stated on the record; you're fine in that regard.

**Peter Keating:** thank you.

**Chairman Russell:** so I believe we can probably move along to the SEQR review at this point.

Peter Keating and Tom Jenne both add that a motion is needed.

**Keith Osborne:** you might want to close the public hearing now since it seems as though you're going to make a decision.

**Chairman Russell:** do we want to do that before we read the SEQR?

**Keith Osborne:** you have to. You have to do that before the SEQR and then do the SEQR.

**A motion is introduced by Peter Keating; seconded by Karen Hanchett to close the public hearing.**

**All in favor, motion carried.**

**Keith Osborne:** do you want me to read the SEQR and you guys can follow along? It is a short environmental form and since the application came in on October 1<sup>st</sup> we don't need to do the new form which is five pages long.

Keith Osborne reads the SEQR. SEQR is on file at the Planning & Zoning office.

**Tom Jenne:** I have a problem with C1, the existing traffic pattern.

**Keith Osborne:** the sign is going to affect the pattern of traffic?

**Peter Keating:** studies were done and it's set back off the road. How is that going to inhibit the traffic? If anything I feel it is going to make it (interrupted).

**Chairman Russell:** I don't think the sign or the lack of a sign is going to affect (interrupted).

**Keith Osborne:** the existing traffic pattern.

**Tom Jenne:** I am sorry, I'll withdraw my objection.

Keith Osborne completes the reading of the SEQR.

**Keith Osborne:** at this time you vote on this being either a negative declaration or positive SEQRA declaration.

**A motion is introduced by Chairman Russell; seconded by Peter Keating declaring a negative declaration for the SEQRA.**

**Ayes:** 5 **Hanchett, Bauer, Jenne, Keating, Chairman Russell**  
**Nays:** 0

**All in favor; motion passed.**

**A motion is introduced by Peter Keating that three variance are granted pertaining to the signage for Area Variance AV19—2013.**

Chairman Russell corrects Peter Keating that in fact it is one variance with three components.

**Peter Keating:** I am sorry; it is one variance with three components within that variance.

**Tom Jenne:** how does that affect the vote, can we break the three?

**Chairman Russell:** no, we can't which is what I was saying earlier. Let's say three people are dead set against the height of the sign they get nothing, right? It is one application and so we're still stuck.

**Keith Osborne:** you can adjust the application with conditions; it is not an issue whatsoever.

**Michael O'Connor:** if a motion is seconded and you vote, it either goes or it doesn't and if it doesn't go than you entertain another motion.

**Keith Osborne:** no, that's it.

**Chairman Russell:** once we vote no, it's done; we can't re-open it.

**Peter Keating:** ok, scratch my motion.

**A motion is introduced by Peter Keating to accept part one approval for Area Variance AV19-2013 to start with.**

**Keith Osborne:** to make it simple what is the issue that you feel you're not going to accept? Is it the free standing sign?

**Tom Jenne:** no, I am probably going to be the only one who says no to the free standing sign but I have no problem with the wall and so I either say no to the whole package or (pause).

**Chairman Russell:** we can do it as a condition though.

**Keith Osborne:** put forth a resolution to approve get a second and take a vote.

**Peter Keating:** scratch the scratch.

**Peter Keating puts forth a resolution to approve Area Variance AV19-2013 as submitted with the correction of the number of wall signs to 8 wall signs. Karen Hanchett seconds the motion.**

Chairman Russell reads the criteria into the record as follows:

- 2) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***We don't believe that it will be a detriment to the neighborhood or that of the neighboring properties as the majority of the neighboring properties are commercial in nature already and as it was stated in our conversations most of them have substantial identification above and beyond the actual signage.***

- 2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***I think we hashed that out very well; this is the best case scenario based on all the factors that have been presented.***

- 3) Whether the requested area variance is substantial.

***If it were a single building down on the main highway that might be the case; in this case however the majority of the variances are for signs that are not visible from the highway or to anyone other than people who would actually be in the plaza looking to find a store and its items.***

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***I think I'll agree with the statement of the applicant; they are minimal in the fact that it is already a commercial district.***

- 5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

**As I think we said a couple of times during our discussions they are stuck in a catch 22 here since the Town Board decided to start enforcing the Town's sign ordinance midstream during the project and since they didn't have the signs up, they became subject to those requirements.**

**Peter Bauer:** I'd like to talk about it before I vote because I think there is a number of factors that trouble me about this sign tower but I will vote for it but I don't see it as a precedent because there are mitigating factors that have to do with the fact that the sign itself, the backdrop to the sign will be other structures including a retaining wall, a future bank or a commercial building of some kind that's been approved. I am mindful of the neighborhood, it is a commercial neighborhood with a McDonalds, a Dunkin Donuts etc. The overwhelming majority of the public if they see the sign they will be viewing it from their automobiles from Route 9 and they are going to have a very short opportunity to find it pleasing or find it objectionable. I don't think it sets precedent for the rest of the Town because it is mitigated in size specific feature because I also think that the applicants made a good effort to make the best of a bad situation and so I will vote yes but I wanted those comments on the record for a precedent issue.

**Ayes: 4 Hanchett, Bauer, Keating, Chairman Russell**  
**Nayes: 1 Jenne**

**Motion passed.**

**Michael O'Connor:** we thank you for your consideration.

**Keith Osborne:** Mr. Chairman Chris Ryan is present.

- 3. Application for Area Variance AV17-2013 submitted by Chris Ryan as agent for Sgt. Edward Ryan requesting to place an accessory structure in a location other than the rear yard for property located at 2149 State Route 9N. Tax Map # is 277.01-1-1.4. Lot size is 15.4 acres. Zoning Classification is RCM-S2B and RR-8.5. Code Reference is 175-30(a)(1).**

Chairman Russell reads the application into the record.

**A motion is introduced by Peter Keating; seconded by Tom Jenne to accept the application as read.**

**All in favor, motion carried.**

**Peter Bauer:** the exact nature of the relief is?

**Keith Osborne:** accessory structure in the front yard.

**Peter Bauer:** and so it is not a setback issue, it's just the fact that it is an accessory structure in the front yard.

**Keith Osborne:** that's correct.

**Chris Ryan:** it is just a carport. I am sorry I didn't make the last time, I totally forgot, I am here now and I appreciate your help.

**Peter Bauer:** you have almost 16 acres?

**Chris Ryan:** yes, my son Eddy owns that and we own the 14 acres next to him, it's a vacant lot. I didn't know that it was the front of the yard because if you look out my house toward my driveway and the road that we considered the side of my house; I guess that was the discrepancy.

**Peter Bauer:** got it.

**Chairman Russell:** I'll be honest with you I went through that exercise in my mind as well. The front of your house is obviously where your circle driveway is and the big windows are and that's one of the things we always look at when we look at the lake because people want to say that the front is the side that the road is on and I say that the front is the side that I pay taxes for and that's to see the water but that's not the way zoning looks at it. The frontage is based on zoning descriptions.

**Chris Ryan:** yes, Mr. Hickey explained it to me that the front is the piece of property between the house and the road and not where the house is facing.

**Peter Bauer:** I can't tell from the map, how far are you from the road 100 ft. to 200 ft.?

**Chris Ryan:** I am not sure.

**Keith Osborne:** the carport from the road could be close to 150 ft. because there is a right-of-way obviously.

**Chris Ryan:** I never measured it.

**Tom Jenne:** did you know that you would be doing wrong by putting that thing?

**Chris Ryan:** no, no. I didn't actually put it up but the builder did it. We just put this up because of the terrible hail storm that we had last year; it damaged my son's van which is a \$60,000 van that makes it accessible for him to get to and from therapy. My car was damaged, my wife's car was damaged and by looking at the property it was the only place for the structure to go so it can be accessible to the house by wheelchair since he can't get out of the wheelchair. We told the builder where we'd like it because it would be easier to get him in and out on level ground and he just did it.

**Chairman Russell:** so when you pull into the driveway you're at basically the basement grade?

**Chris Ryan:** no, we are basically at his bedroom level where we have a ramp to go right into his bedroom.

**Chairman Russell:** ok, that's what I am saying. The main drive is at a lower level, the carport is at the main floor level and so it is another floor level up and so it's directly outside the building.

**Chris Ryan:** if we did it in the front then it would definitely be in front of the house where we would see it.

**Tom Jenne:** so where the carport is now it is the most feasible spot for handicapped access to his bedroom.

**Chairman Russell:** does anyone else have any questions?

No response.

**Chairman Russell:** ok, you can take a seat, we'll go to the public hearing and then if we need anything else we'll call you back. Does anyone in the public have any comments? There being none, I'll take a motion to close the public hearing.

**A motion is introduced by Peter Keating; seconded by Tom Jenna to close the public hearing.**

**All in favor, motion carried.**

**Peter Keating:** my only concern is if the residence is ever sold, would it be wise to put a concession on an approval that the carport can be relocated?

The reply from several members is that it cannot be done.

**Peter Bauer:** is this an after the fact permit?

**Keith Osborne:** yes it is an after the fact permit.

**Peter Bauer:** so then it stays, there is nothing that you can do.

**Chairman Russell:** Peter wanted to know if we can condition it that if the house is sold, the carport goes.

**Keith Osborne:** I would suggest not doing that.

**Karen Hanchett:** it's a carport; it's a roof and four poles, open air, no electricity, no water. Is there any stipulation in difference between a carport in the front yard and a garage in the front yard if it was to be converted.

**Keith Osborne:** no, it's an accessory structure.

**Chairman Russell:** in the code yes, in the zoning ordinance no.

**A motion is introduced by Chairman Russell; seconded by Tom Jenne to approve Area Variance AV17-20163 based on the testimony provided that it's the most logical place for Mr. Ryan to access his sleeping quarters and to protect his vehicle. No conditions placed; as submitted.**

**All in favor, motion carried.**

1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***No, it is not going to produce anything different in that neighborhood. The lot is very large in size.***

2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***I think the applicant has made it pretty clear that this is the most logical place for this to work for them.***

3) Whether the requested area variance is substantial.

***It is not any more substantial than any other area variance that's been granted for an accessory structure in the front yard and it is sheltered or hidden from the road a little bit by a growth of natural trees.***

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***This is definitely a no.***

5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

***Obviously it was a little self-created in the fact that they built it and once it was up realized that it was a problem but I think they made a good case that it is needed where it is located.***

**Ayes: 5 Hanchett, Bauer, Jenne, Keating, Chairman Russell**

**Nays: 0**

**All in favor, motion passed.**

4. **Application for Area Variance AV20-2013 submitted by Daniel Pasek proposing a 140 sq. ft. ground level addition and 140 sq. ft. second story addition; for property located at 21 Park Street. Tax Map # 251.20-1-64. Lot size is 0.16 acres. Zoning Classification is RSH. Code Reference is 175-16 & 175-63A(1).**

Peter Bauer reads the application into the record. On the application the applicant indicates that he is seeking relief for 24 ft. in the back and 20 ft. on the front; Keith Osborne announces that it should be the rear and the side.

**Daniel Pasek:** can I clarify? There are two west facing sides; Keith we decided that Park Street is the front.

**Keith Osborne:** Park Street is the front and you're not out of conformance with what you're doing but yes you're correct.

**Daniel Pasek:** and I think maybe that the fact that the back is essentially two properties and behind it you have a straight back and a diagonal property which resulted in having two backs.

**Keith Osborne:** well, there is one side and one back in this case and so what the relief required and I am looking for my determination to review my math for clarification; do you want to continue reading the application in or do you want clarification on the setbacks at this point?

**Chairman Russell:** I think he's done reading it in; we just want to clarify so we can put it on the application and so we know what exactly we're looking at.

**Keith Osborne:** if you look at page A7 which says "Site plan" on it, where he has the addition is what we're focusing on so it's the dark etched area where it says "addition." Do you see the lines where it says 12 ft. 11 ¼" that's a side right there and a side setback; I have taken that and I have subtracted it from 15 because the setback in this area is 20 ft. but this falls under the ¾ rule because the lot was in existence prior to 1978 and so that drops it down to 15.

**Chairman Russell:** in order for it to be 15 they are looking to make it 12, 11 ¼ .

**Keith Osborne:** right, and so the difference of that is the relief he is seeking for that portion of the side setback. 3 ft. obviously would cover that; 2 ft. and ¾" is exactly what he's looking for on the side setback there. This is a little squirrely because it's a funky lot then you have the 17.6 " which is required to be 50 ft. but under the ¾ rule it's 37.5 and so I look at that as 17.5 ft. because 6" is ½ ft. therefore the relief he is looking for there is 20 ft. on the nose.

**Chairman Russell:** alright, with those adjustments; should we acknowledge that there are letters of support for this application?

**Keith Osborne:** I think so, yes.

**Chairman Russell:** there is a letter from Michael & Elaine McLane that was received on September 19<sup>th</sup> in favor of the project. Habbinger looks like is another neighbor who support the project. Both letters are in the files for anyone to review.

**Karen Hanchett:** and an email from Rick Wykes as well.

**A motion is introduced by Peter Keating; seconded by Tom Jenne to accept the application with clarifications.**

**All in favor, motion carried.**

**Daniel Pasek:** this project is, we purchased the house on April 11<sup>th</sup> 2011, our family is from Albany County and we have three kids and a rather small house which we went into it thinking that we would be fine there. Subsequent to that, this spring we had a contractor to see if he could simply level the house but it was sloping towards the lake and he found significant damage underneath from aunts and whatever and so we had to go to a project and while we're doing that we thought that it would be a nice opportunity to possibly put an addition on to accommodate our family. The house was built and inhabited by an elderly couple, one passed, the estate sold it to us and it really wasn't designed, not their fault certainly, but it wasn't designed ideally for a family with three growing kids. We took this opportunity to try to put something in the back which is essentially, I don't know what we're calling it, right now "the side", but the lake which would be tucked in behind the only grass we really have behind the house which is lake side offering us more square footage and try to do it in a way that it didn't impact the neighbors on the west. I like the neighbors here and I think we've done the right things to accommodate the neighbors in terms of the view. Technically speaking you can't see our house from the lake and so there is none of that and the only other people we impacted would be the two people who look to the side and those people are Habbinger and Wyckes and they both wrote a letter in favor of it. They are the only people that actually see the addition; the people on the Park side and the people on the lake which is Mr. Coon essentially are blocked by either trees or the house itself. We tried to tuck this addition in the back yard but there is no question that we are trying to improve our own quality of life here. Thank you for the opportunity.

**Peter Bauer:** how many bedrooms are there now?

**Daniel Pasek:** technically speaking from a real estate term there are two bedrooms in this house. My daughter sleeps in a room and the boys share a room but her room essentially is accessible by other doors which make it another bedroom legally and so we're trying to make improvements to that part of the house and certainly build more of a house on the back which would accommodate five total bedrooms.

**Peter Bauer:** and the septic is what?

**Daniel Pasek:** Town sewer; it is the last house north with water and sewer and the last house on 9N that got the benefit of water and sewer which is nice.

**Keith Osborne:** you knew that before you bought it.

**Daniel Pasek:** sure, I did.

**Karen Hanchett:** is it currently a one story or a two story?

**Daniel Pasek:** two story, 16 ft. x 32 ft., a very standard box but nice.

**Peter Bauer:** is there a homeowner association?

**Daniel Pasek:** yes, we have an association.

**Peter Bauer:** are there any bylaws governing building sizes and all that?

**Daniel Pasek:** I don't know about coding and that type of things but certainly two meetings a year for proper bylaws absolutely because there is a common dock?

Someone from the audience comments that there is a common area for people who live in the association.

**Karen Hanchett:** what's the current square footage of the house?

**Daniel Pasek:** approximately 1,300 sq. ft.

**Karen Hanchett:** and the addition will add how much square footage?

**Daniel Pasek:** I would say at least 90% of that and so it'll be from 1,300 sq. ft. to 2,500 sq. ft. Is that true?

**Chairman Russell:** the addition itself is 140 sq. ft. (interrupted).

**Keith Osborne:** what I see is (interrupted).

**Daniel Pasek:** excuse me, you're talking about foot print of the land.

**Keith Osborne:** no, total square footage of the house. The total square footage of the house is cruising in at approximately 2,100 I believe.

**Daniel Pasek:** are we talking about footprint that takes up the piece of land?

The reply by several members is "no."

**Peter Keating:** multiply 15 x 32 (interrupted).

**Tom Jenne:** it is 480 sq. ft. x 2 = 960 sq. ft.

Chairman Russell comments to add 280 sq. ft. to the 960 sq. ft.

**Daniel Pasek:** are we talking about real estate square feet, how many are upstairs and downstairs?

**Karen Hanchett:** the square footage of the current home which includes the living level and the second story.

**Tom Jenne:** 960 sq. ft. which is going to go to 1,240 sq. ft.

**Daniel Pasek:** then I was way off, I apologize.

**Karen Hanchett:** and the percentage of the increase is?

Several Board Members reply that it will be roughly 1/3<sup>rd</sup>.

**Peter Bauer:** can you talk to us about the stormwater controls on the property?

**Daniel Pasek:** the stormwater controls at present, there is essentially nothing. The water comes off the roof and drips into the ground. In the new plan that we have, we'll have 2 ft. x 2 ft. storm trenches which are certainly an upgrade, although the water that comes off the roof will now be contained to the land and it will be an upgrade to what we currently have.

**Peter Keating:** when I drove to look at the property I didn't get out and walk it, is there a lot of rock there or is it mainly all earth?

**Daniel Pasek:** I haven't dug but my guess is that it is a fairly rocky site, I don't know but I don't think it is sand.

**Chairman Russell:** do you have a basement or a crawl space?

**Daniel Pasek:** barely.

**Keith Osborne:** I don't think that there is much ledge but there is cobble in that area.

**Daniel Pasek:** and for the sake of understanding the topography as per the people before, it is technically speaking the lake almost comes up pretty precipitously and then flattens out for all of my property and more and so it is a very flat piece of land and in fact it hosts the driveway which is a right-of-way.

**Peter Bauer:** how far are you from the lake?

**Daniel Pasek:** it is probably approximately 200 ft. It is the second row back from the lake but there is a substantial property in front of me.

**Keith Osborne:** for the Board's clarification, this application is scheduled for site plan review.

**Peter Bauer:** and so if we approve the variance he must go for site plan review?

**Karen Hanchett:** I have a question on the bunk room that's apparently over the garage area. Is that going to be utilized as a sleeping area?

**Daniel Pasek:** it is the boys' room; I think they put a garage on 50 years after they built the home and they essentially attached it to the north of the home and so somehow the boys' room sits half over the garage, it is true, yes that will continue to be living space.

**Karen Hanchett:** and the ceiling height in that bunk room appears to be lower than the proposed height of the addition?

**Daniel Pasek:** only at the eaves.

**Peter Bauer:** but if you have municipal sewer and water it doesn't matter how many bedrooms you have.

**Daniel Pasek:** it is one of the best conveniences of the property in my estimation; the fact that it goes into the town sewer.

**Karen Hanchett:** so the proposed house would be a two bedroom and two bathrooms right now enlarging to a basically five bedroom house with five bathrooms?

**Daniel Pasek:** no, one more bathroom for a total of three bathrooms. There is a bathroom in the garage which might have been also an afterthought. It was put on in an un-winterized space.

**Karen Hanchett:** is it just a powder room?

**Daniel Pasek:** it has a shower and so it is actually a  $\frac{3}{4}$  bathroom.

Chairman Russell asks if there is anyone who would like to speak about the project.

**Doug Coon:** I am his neighbor immediately to the west. He is taking an older house that has been there quite a while and he is doing a nice thing with it. He is giving it an upgrade, a face lift; it's all positive. You have received the letters from our neighbors and I don't know of anyone who is against it and I support it 100%. Thank you.

Chairman Russell asks if anyone else has any other comments. No response is received.

**A motion is introduced by Chairman Russell; seconded by Peter Keating to close the public hearing.**

**All in favor, motion carried.**

**Peter Bauer:** Keith, what's the total acreage of the property?

**Keith Osborne:** 0.16 acres; it's tiny; approximately 6,000 sq. ft.

**Chairman Russell:** as most of you know this is my second time on the Board; we've had two or three things come up over my two times on the Board and it is the same thing over there all the time. Those lots were very small, non-existent and so we run into this problem every time anybody does anything over there.

**Keith Osborne:** they were camps.

**Chairman Russell:** so, the square footage is not an issue, the number of bedrooms is not an issue, we have water and sewer and we are looking for a 2 ft. setback on one side and we have a 20 ft. relief on the back side (interrupted).

**Peter Bauer:** and what's the nature of the driveway?

Someone replies that it is gravel.

**Peter Bauer:** and it says that there is a driveway or right-of-way on the other side of the property, is that being used, and is it gravel?

Someone replies that it is all gravel.

**Peter Bauer:** so you have gravel on both ends; Keith that would all add in the imperviousness of the property, do we have a calculation?

**Keith Osborne:** I have run a rough calculation in my notes and log and it didn't meet the threshold at all. The code is pretty generous with permeability in this area; it didn't warrant (interrupted).

**Peter Bauer:** yes, but I mean we are over 50% impervious am I wrong? Between the house with the renovations and the existing driveways it will put the property over 50%.

**Keith Osborne:** I believe that's about right.

**Peter Keating:** why do you count the driveways since it is gravel?

**Keith Osborne:** because gravel is impervious and the idea is that it falls, it cracks and it eventually becomes impervious over time. It does promote overland or sheet flow.

**Daniel Pasek:** may I make one statement? This is not an easy project to get your hands on just because it has a lot of chopped up pieces but if you take a look at what we're doing with the property. We're essentially taking off an old porch and not replacing the porch on the south at all and yes we're replacing it with a deck but the incremental increase on the land is basically zero.

Peter Bauer asks the applicant to approach the dais and show him on the plans what is being proposed so he can understand it. Dan Pasek shows the Board Members the porch that's coming off.

**Dan Pasek:** what's confusing is that yes the south porch is technically being replaced on the other side by a deck ideally but not by a roof structure.

**Tom Jenne:** the porch that's being removed and where the new deck is going to go was that a three season porch, a year round porch, a glass (interrupted).

**Daniel Pasek:** no, it had just mosquito nets.

**Chairman Russell:** does anyone else have any other questions? (No reply). The public hearing has been closed and I guess I'll entertain a motion.

**A motion is introduced by Peter Keating; seconded by Chairman Russell to approve Area Variance AV20-2013 as submitted.**

Peter Keating reads in the criteria.

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***No, there will be none and as suggested by the neighbors' comments and letters it will be an improvement to the area.***

- 2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***No.***

- 3) Whether the requested area variance is substantial.

***No.***

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***It will be just the opposite, it will be an improvement.***

- 5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

***No, I believe it's not conforming and what he's proposing is a minimal change.***

**Peter Bauer:** before I vote I have something to say. Mr. Pasek, I guess I am troubled by the bigger house on a small lot and I guess there is a lot of that, you're 200 ft. from the lake, not a lot of stormwater controls, you make a big investment in the re-design of the house; I guess I am just asking you that when you go to the Planning Board, please make an investment in a stormwater plan. There is lots that can be done for stormwater for rain gardens and other catchments to make the property stormwater neutral since you'll be producing more and you're 200 ft. from the lake but I will vote yes.

**Chairman Russell:** I will vote yes but I will reiterate Peter's request when you go to the Planning Board although we have no authority to tell the Planning Board what to do or not to do.

**Daniel Pasek:** so, just for the record your biggest concern at this point is stormwater.

**Chairman Russell:** yes, do something to address your stormwater. It is going to benefit you and your neighbors.

**Peter Bauer:** you can make that property stormwater neutral so all the rain that hits it is captured and infiltrated.

**Ayes: 4 Hanchett, Bauer, Keating, Chairman Russell**  
**Nays: 1 Jenne**

**Motion passed.**

**Chairman Russell:** alright, is there any other business?

**Keith Osborne:** yes, I'll make this quick. There has been an issue that has come to light with the term limits for Board Members. Municipal Law states that they have to be staggered and not on the same year. I have to re-appropriate through research and reset your limits. I am just giving this out to you and I will be making the same speech to the Planning Board. There are three people that are coming off the Board in 2016; two on this Board are coming off in 2018.

**Peter Bauer:** but also only a few of us should have received a five year term but rather we should have been appointed to a term that is pre-existing and we would be filling out the last year, two years, etc. but none of that was clear.

**Keith Osborne:** exactly and none of that was clear.

**Chairman Russell:** so, we can't go above the five and so people are going to get bumped before their time is up.

**Keith Osborne:** right, we'll deal with that at the Town Board level, I am not overly concerned with that and I am not trying to remove anybody but rather to reset the term limits.

**Peter Bauer:** right, I have looked into this some time ago and they're a real mess and the record keeping is pretty poor on this.

**A motion is introduced by Peter Keating; seconded by Chairman Russell to adjourn the meeting at 8:50 p.m.**

Respectfully Submitted,

Adele Behrmann  
Planning & Zoning Clerk