

**APPROVED DRAFT**

**TOWN OF THOMPSON  
ZONING BOARD OF APPEALS  
February 11, 2014**

**IN ATTENDANCE:**            Chairperson James Carnell            Richard Benson  
   Richard McClernon                    Pamela Zaitchick  
   Jose DeJesus, Alternate                Brian Soller, Alternate  
   Logan Ottino, Building Inspector     Paula Elaine Kay, Attorney  
   Scott Mace, Town Board Liaison       Absent: Robert Hoose

Chairman James Carnell called the meeting to order at 7:00 p.m. with the pledge to the Flag and appointed Brian Soller as a full member for tonight’s meeting.

Chairman Carnell asked for a motion to accept January 2014 meeting minutes. Brian Soller noted that there was one correction on page 3, fifth paragraph which should read Ms. Zeno, not “Zeon”. A motion to accept the minutes as amended was made by Richard Benson, seconded by Richard McClernon.  
5 in favor, 0 opposed

**GLENN SMITH - 11 BLUE SPRUCE LANE - S/B/L: 18-1-30.2**  
Glenn Smith P.E.

Mr. Smith submitted his proof of mailing.

Chairman Carnell advised the Board that Mr. Smith is seeking an area variance for the purpose of permitting two accessory structures to be closer to the street than the primary structure.

Mr. Smith says he is “guilty as charged”. The house is 1000 feet off the Town Road. The sheds were put up in 2007 and 2009. Due to the location of the house on the lot, it is hard to say where front yard is. The neighboring homes are vacant. The second shed has honey bees and needs to be as far away from the home as possible.

The Board members had no comment.

There was no public comment.

- (1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no
- (2) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.

(5) Is the alleged difficulty self-created? All voted yes.

A negative declaration motion was made by Brian Soller and seconded by Richard McClernon. 5 in favor; 0 opposed.

Chairman Carnell requested that a motion to approve the variance be made. A motion was made by Richard Benson and seconded by Pamela Zaitchick. 5 in favor; 0 opposed.

**ELIZABETH McCURDY - 94 MIDDLETOWN POINT ROAD - S/B/L: 38-4-11**

Timothy Gottlieb, P.E.

Mr. Gottlieb submitted the applicant's proof of mailing.

Chairman Carnell advised the Board that the applicant is seeking an area variance for the purpose of 1) increasing a non-conforming structure; 2) granting a reduced minimum lot size from 40,000 square feet to 4,791.60 square feet; 3) granting an increase in lot coverage from 10% to 23%; 4) granting a reduced shed setback from all property lines from 10 feet to 0.60 feet; 5) granting a reduced side yard setback from 20 feet to 3.20 feet; 6) granting another reduced side yard setback from 20 feet to 11.10 feet; 7) granting reduced combined side yard setbacks from 50 feet to 14.30 feet; 8) granting a reduced rear yard setback from 50 feet to 43 feet; and 9) granting a reduced front yard setback from 50 feet to 43.30 feet.

Mr. Gottlieb advised the Board that the applicant bought property in 1988 as is and has done no work to the subject premises. The previous owner had building permits which were never closed out and needed variances which he never got. Attorney Paula Kay advised Mr. Gottlieb that it was obvious his client did not do a municipal search when she bought the subject premises.

Chairman Carnell noted that these issues have all existed upon the subject premises for a number of years and there are no new issues. Chairman Carnell noted that there was no letter from the Homeowner's Association. Mr. Gottlieb stated that the President of the Homeowner's Association was at the site when he did his field work. If he knew a letter was required of the Board, he would have got a letter from the Homeowner's Association.

There was no public comment.

(1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no

(2) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.

(3) Is the requested area variance substantial? All voted no.

(4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.

(5) Is the alleged difficulty self-created? All voted no, since the applicant bought it that way.

Attorney Paula Kay advised the Board that if the applicant did their diligence when they bought the property, this would not have been their issue to resolve and maybe it is self-created because they didn't do their diligence.

A negative declaration motion was made by Richard Benson and seconded by Richard McClernon. 5 in favor; 0 opposed.

Jose DeJesus felt that the shed is way too close to the property line and suggested that the shed to be moved from the property line a few more feet. Mr. Gottlieb had no measurements on hand, but advised that the shed has been there for 26 years. Chairman Carnell asked Logan Ottino if there are any restrictions on the shed being so close to the property line and she advised that there are no restrictions. Chairman Carnell asked if there was any building close to the shed. Mr. Gottlieb said no. Mr. Gottlieb further advised that if we move the shed according to Code we'll be on the sidewalk. In any event, it would only be feasible to move the shed 18 inches. With that, they would have to make a new foundation for the shed. In addition, it would be difficult to move the shed because there is a retaining wall nearby.

Chairman Carnell requested that a motion be made to approve all 9 variances contingent upon Wanaksink Club's review. A motion was made by Richard Benson and seconded by Richard McClernon.

Initial vote: 4 in favor; 1 opposed. Pamela Zaitchick then changed her mind since the variance was contingent upon Homeowner's Association review.

Final vote: 5 in favor; 0 opposed

Mr. Gottlieb advised the Board that in the applicant's defense, this property is no different than any other property in the neighborhood.

**ABECASIS - 58 RUBIN ROAD (MOONLIGHT COTTAGES UNIT #29) - S/B/L: 43-1-23.3**  
William Sattler, P.E.

Attorney Paula Kay asked Mr. Sattler to correct the measurements on the application, as it should read 25'. Mr. Sattler initialed the correction on the application.

Chairman Carnell advised the Board

Mr. Sattler has proof of mailing and will scan and email to us.

Mr. Sattler advises that on the plans, the proposed new deck is in red; the black is what existing. The deck needs to be 15 feet from unit 51, with the proposed 5 foot extension it reduces the space between this Unit and Unit 51 to 14 feet. The Board corrected Bill that it needs to be 25 feet from Unit 51. Chairman Carnell inquired as to the distance between these buildings and the laundry

building and whether the owners were put on the notice. Mr. Sattler confirmed they had been notified. Chairman Carnell further asked if the proposed deck going to be a deck or living space? Mr. Sattler advised that some of the proposed deck will be an enclosed three-season porch and not necessarily living space. Mr. Sattler advised the Board that the building is on piers. The owner wants to put the addition on a slab on grade, as the piers were not professionally installed. The owner wants to install a slab and then install new piers to make it look better. It is a double wide mobile home. Chairman Carnell asked for the elevation of the building. Mr. Sattler advised it is three feet from the ground normally. Logan Ottino showed the Board photos of the subject premises. Mr. Sattler advised the Board that the owners are leaving the existing deck, removing the old piers and replacing them with new piers. The owners would also like to add a deck and make screened porch from portion of prior deck. Richard McClernon noted that it would nice to see plans, but Mr. Sattler advised the Board that the owner does not want to pay for a set of plans if they do not get the requested variances. Attorney Paula Kay advised Mr. Sattler that the owner will be going to the Planning Board. Mr. Sattler understood that, but knows the owners need the requested variances before they can even go to the Planning Board. Chairman Carnell noted that the Board only has a proxy from owner and Attorney Paula Kay advised Mr. Sattler that we need something from Moonlight Cottages' Board. Mr. Sattler advised the Board that he has an authorization from Israel Glazer, who is a principal owner of Moonlight Cottages. Brian Soller questioned if the Board permits the reduced the setbacks on this premises, will the neighbors will have to do the same, etc., like a domino effect. Logan Ottino advised that before 2006, there were no setback requirements and these homes were installed in the 1980s. Ms. Ottino further advised that Moonlight Cottages had site plan approval before. Mr. Sattler advised the Board that previously, residents of Moonlight Cottages did build as they pleased. Residents would see other residents getting disapproved for Building Permits, so they got discouraged and continued to build without permits. Mr. Sattler said his clients (the owners herein) are trying to do the right thing.

Chairman Carnell advised the Board that we need proof of mailing, an owner's proxy (not just this owners' proxy) and Homeowners Association approval. Chairman Carnell felt the Board needs to table this application until the Board has all of the required documentation, as these are important documents and not minor. If one item was missing, the Board would be more inclined to make it decision contingent upon the approval.

Attorney Paula Kay suggested to Mr. Sattler that perhaps the Town can ask the Town Engineer to prepare a quick memo on this property so he could see how this fits in with the cleanup of the whole site.

Mr. Sattler advised the Board that one a month ago, there was no Certificate of Occupancy and some minor violations on the subject premises. He and the owners did work closely with the Building Department and a Certificate of Occupancy was issued. We did file this application based on the Notice of Disapproval specific to this unit at Moonlight Cottages. He and the owners did a lot of legwork to get this far.

Richard McClernon questioned how far the deck will be from water line and Mr. Sattler advised that

it is seven feet away. Mr. McClernon is concerned that it may be difficult to repair the pipe if there is a problem since there will be a slab there which cannot be removed. It may be difficult to work around the pipe.

Mr. Sattler confirmed that he will come before the Board next month and he will get the Secretary proof of mailing.

Mr. Sattler further advised the Board that he is working with 8 homeowners from Moonlight Cottages to get their homes in compliance and reduce existing violations.

Attorney Paula Kay advised Mr. Sattler that the Building Department will bring a color-coded violation map to next meeting.

Chairman Carnell stated that he wants the Town Engineer to note whether there is adequate water and sewer, proper separation for fire department access, items of that nature.

There was no public comment.

Chairman Carnell asked for a motion to hold the application open until the March 11, 2014 meeting and a motion was made by Richard McClernon and seconded by Richard Benson.  
5 in favor; 0 opposed.

**GITTELMAN - 181 STARLIGHT ROAD - S/B/L: 57-2-13.1**

William Sattler, P.E.

Chairman Carnell advised the Board that the Applicant is requesting an area variance for the purpose of 1) increasing a non-conforming structure; 2) granting a reduced front yard setback from 50 feet to 0 feet; 3) granting a reduced minimum lot size from 2 acres to 1.05 acres; 4) granting a reduced side yard setback from 20 feet to 3.50 feet; 5) granting another reduced side yard setback from 20 feet to 3.50 feet; 6) granting reduced combined side yard setbacks from 50 feet to 7 feet; 7) granting a reduced rear yard setback from 50 feet to 19 feet; 8) granting a reduced accessory building setback from all property lines from 10 feet to 8.50 feet; and 9) granting a reduced accessory building setback from the main building from 10 feet to 6 feet.

Attorney Paula Kay asked if Mr. Sattler had proof of payment of \$100.00 fee and Mr. Sattler advised he did not. Mr. Sattler also advised that he did not have his proof of mailing tonight as well but that he would submit it to the Secretary as soon as possible. It was done.

Chairman Carnell asked Attorney Paula Kay if the applicant will have to send an additional notice to interested parties and republish the Notice and Ms. Kay said they do. After Board discussion, Chairman Carnell suggested that we keep the meeting open.

Chairman Carnell asked for public comment and noted that there are two people here for this

application so notices were obviously sent out. Chairman Carnell asked the two members of the public if they were familiar with the application and was told that they had not seen any plans, just received a Notice of the meeting. Mrs. Gittelman has not spoken to them. Attorney Paula Kay advised the gentlemen that the issues are pre-existing. Chairman Carnell invited the two gentlemen to come to the front and look at the site plan. They introduced themselves as Mark Sherbino Operations Manager - Northeast and Robert Gates Senior Vice President of Operations for Eagle Creek Renewable Energy (owners of the Rio Dam). Mr. Sherbino asked why Ms. Gittelman needed a variance and Logan Ottino advised that Ms. Gittelman was building without permits.

Mr. Sattler confirmed that part of the deck on the subject premises was built on someone else's property line and applicant will have to remove that.

Mr. Sherbino notes that Ms. Gittelman has already built into the high water mark and she will have to have apply for a license from Eagle Creek in order to build in that area.

Attorney Paula Kay questioned Mr. Sherbino if Eagle Creek was in a position to issue a license now that they are familiar with what the owner is doing and Mr. Sherbino advised that they need to meet with owner before they can issue a license. Ms. Kay then asked how long it will take for the owners to receive approval. Mr. Gates advised that Eagle Creek purchased its properties in June 2013. All prior licenses became null and void with the purchase. Eagle Creek is in the process of reviewing hundreds of applications for licenses. Once the snow is cleared, they will go site-by-site and review each application.

A motion to Motion to table this until next month's meeting March 11, 2014 pending receipt of proof of mailing, receipt of the \$100.00 application fee and Eagle Creek's permit was made by Richard Benson and seconded by Richard McClernon.  
5 in favor; 0 opposed.

**SIMON - 26 JACOB DRIVE - S/B/L: 28-1-7.3**

Ira and Karen Simon

Chairman Carnell advised the Board that the Applicant is requesting an area variance for the purpose of 1) granting a reduced shed setback from all property lines from 10 feet to 9 feet; and 2) permitting an accessory building to be closer to the road than the main dwelling.

Mr. And Mrs. Simon submitted proof of mailing.

There was no public comment.

Chairman Carnell advised the applicants that a survey should have been submitted with their application to show property lines and the location of the shed. The applicants advised the Board that they did not know they had to provide one. Chairman Carnell advised the applicants that he understands that they only needed to provide a site plan. Logan Ottino advised the Board that she

did send a letter to the applicants advising them that they needed to provide an “as built” survey.

The applicants advised the Board that the shed has been there for seventeen years. Attorney Paula Kay asked the applicants if they had a survey done when they purchased the property and the applicants confirmed that they did. The applicants advised the Board that the shed was installed after they purchased the subject premises. Attorney Paula Kay advised the applicants that they can draw the location of the shed on a copy of the survey map and provide the same to the Board. Chairman Carnell noted that the premises is technically a corner lot.

Logan Ottino provided the Board with a copy of the Building Permit which more clearly indicated the location of the shed.

Richard McClernon asked if the Town has a right of way near the location of the shed and Chairman Carnell advised the Board that the applicants own to the middle of the road, so there should be no problem with any right of way.

- (1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no
- (2) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

Chairman Carnell requested that a motion to approve the variance be made. A motion was made by Pamela Zaitchick and seconded by Richard McClernon.  
5 in favor; 0 opposed.

**BESSER - 58 CRESCENT CIRCLE - S/B/L: 54-3-26**

Mr. Joseph Henle, agent of applicant

Chairman Carnell and Jose DeJesus recused themselves from reviewing this application. Chairman Carnell named Richard Benson as Acting Chairman and further named Brian Soller as a full member.

Acting Chairman Benson advised the Board that the Applicant is requesting an area variance for the purpose of 1) granting a reduced minimum lot size from 20,000 square feet to 6,907 square feet; 2) granting a reduced front yard setback from 40 feet to 5 feet; 3) granting a reduced side yard setback from 15 feet to 8 feet; 4) granting another reduced side yard setback from 15 feet to 6 feet; 5) granting a reduced combined side yard setback from 40 feet to 14 feet; 6) permitting an increase on a non-confirming structure; and 7) granting an increase of lot coverage from 20% feet to 38%.

Rich Benson noted that there was a letter from the neighbors Jerry and Amy Leitman and a copy was placed in the Board's file.

Mr. Henle advised the Board that he represents the applicants as their real estate agent. Mr. Henle advised the Board that on the survey, the deck in question is not located on the applicants' property and it is located on Emerald Green's property. Mr. Henle was advised by the Board that the deck by the water is not an issue tonight and they are only addressing the deck on the house (wraparound deck). Mr. Leitman advised the Board that the wraparound deck obstructs his view of lake twice and also started to discuss the deck by the lake. Acting Chairman Benson advised Mr. Leitman that the other decks by the water are not an issue before the Board tonight.

Mr. Henle advised the Board that most homeowners in the area assumed that they owned property to water line, not realizing that their property lines actually end a lot closer to their homes. A lot of the neighboring decks are on Emerald Green property. Attorney Paula Kay asked who maintains the docks and Mr. Henle advised that in this instance, it is the applicants. Acting Chairman Benson reminded Mr. Henle that the deck in the water is not part of the application before the Board tonight.

The neighbor, Mr. Leitman, advised that the decks are on his property and are corroding and dangerous. Acting Chairman Benson asked Logan Ottino what the Building Department says about this issue and Ms. Ottino advised the Board that because the deck in question is not on the applicants' property, the Building Department cannot take any action.

Attorney Paula Kay advised Mr. Leitman that the Board has asked you to come to the Board with your concerns, however, please let the Board have a chance to discuss this matter with the applicant. The Board does have the right to make recommendations about the other decks on the premises.

Mr. Henle advised the Board that the deck was built 24 years ago and the applicants did ask for a variance for the extension of the deck. He is not sure why the applicant did not ask for these variances then. It was not until the applicants listed the property for sale that they realized the issue. The applicants did obtain a new survey to show where the property lines are to alleviate any confusion.

Attorney Paula Kay asked if Mr. Henle received a letter from the Lake Louise Marie Homeowners Association and Mr. Henle confirmed that he did.

Attorney Paula Kay advised the Board that essentially, many people have built on Emerald Green's property without Emerald Green's approval. Ms. Kay further reminded the Board that they can make a recommendations about the decks near the water. Pamela Zaitchick asked if the deck by the house was built with proper variances and Logan Ottino advised that no permit was ever issued. Ms. Zaitchick asked if the Board can make the applicants remove the deck and resolve the whole problem and Attorney Paula Kay confirmed that they could.

Mr. Henle also noted the railings were not in compliance and if the variances are granted, the

applicants will replace the spindles and make the height of the railing to Code. There are also a couple of metal stringers that need to be installed.

Richard McClernon noted that the deck has been there for many years. Brian Soller asked if an initial application for a sideyard variance for the addition was obtained and Logan Ottino confirmed that a variance was granted for the addition, but not for decks.

The Board had no further questions. There was no public comment.

The neighbor, Mr. Leitman advised the Board that the part of the deck blocks his view from his deck to the lake. Second, the applicant built a dock near the water, but also built that deck on his property. Attorney Paula Kay reminded Mr. Leitman that the property by the lake is owned by Emerald Green and no homeowners own that area.

Attorney Paula Kay suggested that Mr. Leitman speak with Emerald Green Property Owners Association and if Emerald Green wants to do take action with it, they will. However, this is not part of tonight's application.

Acting Chairman Benson suggested that the Board approve the variances contingent upon updating railings to current Code.

Pamela Zaitchick confirmed with the Board that all of the requested variances were for the deck on the house. Why doesn't the Board just make the applicants remove the deck? Ms. Zaitchick then made a motion that we do not grant the variances because the cause of the variances were not properly applied for and constructed with no consent. Ms. Zaitchick further added, why should the applicants be able to keep the deck up if it is not in compliance? Attorney Paula Kay reminded Ms. Zaitchick that every application here tonight contained components which were built without permits.

Attorney Paula Kay asked the neighbors, Mr. And Mrs. Leitman if they bought the property after the decks were built and Mr. and Mrs. Leitman confirmed that they bought their home ten years ago and the decks were there then.

Brian Soller asked if the top deck goes out further than the lower deck and Mr. Henle confirmed that it did. Mr. Soller suggested that if the railings have to be rebuilt anyway and it seems that the side portion of the deck is the issue with the neighbors, perhaps the applicants can reconfigure that side of the deck so it no longer obstructs their view. Mr. Henle advised the Board that if the deck is removed, it ruins the house.

Attorney Paula Kay reminded the Board that we do look at views as part of the variance. Acting Chairman Benson reminded Mr. and Mrs. Leitman that the deck in question was there when they bought their home.

Richard McClernon asked if we can we ask the applicants to show plans for the deck which revise

the corner of the deck that is the issue. This way we can see whether it is possible to have the view impacted in a lesser manner.

Mr. Henle advised that the stairway is the issue in that corner. He does not feel that it is obstructing anyone's view. He believes this stems from a dispute between neighbors and that is why the Leitmans are here tonight.

Mr. Henle did feel the applicants could get rid of the stairs in their entirety which may resolve the issue. Mr. Henle is not sure that the owners will be willing to hire a contractor to try and resolve this issue. They are in Florida and Staten Island. So whatever the Board recommends, he will bring to the applicants to solve the problem. There has been animosity between the neighbors for many years due to the decks and the neighbors cannot discuss or resolve this between themselves. The applicants will just go by the Board's recommendation.

Attorney Paula Kay suggested that the applicants hire a contractor to come up with a plan to show the Board how to fix all of these issues.

Acting Chairman Benson requested that a motion be made to table this application to the March 11, 2014 meeting. A motion was made by Richard McClernon and seconded by Pamela Zaitchick. 5 in favor; 0 opposed.

**CERASOLI - 258 EDWARDS ROAD -S/B/L: 24-1-5**

Greg Patula and Pasquale Cerasoli

Chairman Carnell advised the Board that the applicant is requesting an area variance for the purpose of 1) permitting a shed, garage and well shed to be permitted on the premises without a main structure; 2) granting a reduced setback for the garage located on the premises from 25 feet to 14 feet; and 3) permitting the use of two box trailers as storage sheds.

Mr. Patula advised the Board that there was a main structure on the property and provided an aerial view of the property showing where it was. The applicant purchased the premises in 2009/2010 with the idea of using the premises as a retirement/weekend home. When the applicant started to do work, he found out that the flood of 2005 severely damaged the main home and the basement was unsafe. The prior owner did not disclose any damage from the flood. The applicant did approach the prior Building Inspector, T.J. Brawley, about saving the house and constructing storage sheds on the property. The applicant says that he was told by Mr. Brawley that he could leave the box trailers on the property as long as he put a roof on each of them. The applicant hired a contractor to demolish the main dwelling and hired an architect to draw plans to rebuild a new home. The applicant said that both the contractor and the architect were recommended by Mr. Brawley. The applicant does not have money to rebuild at this time. The applicant poured slabs to set the box trailers and put roofs on them and they have been there for over two years with no violations being issued. When the Building Department recently came out and wrote tickets, the applicant had no idea he was doing anything wrong. The applicant does have a permit for the demolition. Viewing the plans, the

structure in the front of the premises is a well house to protect the well once the home was demolished. There is a pressure tank and workings for the well so they can continue to have water on the site. The old foundation is filled in and leveled. Mr. Patula advised the Board that the Building Department has driven by the applicant's home many times and never stopped.

Attorney Paula Kay asked for plans and Mr. Patula confirmed that the applicant does have plans. Ms. Kay asked if there was any intention to submit them to the Building Department soon? Mr. Patula stated that the applicant is financially unable to do it now, perhaps in a couple of years he will be able to do so, but the applicant does not have the money right now.

Mr. Patula noted that Zoning says box trailers are not permitted but the applicant has storage containers and he feels that storage containers are permitted in the Code.

Mr. Patula advised the Board that the Town is calling the other building a garage. It is not a garage, it is a storage building and as the applicant's neighbor, he has no problem with it being 14 feet from his property line. Logan Ottino advised Mr. Patula that any structure over 400 square feet needs to be 25 feet from a property line.

Mr. Patula advised the Board that the applicant does not live in the storage building, but there is a wood burning stove in the building. The applicant has stayed there twice in two years. The applicant did file a Building Permit for this building after it was constructed.

Mr. Patula advised the Board that no neighbor has a problem with the subject premises. The applicant is a good neighbor. He wanted to rebuild, but ran out of money.

Chairman Carnell noted that the application says the applicant is looking for a use variance and Mr. Patula stated that it is a use variance. Logan Ottino advised the Board that the applicant applied for a use variance because the Building Department has evidence the applicant was sleeping in the storage building.

Attorney Paula Kay asked Mr. Patula what his position is in Town of Fallsburg Building Department, as he introduced himself as such. Mr. Patula said that he would prefer to leave that out of this application.

Mr. Patula advised the Board that the applicant is staying in a camper on the site occasionally. He further advised that across the river, the Southwoods Motocross Club has campers there that they use all summer long.

Chairman Carnell advised the applicant that a use variance and an area variance are two separate things. On a use variance, if any of the items are self-created, this Board does not have a legal authority to approve it at all.

Mr. Patula thought it was for a use variance, however, if the agreement is going to be that they are

not living in the accessory buildings, then it can be determined to be an area variance.

Attorney Paula Kay advised the applicant that the Board needs to have a clear understanding from the applicant that he will not get caught living in the storage building again. Ms. Kay then advised the Board to go through the items contained on the Building Department's January 24, 2014 memo to the Board. (A copy of is attached to the minutes.)

Attorney Paula Kay advised the Board that if the storage building is not going to be habitable space, we can disregard the Building Department's comments concerning habitable space.

Mr. Patula advised that the applicant did file a permit for the storage building so he could get denied for a Building Permit and appear before this Board. With respect to the storage buildings, the Code says no permit is needed for buildings under 144 square feet. The other buildings are less; why does the applicant need a variance? Logan Ottino advised the applicant that a variance was required because they are accessory buildings without a main structure. Mr. Patula advised the Board that the well shed is necessary. The second storage building was previously there, the applicant just rebuilt it. The house will eventually be rebuilt further back on the lot than the existing structures.

Chairman Carnell spoke with the applicant about the location of the new premises. Mr. Patula advised the Board that new flood lines have been instituted after the flood in 2005 and that affected the new location of the premises. He further advised the Board that the box trailers are welded and on concrete slabs.

Pamela Zaitchick asked if the box trailers were there when the house was there and the applicant confirmed that they were.

Chairman Carnell suggested a time frame stipulation. Variances are good for six months with an extension of an additional six months. Further, the applicant cannot live in the accessory structures. Logan Ottino questioned about the septic system. Mr. Patula advised the Board that he believes the camper is on the old septic system; they do not know where the exact location is.

Logan Ottino is concerned that campers are not allowed except in camp grounds. Mr. Patula argued that if you have a house, you are allowed to keep a camper there. Attorney Paula Kay reminded Mr. Patula that there is no house.

Attorney Paula Kay asked if the wood burning stove could be removed. The applicant advised that it was installed properly and Mr. Patula stated that they do not consider the building to be a garage. Chairman Carnell reminded the applicant that due to the size, the Town will consider the building as a garage. Attorney Paula Kay noted that the Town is concerned that the applicant is living in the storage building and we want to ensure that it is not being lived in.

Brian Soller reminded the applicant that we need to work together towards an amicable resolution of this matter and perhaps removing the wood stove would be a good compromise.

The applicant advised the Board that he did ask the former Building Inspector for assistance and guidance with the subject premises.

Pamela Zaitchick noted that obviously, the applicant was given bad advice.

Mr. Patula stated that he asked the former Building Inspector TJ if the storage trailers were permitted and was told that as long as a roof was on them, they would be permitted. Logan Ottino advised the applicant that this is usually the case for one building only.

Chairman Carnell suggested that the applicant get the box trailers sided and the applicant said he was willing to do that. He uses them to store his tools, ATV, bicycles, hunting gear, etc.

Chairman Carnell stated that the Town has previously allowed storage buildings to remain on buildings pending construction of a main home. The Town would want to see the construction start; it does not need to be finished but at least started to appease the Board. If after one year the building permit is not started, the variance is null and void and the applicant has to start all over again.

Mr. Patula asked if the applicant will have to come back to get a variance to put the house further back on the lot and Attorney Paula Kay advised Mr. Patula that the applicant will have to submit the plans to the Building Department first. He may have to go back for a variance after they are reviewed.

Attorney Paula Kay asked if the other structures be staying after the construction of the main dwelling and Mr. Patula advised that for sure, the well house can be removed. The applicant would like to keep the other buildings on the premises.

Chairman Carnell advised the applicant that if he can keep the house in line with the other buildings, he may be able to avoid the necessity of another variance.

Pamela Zaitchick asked if the applicant has to build the house further back on the lot and Mr. Patula advised that because of the new flood line, the applicant has no choice.

Chairman Carnell advised the applicant that if the house is further from the road than the existing structures, he will have to get a variance. Further, if there is no work done within a year, the variances are null and void.

Attorney Paula Kay asked the Board if they want to do anything with the wood stove? After discussion, the Board felt that as long as he continues not to live in the "garage", the wood stove could remain. Mr. Patula advised that Town Code provides that a wood stove does not need a permit in a non-living space. Chairman Carnell advised that this is true, as long as the wood stove is installed within the Code. The applicant will have to work with the Building Department on that issue.

The Board had no further questions.

With respect to the application for area variances:

- (1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? All voted no
- (2) Can the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance? All voted no.
- (3) Is the requested area variance substantial? All voted no.
- (4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All voted no.
- (5) Is the alleged difficulty self-created? All voted yes.

A negative declaration motion was made by Richard Benson and seconded by Richard McClernon. 5 in favor; 0 opposed.

Chairman Carnell requested that a motion to approve the variance as requested be made with the conditions that the storage building not be occupied as habitable space and that the applicant will secure a Building Permit for the main dwelling within six months with a six month extension. The applicant can go directly to the Building Department to request an extension.

A motion to grant the variances with the conditions noted above was made by Richard McClernon and seconded by Richard Benson. 5 in favor; 0 opposed.

A motion to end the meeting at 9:01 p.m. was was made by Richard McClernon and seconded by Richard Benson. 5 in favor; 0 opposed.