

**ZONING BOARD OF APPEALS
MONDAY, JULY 24, 2013**

Members Present: Susan Marteney, Scott Kilmer, Richard Tamburrino, Douglas Parker, Ed Darrow

Staff Present: Andy Fusco, Corporation Counsel

APPLICATIONS APPROVED: 5 Norma Drive, 86 Bradford St.

APPLICATIONS DENIED: None

APPLICATIONS TABLED: 108 South St., 98 E. Genesee St.

Mr. Darrow: Welcome to the City of Auburn Zoning Board of Appeals. I'm Board Chairman Edward Darrow. Tonight we will be hearing, in this order, 7 Elm St., 12 Lawton Ave and 23 Perrine St. 98 E. Genesee St. and 108 South St. have been pulled. If there is anyone here that's for those we will not be hearing them this evening.

Audience member: Inaudible.

Ed Darrow: 108 South St. and 98 E. Genesee St.

Audience member: Inaudible.

Ed Darrow: It has to go before the Historic Resources Review Board.

Andy Fusco: Which one?

Audience member: Inaudible.

Ed Darrow: 108

Audience member: 98 E. Genesee St.

Andy Fusco: The applicant has retained Counsel and apparently the applicant wished to have Counsel to take the time to review the matter before it was heard tonight.

Ed Darrow: It will be on our next meeting. The fourth Monday of next month.

Moving forward if you could turn off any cell phones or put them in [inaudible] mode we will begin with 43 Havens Ave

43 Havens Ave.

Chair: If you could please approach, give your name and address for the record and tell us what you would like to do.

Mark Steigerwald, 43 Havens Ave. The problem is the peak of my roof is out of code which I didn't realize it was even out of code. The guy who did the work for me, Tim McBride, said everything was fine and then the guy from Code Enforcement showed up stating the peak was too high.

Ed Darrow: Did you pull a permit before you started the project?

Mark Steigerwald: Yes.

Ed Darrow: Did you give them a set of drawings depicting the building, its dimensions and height?

Mark Steigerwald: No. I imagine Tim McBride, the guy who did the construction work for me, did that.

Ed Darrow: Please go on and tell us what you're looking for.

Mark Steigerwald: I just need a variance of I think it's 16 feet 4 inches, something like that, I would like to see if I could remain at that height. No body that I know has complained about it. I have a letter here from my neighbor that he doesn't have a problem with it. I have pictures of the building if you'd like to see them.

Andy Fusco: Sir, the existing garage is 16 feet 6 inches?

Mark Steigerwald: Right now it is.

Andy Fusco: No, was it 16 feet 6 inches previously?

Mark Steigerwald: I 'm not positive, I'm not sure. I asked him, I said is everything good? You got the permit? We're ready to go? And he said that we're set. I did not know I was out of code. I would have put in for it if I knew I had to do that. If I knew it was going to be that high. I have no idea.

Andy Fusco: What I'm trying to ask, you answered question 14 of your application by saying 'When I realized my permit, I never realized the height of the building was out of code,' in other words over 15 feet, 'that it was 16 feet'. Was it 16 feet previously? In other words is this a pre-existing, non-conformity.

Mark Steigerwald: There was an existing barn. All I wanted them to do was add dormers to it. Get some windows in there and get some light into the building. That was the whole idea because when you walk into that building you couldn't see anything. You'd flip the lights on but there's so much stuff in there it's kind of crowded so I wanted them to put a couple dormers on there and get some light in there and I could move my stuff around a bit better.

Ed Darrow: What is this structure used for?

Mark Steigerwald: It's used for storing my furniture and a bunch of stuff I've collected over the years.

Ed Darrow: And will continue to be used for that?

Mark Steigerwald: Right. I don't have anything else up there. I've got pictures here. I don't even have enough money to put the lighting in yet.

Ed Darrow: You do have pictures? Please pass them out and make them part of the record.

While the pictures are passing around are there any questions from any other Board members?

Doug: How long ago was this construction done?

Mark Steigerwald: About 2 months ago.

Doug: And it was existing?

Mark Steigerwald: Yes, it was existing. All they did was tear up some shingles, and I had a problem with Dura-Shed building it originally, I had a sag in the roof, they never put in cross beams so the roof wouldn't sag. I even tried to fix it myself but I couldn't go anywhere with it. The shingles being about ten years old started to deteriorate so I figured I'd put a metal roof on it and that would be the end of it.

Board member: Inaudible

Mark Steigerwald: No, it was a like a barn.

Board member: Inaudible

Doug Parker: What does the Code call for? 15 feet?

Ed Darrow: 15 feet zero inches.

Doug Parker: So we're at 16, 6. So it's a foot and a half larger than what it should be.

Ed Darrow: Any other questions from the Board members.

Board member: Inaudible

Ed Darrow: Any other questions? You may be seated, sir, but we may recall you.

Is there anybody in the audience wishing to speak for or against 43 Havens Ave? Hearing none and seeing none I shall close the public portion.

Mark Steigerwald hands in letter from neighbor.

Debra Calarco: reads letter into the record.

Ed Darrow: Discussion?

Scott Kilmer: You can't really see the building that well from the road and it's only a foot and a half.

Doug Parker: I have no problems with it. I drove by it today. I think it looks fine at the back end of the property. As long as the neighbors are not complaining.

Board member: Inaudible

Ed Darrow: Be an awful nice looking storage building.

Chair will entertain a motion.

Scott Kilmer: I will make a motion to grant Mark Steigerwald of 43 Havens Ave a one foot six inch variance to the peak of the roof.

Ed Darrow: We have a motion, do we have a second. Seconded by Debra Calarco.

Roll call vote. Carried unanimously.

Ed Darrow: Your application have been approved. Please see Code Enforcement. Thank you.

51 Bradford St.

Ed Darrow: Next we have 51 Bradford St. 51 Bradford St.?

7 Elm St.

We will now move on to 7 Elm St.

If you could please give your name and address for the record and tell us what you'd like to do.

Nikki Brazee, 7 Elm St.: I'm looking to be granted a variance for a pool in my back yard. It's a pie shape, I left a diagram in the packet. I currently have 5 ½ feet, I'm looking for 4 ½ feet to make it the 10 feet from the fence. The entire yard is fenced in already so you wouldn't be able to see it from the road. I included some signatures from my neighbors saying that they were okay with the pool. It's for an above ground, 21 foot pool.

Ed Darrow: Did anyone in their packet get a diagram showing where the pool is located? Thank you.

Any questions from the Board members?

Scott Kilmer: From the 12 o'clock position what is the distance to the shed?

Nikki Brazee: Probably about 20 feet at least.

Doug Parker: What type of pool is it?

Nikki Brazee: It's a 20 foot, round, above ground pool.

Doug Parker: Any railing or anything around it?

Nikki Brazee: No. I have just the fenced in area and then there's a deck off my house and then there would be the pool.

Scott Kilmer: I don't think you can see the pool from the road. It's an oddly shaped back yard.

Debra Calarco: Inaudible.

Ed Darrow: We're required to give the minimal variance necessary and you're not going to go much further and have a place to actually cool off. Any other questions from Board members?

You may be seated but we may recall you.

Is there anyone present wishing to speak for or against 7 Elm St.? Seeing none and hearing none I shall close the public portion so we can discuss it amongst ourselves.

Ed Darrow: I think the uniqueness of the lot itself adds to her hardship.

Doug Parker: I like that the fence is tall enough around the surrounding area that it would keep people out of the back yard. It's pretty secure.

Ed Darrow: Only 4 foot is required and it looks like 6 feet is there. Any other discussion? Chair will entertain a motion.

Scott Kilmer: I would like to make a motion to grant Nicole Brazee and Anne Marie Phillips of 7 Elm St. a 4 ½ variance on either side of the 21 foot pool to put the pool in. Seconded by Doug Parker.

Roll call vote: Motion carried unanimously.

Your variance has been approved. See Code Enforcement for your permits.

12 Lawton Ave

Ed Darrow: Next we have 12 Lawton Ave. Please give your name and address for the record and tell us what you'd like to do.

Tracey Baker, 12 Lawton Ave: I have a shed custom made and got a permit for my side yard and after the fact they didn't realize it was for my side yard. I have no way to get it in my back yard. I'm surrounded by fence. The only option would be to cut down a 75 year old Magnolia tree and remove a current wood fence and slide it back about 20 feet.

Ed Darrow: Any questions from the Board members?

Scott Kilmer: How long has the shed been there?

Tracey Baker: Since last April. A six foot fence will be going up in front of it.

Doug Parker: How long will that fence be? It's six foot high, it will box it in will it?

Tracey Baker: Totally. It will go from my house to my chain link fence.

Doug Paker: So it will block the view of the shed.

Tracy Baker: Except for the top. I have no immediate neighbors. I'm surrounded by St. Joe's parking lot.

Ed Darrow: Any other questions? You may be seated, we may recall you thought.

Is there anyone present wishing to speak for or against 12 Lawton Ave? Seeing none and hearing none I shall close the public portion of this session.

Thoughts?

Debra Calarco: It's a beautiful piece of property. I think she's really doing everything she can to still get the storage she needs and to make it maintain its integrity. She doesn't really have a whole lot of options and cutting down that Magnolia tree that old is just not right.

Doug Parker: I think in its current state it doesn't look presentable but I think if she follows through with the fence it will do the necessary aesthetics on the property and make it look a lot better than what it is right now.

Ed Darrow: Any other thoughts? Chair will entertain a motion.

Scott Kilmer: I'd like to make a motion for Tracey Baker for an area variance at 12 Lawton Ave, 2 variance, 1 for the placement of an 8x12 shed in the side yard and the other for the installation of an installation of a 6 foot high fence in the front side yard. Seconded by Debra Calarco.

Roll call vote. Motion carried unanimously.

Ed Darrow: Your variance has been approved. Please see Code Enforcement for any necessary permits.

23 Perrine St.

Ed Darrow: 23 Perrine St. please approach. Give us your name and address and tell us what you'd like to do.

Delbert Horton, Jordan: We would like to maintain the current fence line as the property has been for the last 50 years, reopen it for the use that it was intended when Mr. Aaronek ran it as Consolidated Scrap for the last however many years. We're not changing anything. All we want to do is be able to leave the fence line and the fence line is currently also the property line and we want to be able to just leave it the way that it is.

Ed Darrow: Bunch of variances needed for this. You have 5 separate variances needed for this. It's non-conforming at this point.

Delbert Horton: Well there's a buffer zone variance but the fence line on one side, the new rules, whenever they came into, I don't know when, but now calls for the fence to be ten feet off the required set back. The property is so narrow that if you move the fence in ten feet from each side we're going to lose about an acre. There's only 4 acres there now. On the street ends the fence that's currently there, which there's nothing wrong with it. On Park St., I mean there's nothing on Park St. It's gated there, there's 2 nice gates, 2 nice fences, it's 8 feet off the street the way it is now. There's no real fence gate on the other end on Perrine St. because that's where the building and the entrance are. We'll put a gate between the buildings. That will be in code. That will be 20 feet from the road. The buffer zone, I don't know when that got changed. The place has been there for however long it's been there. The property obviously is there's a 500 foot buffer zone that property wouldn't even exist as an Industrial zone. The property's not even 500 feet wide.

Ed Darrow: Any questions from the Board members?

Debra Calarco: Is this property been not in use at all for the past few years or is it currently been used?

Edward Darrow: I believe Alan Aaronek closed Consolidated Metals about 5 years ago.

Peter Corning, 1 Swift St., attorney for Alan Aaronek and Perrine St. Holdings: The active part was stopped a few years, I think the question was when did he cease operations? The answer to that question I think is the active part of the metal recycling business stopped a few years ago but he has continued to remain on the property conducting his business from the buildings located there.

Ed Darrow: And it's been operating under Consolidated Scrap? Operating under that name?

Unknown: Yes.

Peter Corning: Perhaps the owners, Perrine St. Holdings, LLC, but Consolidated Scrap has been the operational company that has continued to stay there.

Ed Darrow: Okay, thank you. My next question being if it has not ceased to operate are these variances still needed?

Andy Fusco: The question I have for Mr. Corning and Mr. Aaronek is what activities are going on there? What activities have occurred the last 3 or 4 or 5 years?

Alan Aaronek, 6497 County Line Rd., Skaneateles: To answer your questions we closed the scrap yard down in 2005 but kept the trucking business until just this spring. I'm selling the trucks and everything and that'll be that for me.

Ed Darrow: So Mr. Aaronek, so it's your testimony that you're still maintaining trucking there and the hauling the scrap metal. You're just not receiving scrap metal at that site? Is that your testimony?

Alan Aaronek: That's right.

Andy Fusco: I'll ask Brian, do you deem this not to be a pre-existing non-conformity or some pre-existing use for which they don't already have the right to do what they wish?

Brian Hicks: My understanding is the operation ceased. [inaudible]

Ed Darrow: I've driven by and seen the trucks there. I've seen the tractor-trailers there.

Debra Calarco: The question is hasn't it been down for 2 years?

Ed Darrow: It hasn't been not operating for the period of time to cause this sort of action. That's my opinion. I'm not sure if Counsel feels the same way.

Andy Fusco: If this were a use variance I'd be perhaps troubled but the fact that it's a series of area variances I'm not troubled.

Ed Darrow: I feel the same way. If it was a use variance then we'd have to do a SEQR review and follow those steps but being an area variance, being it's been in operation, I personally feel.

Andy Fusco: Well, let's see a non-binding kind of straw poll, how do you all feel? Do we have objections here? The problem we're facing here as you can see is we're a 7 person board and we only have 4 people here. One no vote defeats the application and I think it behooves us all to kind of feel the 4 votes out that are here before we go any further.

Ed Darrow: And once defeated unless there's a substantial change in the application it can't come before us again.

Delbert Horton: I'm kind of confused. What is it that you would be voting on?

Ed Darrow: We're taking a straw poll amongst ourselves if the other Board members feel as I do that in fact if this necessarily need to be before this Board because the operations haven't ceased for the period of time that requires an action of this sort.

Doug Parker: I agree with that.

Debra Calarco: That's the way I feel. The only thing that I'd like is a little more solid showing that that's definitely the case.

Andy Fusco: As far as the activity going forward, do you wish to ask Mr. Aaronek further questions?

Debra Calarco: I guess I would just like to have seen it somewhere in writing that this business has never closed down. How did it get into the understanding here that it was and the understanding there that it isn't? How did we get into the belief that this was closed and that we needed to do this?

Ed Darrow: That would have been Code Enforcement's call.

Peter Corning: I think the answer to the question may be that Mr. Aaronek has been pulling back on some of his investments and businesses and this was one of them and as we all knew it it was a metal recycling business for 100 years starting with the Samuel Schwartz Company. Alan kind of pulled out of that aspect of it as he said several years ago but continued to run his trucking business and continues today to run his business holdings from the buildings that are on that property. Now his activities have changed but the business is still there. The reason we're here is that the first thing we did was go to the City and say 'This is what we want to do' and the question was raised whether the non-conforming use had expired so to cover all our bases if it has we would like a variance, if it hasn't then you're absolutely right, we're here for no reason.

Ed Darrow: I have a question for Counsel. If we feel that it hasn't ceased and a variance isn't needed for the area variances therefore the public portion doesn't even need to be conducted.

Andy Fusco: That's not necessarily true. The form of relief would not be the granting of a variance but an interpretation, the granting of an interpretation by the Board making a determination that a variance was not needed because the pre-existing non-conformity hadn't expired. The reason it's not conforming is because as you see under the face page of the application there are things required for a salvage yard in

an industrial zone that wouldn't be required for just a trucking company. So I think that's the reason Counsel has come forward asking for relief from this Board. It would also help anybody who would be beyond the fence to see if there's any opposition to this in the room.

Ed Darrow: Any other questions?

Debra Calarco: I think I do see the change because it did go to just a trucking company and the salvage yard part, the wrecking part of it did cease.

Doug Parker: A complete abandonment of the property would have brought this but because there's not a complete abandonment of the property.

Andy Fusco: Perhaps yes and perhaps no. That's for you to answer. Because the property was used for a non-salvage use the various setbacks and buffers that are required in the application, those wouldn't be necessary for something like a trucking company. Those are heightened things that are needed for a junk yard under our code that aren't needed for a trucking company. So hence the fact that the business was on-going, you could say 'Okay a variance is required because the aspect of the business that required these buffers and these setback and these fencings haven't been done for 5 years.'

Ed Darrow: Mr. Horton, could you please describe what business and activities you do plan on conducting there?

Delbert Horton: Exactly the same things as Alan.

Ed Darrow: Could you be more specific? 'Exactly the same thing' is not a list.

Delbert Horton: We're going to be a metal recycling facility.

Ed Darrow: Are you going to recycle damaged wreck cars?

Delbert Horton: Yes.

Ed Darrow: Are you going to be a junk yard that's going to dismantle them and sell their parts or are you going to recycle the damaged and wrecked cars?

Delbert Horton: We're going to take in all types of material, ferrous and non-ferrous material, sort it, grade it and ship it.

Ed Darrow: But you're not going to store damaged vehicle? You're not going to sell parts off those damaged vehicles? You're not going to have the public coming in to pull parts or buy parts from those damaged vehicles?

Delbert Horton: No.

Andy Fusco: Good question.

Delbert Horton: Vehicles will come in, new state laws, you have to follow the new state laws. Vehicles that come in have to be drained and prepped before they can be shipped. We'll follow it.

Ed Darrow: Any other questions from our Board members?

Scott Kilmer: How long ago did you say that the scrapping operation ceased?

Alan Aaronek: 2005

Ed Darrow: Any other questions? Gentlemen you may be seated, we may recall you. Thank you.

Is there anybody present wishing to speak for or against 23 Perrine St. Please come forward and give your name and address.

Diane Long, 149 North St.; The west end of our property is immediately adjacent to the former scrap yard as is a portion of the north side of our yard. So the corner and the entire back of our yard is immediately adjacent to what was the former scrap yard 8 years ago. We know from 8 years ago what it was like living next door to a scrap yard. It was very noisy and very smelly. It was extremely unpleasant to be in our back yard. One of the things we do recognize is that this an industrial zone.

We don't feel that this has been, the scrap yard piece, hasn't been there. It clearly hasn't been functioning as a scrap yard place in the last 8 years. So in our minds this is a new use of this facility. We checked with the Syracuse New York State Region 7 Office Department of Environmental Conservation and as far as they could tell us there is no record of a hazardous mitigation plan for the site as of July 19th. Our questions are has there been a phase 1 and phase 2 environmental assessment completed for this site?

Ed Darrow: It's not required because it's an area variance not a use variance.

Diane Long: So then we're just really wanting to be sure that anything that goes in there, any way it's being used is really brought up to as many environmental rules and regulations, DEC codes as at all possible and that the Zoning Board really considers that before you make a ruling on this.

Ed Darrow: How many years have you been at your residence on North St.?

Diane Long: We've been there since 2000. The fence that has, or previously bordered our property, we're like these big, tall sheet metal rusting kinds of things that were leaning into our property. We've just recently put up a fence that kind of hides the ugliness that's back there. They took down part of the fence, left up part of the fence. I don't know what the new plans are for re-fencing. I'm kind of walking in here blind seeing as there were no details in the letter. We're just asking that you really seriously think about this and maybe consider this is really a new use of this property since it's been 8 years since it's been used as a scrap yard. Thank you.

Ed Darrow: Thank you. Any questions from Board members? You may be seated ma'am. We may recall you.

Anybody else wishing to speak for or against 23 Perrine St.?
At this time I'd like to call back Mr. Horton's attorney.

John Karpinsky, 22 Eastern Parkway.

Ed Darrow: You are representing Mr. Horton?

John Karpinsky: Yes.

Ed Darrow: Thank you, sir. My first question, and I want to make it as a matter of record, I want to advise you we are a 7 member board, we only have 4 members here, 3 members are absent. If you would like to table this to our next session we'd be willing to entertain that thought. The problem being that if we go forward and it fails for any reason there has to be a substantial change in the application for it to come back before this board. So if you'd like to consult with your client and determine whether or not you'd like to table this or move forward before I close the public portion then please do. I'll give you a couple minutes.

Peter Corning: Let's assume for the moment that we are requiring a variance and not taking the position that it's a pre-existing use. I think it's important the property as it exists is contingent and is capable and is compatible with Mr. Horton's business. In other words a recycling business is allowed on that property. We're not voting on that I hope. The new application would require a fence, is it 8 feet or 10 feet? 10 foot fence, which we are ready to install. The height is 8 feet. The problem that we have is that the ordinance calls for a ten foot buffer from the property line. That ten feet will destroy the property for all intents and purposes. I'm talking about the fence that borders the eastern boundary that is substantial. That it would be an 8 foot fence, by code it would be in 10 feet and we are asking that it remain at its present location. Since the previous speaker has put up a fence the other side of it we wouldn't seem to bother but it would be a definite hardship if the owner must come in ten feet because the property isn't that wide in the first place and it would take up a substantial amount of space. It's kind of a hardship and that's what we're asking for. We're talking about another buffer and that's a 500 foot buffer and that's one we can't ever accommodate and we hope that would be common sense. Are there any other variances?

Andy Fusco: There's a screening requirement; that it be screened from all residential uses. There's a 50 foot buffer from associated plant uses that I'm not quite certain what that means. And there's another 25 foot setback for public way fencing which may or may not be applicable. I

didn't quite understand that when I read it the first time. Those are the 5 variances that Mr. Horton is seeking tonight.

Peter Corning: That main one is that ten foot fence.

Ed Darrow: And the 500, yes.

Andy Fusco: And screening. Mrs. Long testified that it hadn't been adequately screened before. Perhaps it didn't have to be because it may well have pre-existed the establishment of the screening law. But within your consideration you may think that since salvage hasn't occurred in 5 or 8 years, we've got question of fact on that.

Ed Darrow: Sir, so you understand I'm going to bring it to our other 3 present Board members that their opinion is whether what Mr. Aaronek had had ceased long enough to cause this action or if they feel that it never ceased long enough to cause the action. Therefore if that should fail and it should be a negative vote then we shall move into the area variance part of it going over each of the 5 variances that are required. So my question is, do you want to table this while the public portion is still open or do you wish to have us proceed? At which point you could very possibly, if it were to fail, not have a recourse unless there was a substantial change.

Delbert Horton: Brian, if you're just running the trucking company, if you came to the City of Auburn and opened a trucking company, what would the property have to be zoned to be a trucking company?

Brian Hicks: Heavy Commercial or Industrial.

Delbert Horton: Trucking run in an Industrial zone. To me that pretty much answers the question.

Ed Darrow: But sir it depends on the specific uses and what you're doing in that area.

Delbert Horton: I understand that the Industrial zone encompasses the salvage yard. It's one of the uses in an Industrial zone.

Ed Darrow: That's why you're not after a use variance. That's why you're after area variances. Because if it was not allowed in a specific zone you would be required to have a use variance, you would be required to go for at least a short form SEQR review. We're not saying that it's not a use. What we're looking at is had the use cease and if it did we are looking at the 5 variances that are needed by you. That's what we are looking at. I don't want you to misunderstand what we are looking at.

Debra Calarco: I just have one question. If you were to get these variances are you planning to replace the current fencing?

Delbert Horton: Yes.

Debra Calarco: Because in your request here you stated you were leaving the fences.

Delbert Horton: Not the fencing, where the fence is located.

Debra Calarco: It says leave existing fences and buildings in current locations.

Delbert Horton: Right. Actually the one building is on the line so to move the fence would be pretty moot because the building is still going to be there. We're going to replace the fence, it's junk.

Andy Fusco: What kind of fence are you going to put up?

Delbert Horton: We asked the definition of fence, there is no definition of fence in the city, so chain link fence would be my standard option unless there's something you come up with.

Andy Fusco: One of the requirements in the law as you must know because you're asking for a variance tonight is sufficient screening for residential users.

Delbert Horton: I didn't find that in there.

Andy Fusco: It's in your application.

Ed Darrow: Item 5.

John Karpinsky: We do have a quote. We anticipated reinstalling the fence. We anticipated that, we go a quote from a fence company, Butler Fence, and that quoted value was part of the negotiated price for the property. The fence cost is built into the price and that is anticipated.

Debra Calarco: You're talking a chain link fence. That gives no screening to your neighbors.

Delbert Horton: Well you put screening slats in them.

Ed Darrow: I have a question for Code Enforcement. Being screening is used in item 5 and fencing is used in 2 other items; does screening in this instance have a different definition than fencing?

Brian: Yes, you have to throw in buffering also. The reason for the 50 foot buffer is so the proper screening can be planted [inaudible]. The three items are related to each other as far as the variance that's requested. The buffering and the screening and the 500 feet. Basically all those play together for the isolation of this property from the residential zone. They can be addressed in several different ways; a solid fence, footage with proper planting. That would create screening. So to answer your question they do have different definitions.

Ed Darrow: Thank you.

John Karpinsky: Brian, are you saying that you need both screening, the 50 foot screening and a solid fence?

Brian Hicks: No.

John Karpinsky: Okay, good.

Ed Darrow: Have you made a decision if you wish to table or to go forward with this?

John Karpinsky: The first issue whether or not we even to be here?

Ed Darrow: That is correct.

John Karpinsky: I think we may as well make a determination on that because even with a negative vote I think we would still go forward. But at that point that is do we have the opportunity to table if in fact there is a negative vote on the continued use.

Ed Darrow: Yes, I will allow you to table.

John Karpinsky: I say we would go ahead with the current issue.

Ed Darrow: And being that it's going to be tabled I will not close the public portion until all testimony has been heard.

I put forth then for unanimous consent fact-finding; are these area variances not needed due to the fact that business has continued to exist at this address for a period not to cause this action?

Andy Fusco: It would be in the nature of a resolution we would need a motion and a second if we can get it. Chair is asking you to make an interpretation as to whether area variances are needed because some business has been ongoing continuously there right up until today. We would need a motion and a second if we can get it and then a yay or nay.

Doug Parker: I'm of the opinion that the initial business there existing closed. Whatever he has used that property for is not what the original intent of that property was. And I think that the only way to hold him to reissuing any of these variances and controlling what he does now would be for me to vote nay and then discuss afterwards what his ideas and plans are and hold him to them at that point.

Debra Calarco: I agree with the same interpretation.

Scott Kilmer: I think the nature of the business has changed. I think that, for lack of better term, it's just been bare bones skeleton just to say 'I'm here' but it's not what it used to be.

Ed Darrow: Okay. So then it is the opinion of this body that the area variances are needed. Therefore, sir, do you wish to table to our next session, fourth Monday of next month?

Sir, maybe to help you understand. We have to have four yes votes, not majority. Every single member present would have to vote yes. For any motion to pass takes four yes votes whether there are four people present or seven.

Unidentified speaker: How do we know next month the seven are going to be here?

Ed Darrow: Unfortunately we don't. I wish I could make a promise.

John Karpinsky: We request that it be adjourned.

Ed Darrow: We won't adjourn, we'll table it.

John Karpinsky: Yes, table and hold open the public portion.

Ed Darrow: Yes, we'll hold open the public portion. All those in favor say aye. –All members vote aye.- Opposed?

Andy Fusco: Find out if there's any more people who want to testify tonight?

Ed Darrow: I called it twice. Are there any others that wish to testify for or against? I didn't think so.

Thank you.

51 Bradford St.

We're on to 51 Bradford St. Sir if you could give your name and address for the record and tell us what you'd like to do.

Matt Smokoski, 51 Bradford St.: I'm looking to put up a garage. The City Code calls for 750 square foot garage and I'm looking to put up something like 900 square feet. I'm looking to put up a 2-bay garage.

I've got a truck with a plow so I want to be able to get my plow inside the garage and have room for my truck to get in, my wife's car and riding lawn mower and stuff like that. So I'm looking for a 2-bay garage that's kind of deep so I can put a riding lawn mower and my plow and stuff in it. I did include some pictures in it. If you look at the pictures, the shed would come down and you can see I've already got in in the driveway, it's already stone, we're already fitting 2 cars and my plow and my trailer in it. Just looking to put the garage up where all that stuff is.

Ed Darrow: Do any members have the pictures? Are these them? All right. Are these the pictures, sir?

Matt Smokoski: Yes, they are. I think in the pictures I have orange markers or orange cones I put in the ground to show where the 30 x 32 garage would be going.

Doug Parker: Is that about where your shed is now?

Matt Smokoski: It wouldn't come over that far. But the shed would come down. No, it wouldn't go over that far. You can see in one of the pictures the orange stake right next to it, it would come over a little bit into it, a few feet I think but not the entire distance.

Scott Kilmer: That's going to be all within the appropriate boundary lines?

Matt Smokoski: Yes, I believe it's 3 feet from my neighbor and 5 feet from the back yard and to the east would be City property; it's a playground.

Ed Darrow: Are there any other questions from Board members? Sir, you may be seated, we may recall you.

Is there anybody present wishing to speak for or against 51 Bradford St.? Hearing none and seeing none I shall close the public portion so we can discuss this amongst ourselves. Thoughts?

Scott Kilmer: I drove by and it looks like there's enough room for it.

Ed Darrow: It's not the room as much as we only allow 750 square feet so it's going over the 750 square feet which my view these days with 2 cars, lawns furniture, a couple other adult toys, it's full.

Any other discussion?

Andy Fusco: The only testimony we have is 'I want something about 900 square feet'. Is going to be 900? There needs to be specificity.

Ed Darrow: 960 I assume.

Matt Smokoski: I wasn't very good at math at school but it's a 30x32.

Andy Fusco: 960.

Ed Darrow: So he needs a variance of 210 square feet.

Chair will entertain a motion.

Scott Kilmer: I'd like to make a motion that we grant Matt Smokoski of 51 Bradford St. and area variance of 210 square feet over the allowed 750 square feet for the construction of a new 30 x 32 square foot garage. Seconded by Doug Parker.

Roll call vote. Motion carried unanimously.

Your variance has been approved. Please see Code Enforcement for any needed permits. Thank you.

Is there anyone else that wishes to speak before this Board?

If not we're going to close the public portion for housekeeping.

Ed Darrow: Is Rick going to stay on? I know he's resigned but he said he would stay on or is the Mayor actively looking to fill the chair?

Andy Fusco: Both

Ed Darrow: Both. Any other thoughts or concerns with housekeeping?

Scott Kilmer: Do we know what's up with Rick?

Ed Darrow: That's what I was just discussing with Counsel. Yes, he has resigned due to time constraints but he is will to stay on until 108 South St. goes its course and the Mayor is actively looking for a new member.

Debra Calarco: I just have to give my apologies for not showing up. Last month was a crazy schedule.

Ed Darrow: Our other 2 members did notify me. One had a death in the family in Albany and the other was ill.

Chair will entertain a motion to table. So moved by Scott Kilmer, seconded by Doug Parker. Motion carried unanimously.