

41 parking waiver because we don't need all the spaces required by the code and that in turn
42 lowered the lot coverage request of the ZBA. When we look at building coverage the maximum
43 permitted is 18% in the R ¼ Zone. If you look at it as just the tax lot as it now exists, what the
44 nursing home is on, the existing lot coverage is 23.5%. The quality expansion involves 3
45 adjoining lots also owned by the owners of the nursing home on which there are single family
46 houses, those houses come down and the nursing home expands. When you take into account the
47 entire property, not just the current tax lot, the existing condition is 19.6%. The proposed
48 condition is 23.6%. It is a 4% increase over the existing condition when considered over the
49 entire parcel. The same set of figures for the lot coverage, the maximum permitted in the R ¼
50 zone is 25%. If we look at just the existing condition of the single lot on which the nursing home
51 is located it is currently at 48%. If we look at the existing condition of all tax lots that make up
52 the project it is 41% and the proposed condition of all tax lots is 50.9%. So it is a 9.9% increase.
53 From our perspective they are fairly small variance requests. The project has a certificate of need
54 from the Department of Health. The DOH issues this when they feel the project is needed in an
55 area. The Comprehensive Plan for the Town specifically states that there is a need for senior
56 housing. It calls for an expansion of senior housing and increased density in the hamlet of
57 Highland. The project meets all the statements in the Comprehensive Plan. We have done a
58 traffic study where the project will result in a minimal increase in traffic. There will be eight
59 additional trips in the peak morning hour and 13 additional trips in the evening peak hour. There
60 was a small discussion on truck traffic. The facility right now is served with three weekly
61 delivery trucks, two monthly delivery trucks and garbage pickup twice a week. All that is done
62 with box trucks. There is not a need for more or bigger trucks to deliver items to the facility.
63 Back in January they submitted a truck turning diagram which is better maneuvering plan with
64 the new facility. We have submitted numerous documents from many agencies that say it is
65 appropriate and it is compatible to have an assisted living facility in a residential neighborhood.
66 The surrounding vicinity is a mixed use area. Everything meets the needs of the Comprehensive
67 Plan's objectives. Our Architect for the project, Barry Terach, is present this evening. We cannot
68 physically build up vertically from the present building as it is not structurally capable so this is
69 the only way to meet the applicant's objectives. We don't feel that the variance will have any
70 significant impact on the neighborhood and the negative declaration substantiates that it will not
71 have an adverse effect on the neighborhood as well. If everything is reviewed you will find that it
72 is a minimal variance that meets with the neighborhood and will have no adverse effect.
73 Richard Cantor, attorney for the applicant: It is a balancing test for the standards of a variance.
74 The ZBA must decide if the variance outweighs the detriment to the community. We assert that
75 there is no detriment or negative impact to the community as stated by the Planning Board's
76 negative declaration and the action of the Town Board amending the zoning. We hope that you
77 will grant the two variances so the project can move forward through the Planning Board and
78 hope they will grant the approvals.

79 A **Motion** to close the public hearing was made by Alan Hartman, seconded by Paul Symes. All
80 ayes. There was no public present.

81 Rob S: There is a public hearing scheduled by the Planning Board on May 25, 2017 where they
82 will consider the site plan and special use permit. This Board is cleared tonight if it so desires to
83 render a decision. If not, there is a two month period afterwards that the Board can still act. The
84 applicant's planner and attorney have gone through the balancing test. The balance is to weigh
85 the benefits to the applicant against any detriment to the health, safety, and welfare of the
86 neighborhood and community. There are five criteria that the statute lays out in reaching that

87 determination. Whether or not an undesirable change in neighborhood character results in a
88 detriment to the abutting properties
89 Anthony P: It is a pre-existing, non-conforming condition already and will be consistent with
90 other properties in the neighborhood.
91 Alan H: I see it as a business in that location that is expanding.
92 Anthony P: We are all in agreement that there will be no undesirable changes in the
93 neighborhood as a result of the expansion of the facility.
94 Rob S. read the additional four criteria for coming up with the determination; whether or not the
95 benefit could be achieved by any other means acceptable, whether the request is substantial,
96 whether the request would have adverse physical or environmental effects (Negative Declaration
97 was issued by the Planning Board), and whether or not the difficulty or the need for the two area
98 variances is self created. All criteria were discussed by the Board and found to have no adverse
99 impact.
100 A **Motion** was made by Paul Symes, seconded by Anthony Pavese to accept the request for an
101 area variance for lot coverage and building coverage for Highland Assisted Living at Village
102 View. All ayes with Alan Hartman abstained.
103

104 **New Public Hearings**

105
106 **Savino, JoyAnn**, 131 South St, 87.3-5-32, in A zone.
107 The applicant would like to add a 442 square foot accessory apartment above her garage. Her
108 residence is in the Agricultural Zone. The A zone requires a minimum of 2 acres. Ms. Savino's
109 lot is pre-existing non-conforming with .82 acres. She is requesting lot area relief of 1.18 acres.
110 A **Motion** to open the public hearing was made by Anthony Pavese, seconded by John Litts. All
111 ayes.
112 The applicant, JoyAnn Savino, was present and brought pictures of apartment in question.
113 JoyAnn S: The apartment has been in the process of building for the last seven years and is now
114 finished. The use is for economic reasons.
115 A **Motion** to close the public hearing was made by Alan Hartman, seconded by John Litts. All
116 ayes.
117 Anthony P: We are going to do the balance test. One thing we are looking at is an aerial map that
118 there are all one family houses in the area.
119 JoyAnn S: Many of the surrounding homes have approved 2-3 family houses.
120 Anthony P: We should consider whether the benefit could be achieved by other means feasible to
121 the applicant.
122 Paul S: You proceeded with this without a building permit.
123 JoyAnn S: I filled out an application and had to keep complying with more improvements on the
124 apartment.
125 Dave B: I believe it started out as being unheated storage space with an artist type studio for only
126 personal use at the time. The project has since then become something different
127 JoyAnn S: With a previous building inspector I decided to make it into living space and I was
128 told I needed to heat it.
129 Anthony P: Did something fall through the cracks here?
130 Dave B: No, I think the project started to creep. Right now if she came in now I would have her
131 do engineered plans because I have no idea if the foundation is able to support what the project

132 is. To date I do not have any engineered plans. Because the building permit was pulled so long
133 ago the past criteria is grandfathered in as long as she has kept current with what the code was.

134 John Litts: The issue is in order to have an accessory apartment the code requires two acres
135 which is why the need for the area variance arises.

136 Anthony P: Ten years ago when the applicant first applied what were the rules at that point?

137 Dave B: One acre and we did not have accessory apartments in the code.

138 Anthony P: Initially she was doing something different but it graduated to what it is today. I
139 don't think the benefit could be achieved by any other means because it is already there.

140 Alan H: I think looking at the pictures the project is very well done and I think it fits in with the
141 neighborhood.

142 Anthony P: There is no undesirable change at this point.

143 Rob S: We really can't go by the original application at the time because it was for a different
144 use when she initially applied. So you can't really rely on the zoning change because the permit
145 has changed.

146 John L: I don't see any adverse physical or environmental effect. It's 442 square feet; I don't see
147 that as any environmental effect.

148 A **Motion** was made by John Litts, seconded by Alan Hartman to accept the decision to grant the
149 variance. All ayes.

150

151 **Imperial, Nell**, 112 South St, 87.3-5-2.400, in A zone.

152 The applicant being in the Agricultural Zone is required to have a side yard setback of 35 feet.

153 He is proposing a deck with a 25 foot side yard setback, needing a 10 foot variance to meet the
154 requirement.

155 A **Motion** to open the public hearing was made by Alan Hartman, seconded by John Litts. All
156 ayes.

157 Nell Imperial: We would like to put a deck on the back of our house but need a variance as it is a
158 little too close to the property line.

159 A **Motion** to close the public hearing was made by Paul Symes, seconded by Anthony Pavese.

160 All ayes. There was no public present.

161 There were only minor issues with the plans infringing on the setbacks from the Building
162 Department.

163 The ZBA went through the balance test of the criteria used for making a decision on the variance
164 and determined the project to be acceptable.

165 A **Motion** was made by Alan Hartman, seconded by John Litts to accept the decision to grant the
166 variance. All ayes.

167

168 Paul Symes Recused

169 **Cusa, Sal Jr**, Chapel Hill Rd, 95.2-6-9, in R1 zone.

170 The applicant seeks to construct a 2-Family house in a R-1 zone on a 1.565 acre lot. The
171 minimum acreage for a two family in the R-1 zone is 2 acres. He is requesting an area variance
172 for relief of 0.435 acres.

173 A **Motion** to open the public hearing was made by Alan Hartman, seconded by John Litts. All
174 ayes.

175 Lou DuBois, applicant's engineer, was present.

176 Lou D: The lot is an irregular shaped lot. Mr. Cusa wants to build a two-family residence with
177 each with two bedrooms, basically a four bedroom facility. The driveway has been approved by

178 the county, there is no side yard, and the only concern we have had is the required two acres to
179 legally have a two family house on the parcel. The surrounding area is mostly single family
180 houses but contiguous to the property there is also a multifamily house. The house would be
181 roughly a 55 x 30 ft dwelling and the entrances to the apartments would be on the side of the
182 building so from the front, the building will look like a single family house. Water and sewer
183 demands are typical of single family house. The builder feels that there is a high demand for this
184 type of housing.

185 Dave B: If the variance is granted by the ZBA, Mr. Cusa will have to pass through the Planning
186 Board for the review of the two-family house. There are also two letters of communication that
187 are part of the public hearing.

188 The ZBA discussed where the location of the house would be and the location of the outlet of the
189 driveway on the road.

190 Lou Ann Judge, resident, reviewed the plans provided by the applicant's engineer and had a
191 concern with the placement of their septic system in relation to her mother's well at her residence
192 located on Chapel Hill Road.

193 Lou D: All of this was approved by the Board of Health.

194 Lou Ann J: I have a concern that there could be a drainage issue created by the construction of
195 the two-family house which would be of concern to my mother's house located at 131 Chapel
196 Hill Road.

197 Anthony P: Those potential issues would be for the Planning Board not the ZBA.

198 Ellen Hepinstall, resident: To make a zoning determination of a variance for a two family house
199 by using the only multifamily house that has existed in the area for over seventy five years is
200 erroneous.

201 Wayne Thompson, attorney for adjacent property owners: I have already submitted a letter. I
202 want to point out at the very outset that the Board is required under its own Town of Lloyd Code
203 to make a finding of hardship for an area variance or specifically for practical difficulties neither
204 of which is present here. Beyond the five part balancing test, the town's own code requires that
205 you shall make the following findings prior to granting a variance for relief from the strict
206 application of Chapter 100- Zoning. It doesn't distinguish use or area variance, it says this is the
207 finding you shall make. What we have is an applicant who wants to take a substandard lot and
208 maximize his profit by applying for an area variance. No hardship has been established, no
209 practical difficulties have been established, there is no house on the property which he wishes to
210 expand, there is no residence there that can be expanded, it is an R1 Zone, it is in a neighborhood
211 that is totally rural character, there is one house that has existed for more than half of a century as
212 two-family house within the immediate neighborhood and all the rest of the houses are single
213 family houses. A two-family house, rental units as listed by the applicant merely isn't just a two-
214 family house; it changes the character of the neighborhood from single-family owned homes to
215 rental units. A rental unit in a rural area doesn't comport with the character of that particular
216 neighborhood of single-family homes on wooded lots. The Comprehensive Plan identifies
217 repeatedly the rural character and the need to preserve the rural character of the Town.

218 Introducing multi-family houses in to a rural residential single family neighborhood changes the
219 character of that neighborhood by adding the traffic. Rental people typically, as many landlords
220 will tell you, don't care for the property the way in which an owner would. You can't judge one
221 multi-family house that existed for at least a half of a century when the zoning may or may not
222 have allowed it. You want to introduce two-family house in a neighborhood of single-family
223 homes on a dangerous curve just because the market might be conducive to it. This is real estate

224 speculation where the parcel owner/contractor wants to maximize his profits in a neighborhood
 225 that a multi-family house just does not belong. This decision will set precedence for the next
 226 property owner to do the same thing if you grant this variance.
 227 Joseph Bywater, 136 Chapel Hill Road: Economic opportunity is not a valid reason to grant a
 228 variance. Mr. DuBois had mentioned that the County approved the driveway and that there
 229 would be at least four vehicles if the multifamily house was built. That would exacerbate an
 230 already dangerous traffic situation. Additionally four properties adjacent to this property are one
 231 family dwellings. Putting a multi family house would significantly reduce our property values
 232 and have a negative impact on our neighborhood as well as putting stress on the neighborhood
 233 aquifer. It is zoned as one-family for a reason and ask the Board not to grant the variance.
 234 Rob S: Before I give any advice I would like to give Mr. Thompson's letter the due consideration
 235 it deserves as I have just now received it to view. I would like to the issues that is in his letter.
 236 The ZBA did not have a quorum so the public hearing remains open to the next meeting.
 237

238 **Watson, David**, 10 Bellevue Rd, 88.17-2-36.120, in R2 zone.
 239 Mr. Watson would like to build a 24'x24' detached 2 car garage. He would like a front yard area
 240 variance to meet the minimum front yard setback.
 241

	<i>REQUIRED</i>	<i>ACTUAL</i>	<i>VARIANCE REQUEST</i>
242 <i>Front Yard Setback</i>	<i>30 ft.</i>	<i>16' 5"</i>	<i>15' 7'</i>

243
 244
 245 A **Motion** to open the public hearing was made by Alan Hartman, seconded by Anthony Pavese.
 246 All ayes.

247 Anthony P: The applicant desires relief from the Town of Lloyd Zoning Code Section 100-
 248 16.A1. No accessory buildings shall be located within a front yard.

249 Ann Marie Spiciarich, 24 River Road: I live just below Mr. Watson's bluff on Bellevue Road.
 250 There have been many large rocks that bounce down from the very steep hill of Mr. Watson's
 251 property down to the road and on my property. The reason this is happening is that Mr. Watson
 252 has built out from the original steep hill so he would have a larger backyard. When Mr. Watson
 253 was having his backyard filled, some of the construction debris fell onto my property from
 254 above. The boulders would come down the hill, hit a tree and then be catapulted to the road.
 255 These same boulders have destroyed things on my property. Billy Crowder, who once worked as
 256 Mr. Watson's contractor, removed some of the rocks from my property. There is a wall of these
 257 huge rocks. Despite speaking with Mr. Watson for years about rocks falling on to my property it
 258 still is happening. I think the proposed garage is on a small strip of land with the back part of the
 259 hole that he is digging by hand for it is right on the edge of the bluff.

260 Dave B: The garage is going on the other side.

261 Ann Marie S: Well he has another huge hole for something else on the opposite side. The rocks
 262 fall down on to my property bounces and then ends up on River Road.

263 Dave B: Perhaps the ZBA should postpone this and visit the property.

264 Ann Marie S: My concern is that someday the bluff will give way. There is no retaining wall; the
 265 vegetation has been completely obliterated so there isn't anything to keep it in place.

266 Anthony P: I think we should table this until the next meeting and we can look at the property.
 267 The public hearing will stay open until June 8, 2017.

268 A **Motion** to approve the minutes of the April 13, 2017 Zoning Board Meeting was made by
 269 Alan Hartman, seconded by Anthony Pavese. All ayes.

270 A **Motion** to adjourn was made by Paul Symes, seconded by Alan Hartman . All ayes. 8:44pm

DRAFT