

**TOWN OF SOUTHEAST
ZONING BOARD OF APPEALS
CIVIC CENTER
67 MAIN STREET
BREWSTER, NY 10509
JANUARY 23, 2006**

Board Members

Edward Colello	Chairman	Present
Thomas Costello	Vice Chairman	Present
Timothy Froessel		Present
Kevin Sheil		Present
John Gallagher		Absent
Joseph Castellano		Present
Paul Vink		Present
Willis Stephens	Town Attorney	Absent
Linda M. Stec	Administrative Assistant	Present

Ed Colello – Welcome to the January 2006 meeting of the Town of Southeast Zoning Board of Appeals. Please let's stand for the Pledge of Allegiance. Pledge of Allegiance said. My name is **Ed Colello**, Chairman. Let me introduce the Board members. Members introduced. The first item on tonight's agenda is Robert and Deborah Gravinese.

**1) Robert and Deborah Gravinese
16 Reynwood Drive
TM# 69.1-1.4**

Robert Gravinese – What we are proposing to do is put a garage on an area that is very limited on the scope of where you can build that is the primary reason why we are asking for a variance on this. We have the approval of the all the local neighbor's on Reynwood Drive that potentially this garage may effect which doesn't really effect anybody because it is such a heavily wooded area and the one that we are actually closest to the property that borders Eastwood Farm that is Cathy McWilliam's but from her property it is concealed. **Tom Costello** was up there yesterday even in the winter it is pretty densely wooded. The neighbors down in front, Ellis, they have given their approval, Leibowitz across the street has given his approval and those are the closest houses which you can't even see from that location. I guess you know it certainly would have been a lot of easier if I could have built it in a spot that suitable without going through the Building Department but in light of the fact that I thought this was the best option for us for building the garage. Down in front there is clearing area but there is feeder stream which flows down the mountain into the reservoir that area is basically out of play as well. And this again is in proximity to the house. You don't want a garage that is away from the house.

Ed Colello – Let me ask you this question, that is the front of your house, correct?

Robert Gravinese – Yes.

Ed Colello – So if I am standing here looking at the front of your house the proposed garage would it be evenly across your house meaning is it going to be more forward?

Robert Gravinese – Yes. This is actually a raised section over here when they did the construction of this house there is this large stone wall that runs all the way down and there is a big retaining wall and it is probably close to five feet tall I would say so the garage would be sitting up on this area here is a higher area from where the house is and because of where the land slopes down there this is going down towards Reynwood Drive and down here and because the way the property slopes we discussed this with the contractor he said you would probably have to dig one end of it because the property grade is like this up there so you would have to dig this out and bring the material this way to get a level path to build on.

Ed Colello – You couldn't get it closer to your driveway? That is your driveway, correct?

Robert Gravinese – This is the driveway. I probably could get a little closer but the problem is that basically you need about thirty feet for a turn around area to pull in and out and I believe from the front of the garage to the edge of this wall is about 80 feet so I we tried to get it again as far off the setbacks as possible.

Tom Costello – The stone wall that is there is five feet you are not going to access it from there, the access is going from down this area so he is going to have a pad here in front of the garage doors.

Robert Gravinese – This is actually the front of the garage.

Ed Colello – I don't think you would want to take down that wall so you are going to come off of here so to speak.

Robert Gravinese – There is actually a swell, I showed **Tom Costello** swell down in here and I would transverse it across and then come up and access the garage that way. And it is strange piece of property because this is actually the closest point the way it sits right now I am actually thinking about kicking this corner more front wards because it is not correctly sited so this is actually less or farther off the setback. I think it is 88 feet. This is the area. And this slopes up and then her barn, this is a picture looking over by her horse barn towards our house.

Ed Colello – It is our responsibility to grant the least amount of variance possible and the only reason I ask you that is if there is any way that you could move it a little closer this way because whatever you can pick up. For example I don't know maybe you have to be 100 feet from this point could you move it I don't know another 12 feet, I don't know if you could. And if you move it this way. I am not saying you are going to get a 100 feet if you are going not going to get that on this side but you might go from 59 to 65 I am just throwing out numbers here.

Robert Gravinese – Well, the problem is again the farther I go out this way with it this property slopes right off so it is going to require a lot more excavation and clearing of the area and building a retaining wall. My thought process up here was that this would be minimal environmental impact to the area in here because it is going to require less amount of work to do to put it in here. The farther you go this way. There are topos also. I don't know what the actual change is from this point to this driveway but it is probably what would that be 15, 20 feet?

Tom Costello – Probably.

Robert Gravinese – So it slopes severely as you get and that is why putting the driveway and I wanted to put the driveway coming up there is a natural swell right there so it would be the most logical place to put the entrance to the driveway and then transverse it across and then come up this way. That is the motivation and then this property here basically what you see in this picture this is the property line and this house is only 60 feet off the back property line. This is all Cathy McWilliams' house and that is the west side of the property.

Ed Colello – When was the house built?

Robert Gravinese – 1999.

Ed Colello – I don't remember giving them a variance.

Robert Gravinese – Back then the setbacks were 50 feet. I think there were just changed in May.

Ed Colello – I thought they were changed before then.

Robert Gravinese – This is where the septic system is. So basically it is up on top of a mountain. There is a huge rock ledge up there and then when they excavated this for the lower level of this house all this retaining wall which runs pretty much the distance of the driveway is what they used to build with. To answer one of your questions, I do think this can be kicked this way because it needs to be more this way, so this corner would stay the same, this corner would be moved this way.

Ed Colello – Do we have any questions or comments from the audience? Do we have any other questions of the applicant?

Tom Costello – Do you work from your home?

Robert Gravinese – No, we both work in the city.

Tom Costello – They currently have a bandbox parked in their driveway.

Deborah Gravinese – It is actually an overseas shipping.

Tom Costello – Where they have their normally stored items, lawn mowers and blowers.

Ed Colello – You didn't build the house? It was built without a garage?

Deborah Gravinese – It has a four car garage.

Ed Colello – It has a four car now?

Robert Gravinese – Actually an oversized three.

Ed Colello – I guess my question is why do you need to go from four to six more cars?

Deborah Gravinese – My father died about four years and mother is going to move in with us and she has a couple of cars and we have someone who takes care of our daughter who has a car.

Ed Colello – And above the car will be strictly storage, correct?

Robert Gravinese - Yes.

Ed Colello – There won't be any facilities up there or anything like that?

Robert Gravinese – No, there is nothing planned.

Ed Colello – Are there any more questions? Would you like to make any other comments before we close the public hearing?

Robert Gravinese – No.

Ed Colello – Do you think you have had a fair and adequate opportunity to state your case?

Robert Gravinese – Yes.

Ed Colello – We will close the public hearing.

Public hearing closed.

Ed Colello – I will open it up to any discussion.

Tom Costello - I can tell you from my visit to the property it is a rather unique property. It is very large property with a very long driveway. In fact the uniqueness of the driveway even though they have 13 acres almost 14 part of their driveway goes onto the neighbor's driveway in order to go around the very steep area in the west side of their property. It is unique in that respect. A good portion of the property is not buildable at all. It is either wetlands or steep slopes. We walked around the entire property. To the south side of the house is mostly septic and tanks and fields. There would be some area in the front of the house but the front house but I don't think anybody would want a garage in front of the house and they have particularly beautiful views from the front and it makes much more sense to have it to the side of the house. The view from all the neighbors there is no leaves on the trees now you could just barely see the other structures through the woods that would be impacted by placing this there. As you mentioned you could probably slide it slightly in a different orientation or location and get a slightly different variance but at first when I thought a 13 acre lot how could they need a setback variance but my feeling it is probably appropriate considering that is going to have virtually no impact to the neighbors and it is going to fit in best with the overall property, the grade of the property.

Ed Colello - Any other thoughts, opinions, or comments? Just so we understand what the applicant is asking for here. The requirement is a 100 foot setback from the rear and the side and the applicant is looking for 88 from the north side. We will forget the percentages, the points, so they are requesting a 12 foot variance from the side setback and they are requesting a 41 variance from the east, correct, which is the rear. I will entertain any motions either in favor of or opposed to the application.

Tom Costello - I will make a motion to grant the variance requested of 12 feet on north side and 41 feet on the east side.

Ed Colello - Do I have a second?

Paul Vink - Second.

Ed Colello - Will you address the criteria please?

Tom Costello -

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

No, the proposed garage is in character with the house it is proportionally sized even though it is large accessory structure it is proportion to the house and will create no detriment to the nearby properties.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

Considering it is such a large lot there is probably other options available but in my opinion this particular project it makes the most sense to locate the garage in the area that they are proposing

3. Whether the requested variance is substantial.

I don't see any possibility of doing it without a variance so whether the requested variance is substantial I would say that the 41% variance request of the rear could be construed to be substantial but I think considering the location of the house is right up against the rear property line and the garage is going to be relatively close to the house I think it is mitigated that the house was built when the setbacks were 50 feet.

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

I don't see any environmental impacts caused by this request.

5. Whether the alleged difficulty was self created.

I think it is partially self created by the applicant wanting to put in a garage but I think it is mitigated by the house being constructed when the setbacks were smaller and the buildable area on the property is relatively a small portion of the lot size.

Roll Call Vote:

Kevin Sheil - In favor

Joseph Castellano - In favor

Tim Froessel - In favor

Tom Costello - In favor

Paul Vink - In favor

Ed Colello - In favor

Ed Colello - Unfortunately the form that we give you to bring to the Building Department is not in our hands we will notify the Building Department. If you stop by the Building Department they will have it. You are all set.

2) **Michael and Susan Curry**

69 Elmwood Drive

TM# 69.77-1-33

Tom Costello - Just to remind you that you are still sworn in from last month.

Ed Colello - This is a carry over from last month if you could just walk us through the application.

Michael Curry - Sure. Basically my wife and I are looking for a variance for the sheds on our property. Basically due to the size of the property we live on cannot build a garage or any form of storage without a variance so basically we are trying to use the sheds for storage. This will show you where they are in relationship to the house and in order to meet the 20 foot setbacks they would have to be approximately here. And I have large trees, this is one that in order to put them in that location I would have to remove those trees which are actually a nice part of our property.

Ed Colello - How big is your lot?

Michael Curry - 125 x 150.

Susan Curry - I also got letters from all the neighbors.

Tom Costello - How long have the sheds been there?

Michael Curry - About five months.

Ed Colello - You got them both about the same time?

Tom Costello - They were relocated there from another property?

Michael Curry - One was in the driveway and one came later.

Susan Curry - We got the first one right after we bought the house and it was put here. We completely ripped the house, rebuilt, so a lot of what we used the sheds for was storage. And then we about seven months ago got the second shed and that was when we moved them back and got the violation notice and went for the permit. There is no garage on the property. We have four children, the bikes, the toys. My husband does a lot of work on the cars and woodworking and he is also doing all the renovations.

Paul Vink - When did you buy the property?

Susan Curry - Eight years ago.

Paul Vink - And the shed went up?

Susan Curry - Shortly afterward and it stayed with no problem for years.

Michael Curry - Our intention was to originally move it back into the yard but at the time there was some large ash trees that had to come down in order to even move the shed to the back yard because they were dead. If they ever came down they would land on the shed.

Tom Costello - What kind of business are you in?

Michael Curry - I work for a plumber.

Tom Costello - Do you do any plumbing from your home? I was by your house yesterday. There was a van in the driveway. Is that normally parked there?

Michael Curry - Yes, it leaves every day.

Ed Colello - Is this on a pad?

Michael Curry - It is actually on crushed compacted stone with retention ties set into the ground. I needed in order to level them to appear aesthetically level I needed estimate on this shed this is actually in the back on foot and half off the ground.

Ed Colello - What is the distance between this shed and this tree, how many feet is that?

Michael Curry - Seventy feet. Due to the configurations of the doors on the shed this was the best possible scenario I could come up with. This was the plan that I drew to show our intentions to link them together and landscape.

Susan Curry - We have the leaf and brush pile back in here. And our neighbors on each side behind each of our sheds is where their leaf and dust piles are.

Ed Colello - Do we have any questions or comments from anyone in the audience? Is that something if you are granted the variance that you are definitely going to do?

Michael Curry - I am definitely doing it in the spring.

Susan Curry - We have made some major changes to our property. Always to better what we have. It is not our intention to make it junky, we have done a lot.

Ed Colello - I am not disagreeing with what you are saying it is our responsibility to try to find the least amount of variance as possible. A variance does stay with the property forever. And a hundred years hypothetically when you don't own that property someone

else is going to so they could do something and they may not be as neat as you are that is why I am saying a lot of times we try to grant the minimum amount of variance.

Susan Curry - We thought about moving it over to this side or over here. My husband would rather have a garage instead of the shed but we don't have the setbacks from the house or the other side so that is why we went this route.

Ed Colello - Do we have any other questions of the application? Before I close the public meeting are there any other final comments you would like to make?

Michael Curry - No.

Ed Colello - Do you think you have had a fair and adequate opportunity to state your case?

Michael Curry - Yes.

Ed Colello - Take a seat.

Public hearing closed.

Ed Colello - What does everybody think? Obviously five feet from the property line is tight but the setback is not a huge one. I think it is 20 feet. We are not dealing with a huge lot.

Tom Costello - My visit to the site the shed being close to the property is very much in character with that neighborhood. Most of the houses are on lots of a similar size and certainly having a shed that close the property line is not out of character. They currently have four sheds. But on the drawing it shows five one, which are showing to be removed.

Susan Curry - One that is there will be removed once we know whether or not we can have what we have.

Tom Costello - Which we improve the look to get rid of one shed. The one that is at the end of the driveway is very visible

Paul Vink - Very visible and not particularly attractive I drove by the house also.

Ed Colello - I will make a motion to grant the two variances or would you rather do it separately? Does anyone have a problem if I do them together? I will make a motion to grant the variances on the two existing sheds that are in the southwestern corner of the property, the one on the back of the property which is five feet from the property line a 15 foot variance on that for the 12 x 20 shed and a 15 foot variance from the side yard for the 12 by 18 foot shed subject to removal of the existing shed that sits at the end of the driveway. Do I have a second?

Joseph Castellano - Second.

Ed Colello - I will address the criteria.

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

Again I don't think so again I didn't get a chance to look at the house but I am familiar with the neighborhood. I don't know every house obviously in neighborhood but I know there are other sheds and other things close to the property line. These aren't huge lots so that I understand that people have to try to utilize as much as they can of the property they have.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

Yes, I don't think that is an issue. The applicant's could put these in a position and get the 20 foot setback unfortunately to do that sometimes in a lot that is not that big you tend to almost put the sheds in the middle of the property where they are can sometimes be awkward and cumbersome and not very appealing to the eye.

3. Whether the requested variance is substantial.

We have to call it substantial because a 20 feet is required and we only have five feet so a 75% variance is substantial but again with the nature of upzoning and what has happened and so on I think that is a mitigating circumstance.

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

I think it will have none.

5. And whether the alleged difficulty was self created.

Sure it was self created obviously because the applicant put the sheds up they put them five feet from the property line and so on. But once again I think you have to look at the whole picture and all the facts.

Roll Call Vote:

Paul Vink - In favor

Tom Costello - In favor

Joseph Castellano - In favor

Kevin Sheil - In favor

Tim Froessel - In favor

Ed Colello - In favor

Ed Colello - Again, that is subject to tearing down the existing shed that is at the end of your property. So you are all set you can take this. If you can leave us one of the pictures.

3) Estate of David Dann

57 Bloomer Rd

TM# 56.14-1-7

Tom Costello - Just to remind you are still under oath.

David Dann, Jr. - I just wanted to give you one other letter.

Ed Colello - This is a letter dated January 1, 2006

"Dear Zoning Board of Appeals,

I, Karen Callendar, residing at 55 Bloomer Road, have no issue with the existing deck and existing addition that is on the property of my neighbor David Dann of 57 Bloomer Road."

Ed Colello - Can you walk us through this one more time, please?

David Dann, Jr. - The house is on the market. It is owned by myself and my sister. In the process of trying to sell it and getting building permits for the deck and what was formally an enclosed porch which became an addition to the house which you will see in the pictures. I have applied for a variance to allow for a pre-existing non-conforming structure. They were there since I was a child the deck and the back room. I don't think my parents incorrect in doing it. This house was renovated. The enclosed porch addition is still part of footprint that never changes. The deck was not part of the originally footprint of that survey.

Ed Colello - So you estimate that done approximately how long ago?

David Dann, Jr. It was probably in 1989.

Ed Colello - Any questions or comments from anyone in the audience? Do you have any final comments you would like to make?

David Dann, Jr. - No.

Ed Colello - Do you think you have had a fair and adequate opportunity to state your case?

David Dann, Jr. - Yes.

Ed Colello - We will close the public hearing.

Public hearing closed.

Tim Froessel - For the record I will state my opinion I lived there for a number of years it is absolutely within the character of the neighborhood. What he needs is a variance for pre-existing non-conforming side setbacks which everybody needs there. The porch and deck itself don't encroach any further into the setbacks.

Ed Colello - I will entertain any motions.

Tim Froessel - I will make a motion to grant the applicant a seven foot variance on the south side setback for the house and existing deck as depicted on the drawings that were submitted to the Board and a 15 foot variance from the total side setback requirement.

Ed Colello - Second?

Tom Costello - Second.

Ed Colello - Will you address the criteria please?

Tim Froessel -

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

No, I don't think it will as I stated before I have lived in Brewster Heights for nine years and the porch and the deck that the applicant is looking for variance are pretty common.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

No, there is nothing that the applicant can do without a variance.

3. Whether the requested variance is substantial.

By Brewster Heights standards it is not the setbacks are generally tight back there and we have granted variances greater than this.

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

There is no evidence of that.

5. Whether the alleged difficult was self-created.

No, I don't think it was the difficulty stems from the fact that the houses were built before the 20 feet setbacks were required.

Roll Call Vote:

Tom Costello - In favor

Paul Vink - In favor

Kevin Sheil - In favor

Joseph Castellano - In favor

Tim Froessel - In favor

Ed Colello - In favor

The variances were approved by a vote of 6-0, 1 absent.

Ed Colello - Again you stop by the Building Department and pick up the paperwork.

4. Andrew Suozzi

4005 Route 6E/Danbury Road

TM# 69.1.-12

Joseph Buschinyski of Bibbo Associates and Andrew Suozzi appeared for this application.

Tom Costello - I just want to remind you that you are still under oath.

Ed Colello - You want to walk us through?

Joseph Buschinyski - To recap Andrew Suozzi to construct a commercial building for retail office use for 4005 Route 6 very near the Connecticut line. It is a 10,000 square foot building, 5,000 on each floor. The reason we are here the variance is for placing our access aisle 20 feet from the front and the sides. The reason for the request is that we feel that parking arrangement for a building of this type of circulation requires the encroachment. There are some unique issues for this parcel in that some reason it was oddly created with a very wide right of way to Route 6. To even exacerbate that situation for a setback it was given some odd irregularities in the property lines which further brings the setbacks into the property. Since we were here last we have done some soil

testing on the site. The test indicated that sewage disposal area should be on the west side and the storm water area should be on the east side.

Tim Froessel - Can I stop you with a question? The last time you were here there was an issue of the two plans, you had one plan, there were two different plans with the parking all the way there, it turned out that would need a variance also.

Joseph Buschinyski - That is correct. You asked a question what is the coverage we took it back and computed and found out that we were in excess of pavement and building coverage by 1,5000 square feet or 1.9% so this would in fact require an area variance for coverage.

Tim Froessel - Has this changed plan been changed at all?

Joseph Buschinyski - Yes, we have changed the proposed septic system to the west side of the site and we took some of the parking that was in this location and placed it over here. The infringements in parking setback remain the same. They vary in extent of requested infringement. In the front we are asking for as much as 18 feet into the 20 feet setback and those in turn reduce to zero as you go in that direction. In the rear that is 6.3 feet at the worst point. We are asking for variance of up to 6.3 feet.

Ed Colello - And you are asking for a variance of 18 feet to the front.

Joseph Buschinyski - Up to.

Tom Costello - Where 20 feet is required

Joseph Buschinyski - In the rear 10 feet is required.

Paul Vink - The driveway that is on there is that where the driveway cut on that location? Or is close to that?

Joseph Buschinyski - The reason for the driveway is the location of the match up.

Andrew Suozzi - Plus the drainage goes here. The biggest problem with site is the 100 feet. The largest point here is 187. It doesn't even feel like 100 feet at that point. You have the retaining wall back there.

Tom Costello - Have you approached the state about buying back to try to even out the property? Why would it need the irregular property cut?

Andrew Suozzi - They would say why do you need it we took it. To get something back from the state would take an act of Congress. Why they did it I have no idea. It is almost a rectangle. That is why the Zoning Board stated that this property would come before the board for future variances. This is the only one we need. We worked out five different layouts. This is the last piece of property.

Tom Costello - Was there a taking when Route 84 went in?

Andrew Suozzi - They did it all at one time, I am not sure. They did create some jogs back here also.

Ed Colello - Did you have a question about the wall on 84, was that answered?

Tom Costello - I was just concerned about the closest to the actual pavement. Whether there was going to be a need for a highway barrier or something. You don't want some 18 wheeler coming down landing in the parking lot. Is there a plan that you could submit that would be completely conforming?

Andrew Suozzi - We have done five different layouts of this. We can't come up with it because of how narrow it is to park.

Joseph Buschinyski - For this size building which is fairly modest it is only 40 feet in depth. Two floors, a lower level access to the front upper level, access to the back.

Ed Colello - I am just curious do you have a prints of what the building is going to look like are you that far along?

Andrew Suozzi - I have copies of another building that we have that is similar.

Tom Costello - Do you have copies for us?

Joseph Buschinyski - Yes.

Andrew Suozzi - That is the front, that is the rear offices. This is all store fronts. They will be 1,000 feet each. And the offices a 1,000 each.

Tom Costello - What is the size of this building that you have pictured here?

Andrew Suozzi - 10,000 feet.

Tom Costello - And what is that one?

Andrew Suozzi - A little smaller. This one is about 8,000 over two floors.

Joseph Buschinyski - Over two floors.

Tom Costello - The number of parking spaces is dictated by the square footage of the building?

Joseph Buschinyski - Yes.

Ed Colello - And the type of spaces, correct?

Joseph Buschinyski - There were 45 spaces required.

Tom Costello - If you only put in an 8,000 square foot building in there could build it without requiring a variance?

Andrew Suozzi - The flow of the parking is a problem because of the narrowness of the building. If this rule wasn't in effective we could enlarge this building and get more parking, the land is there. The rule hurts because of the odd shape of the property.

Joseph Buschinyski - To get parking in front even if that were 8,000 would need this front variance with a narrow configuration it would eliminate the back variance. To get this type of parking with retail in the front you have to have that space which would cut into the parking setback.

Tom Costello - That section that is right opposite the driveway what is that? That pad?

Andrew Suozzi - A loading zone.

Tom Costello - It is not considered parking? Do you have a requirement for so much loading?

Joseph Buschinyski - Yes.

Ed Colello - Where would the handicap be?

Andrew Suozzi - Here.

Ed Colello - Do we have any questions from anyone in the audience in regard to this application?

Joseph Buschinyski - Where this variance need exists it is fortunately where we are further back from Route 6 than say at the western section of the property so in terms of being set back from the road it is substantial.

Ed Colello - So your closest point of the front variance would be where? If I am facing that would be the right property corner, right there?

Joseph Buschinyski - The closest point of infringement would be right there.

Ed Colello - And that is where is you need the 18 feet.

Tom Costello - Does the state have enough to add a lane to Route 6 if they wanted to?

Andrew Suozzi - Property wise, yes?

Joseph Buschinyski - I suppose they would.

Tom Costello - What you are showing there is really four lanes right?

Joseph Buschinyski - Yes, this is two lanes and the shoulder. Yes, it is certainly room for a lane.

Tom Costello - Before the interstate was built Saw Mill Road Route 6 used to hug 84 and where the park and ride in Danbury used to hug 84 and then come up through the park and ride. At the time they put in the traffic lights and the ramps. I don't know if that had anything to do with it.

Joseph Buschinyski - I think it may have it looks like the transition.

Ed Colello - Any other questions of the applicant? Any other final comments you would like to make before I close the public hearing?

Joseph Buschinyski - I think we covered everything.

Ed Colello - Do you think you have had a fair and adequate opportunity to state your case?

Joseph Buschinyski - Yes.

Ed Colello - We will close the public hearing.

Public hearing closed.

Ed Colello - I wish Lynne Eckardt was here to hear me say this but I like the original application better than the other one because of the less coverage and that is an area where there is a lot of aquifers down there and you have the reservoir not that far away and the least amount of coverage. Just so we all understand what the applicant is asking for they are asking for relief from the parking setback requirement of 20 feet from the front of the property which ranges to a zero to a maximum of 18 feet so they would need an 18 foot variance from the front of the property and a 7 foot variance from the back of the property

Tom Costello - I will make a motion to grant the requested variances as depicted on the drawings that they will submit and that they will sign off which is up 18 foot variance where 20 feet is required on the north side of the property which is the Route 6 side of the property and a seven foot variance at its largest point in the rear of the property which is the south side of the property which is the Route 84 side of the property.

Ed Colello - Second?

Tim Froessel - Second.

Tom Costello - Will you address the criteria please.

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

No, I think the requested variance is in line with the expected use for the property in that part in line and in completely in character with what the zoning ordinance envisioned for that section of Route 6.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

A lot of discussion took place about whether the applicant truly needed a variance and due to unique nature of the shape of the property and the taking of parts of this property over the years by the state to construct either Route 6 or Route 84 the unique shape of the property makes it very difficult to develop it for permitted use without some kind of a variance.

3. Whether the requested variance is substantial

Yes, these setbacks are designed as much green spaces as commercial development as possible and 18 where 20 is required is substantial, a seven foot against ten foot is substantial but there is mitigated somewhat by the fact that the rear property is up against Route 84 and there is substantial woods in that section and no other structure will be to the rear of the property and the front of the property there is a fairly good size buffer between the front buffer line and Route 6 that is unlikely to be built upon.

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

No, I don't think so and any environmental issues will be addressed in further discussions with the Planning Board if there are any.

5. Whether the alleged difficult was self-created.

I don't think it was self-created I think the unique shape of the lot in line with the use that is permitted in that area makes it almost a requirement that some kind of variance be granted to allow development of the property.

Roll Call Vote:

Kevin Sheil - In favor

Tim Froessel - In favor

Joseph Castellano - In favor

Paul Vink - Opposed

Tom Costello - In favor

Ed Colello - In favor

The variances were approved by a vote of 5-1, 1 absent.

5. Michael and Bonie Bonilla

45 Brewster Hill Road

TM# 46.61-18

Jessica Grey, of Vinyl Tech appeared for this application and was sworn in by **Tom Costello**

Ed Colello - We are going to up the public hearing because you have the affidavit. You are going to bring the mailings in.

Jessica Grey - I am going to mail them.

Ed Colello - You are on the corner property you need 35 feet and you have approximately 30 feet and that is on the Brewster Hill Road or is that on Locust?

Jessica Grey - I believe that is Locust. It is on the Brewster Hill side. We have 45 feet to Locust.

Tom Costello - Can you show us approximately where this enclosure is going to go?

Jessica Grey - If you look at the survey it is indicated by the dashes. There is one that is written.

Ed Colello - It is on the Brewster Hill side?

Jessica Grey - The setback variance we are looking for, yes. The one corner is just a little over 34 feet where the other corner is 30 feet.

Ed Colello - You don't have a picture of what it is going to look like?

Jessica Grey - We have a drawing.

Ed Colello - It is hard to figure out.

Tom Costello - What is the dimensions of the room?

Jessica Grey - 8 x 17.5.

Tom Costello - I actually went by and looked at this and I didn't know where it was going to go.

Jessica Grey - There is an existing concrete pad in the front it is going on.

Ed Colello - Do you have an artist rendering of what it is going to look like for next time? If you could mail that?

Jessica Grey - Yes. That could take some time.

Ed Colello - Get her the mailings first.

Ed Colello - We are not going to act on this tonight. Is there anyone in the audience that has any questions on this application? Any other questions from the Board?

**6. Linda Bressan
79 Scott Place
TM# 56.12-3-30**

Jessica Grey of Vinyl Tech appeared for this application and Louis Bressan were sworn in by **Tom Costello**.

Jessica Grey - This is a pre-existing non-conforming house we are looking for a nine inch variance for the front. There is an existing deck that has been there since '71 so we are enclosing the porch.

Ed Colello - You need a nine-inch variance?

Jessica Grey - I was told it was non-conforming in the front that we had to go in front of the board for a nine-inch variance.

Ed Colello - If you are not in compliance you have to go for a variance.

Tim Froessel - I live across the street and have no objection to this it would be in character with the neighborhood.

Tom Costello - So the addition that you are proposing is not nine inches the proposed building is within the permitted building envelope. So it is just the existing, it is the enlargement.

Ed Colello - We don't have the mailings on that either just the affidavit?

Jessica Grey - No.

Tom Costello - There is a little bit more on this one.

Ed Colello - Are there any more questions on this application?

Tom Costello - Next month we will be here.

7. Dr. .Vidya Narasimhan
341 Route 312
TM# 45-2-48 & 49

Joel Greenberg, architect, and **Jagannathan Narasimhan** appeared for this application and were sworn in by Tom Costello.

Joel Greenberg - Dr. Narasimhan has purchased this piece of property which is on Route 312 which is almost directly across the street of NYSEG as you go down the hill towards the railroad tracks. There is an existing building on the property as you see from the pictures here and basically what we are doing is alterations in the interior of the building. We are not doing with regards to the exterior. It will be exactly the same, we even laid the plans so that not even the windows did not have to be changed so all the work will be done in the interior. And the reason for the site plan is that we are going from a residential use to a medical office. And the reason we are before this Board today is for the existing driveway and the existing parking lot. The requirements of this particular zone require us to have 13 parking spaces which are shown in the blue area over here. Also in the ED zone it does not require parking in the front yard setback. We have an existing driveway, an existing gravel driveway and an existing gravel parking area. What we are going to do is basically extend the gravel to provide for 13 parking spaces, 12 parking spaces plus the one handicapped space. The reason why we would like to keep this in the front yard number one; we are slightly further away than the existing parking which is about 20 feet from the property line but for several reasons, number one obviously since this is becoming a doctor's office we have to provide for handicapped as you can see from this area over here and the regrading the walk from the parking lot into the main office basically there is no steps, practically no slope and it meets all the DEP requirements. Number two the septic system is located in the rear of the property so if we had to for let's say for argument sake take the parking and put it back here we would have to put it way back here which would require not only grading but filling between walls which I think would have an adverse effect on the environment. The property itself, again I will show you the pictures in a minute, it is very heavily wooded, and we are not intending to touch any of the trees, I think there may be one or two trees in this entire expansion of the parking lot that would have to be removed in order to provide for the parking lot. A couple of reasons that we feel that the variance is justified which I will go into in a second. The area as you can see from the buildings across the street and down the street is mostly commercial. This is not a quiet residential neighborhood. And least but not least we do have a letter of approval from the Putnam County Health Department both from the septic point of view and from the water point of view. Our well is up front and the septic is in the rear. And again we are not proposing to pave so environmentally we are very sound. We have also had this twice before the Planning Board and I believe you have in your packet a letter from the Town Engineer indicating that our drawings are more than adequate and ready for approval with the exception obviously we can't get our approval until this Board hopefully approves the variances. Any questions? Most important too is that the existing parking lot is approximately ten feet below Route 312 so as you are driving on Route 312 which has a guard rail at the present time if you look straight ahead you are looking into trees you are not even seeing cars so even adding the additional cars that are required by the code and being so far

below Route 312 visually you are going to see the same thing that you see now which basically is this very nicely heavily wooded area along here you can see the beautifully evergreen that are in front of the building and again we have worked the parking lot so that there are only two trees that have to come down so basically as you are driving by on 312 you will be see the house and you will be looking right at the cars. So environmentally visually from a visual from an environmental point of view I think we are doing the right thing for this particular site and I think it will be an asset to the community and I think if you go through the criteria for an area variance even though the number is great it is an existing parking lot which we are expanding but visually and again for the other criteria for an area variance I think you will find that we warrant an area variance.

Tom Costello – Can you take us through some of the other things that are marked on the drawing?

Joel Greenberg – Again this is Route 312 over here. The green area is the existing entrance driveway.

Tom Costello – What is the speed limit on 312 at that point?

Joel Greenberg – At that particular point I believe it is either 35 or 40 I am not sure. So you are entering off Route 312 at this particular point here. The green represents the existing gravel area. The blue represents the expansion that we are doing. This represents the existing building which is going to remain exactly as it is.

Ed Colello – What is that be used for as right now?

Joel Greenberg – As a residence. Basically if you review the minutes and the comments from the town engineer in an ED zone what we are doing is a permitted use. The building is all pre-existing non-conforming as far setbacks are concerned and if you look at our zoning table which you have in our packed there based on this review by the Planning Board and the town consultant the only variance is for the setback for parking.

Tom Costello – What is that box there?

Joel Greenberg – That is a shed that is going to be removed. This represents some stone walls and a concrete area and a stone area in the rear of the property. And again if you look at the rear of the property there will just be basically woods which is going to remain.

Tom Costello – So there is no other structures on the property?

Joel Greenberg – No.

Tom Costello – How long have you owned it?

Joel Greenberg – October.

Tom Costello – I see a sign where is the sign going to be placed?

Joel Greenberg – Over here.

Ed Colello – How high is the sign?

Tom Costello – Will it be conforming?

Joel Greenberg – Yes, it will be conforming. It will have a stone base and have the name of the doctor and the street number. But again this is not clashing, very low key. Just so you are aware the process for the Planning Board and Zoning Board of Appeals does take some time the doctor had originally thought that here lease in Brewster was extended so that she could leave there when this was finished. Unfortunately that is not working out so whatever you can do to help expedite the approval would be appreciated because they won't give her an extension on the lease.

Tom Costello – Where is her office now?

Mr. Narasimhan – She is leasing space from Brewster Medical Group on Route 6 just after 684 going towards Danbury. We had a lease but he sold his practice.

Tom Costello – I took a ride by there on the weekend and the speed on that road is pretty fast I am a little concerned because that driveway comes up quite quickly when you are coming down the hill I am concerned about people coming and going down.

Joel Greenberg – Actually it is my fault I didn't get to mention we did have Domenick Montangue the new permitting agent for NYS DOT and we walked this up and down and we stood and watched what you are talking about and what we are going to do over here is right here as you drove into the property when you are driving into that property it is not level so it is more difficult to see what we are doing basically and it is the only section that we are going to be putting fill is right over here and we are not disturbing any existing trees we are going to make a platform so that when a car does come up they will be level with Route 312 so that the sight distance is more than adequate even for the 35 mph speed limit. We have pictures looking both east and west here and Mr. Montangue did check the sight distance. The only thing he was concerned about is exactly what you are concerned about which is coming up so we will provide a platform so that the car as it approaches 312 it will be perfectly level with 312 and have more than adequate sight distance for both directions.

Tom Costello – You stated that parking setback is 100 feet you are providing 20, but I thought you said ED doesn't permit parking in the...

Joel Greenberg – That is why Mr. Jacobson the town engineer indicated we need the variance, in other words the ED zone says the parking has to be the same setback as the building setback. So in this case the building setback is 100 feet. We are pre-existing non-conforming with 85 feet and the existing parking lot is in there.

Tom Costello – That entire parking is within that 100 foot setback so you are asking for a 100% variance?

Joel Greenberg – No, in other words in the ED zone your parking lot has to start 100 feet back we are starting at 20 feet. But I think that for the criteria for an area and the reasons I explained I think it is justified and the use is not a fast food restaurant where you going to have people running out on a constant basis it is going to be by appointment and the amount of traffic going in that building will be minimal not much more than right now it is a four bedroom house.

Tom Costello – Will you need to put a light at the road to mark the driveway?

Joel Greenberg – The sign will be lit from below so you will know where the driveway is.

Tom Costello – So someone trying to find the driveway in the dark at 4:30.

Joel Greenberg – Like a lamppost, of course. We have a lighted sign at one side and a lamppost.

Ed Colello – I am not trying to give you a hard time but he is saying this is an approved use under office?

Joel Greenberg – Office.

Ed Colello – Office is a permitted use in ED. If you go back to the definition I just want my colleagues to give me an opinion on this I am going to read the definition of office use, "floor space generally devoted to administrative, clerical and administrative and business uses, including corporate headquarters and computer facilities provided there are

no industrial by products or ground, air or water pollutants with normal building operations. Official use shall exclude retail, light manufacturing, industrial or warehouse uses. Provided that there are no industrial by products.”

Joel Greenberg – There are no industrial by products. All we are doing is examining people’s noses. The doctor is an allergist.

Ed Colello – I know that. So let’s start by saying I don’t know what I am talking about. But when I go to my doctor he has that bio hazard thing on the wall when he does blow my nose, or usually I blow my own nose, he stick it in that bio hazard container. Does an allergist have anything like? Doesn’t an allergist give shots? I would assume they give shots. I am not trying to knit picking here but I was looking under the heading of professional.

Joel Greenberg – Before the doctor bought the property we did go to the Zoning Officer, Mr. Harper, to make sure that our use was a permitted use and he determined that it was, so based on that.

Ed Colello – But Mr. Harper is not the Zoning Board of Appeals.

Joel Greenberg – Based on his opinion and the obviously the Building Inspector has reviewed it, the Planning Board has reviewed.

Ed Colello – Back up, and I am not trying to give you a hard time, but listen to me hear, very clearly, I don’t care if the Planning Board says because they don’t have any say on permitted uses,. I don’t care what the Building Department says, I love Ron has made mistakes like we have all made mistakes and I don’t care what the engineer has said, because no where does he say that this is a permitted use in this letter, he said you can go on with site approval, but he never said that a doctor’s office is a permitted use in an ED, I wish he did, but he didn’t.

Joel Greenberg – Why did he let this get this far if it wasn’t.

Ed Colello – Because it probably looked it at and said that office is a permitted use, but if he looked at the definition in our code of office use I am not convinced it excludes doctor’s office but what I am saying it when I read it and I have read that line on industrial by products it raised a question that I would like my colleagues to give me an opinion on. Because if you look under professional services, “services provided by a person who practices an occupation in which some department of science or learning is applied to the affairs of other” that is a doctor’s office, wouldn’t you say so? I can go on and on, “ implies attainments in knowledge as distinguished from mere skill and the application of such knowledge” and so on and so on. So I truly feel that the doctor’s office would fall under professional services. Unfortunately which is good for you no where do I see the heading for professional services which leads me to believe that professional services falls under the heading of “offices” but again I am bringing this up to have my colleagues to either agree or disagree if that is that way we should look at this.

Tom Costello – I would just to add to your comments that every one of our residential zones permits as a conditional use the office of a doctor. So considering that most of the time any kind of notorious use is not permitted in a residential zone I would say that it was probably anticipated that a doctor’s office was a benign use in a commercial zone. Maybe our new ordinance when we get a copy of it someday will say that it is a permitted use in an ED zone.

Ed Colello – What do you say Tim Froessel?

Tim Froessel – I agree with Tom Costello I think when they talk about industrial by products they talk about things like smoke, dust, fumes, things like that.

Ed Colello – I agree with you, but again, we like to have things neat. And again, Jacobsen’s office, this didn’t tell me... So the net result you are request a variance of 80 feet.

Joel Greenberg – Correct.

Ed Colello – For the parking setback requirement. Do we have any questions from the audience?

Tony Baxendale – I am the adjoining property and the building is five feet within the property line and I want to make sure that this doesn’t restrict me or negatively impact in me from developing my property next door in some future date.

Ed Colello – And you own the property at what address?

Tony Baxendale – 351

Ed Colello – So if you are facing the property he is to the left?

Joel Greenberg – Correct.

Tom Costello – What is the current use of your building?

Tony Baxendale – The use of the building is my business.

Joel Greenberg – As I mentioned in my presentation this is basically commercial area.

Ed Colello – Is there anybody living in the house now?

Joel Greenberg – No.

Ed Colello – So if we pulled up there we could walk the property?

Joel Greenberg – Yes.

Ed Colello – Mailings in order?

Linda Stec – Yes.

Ed Colello – We are going to take a look at it. The 27th, here, number three on the agenda. Any other questions.

Linda Stec – We have to hear from the county on this too.

Joel Greenberg – Thank you.

Tom Costello – I will make a motion to approve December minutes.

Ed Colello – Second.

Paul Vink – Second.

Ed Colello – All in favor?

All in favor.

Meeting ended at 10:30.

Submitted by:

Linda M. Stec