

**TOWN OF SOUTHEAST
ZONING BOARD OF APPEALS
CIVIC CENTER
67 MAIN STREET
BREWSTER, NY 10509
MARCH 20, 2006**

Board Members

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

Ed Colello – Please stand for the Pledge of Allegiance. Pledge of Allegiance said. Good evening everyone welcome to the March 2006 meeting of the Town of Southeast Zoning Board of Appeals I will introduce you to our Board members. Board members introduced. We have six items on the agenda this evening I will read them off, number one is Trent and Susan Andres, Paul and Gelosmina Ghelarducci, **Louis Ciaramella**, Eric Heinecke, Stephen and Kathleen Herndon, John and Christine Tomasetti.

**1) Trent and Susan Andres
51 Forest Lane
TM# 56.19-1-16**

Ed Colello – This is a carry over from last month if you can walk us through the highlights.

Trent Andres – What we are trying to do is add a kitchen to the north ten foot beyond the existing. There is currently 20 on the each side and 50 overall and we will be 13 on the north side and 20 on the south side. So we need a variance on the north side and a variance on the total overall setbacks. We want to go to the side instead of up to the front because up to the front we would have to replace our drains, we are at the bottom of the hill, all the utilities come down to the front of our house and we are trying to just extend the kitchen for area and not redo all the cabinets. If we go from the front then we have to rip out sink, and all the cabinets and counter tops so the only way we can go is to the north. So we are going to rip out an existing deck that takes out five feet already so we will actually only be adding an additional five feet overall. On the ground floor we will be an open room, a sound room for playing musical instruments.

Ed Colello – So you are asking for relief for the north side and also from the total side?

Trent Andres – Yes. At time we meet the requirements but then the rules changed and it is not legal.

Paul Vink – Did we hear from the neighbor on the north side if they had any problem with this?

Trent Andres – We talked to them they didn't have any issues. They said they would write a letter but we didn't think we needed one. They have no windows on that side of the house.

Ed Colello – Do we have any questions or any thoughts from anyone in the audience? Do we have any questions of the applicant?

Tim Froessel – Did you own the house in '97 when the first addition was put on?

Trent Andres – Yes, we are the original owner of the house.

Tim Froessel – When was the house built?

Trent Andres – 1991, 1992, I think it was built in '91 as a spec.

Ed Colello – If we have no other questions I will close the public hearing. Any other final comments you would like to make before we close the public hearing?

Trent Andres – I don't think so we are all set.

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

Trent Andres – Yes.

Ed Colello – We will close the public hearing.
Public hearing closed.

Ed Colello – Just so we all understand the applicant is requesting a variance on the north side setback where the requirement is 20 right now they have approximately 19 feet existing and they are proposing 13 feet so they need a seven foot variance. The total yard setback is 50 feet right now they have approximately 39 and they want to bring that down to 33.9, we will call it 33 for the sake of simplicity. So what they would need from the north side is a seven foot variance and from the total side setback requirement is 17 feet. I drove by the site there is a distance, the lots are not huge they are not five acre lots, but obviously the mailings are in order and I think if the neighbor from the north side had a problem he or she would be here or we would have a letter or something like that in the file or something like that.

Tom Costello – I also took a look at the property and it didn't seem like the structures were too close together that there could be any real impact to the other owner.

Ed Colello – If there are no other comments I will entertain any comments either in favor or opposed to the application.

Tom Costello – I will make a motion granting the proposed variance on the north side setback where 13 is proposed against the requirement of 20 feet and the total side setback where 33 is proposed where 50 feet is required.

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, I don't believe there will be I think there is no testimony that indicates that there would be any detriment to any nearby properties and that this addition fits into the character of the neighborhood.

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

Well, the existing structure is already built within the setback since the setback changed since the house was constructed. The applicant talked about potentially building to the front of the house but because of the utilities coming in from the road at that location it would make it a difficult construction to expand the house to the front and I believe that adding on the side is a much more appealing choice.

3. Whether the requested variance is substantial.

I say it is not substantial I would say it is about a third but I would say it is in the character of the neighborhood.

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

I think it will have none.

5. Whether the alleged difficulty was self created.

It was created by the applicant wanted to expand their house and subsequent to the purchasing of the house the zoning was changed and created difficulty in expanding it and meeting the current code.

Roll Call Vote:

Paul Vink – In favor

Tom Costello – In favor

Joseph Castellano – In favor

Tim Froessel – In favor

Jack Gallagher – In favor

Ed Colello – In favor

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

Ed Colello – You are all set. We will give you something you can bring to the Building Department.

2) **Paul and Gelsomina Ghelarduccia**

16 Killian Lane

TM# 45.-2-66

Ed Colello – Once again this is a carry over. Did we swear all of you last month?

Tom Nejame – I wasn't here. For the record my name is Tom Nejame, I am a swimming pool installer and I thought if there was any questions.

Ed Colello – Can we swear you in.

Tom Nejame was sworn in by **Tom Costello**.

Ed Colello – Can you just bring us up to speed and review what we talked about last month.

Paul Ghelarduccia – We are looking to put an in-ground pool in. We want to put it on the left hand side and we are looking for a variance for the fence because we have a slope on that side where we want to put it so first of all we want to put the fence six feet from the property line the pool would be set forth accordingly. We do have ledge in the back which is one of the reasons why we are asking for the variance to push it to the left and pull it in a little bit as you can see here in this picture it would be on the far side. It is a little deceiving but there is plenty of room to do it but you will see the ledge here on the right hand side. We currently have an above ground pool on the opposite side but we couldn't get the in-ground pool because we feel the well would be in the way so we would be taking the above ground pool down. We handed in a letter from the neighbor on that side that had no objection.

Tom Costello – The application proposes a separation of seven feet from the house to the pool or to the fence?

Paul Ghelarduccia – To the fence.

Ed Colello – One thing I didn't ask maybe you mentioned it and I forgot what type of fence are you putting up?

Paul Ghelarduccia – Aluminum ornamental four feet. Looks like wrought iron.

Ed Colello – And what is the spacing, it is not solid?

Gelsominia Ghelarduccia – No. We have a brochure.

Paul Ghelarduccia – It was on the application I forget what the spacing is.

Ed Colello – So it is like a picket fence?

Tom Nejame – It is like a wrought iron look, we call it an ornamental that mimics a wrought look, very attractive.

Ed Colello – And the only gate entrance will be from the back of your house, correct? There will be no other gates?

Tom Nejame.- No.

Ed Colello – Do we have any questions from anyone in the audience?

Tom Costello – Did you bring a survey? I should have looked when I came by but do you have access from this side of the house to service the pool?

Tom Nejame – He is actually going to be coming up on the right side of the house.

Tim Froessel – I am a little confused because Ron Harper's letter says your application proposes the fence to be nine feet from the side line but on the picture it says six feet to fence and nine feet to pool.

Paul Ghelarduccia – We filled out the application incorrectly and we asked Ron Harper and he said give the right stuff here and go from there. But I actually informed him that I needed to reduce it.

Tim Froessel – So six feet is the number?

Paul Ghelarduccia – Yes, six feet to the fence.

Tom Costello – The elevation where the pool is going to be location is maybe ten feet higher than your neighbor on that side it slopes off dramatically down to the neighbor's so if you are standing in the neighbor's that is closest to the pool in his driveway you have to look up ten feet just to see the fence. And to the rear of the property I don't know how close the fence will come to the stone work but the elevation rises very quickly to I don't know 35-40 feet easily. It is very much private. Even though it looks there is a lot of property in the rear none of it is useful for building a pool.

Ed Colello – Is it going to be tough for you to put a pool in that site.

Tom Nejame – It will be tight. What we are trying to do it get it to nestle down. If you were out there if you see the pile of dirt that is where the deep end is going to be and we are trying to wrap it down towards to the driveway so we can get the deep end down there.

Ed Colello - Do you think you are going to hit ledge in there?

Tom Nejame – We are hoping we want, we won't know until we open it up.

Tom Costello – The location of the well is on the other side of the back yard I don't know how close you can build to a well I wouldn't want to put a pool as close as they would have to put to this well. Plus you couldn't service the well you would have to drive over the pool.

Ed Colello – Do we have any other questions? Any other final comments you would like to make? Do you think you have had a fair and adequate opportunity to state your case?

Paul Ghelarduccia – Yes.

Ed Colello – We will close the public hearing.

Public hearing closed.

Ed Colello – The applicant is seeking a 14 foot variance from the side yard setback requirement of 20, they will end up with six feet from the fence and then they are requesting a variance for the separation from the principle structure and an accessory structure relief from the 15 feet requirement down to seven feet, so they need an eight foot variance on that. I didn't walk in the back yard I know the neighborhood reasonably well I have friends up in there I think from the map I can see enough but again I don't think the applicant can do much more than they are doing to try to make a pool fit once again we don't have any complaints from the neighbors.

Tim Froessel – I will second that I have a few friends that are neighbors of Ghelarduccia and am familiar with the conditions back there, there is a lot of rock back there, that is the only way you can do it.

Tom Costello – I went and visited the location and I don't see any other practical place to put a pool I can't say that about many applications but this is one that there is no other option.

Ed Colello – If there are no other comments I will entertain any motion.

Tim Froessel – I will make a motion to grant the applicant a 14 foot variance from the 20 foot side yard requirement for the construction of a in-ground swimming pool as depicted on the survey that has been submitted to the Board and I will also make a motion to grant the applicant a eight foot variance from Section 138-32B which requires a minimum of 15 foot separation between an accessory structure and a principle structure.

Ed Colello – Second?

Jack Gallagher – 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 is an undesirable change in the character of the neighborhood a swimming pool is pretty much in character with the residential character of the neighborhood and there is not likely to nearby properties because of the difference in topography between their house and next door neighbor who is most directly effected.

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

No, I think we are all pretty much convinced that it really can't because of the rock ledge they have in the back yard.

3. Whether the requested variance is substantial.

Arguably it is but I think that is mitigated somewhat by the fact that this is pretty much the only place on the property where they can build a swimming pool.

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

We haven't heard any evidence of that.

5. Whether the alleged difficulty was self created.

It is only self created to the extent that they want to put in a pool but where they have to put the pool really is not a difficulty that they created it is more a product of the typography of the property.

Roll Call Vote:

Joseph Castellano – In favor

Jack Gallagher – In favor

Tim Froessel – In favor

Tom Costello – In favor

Tom Costello – In favor

Paul Vink – In favor

Ed Colello – In favor

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

Ed Colello – You are all set. Once again you can bring this down to the Building Department to get your permits.

3) Louis Ciaramella
2 Clematis Road
TM# 56.14-2-54

Louis Ciaramella and Aldo DiVitto, architect, appeared for this application.

Aldo DiVitto – Our objective here is to build a two story addition with a basement to the east portion of the property in the corner lot here. We are asking for a variance because we have 25 foot setback where 35 feet is required. What we did is we pushed back the addition. We were originally going to build the addition even with the house but since we had approximate four feet or so off to the front what we decided to do to minimize the impact is to start the addition 35 feet off the front yard and our maximum lot coverage allowed is 55% we are proposing 25.1% a slight increase of existing 19.57%. Our addition would consist of a family room on the first floor and the master bedroom suite on the second floor. Part of this project would also make the windows conform so we would be changing the windows and also the siding. We would also like to change the dormer of the existing garage to a gable and remove an existing chimney here and another one at this end which is actually not working.

Ed Colello – And you are putting the new chimney on the other end?

Aldo DiVitto – And we are putting the chimney on this end. Also what is not shown on your application and we talked about it last month with the stairs going down to the basement they would also be in the setback.

Ed Colello – That doesn't increase your setback does it? That doesn't get any closer to the property line?

Aldo DiVitto – It is a grade down. You are not building a structure. I don't know if you have had a chance to see the site. We have some photographs this is where the addition would be. We basically want to clean it up and make it a nice house.

Ed Colello – Is this something you are going to be living in or are you going to sell it?

Louis Ciaramella – No, I plan to be.

Ed Colello – Let me say something to you, first of all your plans in my opinion, your plans are great, not that it is not a good looking house now but you are changing the whole picture of the house and it is beautiful picture, it is a great upgrade, I have to share with you one pet peeve of mine from being on this Board a long time. People show us beautiful pictures they get variances I drove by eight months and it is not as beautiful as I thought it was going to be because of all of sudden, and I am not saying you are going to do this, there is no gable on the garage, because the garage hypothetically looks the same, certain windows are not changed, or whatever. I am just saying that as a resident of Southeast that is a great addition. I think that is a great change in that house. Please do it that way if we approve it.

Louis Ciaramella – It is my first house and that is exactly what I want.

Aldo DiVitto – My intention is to exactly as we have drawn it.

Ed Colello – We have been, is the word “burn”?

Aldo DiVitto – What I think that happens is obviously there is economics.

Ed Colello – Yes, that happens and I understand that.

Aldo DiVitto – But I think if we do run out of money it will get done eventually there may be a second phase to it. But it will get done. But one of things that we do want to change one of things that does bother us if you take a look of other homes in the neighborhood that are very similar to what we are looking at the windows are rather small they don't meet egress we definitely want to change that. If you take a look those windows are very small. This is not our house this is our house which is very similar. But if you take a look at a house that is under construction you can see that the windows are much larger they do meet the egress code. The code was changed a couple of years ago and it went from New York State building code to international building code and at that point the code was changed to 5.7 square feet from originally 4 square feet.

Tim Froessel – Can you hold up those pictures for one second I just remind the Board of one thing. The Board granted a variance for that one that is just up the street from them. That variance was granted not long after I came on the Board some time around '98, '99.

Aldo DiVitto – This actually changes the garage to a gable but it looks like what they did is they didn't take the original roof off they just built on top of it. We wouldn't do that we would take the roof off.

Tim Froessel – The difference between this application and that house is this application has the corner lot which in Brewster Heights is a much wider lot than the interior lots so actually the amount of variance he needs is one of the least we have seen for any application we have seen in Brewster Heights.

Tom Costello – Plus from the road it is an elevation up to your home so it has a less of an impact I think when you drive by. Have you gotten construction bids on this yet?

Louis Ciaramella – Not yet. I wanted see what happened here.

Aldo DiVitto – We don't construction documents.

Tom Costello – So you don't really know if you can afford to do this.

Aldo DiVitto – We have ball park numbers.

Tim Froessel – Let me tell you I was your neighbor until last July and I got a variance to have work done on my house and I did the same thing I just had design drawings, didn't have construction drawings and had when I started talking to contractors I put the house on the market and sold it.

Aldo DiVitto – We have some preliminary numbers so we will be OK.

Ed Colello – Do we have any questions or comments from the audience? Any questions from the Board members? Any final comments you would like to make?

Tim Froessel – I have a question, Mr. Harper mentioned in the letter that the rear setback is only 25.5 feet does that include that stairway?

Aldo DiVitto – No.

Tim Froessel – We discussed that last month.

Aldo DiVitto – I think what we said and I think you can check your notes but I think what we said is that since we were going a grade down it didn't matter.

Ed Colello – I think that is what we said.

Tom Costello – It says if a patio is less than a foot off the ground it can be built in the setback.

Aldo DiVitto – So a patio less than a foot off the ground can be built in the setback. So that is probably how they got this passed. This is about a foot off the ground this patio.

Ed Colello – I don't think he needs one.

Tim Froessel – So that is the number.

Aldo DiVitto – The only thing I could add to it if you approve us if you can add that to the approval process only because I don't have that showing on my drawing.

Ed Colello – We can. Do you have anything on there so we can say as per?

Aldo DiVitto – No.

Ed Colello – Are there any final comments you would like to make?

Louis Ciaramella – No.

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

Louis Ciaramella – Yes.

Ed Colello – We will close the public hearing.

Public hearing closed.

Tim Froessel – I am actually impressed the way the applicant has done this because he only needs the variance for the south setback which is the front of the house that is the trade off on those corner lots in Brewster Heights because they are much wider. He needs the variance but it is no change from what he has already. And on the rear setback he needs only two feet more than what he has. So to do an addition like this in Brewster and need only one two foot variance I am impressed. Looks like it is going to be a great addition. I think it will be a positive addition to the community and without putting much stress or strain on the zoning code.

Ed Colello – I agree. If there are no other comments I will entertain any motion. I will make a motion to grant a variance from the north rear setback where 35 feet is required they are proposed a 25 foot setback which is variance of 10 feet and also we agreed that the back cellar steps because they are going down and they are not above grade are not included in the requirement for a variance. Do I have a second?

Tim Froessel – Second.

Ed Colello –

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).

I don't think the neighborhood is going to change at all if I was a neighbor I would be happy to see that addition going up and to see that being up so I think it will be the opposite I think it will be a very desirable change.

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

No, as **Tim Froessel** we deal with the Heights all the time with upzoning and new requirements there is virtually nothing a person can do in the Heights right now without needing some sort of a variance. Most of the houses are pre-existing, non-conforming to start.

3. Whether the requested variance is substantial.

I don't think it is substantial. On the north rear setback we are looking at a ten foot variance which is about 30% but again with what they have they are looking at approximately a 2.5% change from where it already is.

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

I think it will have none.

5. Whether the alleged difficulty was self created.

I don't think it was self created again with out town's upzoning has created a situation in many neighborhoods in our town and the Height's being one of them where it is very, very difficult to do something without some sort of a variance.

Roll Call Vote:

Paul Vink - In favor

Tom Costello – In favor

Tim Froessel – In favor

Jack Gallagher – In favor

Joseph Castellano – In favor

Ed Colello – In favor

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

4) **Eric Heinecke**
7 Shady Lane
TM# 47.-3-10

Tom Costello – Just to remind you are still sworn in.

Ed Colello – Are the mailings in order?

Linda Stec – Yes.

Eric Heinecke – They were in the back of the pictures.

Ed Colello – Again we are familiar with the application if you can run through the highlights.

Eric Heinecke – A few years ago the structure that we had there was in really bad shape caved in and leaning in and so I went and got a permit to knock it down with the understanding that I would rebuild something. I could not really afford to put a building so I put an aluminum shed up and filled the basement with gravel and it made out of steel. I have some pictures if you would like to see some pictures again. The original structure was 17 x 25 this one is 16 x 21 and even on the side I gained another four feet where the ladies and men's room was there is nothing even there is just concrete shelf again which I filled with gravel.

Ed Colello – The old building was probably built before we even had zoning codes?

Eric Heinecke – '49. That was the first structure on the property.

Ed Colello - You said last month they used to have functions there?

Eric Heinecke – They used to have weddings there my grandparents called it a recreation hall back then and they had a few weddings there and after that they had a shop there and then they took the shop and my dad lived in there for a few years and then it was not taken care of and then with the heat and everything else and the roof came down.

Ed Colello – Do we have any questions of anyone in the audience? What we have is the applicant really needs two variances. The building is 14 feet from the rear lot instead of 20 so he will need a six foot variance from the back and again we are into the separation rule and the map shows 14 or 15 feet where 15 feet is required so let's assume for the sake of argument that it is only 14 feet so he is requesting a one foot variance of the separation rule. Do we have any other questions of the applicant? Are there any other final comments you would like to make before we close the public hearing?

Eric Heinecke – I tried to do a really nice job and match the house and put concrete all around it from the existing sidewalks. It is safe, solid, they guaranteed me for 20 years.

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

Eric Heinecke – Yes, I do.

The public hearing was closed.

Ed Colello – I am familiar with the site and while I didn't go out and go in the back and so on I know where the property is I think last month we had someone testify from a conservation area that is behind the applicant that the conservation area had no problem with it and it really doesn't bother anybody back there and again my opinion is one variance is a foot on the spacing and the other one is six feet so I wouldn't call it a huge requirement.

Tim Froessel – And we were advised that the neighbors had no objection.

Ed Colello – If there are no other comments, questions, I will entertain any motion. I will make another one. I would like to make a motion a one foot variance from separation rule that states that the applicant must have 15 feet and a variance of six feet from the rear lot line where the applicant has 14 and 20 is required. Do I have a second?

Tom Costello – 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).

No, I don't think it will have any change whatsoever it is in the back and it is not bothering anybody and again it has been there for a couple of years now.

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

Yeah, I think if the applicant moved it forward a little bit I think the applicant stated if he put back where the other building was he didn't he would have a problem but obviously the other building was built long before we had any building ordinance.

3. Whether the requested variance is substantial.

Well, I don't think the separation is substantial ever the rear setback requirement a six foot variance out of 20 feet I don't know if that is substantial but again I think where it is and the fact that it is not bothering anyone behind it is just a conservation area I think that minimizing the substantial requirement there.

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

I think it will have none.

5. Whether the alleged difficulty was self created.

Again, anything a person builds a structure within the setback you could say it is self created but again having the separation requirement of one foot is minimal at best and number two I think because the applicant put it back to replace an old building I don't think I can classify it as self created.

Roll Call Vote:

Joseph Castellano – In favor'

Jack Gallagher – In favor

Tim Froessel – In favor

Tom Costello – In favor

Paul Vink – In favor

Ed Colello –In favor

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

Ed Colello – I will give you this to bring to the Building Department for your Certificate of Occupancy.

5) Stephen and Kathleen Herndon

2 South Drive

TM# 45.84-2-15

Stephen and Kathleen Herndon were sworn in by **Tom Costello**.

Stephen Herndon – We are seeking permission to put in an above ground pool. We need variance from South Drive we have 30 where 35 is required and from the eastern property is 10 feet instead of 20. We did go to my eastern side neighbor and she did give me a letter saying she had no problem where the pool is going to be. We also have a letter from the neighbor on the other side. We have pictures of where the pool is going to be.

Ed Colello – Let me just read these into the minutes, dated March 5, 2006.

:”I have no objections to our neighbors, the Herndons, having a pool. I am aware and have no problem with the variance the Herndon’s need for the pool as it will be within 20 feet of my property line.

Doris Jusino
10 South Drive”

Ed Colello – Where would that be on this map?

Stephen Herndon – This would be facing this way.

Ed Colello – And we have one other.

“To Whom It May Concern:

In regard to our neighbor, the Herndon family having a pool on their property, we, the Pavelka family, are in compliance and have no problem with this. Please find this letter a confirmation of our approval.

Florence and Theresa Pavelka
One South Drive.

Ed Colello – Which would be?

Stephen Herndon – Directly across.

Ed Colello – OK.

Tim Froessel – Is the pool going to go on the other side of this hedge?

Stephen Herndon – Yes.

Tom Costello – The measurement show on the survey it says 30 feet is to the pavement or to the property line?

Stephen Herndon – That is to the pavement.

Tom Costello – If your property line is in from the pavement you have to measure from the property line not the pavement.

Ed Colello – This is your property line, correct? What we need is the closest point from here to here. That is not 30 feet.

Stephen Herndon – That is probably 20 feet.

Ed Colello – We are going to need a measurement. Do you have a good property line?

Stephen Herndon. – Yes.

Jack Gallagher – There is a chain link fence.

Ed Colello – Now, this one you are sure is 20 feet to side. And we are going to need this one. So if you can bring that back next month.

Tom Costello – And you can see there is a measurement from the property line to the corner of the house is 19 feet so it looks like to maybe 17, 18 feet to where you have the pool pictured.

Ed Colello – So help me out here this is not 20 feet correct, if I look at your letter denial the setback to the eastern property line would be here, the requirements are 20 feet and 30 feet those are not the actual measurements.

Tim Froessel – 35.

Stephen Herndon – He did measurement from the fence.

Ed Colello – But he is saying you only have 10.

Stephen Herndon – I will be back next month with the measurements.

Ed Colello – This point and this point we need exact numbers for that.

Ed Colello – Based on pictures and I drove by and looked at it I wondered why you didn't push it back?

Kathleen Herndon – Our septic tank is there.

Tom Costello – Can you pencil in where the other things are in.

Kathleen Herndon – That is the only place it can where it would be private with the septic fields.

Tom Costello – You have one of those unique situations with really two front yards. It is rare that we would make a decision on the same night we hear the application we typically hear your testimony and then we go visit and then the following month we make a decision and we have some open issues we like to get information from you on so during the month some of us may come by. I went by already and it is very visible from the road so it is unlikely anybody would disturb you to come see it.

Kathleen Herndon – We had a tree taken out in the middle of the yard there. They said we had to take it down a year in advance.

Ed Colello – So you will be number one of the agenda next which will be on the 24th at **Lakeview at 8:00.**

Kathleen Herndon – So we the exact measurements.

Ed Colello – Yes.

Stephen Herndon – If we can move it back a little bit can we say 25 feet, 30 feet from the property line?

Ed Colello – Yes, our objective is to grant the minimal relief so if you could, for example, let's say if you are 10 feet from the back and you can make it 13 feet, the least amount of a variance we have to give you is what we are comfortable with.

Kathleen Herndon – If we want to put higher hedges for privacy do we need anything for that?

Ed Colello – No. So we will see you next month. Mailings are in order?

Linda Stec – Yes.

6) John and Christine Tomassetti

12 Elmwood Drive

TM# 45.84-2-33

John Tomassetti was sworn in by Tom Costello.

Ed Colello – Can you walk us through your application?

John Tomassetti – I want to put a front porch deck on the front of my house it if you have a copy of the survey it is going to come out as far as the front stoop that is there now and the reason is that my wife has arthritis in her hips and I have a stoop that is 32 inches wide so it is very hard for her to maneuver to get down the stairs especially when she is carrying my two year old son. I did something that I shouldn't have done but at the time but at the time I thought it was pretty important do it. Before it started to snow I actually started to put the deck up first and Mr. Harper came by and saw it. Now I am here to hopefully get it approved. It is going to be about the same width of the house if you are looking at the survey which is about 26 .5 feet and it comes out as far as the front stoop

which is about 6 feet. And the stairs after it is built will come out towards the driveway so she doesn't have to walk out though the lawn and out to the street to get back to the driveway.

Ed Colello – So if I am facing your house from Elmwood your driveway is on the right hand side?

John Tomassetti – Correct.

Ed Colello – And there is not going to be an opening here it will go straight out that way or there will be an opening here too? Just a flat railing across as the picture shows?

John Tomassetti – Correct. Nothing fancy it is going to be more for a purpose and not for a decoration. It is going to serve a purpose.

Tom Costello – How much of the deck is already constructed?

John Tomassetti – I had to take it all down because when Mr. Harper I was in the process of building it and he gave me a stop work order and because all the boards were not secured I told him I was going to take it down because I didn't want her to come out and trip over one of those boards and get hurt and I took the whole thing down and he said it was OK. So now there is nothing there it is in the process.

Tom Costello – Do you have any of the support beams up? You have the footings in already.

John Tomassetti - I actually didn't fill them I just put them cement blocks which is temporary I didn't know if I was going to be able to dig four feet down to put the piers in the right way. I know the proper way to do it I do construction at that time I figured it was more an emergency type of thing because my wife has arthritis and it was coming winter time and the first snow was about a week away and I said let me get something up so that nothing would happen.

Tom Costello – Is that the primary entrance to the house?

John Tomassetti – Yes.

Tom Costello – Would you consider putting in a ramp?

John Tomassetti – It is only temporary in a few years she might have to go for a hip operation she will be more towards normal than she is now. It is hard for her to bend her legs so I am going to make the steps wider not the normal 12 inches and a shallower rise and a bigger tread.

Ed Colello – Let me ask you this question, do you have a picture of the front of your house?

John Tomassetti – Yes. Off to the side you can see where joist hangers are on the ledger.

Ed Colello – You are going to use those prefab steps?

John Tomassetti – They are not really prefab they are built on step.

Ed Colello – You are getting rid of those.

John Tomassetti – You can't see in any of the pictures that I took they are starting to fall apart there are cracks in it.

Tom Costello – Are you going to build over it.

John Tomassetti – I am probably going to take it out.

Ed Colello – The reason I ask wouldn't you classify those steps as part of the structure at that height? If you looking at Ron Harper's letter the requirement is 35 feet he has 34.7 now he is down to 28.7 so what he is saying he is losing six feet because of the front porch but he is really not if you think of it.

John Tomassetti – That was though in the beginning.

Ed Colello – You would still need a variance. The problem is over the years is the zoning requirements have gotten tougher. A good example on the east side of your property you are supposed to be 20 feet from the property line you are only 14.28 feet you don't need a variance for that because you are pre-existing non-conforming but if you wanted to make the garage a foot deeper even though you weren't getting any closer to the property line you would need a variance. It is within the setbacks. And the same with the front. You still need a variance it is not that big a change. Do you have a picture to show the Board members?

Ed Colello – Mailings in order?

Linda Stec – Yes.

John Tomassetti – I have this letter.

Ed Colello –

“March 19th

Mr. Tomassetti spoke to me about putting a front porch on his home and I have no objection to him doing do.

Laurie Belcher”

March 17, 2006

To the Zoning Board of Appeals

This is a letter to inform you that I have no objections to letting John and Christine Tomassetti build a front porch on their home.

I think it would look good on their home. Their children would have some place to sit and play and not have to worry about the traffic on the street.

John O'Hearn:”

March 7, 2006

To the Members of the Zoning Board of Appeals

I am writing this letter to inform you that Mr. Tomassetti spoke to us about putting a porch on his home and I thought it would be a nice idea.

We have been neighbors for about six years now since John and Christine moved in. they have done a lot of work on their home to make it look nice.

They are very good neighbors. And I hope all goes well. So in closing I do not oppose their plan for a porch.

Mr. & Mrs. James Dunn

P.S. Please let the Tomassetti's do this.”

Ed Colello – Do we have any other questions of the applicant? Do you guys see these. You will be number two on the agenda next. April 24th, Lakeview Manor, 8:00 PM. You are all set.

John Tomassetti – Thank you very much.

Ed Colello – Do I have a motion to approve last month's minutes?

Tom Costello – I will make a motion.

Ed Colello – All in favor.

All in favor.

Meeting ended at 10:15 PM.

Submitted by:

Linda M. Stec
DRAFT