

**TOWN OF SOUTHEAST
ZONING BOARD OF APPEALS
CIVIC CENTER
67 MAIN STREET
BREWSTER, NY 10509
APRIL 24, 2006**

Board Members

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

Ed Collelo – Good evening everyone welcome to the April 2006 meeting of the Town of Southeast Zoning Board of Appeals. Can we please stand for the Pledge of Allegiance. Pledge of Allegiance said. My name is Ed Collelo, let me introduce the Board members that are here tonight. Members introduced. We are a seven person Board one person is away and we have some people that are ill. That causes a little bit of a problem when we have a seven person Board when we only have four. We start the meeting. The problem is when we have issues that we are going to vote on and we are probably are going to look at the first two to vote on because they are carry overs you do four votes to receive a variance. When we only have four members here we give the applicant a choice and we will give them the first two maybe because they are carry overs from last month. What I mean by the choice is that you can have us vote tonight but unfortunately you have to go four for four. Now that is your call not mine. I wouldn't want to hurt you in any way. If you are not in a hurry or if you felt more comfortable being carried to next month when we will probably have our usual six or seven members here that is your call. I unfortunately can't give you an opinion, I can't give you a straw poll, I can't ask the Board members how they would vote, so we are going to take it from there. So with that said let's get into it. Our first application is Stephen and Kathleen Herndon.

- 1) Stephen and Kathleen Herndon**
2 South Drive
TM# 45.84-2-15

Ed Collelo – Again this is a carry over if you could give us a tree top version of what you are looking to do.

Stephen Herndon – We are looking to put in an above ground pool, 16 x 24 and when we came in last month you were questioning some of the measurements and wanted to

know why we hadn't moved it further from the road. So basically we went outside and measured and realized the property line is not actually in the middle of the road but at the property line and we have redrawn the survey moving the pool further from the road I included the septic tank because that is one of the things that prevented me from moving it further back. What we have done now is moved it 43 feet from the road and 20 feet from the side so it should be within the variance.

Ed Collelo – Is this a new map? Is there one in the packet?

Stephen Herndon – No. This is the new one.

Tom Costello – Do you have others?

Stephen Herndon - Yes.

Tom Costello – Is it 43 feet from the property line or from the road?

Stephen Herndon – From the property line.

Ed Collelo – So you have 20 feet from the east side.

Tim Froessel – It is a R20 zone.

Tom Costello – So you have 35 in the front and 20 on the side you don't need a variance. The only thing is eight feet from the septic tank sufficient?

Ed Collelo - I am not telling you what to do. As long as you are 35 feet and no closer than 20 feet here you can move it eight feet more that way, farther away from the septic.

Tom Costello – The only question I have in the denial letter it says the side setback the required is 20 and you have 10 is that different that the drawing that you are showing us in the original packet? What did you show the Building Department originally? Because it says proposed 10, I don't know if you measured or he measured that?

Stephen Herndon – I did the 20 feet from the property line.

Tom Costello – Just make sure when you site it you are 20 feet.

Tim Froessel – You can show them that revised drawing.

Tom Costello – Why don't we just leave it open till next month in case there is a problem and then we can close it next month.

Kathleen Herndon – We can't start construction on it?

Tim Froessel – No, if you get your building permit go ahead and put up the pool but if there is a problem and you don't get your building permit you will still be appearing and you can come back.

2) **John and Christine Tomasetti**

12 Elmwood Drive

TM# 45.84-2-33

Ed Collelo – Again, you want to give us a little recap.

John Tomasetti – I want to porch on my house the setback is 35 feet from the front. Right now my house is too close and I want to add another six feet to it so I have to go for the variance. My wife has arthritis in her hips so it hard for her to come out the front door on the little stoop that we have so I want to add the porch on so that she can walk down into the driveway so that it will be more convenient instead of walking all the way down into the street and coming down the driveway.

Ed Collelo – Do you have the pictures from last month? Are you going to save those steps?

John Tomasetti – No, because they are all undersized you can't see it pictures I am going to rip them out.

Ed Collelo – You are not going to have steps coming out the front?

John Tomasetti – No.

Ed Collelo – He needs a variance for the front setback on the sides there is no change but he is into the required setback. The porch will start back there. The porch is probably 30 feet from the property line. But the existing structure is only 14.2 feet so if we were to vote on the front setback.

Tom Costello – He is not encroaching any further. It is an enlargement of a non-conformity.

Ed Collelo – Do we have any questions or any opinions from anyone in the audience in regard to this application? Any other questions from the Board? Mr. Tomasetti I have to ask you what you want to do?

John Tomasetti – If you were to vote tonight and I didn't get the approval can I hold it over to next month?

Ed Collelo – No, you only get one vote per application. Let's say it was three in favor and one opposed and you are denied you would have to start the process all over again you would have to change the application by say a foot. You would have to reapply, put in the paperwork, renounce and apply for a hypothetically a porch that came out or in a foot different. I know it is spring and I know you started this to some degree I wish I could tell you what to do but I can't.

John Tomasetti – You pretty much made my decision for me if I have to do it all over again and pay all that money again what is another month. I am not going to put out another \$500 instead of waiting another month. Another month is another month.

Ed Collelo – I understand. I am sorry you have to come back.

John Tomasetti – I have waited since December.

Ed Collelo – So we will put you number one on the agenda for next month that is May?

Linda Stec – 15th at the Civic Center.

3) Anna and Guiseppe Casale
7 Pine View Drive
TM# 78.-1-78

Michael Liquori, attorney, Hogan and Rossi, Anna and Guiseppe Casale appeared for this application and were sworn in by **Tom Costello**.

Michael Liquori – Good evening members of the Board, my name is Michael Liquori, I am an attorney from Hogan and Rossi I am here on behalf of Anna and Guiseppe Casale who are in connection with an application from the front yard setback for their property located on 7 Pine View Drive. What we need to discuss is one how it happened and two why we are here for a variance. Essentially what happened is that Casale's had two sheds and in-ground pool and they took down a shed and reconstructed a shed and it was their assumption that because they already had the C of O for their shed that essentially they would be OK. They went to Ron Harper and told him what they did and Ron said "OK I am going to come out and inspect it", he did come out and inspect it and "said OK you built the shed you didn't get a building permit but because you are on a corner lot you violated the front yard setback." I have a survey here and I just want to show the Board

exactly what happened. Their property is located on Guinea Road and their entrance is on Pine View which is over here. Their actual entrance to the house does face Pine View Road and they have a double door entrance and it is our belief that 7 Pine View Drive or Pine View Drive was their actual front yard however being on Guinea Road and having frontage on Guinea Road and then frontage on Pine View Drive there are two 50 foot setbacks instead of a side yard setback where if this was constructed in the side yard there would be no need for a variance because they wouldn't trigger the variance. Here the side yard setbacks are 50 feet. The Casale's are requested a 19.8 foot variance because they encroach for the difference. There is no variance needed for the rear they are well within the rear. Here is a picture of the shed that is constructed it houses their pool equipment. They have a pool right next to it and a patio and they have their equipment for that and such. I went through the dimensions of the shed with Ron and it is within the 20% coverage limitation in a R60 and the dimensions of the main structure and Ron approved it. They have a letter from their neighbor Henry and Katy ? who live on Guinea Road who live across the street who have the major view of the shed and they were kind enough to give us a letter dated February 22, 2006, to the Board that they are aware of the application and they do not oppose the application. Now on the merit of the variance we need to show that the benefit to the landowner does not exceed the detriment of the health, safety and welfare of the neighbors. One of the major mitigating factors on the application is the 75 foot Algonquin gas line easement that affects the property and it makes the additional, the other side yard which is over here. They can't use the almost the entire part of this property. They have a minor encroachment which has been dealt with Algonquin but they can't have any structures on the property by not being about to use that major portion of the property it lends some credence to the fact that there is less detriment to the public health, safety and welfare.

Ed Collelo – There aren't gas lines there now?

Michael Liquori – Does the actual gas line run?

Guiseppe Casale – Yes, it is two pipe lines.

Michael Liquori – Steven Chamberlain lives next door and I haven't received any notices of objection from the Chamberlain's or any of the other property owners and all neighbor's have received notice twice of this application so they have been duly notified.

Ed Collelo – Do we have any questions or comments from anyone in the audience? As you know Michael it is the custom of this Board to go look at the property and while it is not a complex it is something the Board members might want to take a peek at.

Michael Liquori – I understand that if anybody wants take a look we will hold it over.

Tom Costello – What are the dimensions of the shed?

Michael Liquori – 12 x 24.

Guiseppe Casale – It is up the hill.

Michael Liquori – There is minimal visibility from the road.

Ed Collelo – We will hold it over till next month. Again you will be number two and we will have more members.

Michael Liquori – I will send a letter to the Board members with the phone number for the Casale's.

Tom Costello – We would probably just view it from the road and if we come by and see you out. We don't meet as a group at the site.

Michael Liquori – Thank you very much.

4) Prestige Petroleum
1011 Route 22
TM# 68.5-2-5

Michael Liquori, attorney, Hogan and Rossi and Frank Hessari, Vice President, Prestige Petroleum, appeared for this application and were sworn in by **Tom Costello**.

Michael Liquori – From the beginning, obviously the Town of Southeast has recently a new sign ordinance that is more restrictive than the one in effect previously it has rendered the number of the signs in existing non-conforming. Here in this situation **Frank Hessari** recently entered in a 25 year lease with the former owner of the gas station and Prestige Petroleum is a retailer for Valero who provides the fuel service. We submitted our application to the Board. The original application was to permit a free standing sign at the height of 18 height with a surface area of 48 square feet. Frank and I spent a lot of time going through the minutes of the various sign applications that have come before the Zoning Board of Appeals and we have read those minutes in conjunction with what is permitted in the district which is eight feet in height and 10 square feet for area and we have reconsidered the application that is before you and we would like to come to you with the reduction and a slight change from the monopole sign which I submitted in the application we would like to go from the 18 foot monopole with the 48 square to a 12 foot double pole. So it is a pretty significant difference we have come back to the Board with a 33% reduction in the height and is pretty clear from reading the minutes how the Board has viewed applications like this so we have scaled down a little bit.

Tim Froessel – What is the area?

Michael Liquori – We would like to keep the 48 square feet. In connection with the application there is a request for two signs and an additional sign in order to keep the convenience store and deli sign. As you can see it will get into this in a second like most gas stations in the town of Southeast there aren't just one or two signs there are numerous signs across the gas station and my application to you is for the 18 foot monopole and for a 13 square foot variance to keep the convenience store and deli sign. Because we have essentially two businesses here, we have the gas station and the deli as well. So it is a deli with gas pumps. We decided to come to the Board for a number of different reasons and for these reasons that we would be entitled to a variance and a good place to start for us I think is to discuss the differences between the location of this gas station and what was most recently before the Board which was the North Brewster Tire. I bring this because here we have a business that is located squarely in the center of a commercial district and there are no residences nearby which is think is one of the mitigating factors when coming to request a sign that is taller than what is permitted in the district. Here we have a drive by business. When you get off the highway, let's say you get off 684 and you make a right into the village of Brewster, let's say you don't want to make a left to go to the station on the corner but you want to head down, maybe you shop at Mobil, the sign is what makes people stop to get gas. Believe it or not that one cent difference in price does make a difference and when you own a gas station to be able to advertise the price is critical to maintaining the business. Currently the gas prices are above the pump but they are also over here and that is where he is permitted to keep them. There is an overall goal for this project which is to clean up what was there in the past and I think if

you drive by there you can see that the numerous lessor had are gone, the parking lot is clean, the general appearance is neat, and Frank's vision for the property is to remove all the non-conforming signage, all the signage over here, this old sign that is over here and have the permission of the Board to have this double pole sign located down there where is able to advertise the prices of the gas and to advertise that there is a deli there. This is a drive by business. It is not a destination business like the tire shop where people shop for tires they look for the best price, they look in the Pennysaver, they look in the newspaper and then they go to where they are going go. That is only a destination business. Here is signage is important because this is a drive by business. One of the mitigating factors we believe is that the fact that the property is located almost directly underneath the highway which is a difficult place to be in business it is not the most aesthetically pleasing so we have been deducting that whatever we do is probable going to be a benefit to the site and hopefully a benefit to the community as well. I read and discussed the fact that the signage and the advertisement of the prices is a necessary component of the business and also the line of sight. Part of the justification for the request for the 12 feet is the fact that over here is a six foot fence that is the State of New York property that has some pretty significant overgrowth and we would like to be able to get over the fence and trimming the overgrowth and having that line of sight. Here is a picture of that fence looking from where sign would be over there. And that would permit visibility coming from the village of Brewster and also coming from the town of Southeast coming from both directions.

Tom Costello – Is there a pole sign at that location today?

Michael Liquori – No, there is no pole sign at that location. We have various other signs at the location. We have this one, this one here, the Savino one which Frank is in the process of preparing to take down. He is in discussions with Ron Harper regarding putting a single fascia around building to improve the overall aesthetics of the building.

Tom Costello – So if you get your variance can you describe what signs will be on the property?

Michael Liquori – If our variance is permitted then we would have the convenience store and deli sign and the double pole sign.

Ed Collelo – Can you point out on the map where the double pole sign is going to go?

Michael Liquori – It would go here. And I do a triangle not for direction just to point out the general area. And then we would have the sign above the door. We would keep the sign on the canopy and then everything else would be removed. Frank went out a photo generation of what the fascia would look like.

Tom Costello – And then there would be the price signs on top of each pump as well.

Michael Liquori – We would have the seven inch price signs.

Tom Costello – That would be it?

Michael Liquori – That would be the totality of all the signs.

Tom Costello – So the signs today that says "Savino"?

Michael Liquori – That is going. Another important thing is that the sign ordinance was written for this particular situation. Here we have a gas station prior to Frank's ownership that has a significant amount of signs that were pretty unsightly and really didn't do anything to benefit the community as far as looks go and Frank's vision of what he would like to get the gas station to look we feel is a real benefit from what was there already.

Ed Collelo – You are asking for this sign here?

Michael Liquori – No, we would take down whatever is non-conforming.

Ed Collelo – This is on the after picture.

Tom Costello – You mentioned that the deli/convenience store sign needs a variance.

Michael Liquori – In the NB 1 district we are permitted to have one sign. It can be a wall sign or it can be a free standing sign. In order to get the sign on the canopy we essentially used our one sign, which is what the town considered a wall sign even though it is on the canopy. So that is our wall sign. So according to the ordinance we would not have the ability to put up no other signs on the site which is severely limiting if you have a gas station that can't advertise it's prices then is extremely detrimental.

Ed Collelo – Wasn't there at one time a pole sign on the other side of the property closer to Brady Standard?

Frank Hessari – I couldn't get all the pictures.

Ed Collelo – I think years ago we might have given him a variance for that sign.

Tom Costello – That was a question I was going to ask you did you research the property, I believe this property has several variances already.

Michael Liquori – I looked at the Planning Board file regarding site plan approval I didn't notice anything. I will go back and look at the Zoning Board of Appeals file again.

Tim Froessel – The Building Department file should have the variances on file.

Tom Costello – My recollection is that the canopy probably required a variance. Almost every canopy does. And I remember they were using that property for the storage of rental trucks for a while and I think they got a parking variance.

Michael Liquori – I will check I thought their use for storage was illegal. I will check.

Ed Collelo – I could be wrong but I thought the main pole sign was somewhere around there.

Linda Stec – Bonnie from the Building Department called me when they were selling this and I couldn't find anything under the name that she gave me but I asked her if there was another name and she didn't know another name.

Tom Costello – I can tell you that this property has been before us a couple of times in the past. I can't tell you exactly what was granted but looking at that canopy it has to be within the setbacks.

Michael Liquori – I will check. I know there is a C of O for the canopy I will get to the bottom of the history of the property and whatever else is out there and obviously just because I am not aware of it doesn't mean I just don't know I will get that answer.

Ed Collelo – One thing I have to tell you before you go any further on this is a pet peeve of mine nothing to do with you and your client and the fact that over the years this Board has been promised things that have never happened. And I am sick of it and anytime we grant a variance with stipulations and it is going to be in writing, it is going to be done, what the business owner or the applicant is going to do before we grant the variance one of the things that would be very important to me not to the Board as one Board member I don't know if the Board agrees if for example if the Savino sign, his name up here, which I don't know why you want it to stay up there anyway, but that is part of the signage, but have it down before we do it or have it part of the stipulation of any variance that that comes down first. But again it doesn't effect you guys because obviously you want it down anyway.

Frank Hessari – We would love to do that as soon we get our OK from Ron Harper to put our decals over here to put a band around the building. Mr. Ron Harper calls it signs and we are trying to explain to him that it is not a sign because it has no insignia on it and people see that blue color. We are going back and forth. As soon as we get a permit we would love to do that.

Ed Collelo – So here is my question what if you don't get a permit?

Frank Hessari – That is going to come down regardless. But everybody in the town, all the gas stations they have the signs so they can advertise the prices and I am sure everybody in this room including you guys look at the price signs before you pull in.

Michael Liquori – These are the colors for Valero. The issue we have with Ron that we are going back and forth is the definition of the word sign is any material, device or structure composed letters or pictorial matter. And what we have said to Ron is that if we want to put a fascia on the building that is blue and yellow he considers it to be a sign and we are saying it is not letter or pictorial matter. We are going back and forth but the way the ordinance is read is that anything that follows whether it is a display, insignia, representation, illustration, yada, yada, that all modifies letter or pictorial matter so the town attorney is asked for opinion which is forthcoming as to whether or not a fascia with those colors is a sign. Right now there is no prohibition on putting colors on building. We could paint the whole building blue and yellow and be OK but we don't want to do that.

Ed Collelo – And going to back to where you want that pole sign is it feasible to put in on the other corner only because of problems of safety.

Tim Froessel – You have that giant 100 foot tree you wouldn't see it.

Frank Hessari – Coming down the hill they would see it but the traffic on Route 6 going to the village will not be able to see the sign. We have it so anybody can see it.

Michael Liquori – Another choice in the location of the sign is the stop light, the flashing right light that is literally right here and permits you take to turn right so coming from the village you have a place to stop and if the sign were over here it is quite possible that the line of sight there is a possibility that you would see a sign or it might be obstructed by the pumps or whoever is gassing up. So that is why it is located over there.

Ed Collelo – Anyone have any questions in the audience?

Tim Froessel – I like this location because better because going west you have nothing for about 100 feet or so on 84 where on the other side you have Brady Stannard.

Tom Costello – The section of our ordinance 138-75 a 13, that section has all exempts signs and at gas stations it exempts integral graphics or attached signs on pumps. Did you know that?

Michael Liquori – I did and that is one of the reasons why we didn't submit an application to permit on top of the pumps and then two auxiliary signs per station each sign two square feet. Are you planning to use them?

Michael Liquori – No.

Ed Collelo – And one portable sign per station not exceeding twelve square feet and four feet in height. Are you going to use that?

Michael Liquori – No, just what we are coming here to ask for.

Ed Collelo – So you are asking for the new deli sign over the front door and that is it?

Michael Liquori – That is it.

Ed Collelo – And the Savino words will come down?

Michael Liquori – Yes.

Ed Collelo – And understand on that garage door you can't put signs on that door. Now let me be very blunt in saying. If we get this close to the rules you might be the only gas station that is close to the rules in the town of Southeast.

Frank Hessari – They have seven years to comply.

Ed Collelo – I am not taking about the height. They are selling firewood, they are selling this, I drive by and shaking my head. So all that counts as signage. If you put a sign that says coffee that counts as part of your overall signage. Any more questions?

Tom Costello – Are you going to need in addition to the sign you will need a setback variance I assume?

Michael Liquori – It was my understanding that we would be OK for the setback, I thought we were going to be OK.

Tom Costello – Section 138-76 B 3 it says “free standing – it says no free standing signs shall be located less than 15 feet from the front property line or less than five feet from the side property line.” That may have been updated in the new ordinance.

Ed Collelo – In Ron Harper's letter of denial he says “you have requested a free standing sign the building front setback is 33 feet+- which is less than 50 feet that is required for a free standing sign in addition to a wall sign”.

Michael Liquori – I was going under the 15 feet I thought we were significantly far back and I can amend my application.

Tom Costello – The ordinance changed and we probably need to look at the latest one.

Ed Collelo – Does anyone have any questions or comments in regard to this application? We will leave the meeting open till next month.

5) **Jeannette Phillips**
112 Sodom Road
TM# 57.18-1-10

Jeannette Phillips and William Shilling, attorney, Curtiss, Leibell, and Shilling appeared for this application and were sworn in by **Tom Costello**.

William Shilling – I understand that your numbers are short. Do you vote this evening with four members or do you hold things over until you have a bigger quorum?

Ed Collelo – What we usually do is we is we very, very rarely will vote on the first hearing of the application we usually like to take notes and go see the property. Even if it was a such a simple application that none of us wanted to go see it if we thought we wanted then we would ask you what you would rather us do because you need four votes so that would be your call if you want us vote or you want wait till next month.

William Shilling – And in the case of an applicant wishing a bigger Board do you like to hear the matter now?

Ed Collelo – Sure, because they get the minutes, they get the notes, they will have a chance to go by and then next month we will ask you for an abbreviated version before we vote again.

William Schilling – Good evening, my name is Bill Schilling. Jeannette Phillips is here along with her daughter, her tenant. As you know the property is 112 Sodom Road which I hope to show you has a strong multi family flavor. The house is the site of a old school

house back in the early 1900's, I will show you that as well. The property consists of 2,300 square feet, the main part of the house is 1,644, the apartment is 618 feet. The code provides that you are not have more than 25% apartment to main house. We propose 37% so that in regard we will need a variance. Those numbers were provided to you by a letter from Mr. Harper in February. The apartment is rented to Mrs. Phillips' daughter for \$600. The house is a legal pre-dated in that it was built in the early 1900's or even before for the record I have a letter from a local title company which I would be happy to pass around saying the was built prior 1912. The Board is aware that this matter was before you six years ago but it was before you in an amnesty context my client sought to seek amnesty from 138-22 and was denied. The record which I provided to you in the form of minutes indicated that she had failed to produce rental records sufficient to grant amnesty. This Board denied the applicant. My client was without counsel. And the minutes indicate there was a dispute between one neighbor particularly and my client. Tonight we request two variances. The first variance is pursuant to 138-22. The code says you have to have 40,000square for an accessory apartment we propose 23,000 square feet, or a half an acre. The 138-56.1 says that the apartment should be 25% compared to the main part of the house we propose 37% so that to comply instead of our apartment of 618 we would have to propose 570 so pursuant we need a variance of some 48 square feet. This application is different than it was six years for a lot of reasons. First and foremost the nature of the application is different. My client went specifically for amnesty last time we are seeking a conditional variance this evening. At the time my client was renting to a third party tonight they are renting and would agree to a condition to a variance that the variance be limited to rental to a family member. If you look at the minutes six years there was very little discussion about the neighborhood my client without counsel didn't discuss the nature of the neighborhood I hope to have that opportunity to do that with you tonight. Six years ago my client didn't have an attorney for better or worse she has one this evening. The application six years ago indicated that she needed a variance for 2,000 square feet, and that the house wasn't 2,000 square and as Mr. Taylor's suggestion in his letter that is not correction the nature of the application back then was wrong we have a house that consists of 2,300 square feet, 1,600 and 650, something like that. The nature of the application back in 2000 was altogether different we have over 2,000 square feet in the house but we don't comply with the 25%. So everything is different than it was six years ago so that is why I believe this is brand new application in support of what we are seeking these two variances we have submitted the minutes for the two meetings back in 2000, the memorandum of law and of course the application. Very briefly on the history of this property as I said it was an old school house I would like to show you. The school house as it existed and the house as it exists today it is taken from the same particular angle it was as I said an old school house turned residential in the late '30's. My client purchased it in the mid '70's raised a family there, two children, her husband died in 1976. My memo says to you that she is on a very fixed income, she earns \$1,300 a month and that is disability income and it is her sole income and she created an apartment on the side of the house started renting to third parties in '80's and the '90's, sought amnesty in 2000. She in the affidavit and the memo says that she is having grave difficulty paying her mortgage of \$1,400 a month and \$3,500 a year in taxes so the economics that she faces is somewhat desperate. In the hearing of 2000 when she sought amnesty she brought no records for the tenants because she didn't

realize she had to. She didn't have any attorney as I said. She didn't know to discuss the nature of the neighborhood, the wrong standards were applied. At the time of the hearing Mr. Snyder who was the most vocal opponent and I think it is most interesting to read this letter to Mr. Stephens, "twelve years ago my mother and father with no savings and living solely on social security and I installed a kitchen for their use" I think that underscores and helps our application because we too are facing dire economic consequences and I would like to think that his travails of 2000 where he installed the kitchen on behalf of his parents are similar to what we have this evening. Since 2000 my client has rented to no third parties just to her daughter. We hope to establish better relationships with the neighbors. We agree to unconditionally to a condition of this Board to rent only to relatives of Miss Phillips or her daughter. Since 2000 my client did obtain Board of Health approval. On the issue of the law I will state for you for reasons I won't repeat that I think it is a brand new application, limit to the family member, inaccurate standards applied in 2000, and hopefully new information provided to you about the neighborhood. The purpose of this accessory apartment legislation and I am just going to read the paragraph is to "permit the ? of accessory apartments to maintain a supply of small rental owner occupied housing units designed to meet the needs of persons young and old of moderate income and to provide economic support to the owners." And that is the exact reason why we are here this evening. We seek two area variances, the lesser standard, the balancing test given to you by Zazo, with regard to the five criteria I can't stand here and tell you that 40,000 to 23,000 is not substantial. But I would ask you to consider it in terms of the neighborhood and how few properties comply with the 40,000 square feet requirement. With regard to the 25% that I have discussed I believe that is insubstantial. We are effectively 48 feet over compliance in that regard. Obviating the need is difficult would like to afford her daughter with the full apartment give her the independence she is not a child she is 32 years old, the dignity that I think that you and I think should be provided. And I believe it furthers the intent of the statute. Now with regard to the neighborhood the third criteria I would like to talk to you a bit about my application incorrectly states that the properties are multi family. I apologize that is was inaccurate. At the time I made the application I was under the impression that they were. But a lot of them are, most of them. We propose no exterior changes to what is there this evening. And I submit the addition of the condition which would limit the rental to Ms. Phillip's daughter would preserve the character of the neighborhood which you were concerned about six years. The imposition of conditions is a tool that the Zoning Board of Appeals can and should use pursuant to 267 Town Law and it says in case you provide the imposition of conditions to help and protect the neighborhood. I would like to briefly go over this. I am sorry it is so busy but I wanted to put it on one sheet. If I might. This is number 11 and the most assessment card says there are two kitchens, this is subject piece, this is how it exists today, this is the old school in 1905. Mr. Snyder's house here the assessment card says there were two kitchens there are now one, he did voluntary discontinue the kitchen as he said he would in the letter of 2003 but it was of a multi family nature for a long period of time. This is Durand number 8, this is a family with an assessment card with two kitchens. This is number 7, Tuohy, a prominent single family on two and half acres, this is number 6 Tuohy, this is the main house, there was a cottage, I know Mr. Tuohy is here and he will speak to it, but I believe it was destroyed and he is rebuilding the second dwelling on this

property. Number 4 a single family house owned by Kaplan and number three two cottages both with separate mailing units on one lot. Going along Sodom Road without 1,000 or 1,500 feet of the subject property is another multi family, the Hunt Club, a wholesale garden, and two multi family and one with three mail boxes in front it. So I believe that it clear that this variance even conditioned with it being limited to this Ms. Phillips's daughter will clearly not change the character of this neighborhood. With regard to the environmental conditions, Board of Health has been obtained, we have limited to the nuclear family, Ms. Phillips and her daughter, no burden to the neighborhood, two people living in the entire house. I don't think I have to speak a lot for self creation, we are talking about a woman with a disability, we are talking about a woman who lost her husband quite some time ago. Looking for the relief the statutes provides in helping her with her economic times I will conclude that Ms. Phillips has owned this house for thirty years, she loves her house, she wants to stay in her community, she cannot economically afford it without the help of the Zoning Board of Appeals. Again I think the law encourages the imposition of conditions, 267 B of the Town Law says that the Board has authority to impose reasonable conditions consistent with the spirit and intent of the ordinance and to minimize the adverse impact that a variance may have on the neighborhood. I submit to you that the imposition of the conditions together with the variance would have no impact on the neighborhood. We propose no structural changes, inside or out. I ask you to please not be predisposed to what happened in 2000 it is an all together different application. And I ask you to conduct your balance test and it is provided to you by case law the benefit to the applicant versus the detriment to the neighborhood and I submit to you without any question the scale weighs in favor of the applicant. Thank you.

Ed Collelo – Do we have any questions or comments from anyone in the audience?

Thomas Tuohy – I am the neighbor four houses as a resident and owner of 98 Sodom Road and 96 Sodom Road which is one of the few actual multi family dwellings in the neighborhood. I just wanted to start by saying my opposition Jeannette's application is not personal at all it is only on principle. If this were a fence, or a deck or a pool I would absolutely have no problem with this whatsoever but I think that we have to remember that just like you have been told things which came up in the last one some things you hear things that don't shake out entirely. I submit that this was denied in 2000 and was denied properly on the grounds because it doesn't meet the minimum setbacks. I almost feel imposed upon going through this again, I don't understand the sudden need to make this a legal two family when you continue to rent it out illegally ever since you were told not to do that six years ago. I don't see why we are back at this stage and go through this again. I would say that very few of the houses that you mentioned are multi family homes. Sadly, several years Jeannette's friend Mr. Watson was able to turn his house at 104 Sodom Road into a multi family home. How that happened defied any logic or any explanation that I can figure out. It is a tiny house, it has no septic whatsoever, it has a cesspool. That is neither here nor there. Yes, there are some houses. That is why I am here to speak out against this. It is because we are investing a lot of money, we are planning on living there. We are not looking to rent this out and make some bucks on it and I just don't think it is fair to the people that are trying to live in the neighborhood and are basically live there. We are not trying to change the policy. I am sorry to hear that you are in financial straits but I don't see how that should impact on me. My

understanding is that due to the unfortunate events to your husband that you had insurance so why you still have a mortgage I don't see why that should affect everybody else. If you chose to take out a second mortgage or a home equity I am sorry. I am not so sure that the stipulation that you can have it just for your daughter would even stand up. My fear is that once granted it would simply vanish and that you would continue to rent as you have continued to do all these years, there has been a number of people walking up and down the street, there are illegal immigrants living there as recently as two or three years ago. I have to speak out.

William Schilling – May I speak briefly?

Ed Collelo – Briefly.

William Schilling – The purpose of the statute is to allow people of moderate income to survive and stay in an area they love. This is not an over taxation of this property. And the imposition that it be limited to the daughter is absolutely legally and enforceable and certainly it can be checked by the Board filing a condition that every year that they file an affidavit that she is still living there and that they open the house to the Zoning Enforcement Code Officer. With all due respect it is a multi family flavor neighborhood. There are two kitchens here, this is a multi family, there are two houses on lot number six or will be under construction and there are two houses here. I don't know how you can say it doesn't have multi family flavor to it.

Thomas Tuohy – I have lived there four years.

William Schilling – Maybe you can speak to this. How can you say that this house owned by Durant is not multi family.

Thomas Tuohy – I don't know who Durant is? What number is that?

William Schilling – I will show you, it is the house immediate next to you. There are two houses under construction next to you.

Thomas Tuohy – That is my house.

William Schilling – Is there a dwelling being built replacing one, that is multi family.

Thomas Tuohy - Right that is the second.

William Schilling – And this one has two cottages.

Thomas Tuohy – That is the third one.

William Schilling – I don't see how you can say it doesn't have a strong multi family.

Thomas Tuohy – I would be happy to explain it again the best I can. It is true there is one accessory apartment.

Ed Collelo – I am not agreeing or disagreeing with either one you are right we can put that stipulation but it is very difficult to enforce. Just ask yourself this question, your client was denied and she has been renting ever since.

William Schilling – First of all what Mr. Tuohy has said about renting to third parties is wrong since 2001, since they were denied the only person who has resided in that house is the daughter so the illegal immigrant...

Ed Collelo – I don't care about the illegal immigrant but she was collecting rent when she was denied by this Board the ability to do so. Now you are saying we can put stipulations we said no before and she is still renting.

William Schilling – Mr. Chairman you said no to amnesty you didn't say no to a variance although.

Ed Collelo – She did not have counsel in front of her but whether we say no to amnesty or say no to variance it is still no.

William Schilling – But standards are different, the code is 138-22 says you have show all the records of rental from years past. This is a whole different standard.

Ed Collelo – I am not disputing that. The only point I tried to make is that you said it is enforceable issue, again, the facts don't lie that your client was denied and she continued to rent, granted to a family rent, but continued to keep two kitchens, and continued to take rent, even when this Board said you can't do it.

William Schilling – As recently as 2003 she started the application before the Zoning Enforcement Officer and the Planning Board then last year I brought an application which I withdrew because I found it to be illegally incorrect after discussion with your attorney so I am not going to disagree with you that she has had those two kitchens but I will tell you that all along she has been progressing towards this variance.

Ed Collelo – Why are you here, I guess that is my question? Where Ms. Phillips cited? Was there a complaint?

William Schilling – Mr. Harper has cited violations and in response I told him that I was to petition this Board for a variance.

Ed Collelo – When did Ron cite your client?

William Schilling – To the best of my recollection 2003.

Ed Collelo – So here we are three years.

Tim Froessel – He issued an actual violation.

William Schilling – No, he issued a letter saying to comply and then I told him I was bringing an application. I don't know if this Board recalls but last year I brought an application for a rehearing and after meeting with Mr. Stephens we determined it wasn't a rehearing because of the new criteria and it was a brand new application so the delays are more attributable to me than to my client she did retain me quite some time ago to bring it before the Board.

Ed Collelo – Are there any other questions or comments from anyone else in the audience?

Thomas Tuohy – I thought you said the reason it was denied six years was because she couldn't issue proof that she had been renting this out and my recollection was that it was denied because it meet the criteria it really didn't have nothing to do with her ability to produce records.

Ed Collelo – Mr. Schilling is correct in the fact that, not that he is not correct in other things, but he is correct, that is one of the criteria that the applicant had to show under the amnesty program, she had a history and proof that she had been renting it for a number of years, etc. and correct me if I am wrong my memory isn't that good she wasn't able to give us that.

William Schilling – Mr. Froessel at the time of the application stated on the record “Mrs. Phillips the new local law provides for grandfather provision for apartments can you provide the apartment was existed and was actually occupied and talking about the floor plans and the Board of Health and he asked did you bring that and she said no I didn't know I had to bring that. So I believe the real basis for this application was an amnesty application not an application for area variances.

Ed Collelo – I agree with you.

Tim Froessel – I am not sure whether I do or not. I would want to see the original application.

William Schilling – I will tell you you did go through area variance standards at the end but it was prompt the Zoning Enforcement Officer saying you can get amnesty if you provide records and she didn't provide them.

Tim Froessel – I just don't recall her being within the six months.

William Schilling – It was extended another six months. I can show it to you.

Tom Costello – The photograph of the house shows a wing is that the wing that the apartment is in?

Jeannette Phillips – No, that was added on.

Tom Costello – And when was the apartment built?

Jeannette Phillips – 1984.

Tom Costello – So you have had renters in there pretty much in there continuously since 1984? I seem to recall there was a question of whether you rented the garage?

Jeannette Phillips – No.

Tom Costello – What is the garage used for?

Jeannette Phillips – Cars.

Tom Costello – There are no other rentals on the property?

Thomas Tuohy – No, that is not correct and it untrue and I think you know that. You simultaneously rented out your attic the front porch and your garage for many years.

Jeannette Phillips – I forgot.

Thomas Tuohy – You cannot say that that is not true.

William Schilling – Are you asking if the time frame of the renting was since 2001 or prior to?

Tom Costello – Since 1984 has been rented on the property?

Jeannette Phillips – I rented it to some carpenters.

Tom Costello – And what about the porch?

Jeannette Phillips – I had a relative stay there.

Tom Costello – And the attic?

Jeannette Phillips – That is the apartment.

Thomas Tuohy – And there was a parked camper there.

Jeannette Phillips – That was just a friend of a friend, I didn't rent that.

Ed Collelo – What is the most people you have had living in the house other than yourself at one given time?

Jeannette Phillips – The first time I rented it I had three Mexicans and then they added another one and another one and they fell down the stairs drunk and that was it and they were out. That is the most I have ever had.

Ed Collelo – Five people.

Jeannette Phillips – Four or five.

Eileen Tyhansky – Can I say, I am number six on the agenda, I moved here from the city for my kids, I have nothing to do with this application, we have a very similar situation next door so if you prevent this kind of situations not to have neighbors that are renting garages.

Ed Collelo – Any other questions, we will keep the public hearing open. We will see you next month. We will take a ten minute break.

6) Joseph and Eileen Tyhansky
31 Elmwood Drive
TM# 45.84-2-23

Steve Straley, Vinyl Tech and Eileen Tyhansky appeared for this application and were sworn in by **Tom Costello**.

Ed Collelo – Can you walk us through your application please?

Steve Straley – I am Steve Straley of Vinyl Tech I represent the builder of the three season room. We what we are looking for here is there is a required 20 foot setback for the side yard and we are currently 18.3 inches with an existing concrete deck structure there now. The Tyhansky's are just looking for an additional space where they can hang outside with their children not to be confused with an addition to the house. It is just a three season space. So we are requesting a 1.7 foot variance. I was actually here in February for other customers I believe I brought photos for you at that time unfortunately I didn't bring them with me this evening to show you.

Ed Collelo – The one up the street?

Steve Straley – Yes.

Ed Collelo – Do you have the letter of denial?

Steve Straley – I have it here.

Tom Costello – The concrete deck that is there will there be an overhang over the edge of the concrete deck or will just the edge of the concrete deck?

Steve Straley – The walls are coming to the edge of the deck and gutters will over hang that.

Tom Costello – How high off the ground is the concrete deck?

Steve Straley – The concrete deck is approximately three feet.

Tom Costello – And when you build this structure on top of it what will the height be?

Steve Straley – The biggest at the house will be eight feet, about 10 foot six.

Ed Collelo – We don't deal in points so what you are requesting is a two foot variance. Any questions from anyone in the audience?

Eileen Tyhansky – The concrete deck was there we bought the house and we wanted to do something with it.

Tom Costello – Is there a railing on the concrete deck?

Eileen Tyhansky – No.

Tom Costello – And there will be a door from the house onto the concrete deck?

Eileen Tyhansky – From the living room, yes.

Tom Costello – Did you call it a three season room?

Eileen Tyhansky – Yes.

Tom Costello – So no heat, no electric.

Eileen Tyhansky – No.

Tom Costello – And the size of it is how big?

Eileen Tyhansky – 10 x 13.

Ed Collelo – All right we will see you next month.

Steve Straley – Do you need this?

Ed Collelo – If you can bring a few copies of that next month.

Steve Straley – The 15th?

Ed Collelo – Yes.

7) Brian and Maryanne Gunning
1083 Drewville Road
TM# 67.6-1-41

Brian Gunning appeared for this application and was sworn in by **Tom Costello**.

Brian Gunning – We are requesting a variance to put a six foot professionally installed fence.

Tom Costello – Mr. Gunning we need your mailings and your signed affidavit.

Brian Gunning – May I continue.

Linda Stec – The affidavit is not here. Can you do it for him Tim?

Brian Gunning – I have my wallet in the car can I bring it in later. We will move on to the next application and we pick you up next.

8) Myron and Robert Tychostup
70 Cooledge Drive
TM# 56.12-2-18

Robert Tychostup appeared for this application and was sworn in by **Tom Costello**.

Robert Tychostup – My brother and I are in the process of selling my parents house. My father passed away about a year and a half ago and my mother was in a nursing home. We had to get a survey of the property for the title search and there are two structures on the property that do not meet the setback. I have pictures of it here. There is a small deck and there was an enclosed porch that my father put on the house.

Ed Collelo - So now we need a variance to be able to go back to the Building Department so you can sell the property, correct?

Robert Tychostup – Right. The lot is only 50 feet by 150 feet.

Tim Froessel – How long has the screened porch been there?

Robert Tychostup – I would say 30 years probably.

Tim Froessel – Is the porch on the side of the house or on the rear?

Robert Tychostup – On the rear house. It is in line with the original structure.

Tim Froessel – So you don't need a rear setback?

Robert Tychostup – No, a sideline.

Tom Costello – So the requested variance is for the deck? What is the variance for?

Robert Tychostup – The porch that is enclosed, the deck, and if you look at the back of the house.

Tim Froessel – Ron said is an enlargement of an existing non conforming structure.

Ed Collelo – Do we have any questions or comments from anyone in the audience?

Robert. Heinchon – I live at 67 Cooledge I don't see anything wrong with it. I can back out from my driveway into their driveway. It wouldn't hurt anybody in fact it is an improvement.

Ed Collelo – We will probably take a peek, we will probably drive by. Can we see if from the road?

Robert Tychostup – You can see the porch from the driveway.

Ed Collelo – Before the next meeting we will stop by

Robert Tychostup – What do I have to do?

Ed Collelo – You have to do nothing just show up on the 15th.

7) Brian and Maryanne Gunning

1083 Drewville Road

TM# 67.6-1-41

Tom Costello – Mr. Gunning do you have a copy of your survey?

Brian Gunning – I dropped one off at the office that day.

Tom Costello – It gives us a better picture of what you want to do.

Brian Gunning – The purpose of this application is that I am requesting a six foot professionally stockade fence between our property on Drewville Road and the Mobil service station and the end of the part of the shopping center that adjoins that Mobil station also on Route 6 right behind our property. The transitional space is a wooded area as you can see here. These photos also bring up another point of the deplorable garbage dump that the Mobil station never cleans up. This is the wooded area. Up here is my property. His property goes up to almost three feet to my driveway so the stockade is going to run up the first acre of my property from Drewville Road all the way up and it takes up almost a portion of behind the shopping center and that takes up another problem with their dump that they never clean but that is down at least below so you don't see that from my property although it is a problem because debris does blow up. the fence is primarily to protect my four year old and three year old. Where do I begin? Obviously to protect my children from wandering off the property. But also protect people from getting to my children and to my wife. On several occasions particular on the weekends people pull into the service station, the Mobil service station to empty their cars out of garbage and debris, to vacuum the cars, they have a vacuum there, to get air in their tires and almost always to urinate they go up behind here which is in clear view of my driveway, my property, and start urinating. The headlights are on, it is disgusting. It also happens during the daytime. My four year old little girl saw it happen a couple of times. Guys come, zippers down, out, like it is now it nothing and then come up and look and check out the house, it is an interesting, pretty, house, we are lucky we got it. Our house was the featured story in Victorian Homes magazine in 1983, it is an interesting house. We are changing the color. My wife and I consider ourselves the caretakers of this beautiful old house. We have great next door neighbors, the McQuades, they have a beautiful house, there is a magnificent white house diagonally across from us I don't know who lives there but they take care of that like it is something out of a magazine. We all take tremendous proud in our homes. We have put so much into restoring this property to what it was. We have tremendous pride in it. We are grateful that we got it as our neighbors the McQuades who take great pride in theirs. This service station and this is a double edged sword that is when it looked good you should see it now. We were almost poisoned three months after we moved in when my two year son said it smells funny upstairs and I went upstairs and you couldn't breath the gas fumes something was wrong with the emission pipes when you get a delivery of gas the Fire Department and they were there for two hours and had three fans and made us get out of the house so they could pump the house out of toxic fumes. I know he has done other things. The garbage lays there. There is a box spring and mattress there for weeks. All kinds of clothes.

Someone abandoned a car there, an old BMW. That is sending a message, pigsty, dump. Pigsty. A place for abandoned cars, a place to pee, this is what this guy is doing. I wish someone with authority would make this guy and say hey pal you want to keep your business here you this is the line in the sand you keep crossing it you are going to get fined and need be we will put you out of business. I wish someone would do that to him because he is constantly going over the line. He owns several service stations this guy. He knows damn well he does not have any kind of business with a garbage dump that looks continually looks like that or worse right next to his property nor would he permit it. I will not permit it. It is getting crazy, it is not healthy, the rats, the raccoons, the skunks. My fence will do a few things. First of all it will keep my children from first of all God forbid from wandering off the property if I ever leave them unattended. It will prevent sickies from getting onto the property to them. Taking them, kidnapping them or anything like that, it will protect them as far as that goes. It will block us visually from seeing what pulls in there even if you take that garbage dump which I am maybe going to ask you to maybe have him do it and move it because if it was on the Route 6 side along with his air pumps and vacuuming there is a whole side there. Why he has it on the Drewville Road side where begins the beautiful old residential section is not right. Even if I have there people are still going to pull in there, guys are still going to take leaks in the section of the patch of woods there, leaking and retching. I hear the doors, I hear the doors open, the music blaring, 2:00, 3:00 AM, and invariably I hear the retching. My point is the fence will protect us from seeing that, it will protect us from some of the debris that obviously overflows from the dumpster from the shopping center blows up.

Ed Collelo – Can I interrupt you for a minute? I agree with you, I got your point. For the sake of time, I am going to ask you this one question. Do you understand why you need a variance? Because you are not allowed to go at six feet all the way to the front of the property. Are you familiar with that?

Brian Gunning – Yes. I know what you mean.

Ed Collelo – Here is what I am asking. Here is your property. The Mobil is over here. This is Drewville. You want a fence from the front of your property down this line. The first 50 feet is your problem. Now my question is can you live with a shorter fence for the first 50 feet?

Brian Gunning – Not at all the first 50 feet is the problem.

Ed Collelo – I understand that. What is the difference between a four foot fence hypothetically and a six foot fence?

Brian Gunning – First of all a four foot fence is not going to keep a predator off the property. We had a couple of guys one night my wife was in the screened in porch on the end of the house in her nightgown reading a book they came up after relieving themselves came up on the property quote checking out what was going on in the house. She screamed, she said what the hell are you doing. She said Brian what I have done if you weren't home, I am here what would I have done? A six foot fence will keep them out, it will keep them from seeing onto the property, it will keep us from seeing them relieving themselves, from throwing up, from seeing the garbage, from the seeking the garbage dump, from seeing everything else that goes on. Also unfortunately his property line comes up so close to ours he is now trying to get some kind of approval to expand to sell more beer and cigarettes which I understand he is selling to minors for a while and got nailed for that too. If he is successfully in expanding that would really put us at a

disadvantage. We need that six foot fence up to separate us from what comes on to his property morning, noon and night for various reasons all of which are at risk to my children, my wife and which are visually disgusting. It is ruining our property. And again we have one of the grand old houses in this neighborhood. We are doing our best to really put it back where it once was. With something like this next door, you think that helps the property value, you think that helps the neighborhood?

Ed Collelo – You don't have to prove to us that you have a problem. I understand your passion and I don't blame you. Understand the pictures speak for themselves.

Brian Gunning – Four feet versus six foot is a lot. Again visually it will totally separate us from that all beyond which should have never been allowed to exist a gas station doesn't belong but he is there and doing all kinds of things he shouldn't be doing I want my family completely visually separated from that. I don't want my children seeing any aspect of that. And I don't want them to see onto my property.

Ed Collelo – You know my fear. Your six feet fence becomes a lean to where they will be leaning mattress against it.

Brian Gunning – I see what you are saying.

Ed Collelo – It almost gives him a buffer zone.

Brian Gunning – If it was closer to his property yes. If you get him to move the dumpster you wouldn't have the problem onto Route 6 instead OK. If you get rid of his dumpster and put it where it should be there wouldn't be a lean to they would go there to urinate, to get sick and do what ever else they want to do there but at least they wouldn't have a place to congregate big pieces of garbage. The fence is going to be all the way up here. It wouldn't be convenient for people to go in there and do that against the fence. So I hear what you are saying.

Tim Froessel – My only concern is how close to the road is this fence going to come down because you are obviously going to want to make sure that people are going to be able to see you and you can see out when you are pulling in and out of your driveway.

Brian Gunning – Very good point. It is not going to past it, ten or twelve feet are old pillars where there used to be a swing section fence it is not going to go any further than that and at that point the way the property was marked it ties down within six feet. We will have one piece come over in line to where the cement pillar is way back. It will not block our view. Behind of that they are all very, very tall bushes which do block our view now that have nothing to do with us, that is his doing. Right now our view is blocked but it has nothing to do with the fence. What we are putting up will not block the view.

Ed Collelo – Here is what we are going to need because we don't have that in front of us. Within the next three weeks we are going to go by and look. We need you to mark with a red stake or whatever you can do clearly where the fence is going to stop at the front of your property.

Brian Gunning – I will move the rope.

Ed Collelo – Just try to make it so we can see how far out because what you haven't give us we need to know how far exactly from your property line the front of your property line where that fence is going to start.

Brian Gunning – If it needs to be back a couple of feet from that my wife and I will play the game but as of now I don't think there will be anything wrong with be in line with and not past opposite the pillars.

Ed Collelo – What you never gave us is a map of the property. Do you have a map of the property?

Brian Gunning – Yes, there is one.

Ed Collelo – Here is what I would like you to do. If you measure. Do you where the property stops?

Brian Gunning – Yes, he had it surveyed.

Ed Collelo – Where the front of your property starts we need you on that map to tell us where the fence is going to stop if that is twelve feet, nine feet, six feet, we need to know exactly where that is. And put your last stake.

Brian Gunning – When this guy from the Mobil station was trying to expand to sell beer he had it marked. Is that suitable? So I will go by those and I will mark it clearly.

I will make it very visible.

Tom Costello – If you could bring a copy of the survey and show on it where you want the fence.

Brian Gunning – How long is this going to take approval? I paid the installer \$7,500 eight, nine months ago.

Ed Collelo – Next month you will have a answer.

Tom Costello – May 15th will be the next month.

Tim Froessel – If you are approved you can go to the Building Department the next day.

Brian Gunning – So I need to come to the meeting on May 15th, bring the survey, a detailed drawing where the fence is going to go.

Tim Froessel – The survey is very helpful to us depicting where the fence is going to, how many feet it is from the front property line.

Ed Collelo – We are done.

9) Thomas and Kimberly Gergley

138 Blackberry Drive

TM# 56.16-1-52

Thomas Gergley appeared for this application and was sworn in by **Tom Costello**.

Thomas Gergley – I am petitioning the Board for a variance on a existing deck on the rear of my house which I understand is not within code. I have a C of O for it dated in 1982. I guess the code changed in that time period. It is currently 27 feet and 33 feet the two points that were measured from the property line. The proposed deck that I would like to build is only slightly larger it would be only 24 feet and 30 feet from those same two points. The difference in square footage would be about 12 square foot difference. The deck as it stands right now it rather unsafe. I have three small children. We don't even let them go out on the deck. I would like to build one slightly larger to accommodate my family to fit a table and grill and everything. The deck I propose is roughly 20 x 16 as opposed to the 16 x 13 as it is right now. I apologize I don't have the survey with the proposed deck with me now I will bring it to the next meeting. I have the plans and the survey as it stands right now with me only.

Ed Collelo – So basically you need an 11 foot variance.

Tom Costello – The proposed deck that you want to build it is larger than the existing deck?

Thomas Gergley – About 12 feet. It is going to be three out further and 4 feet wider.

Ed Collelo – How big was the old one?

Thomas Gergley – The old one is 13 by 16. What I would like to build is 16 by 20.

Tom Costello – That is more than 12 square feet. The current deck is 16 x 13?

Thomas Gergley – The current 16 x 13. What I am proposing is 16 x 20.

Tom Costello – 112 square feet more.

Thomas Gergley – I guess what the issue is where it encroaches distance.

Tim Froessel – I live diagonally across from the Gergley and I am familiar with the Gergley's and just in case I get taken out by a bus I will just state for the record that my wife and I have no objection to this application. In the next few weeks just go out and take a look at it because they have a unique situation they are on a corner because they have the two front yard penalty but also the way Scott Place goes down it kind of curves so they almost don't have a straight corner so it effects the calculation a little bit they are set way up high.

Tom Costello – So that is the picture of the proposed? You are going to come out more this way?

Thomas Gergley – So it is going to come out more this way and it going to go more that way. So really the only distance is this coming out an extra three feet.

Tom Costello – If you can make some copies of the proposed.

Thomas Gergley – As I explained during the break to Tim I had given it to the Building Department and I didn't realize they didn't share it with you. I will bring it next time.

Application was held over to May meeting.

Meeting ended at 10:30 PM.

Submitted by:

Linda M. Stec

DRAFT