

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes December 6, 2012**

PRESENT:

Mr. Morlang (late)
Mr. Keegan
Mr. Casscles
Mr. Vasti
Mr. Fox
Mr. Porath

ALSO PRESENT:

Christopher Walsh, Attorney

Chairman Wright

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order, please rise for the Pledge of Allegiance.

So we have a few items on the agenda tonight – a couple of decisions and a public hearing. So why don't we start with the first and that is a new application, the request of Daniel Mucciolo.

Request of Daniel Mucciolo – App. #12-10

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article VI, Section 24C, installing a fence over 4 feet; required 6 feet provided 7.3 feet; located at 23 Washburns Lane, Stony Point, New York.

Section 20.11 Block 2 Lot 3

*****MOTION:** Mr. Porath made a motion to place Application #12-10 on the January 3, 2013, agenda for a Public Hearing; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Chairman Wright: The site visit is scheduled for December 30, 2012.

Chairman Wright: The next item on the agenda is the decision for the request of Julio Vargas.

Request of Julio Vargas – App. #12-08

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article XIV, Section 94-D.1-C Less than required rear setback: Required 30 feet provided 20 feet, located at 11 Jerben Drive, Stony Point, New York, for an addition.

Section 20.15 Block 2 Lot 28 Zone R1

*****MOTION:** Mr. Vasti offered the following resolution; seconded by Mr. Fox.

In the Matter of Application #12-08 of Julio Vargas for a variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article XIV, Section 94-D.1-C Less than required rear setback: Required 30 feet provided 20 feet, for the construction, maintenance and use of a single story rear addition, on premises located at located at 11 Jerben Drive, Stony Point, New York designated on the Tax Map as Section 20.15, Block 2, Lot 28.

The premises which are the subject of this application are located on Jerben Drive in the vicinity of Rosebud Drive in an R1 Zoning District.

The applicant was represented by himself and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter dated 9/21/12; GML referral forms; Rockland County Planning letter dated 10/17/12; Letter from Helen Hayes; Survey and Plans.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on October 28, 2012.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on November 16, 2012, and the testimony of the following persons was duly considered: Julio Vargas.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel which is improved with a single family home. The property has an existing addition on the rear which extends 7 feet off the main house. It is in disrepair and is of limited functional value to the owner. The owner seeks to tear down that structure and replace it with one of the same width, but extend it an additional 3 feet, so that it will extend a total of 10 feet from the rear of the premises instead of 7 feet. It will be used for a laundry room, a mud room, and an exercise room. The addition will come to within 20 feet of the rear property line but the Code requires 30 feet in rear setback, so an area variance is requested.

No objections to the variance were received.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(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 granting of the area variance":

There is no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to the Board of any feasible method to achieve the benefit sought other than the area variance requested herein. The applicant testified there was no other feasible location on the property that would not also require a variance.

(3) "whether the requested area variance is substantial":

The 10 foot variance sought is substantial in terms of overall number of feet, but the unique dimensions and layout of this lot, the fact that it is only sought to be 3 feet closer to the property line than the existing condition and the absence of any negative impact on any nearby property are mitigating factors.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) "whether the alleged difficulty was self-created":

The alleged difficulty was self created.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above is hereby approved on the condition that the addition shall be limited in size and character to the dimensions represented in the application, and the Building Inspector is hereby directed to issue to the applicant a Building Permit upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations.

Upon roll call, the vote was as follows: Mr. Morlang, yes; Mr. Keegan, yes; Mr. Casscles, yes; Mr. Vasti, yes; Mr. Fox, yes; Mr. Porath, yes; and Chairman Wright, yes.

Chairman Wright: The next item on the agenda is the decision for the request of Dimitri Theofanides.

Request of Dimitri Theofanides – App. #12-09

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A-d.1-6: Less than required rear setback: Required 29 feet provided 20 feet, located at 17 Lakeview Drive, Tomkins Cove, New York, for a deck.

Section 10.01 Block 1 Lot 54 Zone RR

*****MOTION:** Mr. Casscles offered the following resolution; seconded by Mr. Vasti.

In the Matter of Application #12-09 of Dimitri Theofanides for a variance from the requirements of the Town of Stony Point Zoning Code, Chapter 215, Article V, Section 15A d.1-6, less than required rear setback, required 29 feet provided 20 feet for the construction, maintenance and use of a rear deck on premises located at 17 Lakeview Drive, Tomkins Cove, New York designated on the Tax Map as Section 10.01, Block 1, Lot 54.

The premises which are the subject of this application are located in an RR Zoning District.

The applicant was represented by John Perkins, architect, and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter dated 10/16/12; Survey and Plans; Photographs.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on October 28, 2012.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on November 15, 2012, and the testimony of the following persons was duly considered: John Perkins, architect.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel which contains a single family dwelling built on topographically challenged property with severe slopes surrounding the premises. The applicant proposes to construct a single level open air deck extending from the rear of the house toward the rear of the property. The land slopes downwards from the rear property line to the home, so the deck is proposed to come out off the top floor and extend straight out to the point it reaches the grade in the back yard. It will be supported by piers and will have egress from the house and from the yard. The deck would come to within 20 feet of the rear property line but 29 feet are required by Code, so a rear setback area variance is requested. No objections to the variance were received.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(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 granting of the area variance”:

There is no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties, on the condition that the deck shall not be enclosed, but instead shall be an open-air deck limited to the dimensions indicated in the application as set forth above.

(2) “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance”:

There is no evidence that this deck could be built in any other spot or any other way given the topography, as it must extend that far in order to meet the grade in the back.

(3) “whether the requested area variance is substantial”:

The variance is substantial in terms of feet.

(4) “whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district”:

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) “whether the alleged difficulty was self-created”:

The alleged difficulty was self created but the severe topography of the property is a mitigating factor.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above for the construction, maintenance and use of an open air deck is hereby approved on the condition that the deck shall not be enclosed and shall be limited to the dimensions set forth in the application as recited above, and the matter is remanded to the Building Inspector for further consideration in compliance with all other applicable laws, rules and regulations.

Upon roll call, the vote was as follows: Mr. Morlang, yes; Mr. Keegan, yes; Mr. Casscles, yes; Mr. Vasti, yes; Mr. Fox, yes; Mr. Porath, yes; and Chairman Wright, yes.

Chairman Wright: The fourth item on the agenda is the request of PMBC Holding.

Request of PMBC Holding Co. – App. #12-07

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A-I-4: Less than required Front Yard required 15 feet provided 8 feet and Less than required Front Set Back required 75 feet provided 41 feet; Chapter 215 Article V Section 15A-I-5: Less than required Total Side Set Back required 100 feet provided 85 feet and Less than required Side Set Back required 50 feet provided 31 feet; Chapter 215 Article V Section 15A-I-7: Less than required Side Yard required 10 feet provided 2 feet; and Chapter 215 Article V Section 15A-I-11: More than maximum Floor Area Ratio required 0.35 provide 0.45 located at 24 Holt Drive, Stony Point, New York, for a redesign from the original site plan approved in 2001.

Section 20.04 Block 11 Lot 2.3 Zone L1

Chairman Wright: Is there a representative for the applicant here? Please identify yourself so I can swear you in.

Mr. Casscles: Before we get going, I have one question for the applicant – has anything changed since the Planning Board visited the site?

Mr. Zigler: Only the leaves fell – that’s it.

Mr. Casscles: Okay.

Chairman Wright: Can you please identify yourself?

DAVE ZIGLER – Atzl, Scatassa & Zigler

representing the owner and applicant, PMBC.

Chairman Wright: “YOU SWEAR ALL THE TESTIMONEY YOU ARE ABOUT TO GIVE IS TRUTHFUL?”

Mr. Zigler: Yes.

Chairman Wright: Proceed.

Mr. Zigler: Basically, the last sentence that you have on that statement is this site plan right here (pointing to map). It was actually approved in late 2000 and signed 2001. This is Hudson Bay and to the north, that’s the right side of this plan, is the mini storage that you see there now. When we did the field trip, we staked out the proposed buildings for our new site plan right here. But, the original plan had this orange building on the front of this site. This building was unique because it was a storage underneath; actual warehousing with a high roof and offices over the top. The total building of storage was a little over 22,000 and the offices were 9,000 square foot. So this would be something that you would see along Rt. 303 down in Valley Cottage, New York, which is basically the big warehousing and the offices. Since the approval of this 2001, nobody had any interest in this and it was never built. We’ve made changes to the plan. The original plan had a “leg” in the back; then we squared it off. We tried changing the office space, but unfortunately there was no interest. The building as you see it here was all paving in the back – the doors were in the rear, that’s parking on the side. That now is, of course, Shop Rite. That’s parking on the left side and there is parking all along the front. That plan, like I said, out there since 2001 and no interest and the interest in the mini storage spurred the new plan.

Chairman Wright: Just want to make sure – that was already approved.

Mr. Zigler: Yes, it got approval.

Mr. Vasti: Mr. Zigler, can you just give us a reference number for the plat that was approved by the Planning Board? Is it on the plat.

Mr. Zigler: What kind of reference number are you looking for?

Mr. Vasti: Well, a number that would reference your drawing so that we know that we are discussing the same plat.

Mr. Zigler: 2571 – that would be our reference within the office. It has nothing to do with the Town reference and then if this is the new plan you will see that it is also 2571.

Mr. Vasti: Thank you.

Mr. Zigler: Now this is the proposed plan that we submitted to the Planning Board in July and you will see that that orange area and green area that was on the previous plan now has three buildings. This is the three buildings that we had staked out when we met out there during the summer. Again, that’s Shop Rite up here; that’s Holt Drive on the bottom of the plan or to the left; north is up to the right; that is where the residence live off of Hoke; this is the existing facility and then these three buildings proposed. Again, you will see that there is parking here, but it’s not really parking; now it will become access to this building. If you remember when you were down there, this has got quite a grade on it as you enter the mini storage. You go up a hill and then go down and go through the gates. For that reason this building is two stories high. It has access on the front side of the west side here by Shop Rite with doors. There’s no access in the rear, only at a lower level. This building is two stories high to meet that grade. The two buildings, the middle one here and to the east, that is E-1 is two stories. E-2 and E-3 are one story. They are designed in the same way that the mini storage that is there already. You will be able to circulate around the building. There is 30 to 35 foot of pavement between the buildings. It really is a nice lay-out and what happens is it overlays on top of that warehouse and office that we had approved and this seems to be the product that he can use.

In addition to this plan, there is a sister to this plan which shows a change in the property line. That is this second line. One goes with the other because without having the site plan approved there’s no need to change the property line and we are proposing to change this property line right here.

Mr. Vasti: Wait, I am losing you. You said there is no need to change the property line; then you say...

Mr. Zigler: Unless this plan gets approved. That's why they are hand in hand.

Mr. Vasti: So that is the covenant?

Mr. Zigler: Yes.

Mr. Vasti: Now before you go any further, may I ask a question?

Mr. Zigler: No. I would like to finish first.

Mr. Vasti: Be my guest. We would love to hear you.

Mr. Zigler: We submitted the plan in July to the Planning Board. During that time we've been reviewed for three to four months. We submitted an application to the Zoning Board of Appeals in October. At the same time, in October you received the forwarding from the Planning Board and you received a "Negative Dec". It was deemed that this project would have no impact because basically it is the same size within 10,000 square foot of what was there before and in reality there is a lot of impacts that was possibly be from an office building that this doesn't have. As you are well aware, mini storage has no traffic, has no use, has no services, doesn't need sewer, doesn't need water. All the things that an office would use from 9:00 to 5:00 in and out. This does not have. So this is actually a lot lower in impact if there is possibly an impact to a small office. At that time, it was forwarded to the Rockland County Planner. The Rockland County Planner basically had some comments about the plan and then said if there is a variance needed he would like to review it. Now the letter that went to the Planning Board was dated July 24, basically had two to three pages of comments. It depends on if you print on the back or the front. The County is saving money now so they print on both sides. So basically you had three pages of comments. The plan that he reviewed is the basic same plan here with some minor changes to this plan – fencing, grading, parking, but was noted at the time of review that it needed variances. He knew that because the last comment on this page said he wanted to review it before the variances were voted on by the Zoning Board of Appeals. Then just recently we received a comment letter for the Zoning Board of Appeals from the County and the County says that they don't like the plan because we should make the buildings conform. I don't think that is quite right; why do you make comments on something and then five months later come back, four months later and come back and say well change the plan. That should have been one of the first things they said.

The other thing I have is a hand-out. My boss (Patrick Magee) just said to tell you that the Architectural Review Board reviewed it and approved this project. This hand-out has copy of the letter from the Planning Board which shows the variances that we need. It's basically listed in four different categories. I have highlighted the first two; one in yellow and the second one is in green. If you go to page 2, actually page 1, I am sorry. Number 1, it is down in the bottom right side. You will see that I have a highlighted of print there. The yellow is the variances that we need and that's in the front yard. It has to do with the curb, parking with the curb and the building itself. The zone down there is 75 foot for a front yard. We are requesting 41 foot. It matches up with our neighbors. It matches up with the neighborhood, but this is the variance we are requesting and because we are parking in front of that unit, E-1, that curb is too close to the right-of-way so we need a variance for that. The green, that's the second variance on the front page, that has to do with the side yard; total side yard. Our total side yard is less than the required; required is 100, and we are about 80 to 85. If you look up at the top of the page next to Shop Rite, you will see it is 51. That meets the code. But, down at the bottom of the page you will see it is 31; that doesn't meet the code. We are short.

You will also see on the plan an orange line. The orange line is the old property line. You can see how it has a "dog leg" in it and our proposal is to straighten it out. It is a benefit to both properties. It also removes some of the encroaching driveway that is there now. So as part of the plan we have two maps here; one is an amendment of a property line, the other one is a site plan. They both go hand in hand. The second page that I just handed to you; now that is #2 is a subdivision plan. It is the same as the front page, but you will see it's just a portion of that map and that is the top portion of the map. The bottom portion is the remaining site, that's actually the original site of Kay Fries and you can see the same colors right there. It just highlights the variances we need. The third page is one of the properties across the street. Basically if you were leaving Shop Rite at the back of the building and ran straight across Holt Drive you would hit this site plan. This site plan was approved back in the 1970's and it is one of the original buildings on Holt Drive and you will see I have it yellowed down at the bottom. It's kind of odd, but it is an architectural plan and they put the side yards down at the bottom and you will

see it says 25 foot. That building, that electrical building; its electronics, it's been for as long as I can remember electronics. That building sits only 25 foot off the right-of-way and if you look on the front, just to the right of that, perpendicular to the 25, you will see it says 13 foot and it sits less than 20 foot off the property line. The fourth page you have is a photo overlay. At the top is north and that is Holt Drive and you will see at the bottom it says Kay Fries Drive/Holt Drive. The numbers you see on the building are actually the tax lot numbers. Now the building that I just showed you the plan for is #6. It is down on the bottom right and you can see how close that's to the right-of-way. You can see building #8 and #9 are actually a little bit further back, but no way they are 75 foot. 75 foot is the zone and you know why I know that because building #5.1, over on the bottom right side, is 80 foot off the right-of-way. So anything closer than building #5.1 on the south side of Holt Drive does not meet the code. So all four buildings that sit there, as you are going down the street, the first property on the right is vacant; all four buildings on the right are encroaching in front of the zone as it stands today. Across the street you will see building #1. That's the original building for the site. It was built before the road was in and before any other structure in the entire site. That means it was constructed back in the late 1960's; 1967/1968. The second thing is Shop Rite. You will just see that we have an overlay there because at the time of this photo it wasn't constructed. But, Shop Rite sits about 42 foot off the right-of-way and then, of course, Hudson Bay is on your right; the last thing on the page and that's what we are requesting basically 42 foot off the right-of-way. Last page is just for you old guys – you might remember this, that's page #5. And this is a photo from the late 1960's; 1967/1968 and you will see that building #1 is the only thing on this site. That site to Kay Fries still has that road parallel to Holt, that's the original road behind the homes to get back to Kay Fries. You can see Holt Drive is just starting construction. The old Grand Union doesn't exist. The roads don't exist. So we have two buildings on that straight-a-way of Holt Drive that we are discussing. One meets the code; the first one on the left because it was built before the road was. It meets the code for the right-of-way, but doesn't meet it for the back yards because it is right up against the old Grand Union if you ever drove down that entrance to the bank. The last building on the right does meet the code. And that is the only building in the subdivision. So what we are saying is we are just kind of following suit with our yards of both the front yard being in the request of the setback of parking in the front yard is just following what our neighbors have and as far as the side yards as you can look at the plan of the photo on page #4 the side yards very few of them have total of 50 foot. The code today is 50 foot side; total 100. So that means that out of this 5 acre property almost half of it, 2.4 acres, cannot be built on because of the code and the Town is looking into that right now.

The other two variances we need are one is directly related to the request for the front yard. That's the bottom one; that's the floor/area ratio that is required. We are at 45; the code is 35 and that is basically because we are taking that encroachment into the front yard. The last one is the side yard. That has to do with us parking the original plan and as the curb was when you went down there into the storage facility next to Shop Rite that's a road. That doesn't need a variance because it is a road. But, our new plan shows parking along that road – right here; parallel parking along the road. Now we find the variance because it is not part of code. You cannot park within the 10 foot. That is the four variances we are looking for. As far as being percentage wise a large impact; it is. But, it is the same variances that Town Line Park which hasn't been built, Shop Rite which was just constructed as you see those other buildings. In all our facets mainly the code doesn't fit the neighborhood, but this proposal might fit the neighborhood better than the code. As far as impacts for safety – our police there really is no change. As a matter of fact the "Negative Declaration" it specifically says traffic from this type of facility would probably be at least half of what the office would do. So although we are asking for variances we think it is a good plan and if it is built tomorrow and you went down the road it would not stand out further, stand higher or stand out in front of any of the tree lines so it would be not intrusive to you. We think with the planning that we went through with the Planning Board that it is a reasonable request.

Chairman Wright: I just have one observation – for the long term Stony Pointers that is the new Grand Union. The old Grand Union is gone.

Mr. Zigler: Yes, I know. My mistake.

Mr. Vasti: Mr. Zigler before I ask a couple of questions I have I just want to make a point about your discussing the pre-existing non-conforming buildings which is very interesting. But, we know that in Stony Point we know about the topography in Stony Point and the history of our residents and buildings both residential and industrial and we have an enormous amount of pre-existing non-conforming buildings and that is precisely why the Zoning codes were changed. The fact that this site has several pre-existing non-conforming structures, in my opinion, doesn't sway or justify putting another one there. That's precisely why Zoning codes are established and modified to avoid these types of buildings. And furthermore this site that this is on is a corner site where there is a traffic road and there is a propensity and there is a likelihood of obstruction of a view; a blockage. So I think that is a critical point that I just wanted to put in there.

Now if I may ask two questions – let's take a look and go back to your statement about building E-1 and the slope of the area and the height of the building. What impact will that have on drainage?

Mr. Zigler: Drainage has been approved by the Town and it is exactly the same. The original 2001 drainage will handle everything that this site proposes and that's straight from your Town Engineer.

Mr. Vasti: Did this particular proposal have to go through SEQRA and if it did has it gone through SEQRA?

Mr. Zigler: You weren't paying attention cause that is the second thing that I said.

Mr. Vasti: I apologize.

Mr. Zigler: It got a "Negative Dec" and you got a copy from the Planning Board.

Mr. Vasti: That's very good. I am glad that it did get a "Negative Dec".

Mr. Zigler: Actually we would not come to this Board without a "Negative Dec" because you couldn't vote until I had a "Negative Dec".

Mr. Vasti: Correct and I do apologize for not paying attention.

Mr. Zigler: That's alright.

Mr. Vasti: Now my next question is regarding the maximum floor/area ratio. If one of the variances went away, if there was a way possibly to avoid placement of the setback, wouldn't that area ratio go away as well. Could we avoid it? Could we mitigate it or reduce it possibly?

Mr. Zigler: If we reduced the encroachment in the front yard, we would be in front of this Board for just an area variances of parking and curbing. Probably the floor/area ratio would go away – yes.

Mr. Vasti: Okay. Thank you.

Mr. Zigler: I would like to return to your second question – actually your first and second, basically the non-conformity of the neighborhood is what you are saying; yes, some of this stuff is from the 1960's and it's close and it's far. But, if you look on page #4, the photo, and you look at building #9 you will see two distinct roofs on that building. The original building is the left side. The building on the east side is an addition requiring a variance from a Board. Building #8 you will see has two distinct roof colors. The west side of that building is the original. Now if you don't want to believe that I have pictures here to show you. The east side is an addition which required a variance from a Board. Building #7 is not that old and it is actually under your Codes. So that required a variance. Building #6 predated your Code, but it has an addition in the back. If you look at the back half of the building, the building has a different color roof that requires a variance. Building #5.1 conforms. Building #1, the original one we were talking about, being the original one on the site before the road has an addition. Clearly you can see there is two different colored roofs. That addition needed a variance from a Board because it is too close to the rear line. As I said before, Shop Rite is brand new and it received a variance it only opened two years ago. And also off the page to the right is Town Line which is a mini-storage kind of warehouse thing where you have an office and a mini-storage garage door. That received five variances from this Board. And the last one, which is Overlook Bay, which is off the page to the right, received variances from this Board for parking. So in reality, there is only two sites on this Holt Drive that didn't get variances and one is 5.1 and the other one is Environmental; Bruce Smith's building. That one meets the

Code and it is a little bit unique because it was able to slide back further to be up against the railroad. In this zone, LI, you need zero next to a railroad. So he had a little bit more to work with.

Mr. Porath: I don't know if it is best for you to answer or the applicant, Pat, who I know is here, is this facility, this property, has it been hard for you to lease that sight out to find a user that would take that sight regardless of the uses. Has it been hard to market it?

Chairman Wright: If you could identify yourself?

PATRICK MAGEE – owner of this project

Chairman Wright: Please raise your right hand and swear "That the testimony you are about to give is truthful."

Mr. Magee: Yes, it is. It has been very difficult and I think the Board knows that. Due to the economic situation the way it is we have no activity. I have two empty buildings down there now and I have two others that the people aren't paying their rent on. So it is very difficult and we thought that this would be applicable and acceptable by the Town.

Mr. Porath: So you feel like that this use is going to be, and I know you're not here to bid the use of it, I just want to get a sense of what is motivating you and...

Mr. Magee: Excuse me. I hope the Board realizes where we are located in Stony Point and our LI Zone where it is. We have a problem with truck traffic getting in and out. We have no way out. We have no way in, but one road for commercial traffic. This has been a hindrance to me with 12,000 square feet of office space. I am involved with an 87,000 square foot, the old Inslux Building back there, and I've been marketing that for the last two years. I might have one user if the Town and everybody in the area in the State opens their eyes. There is one possibility. We are down there trying and we feel that this is the only thing to do with this piece of property because our storage, since Shop Rite came in, and we were successful to bring the gym into this storage area, it is starting to pick up and that is what opened up our eyes to start this.

Mr. Porath: So the storage use is profitable for you and will get users in there and I imagine, okay I am taking what you are saying, it will make it more marketable and increase it as a ratable for the Town. This size, I know you didn't pick the size or design it; it is just arbitrarily I assumed you figured into it that will make it the most profitable for you – the size, the number of units in there and that the reason you are asking for the variances is to make kind of cost justified the investment to build this – is that what is motivating you?

Mr. Magee: To be open with you – I try to get more square footage and so it would balance the cost of construction on my construction. Our construction is going to be completely different than your typical storage facility. If you go into any other storage facility, it is all post and beam. I hope you understand that we get a column at 10 feet and we can span 20 feet and get another column. Mine is clear span. We have had no complaints at all in the five years that we are open down there because of the construction.

Mr. Porath: The last point I want to make, just right now, so if you had to redesign this to say a smaller design, that would impact negatively the profitability and marketability of this?

Mr. Magee: True; definitely it would and I would strap the idea. What am I going to do with the piece of property? I've been down there about eight years with this piece of property, and other properties, as I indicated to you, and where are we at. Why did Insulux pull out? Why didn't Benjamin Moore not buy the property from Jim? It is the same story.

Mr. Zigler: The length of these buildings are unit sizes so that's what creates the length. The original plan actually had 25 foot between the buildings when we were doing this and when he started construction it didn't work and we went back to the Board and amended it to 30 foot and you don't see that in most facilities the 30 foot so...There is a lot and if you go on down there and rent, actually he got a big renter this Saturday. My son and daughter-in-law went down and rented a unit. Now I have my basement cleaned out finally, but if you go down there and go through the units you will see that they are completely different than any, I won't use names, but the other ones you see around, especially if you go up Route 17 and you see the units.

Mr. Vasti: Dave, I want to just want to ask one other question. Has the Town had an opportunity to review this in terms of emergency vehicles getting in and out of the site? The likelihood, it's a storage facility, of a fire or maybe somebody having a medical issue while on the premises, is there any problem with getting emergency services in and out of this site with the current proposal.

Mr. Zigler: No. Every plan that I submit to the Planning Board goes to the Board of Fire Commissioners and they look at it and to be truthful the original plan of 25 foot does meet the Fire Code. The Fire Code is 24, but it was tight and that is why we went to 30. So the distance between these buildings are the width of a Town road. So yes they are able to move around.

Mr. Casscles: Dave, on the west side, where you are proposing the parking, that's the existing road that is there now?

Mr. Zigler: Yes, and basically this building, E-1, is level with the curb.

Mr. Casscles: What is the purpose of the parking?

Mr. Zigler: Even though it is a storage facility, it needs parking because it is considered a warehouse and he does have a Cheermania in the back. It is a girls...

Mr. Casscles: Let me rephrase that then – the parking is only going to be for during the day when the gates are open?

Mr. Zigler: Oh yes.

Mr. Casscles: You are not going to be parking...

Mr. Zigler: When it is in use. It's not going to be for a storage of your 1928 car – No.

Mr. Casscles: You're not going to be putting motor homes or boats there. It is just going to be during the day.

Mr. Zigler: Yes.

Mr. Casscles: I just wanted to clarify that.

Mr. Zigler: No problem.

Mr. Keegan: I am just curious as to the use of the second floor on the west side building.

Mr. Zigler: They are both the same. That building is going to be a mirror of this building here (pointing at plans). That is the way this building is constructed. You have access to the doors on this side, on the high side, and you have access to the doors here on the low side. So basically what you have is you have...

Mr. Keegan: So it is all storage?

Mr. Zigler: Yes, with an isle down the middle with different units or they can go all the way through. That is what he is explaining with the clear span. He has the ability to modulate his unit sizes.

Mr. Keegan: Okay and this parking how does that affect the width of the road?

Mr. Zigler: It doesn't. Because we put an oversize road in there and if you look we are changing the curb line here, so you will have well over 24, actually 26 foot straight through, you will have 8 foot of parking. So the road is going to be...without parking there, it is 34 foot wide – 36 foot wide.

Mr. Keegan: It is 36 foot.

Mr. Zigler: It's...

Mr. Keegan: It is 8 feet for parking.

Mr. Zigler: Well you have an additional footage over here. Basically the travel way of the road is 26. Fire Code is 24 and then this parking area is 8 foot wide. So you have plenty of room.

Mr. Keegan: You have plenty of room. Why didn't we have the letter from the County? I went through my entire package and I can't find it?

Ms. Giordano: I sent you the letter from County Planning. I sent everybody the letter.

Mr. Keegan: Sent it how?

Mr. Casscles: Here it is.

Mr. Keegan: Okay, I didn't see it in my packet.

Mr. Zigler: I think your letter was dated October 1, 2012, from the County.

Mr. Keegan: Can you just tell me some of the objections the County had being that you have the letter. I don't have the letter. I went through everything.

Mr. Zigler: Your letter didn't have...the only...your letter from November 9, 2012, from the County Planning Department recommend the following modifications:

- We recommend that the size of the building to be reduced to more closely comply with the Town's development standards for a light industrial zone.

That's dated November 9, 2012, and that's to the Zoning Board of Appeals. The one with all the comments is to the Planning Board. You would not have that letter.

Mr. Keegan: That's the one I was interested in.

Mr. Zigler: That's the one with all the comments.

Mr. Keegan: Can you reiterate some of the objections in that letter.

Mr. Zigler: Basically it was drafting.

Mr. Keegan: It was what - drafting?

Mr. Zigler: You really don't want me to read this because it is embarrassing.

Mr. Keegan: Yes, I do.

Mr. Zigler: It's saying I should...the first comment is:

- I said we were replacing the building, changing it, and they wanted me to change the wording.
- The second comment they had on here that it has to go to the County to be signed; which it doesn't. A site plan does not have to go to the County Extreme Control Act for a signature. County Department of Health for a permit. Storage facility needs no permit. There is no water use or sewage use in it.
- The third comment is the revised landscaping and lighting. That was approved by the ARB so we complied with that.
- The fourth comment is questioning why we had the different phasing on the tax lots on the application and in real life I had the wrong tax lot number on the application. So I had to change it.
- The fifth comment had to do with the narrative and they wanted me to use different terminology instead of saying I'm eliminating the building that we are redesigning it into three structures.
- The sixth comment is a question about the Hudson Bay Complex and that was the subdivision and again because I had the wrong tax lot number on the application they were confused. So that was my fault.

- The seventh comment had to do with the buildings labeled E-1, E-2 and E-3. No net increase in peak rate storage at discharge. Their typical drainage comment and the original plan met the criteria. This plan meets the criteria and that was stated so by the Town Engineer at the Planning Board.
- Before construction starts we should have a soil and erosion plan. That is part of the package to the Planning Board. So we did that.
- And, comment #10 is the great water of the scarce resource in Rockland County. We are not using much water because there's really I think only two bathroom facilities in the entire site.
- And, the last one had to do with the referrals by the new Code; referring out. This is #11.
- And the twelfth comment says "We request the opportunity to review any variances which may be necessary to implement the proposed site plan and lots created by the lot line change.

So after he reviewed it, he said it shouldn't be changed, the plans. So I didn't think that was quite fair.

Chairman Wright: Kathy do you have a copy of that for our records?

Ms. Giordano: No.

Mr. Zigler: I will give you my copy so you have it for your records.

Ms. Giordano: Thank you.

Mr. Keegan: That is the one I am interested in getting.

Mr. Zigler: This one went to Planning Board.

Mr. Keegan: Okay.

Chairman Wright: Thank you.

Mr. Keegan: Some of these variances are extensive only in the regard of the percentages and I want it on the record that we reviewed this thoroughly so that we avoid criticism.

Mr. Zigler: We understand.

Mr. Keegan: You said that there was no sewer or water on the property.

Mr. Zigler: No...

Mr. Keegan: But then referred to two bathrooms.

Mr. Zigler: When the County says sewer and water, the County Planning, he is talking about a main.

Mr. Keegan: I understand what the County says; but you said...

Mr. Zigler: Yes, I am explaining it to you. When we talk about sewer and water on site we are talking about a main; anything larger than eight inches. And as far as we are concerned, if there is not a main, water main or sewer main, brought into the site, that's really no extension of anything other than a building will have the building connection, or a house will have a house connection.

Mr. Keegan: So that's...

Mr. Zigler: That's the only thing. Yes, but now Shop Rite has a main; a water main and a sewer main and that was reviewed by the Health Department for approval. This has a building connection like a house. That's the difference.

Mr. Vasti: Dave, how many...

Mr. Keegan: Thank you.

Mr. Vasti: exits and entrances are they going to be off the road to get into the site?

Mr. Zigler: It is just going to be one and that is going to be gated.

Mr. Vasti: How wide is the gate?

Mr. Zigler: Probably about 30 because the entrance there is...the entrance is probably, it will be longer than that, the entrance is about 36 foot wide.

Mr. Vasti: And approximately how many storage units?

Mr. Zigler: The units itself?

Mr. Vasti: Yes.

Mr. Zigler: A guess. I don't know.

Mr. Magee: I don't recall right now. I am sorry.

Mr. Zigler: Quite a few.

Mr. Vasti: And you say they are adjustable. You can modulate them?

Mr. Zigler: Yes.

Chairman Wright: Can you estimate? Is it 10, is it 20 or hundreds or just...

Mr. Zigler: Hundreds.

Mr. Vasti: Will there be a need for a site superintendent? Somebody to stay on the site or...

Mr. Zigler: No. There is just the office. All of these sites usually just have an office, but the one in Mt. Ivy does have somebody that lives above it. Bobby Champeau does have. The one on Rt. 303 on top of the hill in Congers doesn't. So this does not have any live-in facility.

Mr. Vasti: Will it be illuminated at night?

Mr. Zigler: Yes. The same as Shop Rite; only more light than the original Shop Rite because it was kind of dark there.

Chairman Wright: Will there be any changes in traffic signs or anything like that?

Mr. Zigler: No. This plan was...when Shop Rite went in the whole area was reviewed for a traffic because of the traffic light. So when Shop Rite did there traffic review Phil Grilly, from Collins,...he actually reviewed it with the office building and that was twice as much traffic as even possible that this would produce.

Mr. Porath: The site currently, I am sure, you are just paying property taxes. Do you have any idea what the property taxes are in this area right now as an unimproved lot?

Mr. Magee: It is combined with the storage right now because it is one tax lot.

Mr. Porath: Is it fair to say that if you build this out, it will increase substantially the property taxes as a ratable to the Town?

Mr. Zigler: I would have to say yes, but I hope not.

Mr. Porath: That was a bit of a loaded question. It will be more taxes you will be paying to the Town.

Chairman Wright: Did the Architectural Review Board have any comments when they gave the approval or...?

Mr. Zigler: No, because he followed the same style and lighting and building colors, and roof that he did in the original. There is no difference. It is just going to look the same; except this end will be, if it is improved, it will be newer.

Chairman Wright: Kathy can you just ask the Architectural Review Board to give us anything they have on that for our own records?

Ms. Giordano: Yes.

Mr. Zigler: You know I had that letter out and I did not bring it. Sorry.

Mr. Porath: If you get the approvals, when do you think you are going to start constructing it?

Mr. Magee: Immediately.

Mr. Keegan: I have a question Pat, are there any questions that we should of asked that we didn't?

Mr. Magee: No. I think that what Dave has drawn up with the engineer, I tried to get more square footage out of it. But, Dave in doing the Planning and everything he straightening out a problem that we do have with the traffic situation down there now by amending the other site plan.

Chairman Wright: How is that fixing it? What is the issue?

Mr. Zigler: If you've been down there, it's (inaudible). This has an elbow here from Holt Drive actually stops right in front of Smith. That's it. That's the end of the road and you either make a right to the Smith's, straight into an over road, and if you make a left to go around Inslux. If you ever make that trip, it really has an elbow in it. Straightening this property line out is going to be able to bring that out and it is supposed to hit a road perpendicular, but in this case it is silly because after you come out and make a right it would be a lot better to have an acute angle in this case because if you are going to make the left there there is no place you are going. So that would straighten that out.

Mr. Keegan: So you are going to do that?

Mr. Casscles: How far back...

Mr. Zigler: That is part of the plan some day.

Mr. Casscles: How far back is that property line going to change?

Mr. Zigler: The entire length.

Mr. Casscles: The entire length?

Mr. Zigler: Yes, the entire length.

Mr. Casscles: You are going to change all the lighting that is there and everything? You are going to redo that?

Mr. Zigler: That is only going to be on the storage facility side. Today it looks like it is on the storage facility side, but it is not. If this is approved, it would be on the storage facility side.

Mr. Casscles: Are you going to go into detail about how you are going to change the property line and everything, because...

Mr. Zigler: It is hand in hand. It's amended site plan. That's all it is. It becomes two lots and we are moving a property line. We can go to Planning and get that without a Public Hearing.

Mr. Casscles: By moving the property line, you are changing the floor/ratio?

Mr. Zigler: By moving the property line...no. It's almost zero because you have this little area down here, which they are getting, and this area which he's getting, and then you have this area.

Mr. Casscles: So it's just going to be a wash?

Mr. Zigler: A little bit more toward Hudson Bay, but it's not much.

Mr. Porath: It sounds like you are really just kind of evening up the lots more than anything.

Mr. Zigler: It's just an odd property line. We just lived with it.

Mr. Keegan: Repeat one more time what...I know what the intention of the road, when do you plan on doing that?

Mr. Zigler: He would have to wait until he did something on this site before he could do that. This site is not in for a site plan. To do any work in a commercial zone you need a site plan. So some day he will do something here; he wishes tomorrow, but someday he will come back into Stony Point and this will be straightened out. It's unusual that in a LI Zone, business zone, the same person has control over side by side sites.

Chairman Wright: Any other questions the Board wishes to ask? Anybody from the public have any questions or comments on the application? If you do, please come up and identify yourself please?

DANIEL VILA
30 Hoke Drive
Stony Point, New York

Chairman Wright: Raise your right hand and swear, "That the testimony you are about to give is truthful?"

Mr. Vila: Yes.

Chairman Wright: Thank you.

Mr. Vila: I just wanted to comment that as far as I am concerned, the buildings that exist there now, that Mr. Magee built behind my house; he really did a nice job. He didn't put a flat roof. He put a peaked roof; it doesn't look commercial. It's a clay color. I can see where...as long as those buildings are identical in design, I can't see why...it will only make it probably enhance the area. Right there now it is only a sandlot. That is all I have to say.

Chairman Wright: So you are in support of it?

Mr. Vila: Yes.

Chairman Wright: Okay, thank you very much. Anybody else in the public wish to speak or raise any questions?

*****MOTION:** Mr. Keegan made a motion to close the Public Hearing; seconded by Mr. Vasti. Hearing all in favor; the motion was carried.

Chairman Wright: The last item on the agenda are the minutes of November 15, 2012.

*****MOTION:** Mr. Vasti made a motion to accept the minutes of November 15, 2012; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Chairman Wright: Before we adjourn, I just want to get with Mr. Walsh quickly and see if there is anything we want to discuss on this.

Mr. Walsh: No, I don't think so.

Chairman Wright: Does anybody from the Board have anything they want to raise at all? With that I will adjourn the meeting.

*****MOTION:** Chairman Wright made a motion to adjourn the meeting of December 6, 2012, seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,
Kathleen Giordano
Zoning Board of Appeals