

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes September 19, 2013**

PRESENT:

Mr. Morlang
Mr. Keegan
Mr. Casscles
Mr. Vasti
Mr. Fox
Mr. Porath

ALSO PRESENT:

Dave MacCartney, Attorney
Kevin Mulhearn, 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.

Chairman Wright: So we have four items on the agenda. I am going to change the agenda around a little bit; unless there is any objections from the committee. The first one is a new application for the request of Erich and Kimberly VonHein.

Request of Erich & Kimberly VonHein – App. #13-09

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article VI, Section 23C – Front Yard Exceptions, located at 133 Central Highway, Stony Point, New York, for evergreens and foliage blocking line of vision at corner intersection.

Section 20.10 Block 2 Lot 59 Zone R1

*****MOTION:** Mr. Casscles made a motion to place Application #13-09 on the October 3, 2013, agenda for a Public Hearing; seconded by Mr. Vasti. Hearing all in favor; the motion was carried.

Chairman Wright: We will have a site visit on September 29, 2013, and the Public Hearing will be October 3, 2013.

Chairman Wright: So what we will do next is we will skip to and go to the request of Brian and Tara Horowitz for a Public Hearing.

Request of Brian & Tara Horowitz – App. #13-06

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article VIII, Section 40 – Recreational Vehicle, required 30 feet, provided 24, at 117 Jay Street, Stony Point, New York, for a recreational vehicle parked in front yard/setback.

Section 15.04 Block 1 Lot 22 Zone R1

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

Chairman Wright: Is the representative for the applicant here? Please stand and identify yourself.

Brian Horowitz
117 Jay Street
Stony Point, NY 10980

Chairman Wright: The following testimony you are about to give is truthful?

Mr. Horowitz: Yes.

Chairman Wright: Go ahead Mr. Horowitz. Please give us some background on what you want to do.

Mr. Horowitz: As you know we were here in 2010, applying for the same variance for an RV that we had. At the time the application was denied and we decided instead of appealing it and arguing back and forth we decided to abide by the decision of the Board at the time and with the help of Mr. Keegan actually we made arrangements for a storage for when it wasn't in use. As the Board is aware, on October 1, at 1:15 in the morning the RV was stolen out of storage...

Mrs. Horowitz: August 1st.

Mr. Horowitz: August 1, excuse me, it was stolen out of storage and as you guys can see (looking at Power Point) a picture of it passing the Stony Point Ambulance Building and at about 1:25 in the morning...if anybody knows the guy driving please give me a heads up, this "mess" is actually the RV passing Nyack Hospital on its way to go over the Tappan Zee Bridge. This is the front of the RV, you can actually see the propane tanks here, roof line, that is one of the windows...it goes on 59 and goes over the Tappan Zee Bridge and that is the last it was seen. So, question #1 in the application, actually it addresses economic injury by being denied the variance and I think that's well established. So before we get into something new, I would like to address, at least for me is the 800 lb. gorilla in the room – which happens to be that I am a police officer here in Town. I know it is important to the Board to not give any appearance of any favoritism/any special favors for anybody and I would just like to make it clear that I am here as a private citizen tonight. I am here as a homeowner/taxpayer and I am just asking for the same consideration as any other homeowner would get in Town; so that is the starting point for me.

This is the proposed area. The last time that I was here I gave an updated survey that Mr. Zigler did to show where the RV would be located; the proposed RV. This is the old one. It was a monster – granted, it was awesome, if I may be so bold to say. It was a monster. It was 12½ feet high; it was 33 feet long. It was quite intrusive and it was big. This is our proposal now. This diagram shows what the old RV looked like in that same space – 33 x 12½. We are now requesting a variance for a much smaller RV. We are looking at an "Air Stream" that is about 25 feet long and about 8 foot 7 inches high; excluding the air conditioner. So we've addressed all the reasons that we were denied last time and we took corrective actions to go through step-by-step.

We didn't buy the RV yet. We wanted to get this done. The RV itself is about 8 foot 7 inches. The van with the kayaks on top is 8 foot 6 inches. So it is about the same height so it gives a good visual approximation of what it would look like. You can see in the background we have a privacy fence. It is hard to see through all the foliage, but the top of the kayaks lines up with the fence and towards the house side it is actually higher than what the RV would be. To correct the obtrusive view, the front view of that, the front of the van is parked where the front of the RV would be as well just to give a visual approximation of what it would look like. So before and after you can see we are going from something very big to something much smaller.

I did have some very good advice on counsel in putting this together. Part of that being that it is important to show other examples in our immediate neighborhood. There are four of them. The problem is that all four of them are in violation of the same Town Ordinance and I'm not here tonight to throw anybody else under the bus - I am glad these people have RV's, boats and they are enjoying them. They are in the packets that I gave you to address the description and I suffice to say that the variance that we are requesting is substantially smaller than any of those four would need.

So I am happy to answer any questions, but like I said I would rather skip over any public forum – sir.

Mr. Keegan: These other people that you are talking about, do they have variances?

Mr. Horowitz: No. We are the first. Nobody has been granted a variance; just us.

Mr. Keegan: Okay, thank you.

Mr. Horowitz: (looking at Power Point) Back to us again – the van was parked where the RV would be. This is a photo taken from in front of the Novak residence at 119 Jay Street looking back towards their driveway. Again, the RV with the kayaks on top is parked where the RV would be so you can't see it from there; so that obstructive view has been eliminated. Moving a little bit further up the street, this is taken in front of the Cooney residence at 123 Jay Street. There is no 121. I have no idea why. Again looking back towards our house you can't even see our house. You can't see our driveway and you can't see anything. So, no obstructive view there as well. This is taken from south looking north. I am in front of 115 Jay Street. Again the van with the kayaks is parked there exactly where the proposed RV would be so again any obstructive view has been removed. Last, but not least this was taken across the street at 116 Jay Street in front of the Keenan residence. They are the ones who would be most effective by this. They have the only direct view of the RV. In this picture the van is actually parked about 4 feet in front of where the RV would be. That yellow barrier right here marks out what the variance would be. The setback line in front of the RV. So the Keenans could not be here tonight. They had a family emergency, but it just so happens I have a note from him. I have depositions from the neighbors that outline for criteria to the area variance that they signed. I have one from the Keenans at 116 Jay Street; one from Gerald Lambert at 114 Jay Street; the O'Learys at 112 Jay Street; and Jodi Taylor at 115 Jay Street. I see Jodi is back here as well.

Mr. Chairman I will give you the originals and hand out copies to everybody and I turn it over to you. If there is anything that I missed and that needs to be addressed, I will be happy to do that now.

Chairman Wright: Anybody from the Board have any questions?

Mr. Morlang: I have one question - You went to great lengths to point out there was no obstructed views, but as I recall last time the question about obstructive view was from your neighbor's window?

Mr. Horowitz: Correct and that was – we are going from a 12 foot 6 inch RV (I will go back to the Power Point). You can see it's actually blocking the second story window. It was big. You could actually climb out the window onto the roof of this thing and we are going down to just a little bit higher than the garage. It is below the level of the fence up towards the house.

(too many people talking)

Mr. Keegan: That's your house in the back, though, not your neighbor's house?

Mr. Horowitz: Yes.

Mr. Keegan: Not your neighbor's house.

Mr. Horowitz: No, no. That is ours.

Mr. Morlang: Are the shrubs yours or the neighbor's?

Mr. Horowitz: Yes, they are ours.

Mr. Vasti: Do you plan to keep the RV parked in your driveway all year round, Mr. Horowitz?

Mr. Horowitz: That's the plan. I am not interested in supplying RV's to people who want to steal them. So, we would like to park it at the house. We are installing a good quality camera system; not like the Nyack Hospital one where you saw that "mush" of a picture. This way we can actually secure our own property instead of leaving it...where it was stored was a high traffic. It was a secure area and it was still stolen.

Mr. Vasti: I am curious – how will you to obtain those photographs from Nyack Hospital and the Ambulance Corps?

Mr. Horowitz: Through the Police Department. Actually the Ambulance Corps, my father is on the Board of Director's and he got it for me off the security camera and Det. Anderson, part of his investigation, went down to Nyack Hospital. He went down 9W looking for cameras and he went to Nyack Hospital and he gave me a copy of the picture.

Mr. Vasti: It has never been recovered?

Mr. Horowitz: No.

Chairman Wright: Was it insured?

Mr. Horowitz: It's insured and Geico has been pretty wonderful about it. I built a solar system; so it ran on solar electric. There is water infiltration. So you are off the grid with this. Someone is enjoying a nice hunting cabin in the middle of nowhere right now.

Mr. Vasti: The RV that you plan to buy, Mr. Horowitz, does it have any engines or any devices in it that use combustible gas?

Mr. Horowitz: No, we are looking at an "Air Stream". It is meant to be plugged into a shore line.

Mr. Vasti: So it's going to be plugged into your home to supply power, to heat it and cool it?

Mr. Horowitz: Yes. It just keeps the batteries charged. There is no need to heat it or cool it.

Mr. Vasti: Is there going to be propane stored on it?

Mr. Horowitz: Yes.

Mr. Vasti: Are these propane tanks – what size will they be?

Mr. Horowitz: "Air Stream" comes with 32 lbs. – they are standard.

Mr. Vasti: Are they going to be near the house or away from the house?

Mr. Horowitz: Away from the house. They are in front of the RV.

Mr. Porath: They are the same propane tanks you get on a gas grill as such?

Mr. Horowitz: Yes, exactly the same; they are just taller.

Mr. Porath: I just want to make sure there is no difference.

Mr. Horowitz: Under that aluminum cover – there are two tanks.

Mr. Porath: So they are no different many people have in their homes?

Mr. Horowitz: No.

Mr. Casscles: 32 lbs. is common for travel trailer.

Mr. Horowitz: Most RV's come with 20 lbs. These happen to have 30 lb.

Mr. Vasti: Is there going to be any need to have a hook-up to the house for a sewer system or a clean-out?

Mr. Horowitz: No. That is provided at camp grounds.

Mr. Vasti: So how is the cleaning out of the unit for the commode, the laboratory or showers?

Mr. Horowitz: When you go to a campground that is part of the service – provided hook-ups.

Chairman Wright: I think you've done a nice job kind of differentiating between the last two, but the one question I got, because as a Board we have to provide what's the unique thing about yours that is different than anybody else otherwise we wind up doing really is changing the ball, because everyone else would say "hey they got it down there on Jay Street why can't I get it". So if you would to best summarize – what's the unique thing about your property and your position that makes you different than everybody else if we find in favor of you we wouldn't have to say to everybody else...

Mr. Horowitz: Most of the properties on Jay Street wouldn't need this variance. We have about 6 feet of clearance on one side and 3.9 feet on the other. The terrain aside we have the hill, and granted that could be worked on, but we just don't have the space on either side. The house was built in 1951 before Zoning Laws; so it is non-conforming and there's just no room without going on somebody else's property to get around that.

Mr. Vasti: Mr. Horowitz, if the unforeseen tragedy, if there was ever a fire in your home, and the trailer was parked in its position, proposed position, that would make emergency vehicle entrance getting near your home all the more difficult wouldn't it?

Mr. Horowitz: I don't believe any more difficult ...

Mr. Vasti: If they had to get a fire apparatus in closer, they wouldn't be able to get on your driveway.

Mr. Horowitz: Sure they would. It is a 50 foot driveway. It's a 25...

Mr. Vasti: They would not get as closer as they could if the RV wasn't there?

Mr. Horowitz: I am not following you.

Mr. Vasti: How would they, if they had to go in with ladders or apparatus to evacuate your family in the middle of the night in a fire; that would be in the way – wouldn't it?

Mr. Horowitz: As would the van and my wife's car. I don't believe there is any difference.

Mr. Vasti: You have a garage there?

Mr. Horowitz: Yes.

Mr. Vasti: Do you park a vehicle in the garage?

Mr. Horowitz: No.

Mr. Vasti: Has your garage been altered?

Mr. Horowitz: No.

Mr. Vasti: Has it been made as part of the house – an extra room?

Mr. Horowitz: No.

Mr. Vasti: And, it is still a legal garage?

Mr. Horowitz: Yes.

Mr. Vasti: Okay.

Chairman Wright: Any questions for Mr. Horowitz?

Mr. Fox: I think he has covered all the bases pretty good.

Chairman Wright: Thank you Mr. Horowitz.

Mr. Horowitz: Thank you.

Chairman Wright: Is there anybody else from the public who wishes to speak on this application? If you do, if you could just stand up and identify yourself?

Cheryl Novak – next door neighbor
119 Jay Street
Stony Point, New York

Chairman Wright: The following testimony you are about to give is truthful?

Mrs. Novak: Yes. I have pictures here of his van with the kayaks – out my windows and from my front porch. I still have view of the road at this point. I just, you know, it's a law that it can't be parked in front of the house. It is in front of the house. It's not off to the side. It's not anywhere else. It is in front of his house. It will butt right up to his house.

Chairman Wright: Would you like to show those pictures to us?

Mrs. Novak: Sure.

Chairman Wright: Do you need those back or...?

Mrs. Novak: No, they are all yours.

Chairman Wright: Okay.

Mrs. Novak: The ones from the window – you can see the window batch and it is very nice being able to see out the window and down the road as opposed to the other one where it was like looking at a wall. That is all I have to say.

Mr. Keegan: Excuse me – could you please give us your position on this. I mean – how do you feel about this.

Mrs. Novak: I am opposed to it.

Mr. Keegan: Okay, thank you.

Mr. Porath: Just so we are clear on it and we don't sound like we are being picky about it – what exactly are you opposed. Like what is the reason you are opposed to it?

Mrs. Novak: It is an eye sore. It was looking at a brick wall out my windows. I mean the rest of the street is nice. Why do we want a big RV parked there? Its hideous looking and it's going to bring down the values of our houses.

Mr. Fox: Mrs. Novak, you have obstructed view with the foliage that is there already?

Mrs. Novak: Well I can still see through it.

Mr. Fox: You can still see through it.

Mrs. Novak: Whereas when the RV was there, I couldn't see anything.

Mr. Fox: Because that was 12 feet 6 inches – according to Brian's dimensions here.

Mrs. Novak: Hopefully you still have those pictures that I gave you. And, also when the other RV was parked there and his van was in front of it, he was butted up right next to the fire hydrant. He had maybe that much room (showing with her hands).

Mr. Fox: The fire hydrant is on the street?

Mrs. Novak: It's on his property. He dug his driveway right out to the fire hydrant.

Mr. Fox: So there was a sidewalk there – it would be right behind that point?

Mrs. Novak: It's right behind the sidewalk.

Mr. Fox: Would it be obstructed for a fire emergency vehicle if his van was parked there?

Mrs. Novak: I believe so.

Mr. Fox: It would be in front of it?

Mrs. Novak: It would be right next to it.

Mr. Fox: It would obstruct the view and access to it.

Mrs. Novak: Right next to the fire hydrant has the two little things that come out the sides and it's maybe a foot away from one of the extensions there.

Chairman Wright: Any other questions for Mrs. Novak?

Mr. Keegan: Not for Mrs. Novak.

Mrs. Novak: Thank you.

Chairman Wright: Can you please stand up and identify yourself and where you live?

**Joseph Cooney
123 Jay Street
Stony Point, New York**

Chairman Wright: The following testimony you are about to give is truthful?

Mr. Cooney: Yes. The issue is really one very simple issue. Is it appropriate for this to be in front of his house? According to Stony Point rules the answer is “no”. If you can give me extenuating circumstances that makes it sensible to give a variance, I might have to entertain it and at least listen to it. But, I haven’t heard anything that’s says anything that his situation is unique. Unfortunately he bought a home that has a front driveway. You can’t change that unless you build something on the side. He has told you there is no room for him to do that. So this thing will be there forever. It sets a precedent for the rest of the neighborhood, the rest of the Town. He’s already elicited to the fact that we have some of this going on. We don’t need more of it. I spend hours and hours out at front yard trying to beautify it. This in no way beautifies Jay Street and on that basis I just object to the whole concept.

Chairman Wright: Thank you. Yes, sir stand up and identify yourself and where you live?

**Robert Novak – Cheryl Novak’s husband
119 Jay Street
Stony Point, New York**

Chairman Wright: The following testimony you are about to give is truthful?

Mr. Novak: Yes. I am sorry about the RV that got stolen. It was an eyesore, it wasn’t appropriate for any driveway. I’m really upset that everybody else does it too and they didn’t get variances, but that’s a unique situation. This situation is the houses are just so close together. There’s no way to get to the back. There’s no space. It’s not like a 60 foot space. It is a 6 foot or 5 foot or even 3 foot space between the two houses and the driveway is in the front. And, it is an eyesore and it is blocking of the view to our house and what I am really worried about, not only involving the eyesore I am worried about, I am worried about possibly something bigger going there once the variance is approved. This one getting stolen and maybe a bigger one and the property values of the house, if somebody comes to look at my house when I go to sell it in a couple of years and see a trailer next door. Guaranteed nobody is going to buy a house with a trailer next door – a RV trailer that could be a home. That is what I am really worried about, also. Property values of the house going forward.

Chairman Wright: Okay – any questions for Mr. Novak? Okay, thank you. Anybody else in the public have any thoughts? Yes ma’am. Can you please come up and identify yourself and give your address?

**Jodi Taylor
115 Jay Street
Stony Point, New York**

Chairman Wright: The following testimony you are about to give is truthful?

Ms. Taylor: Yes. I live next door to Brian and I've seen the powerpoint presentation; I've seen it and clearly the trailer is smaller than the other one and he has such a wide driveway and I know you bought up the fact about emergency vehicles and if in case, God forbid there was something, I believe the firetruck could pull up right next to it and still reach the house closer than they could if they were at the other end of the trailer. But, as for obstruction he has beautiful greenery that blocks the view. He has made the driveway wider. He's worked on so hard just to do this and then he got the other one stolen and it's terrible. I approve of it; I am not opposed to it. I just wanted to speak out and let you know.

Mr. Porath: So you live on...

Ms. Taylor: The other side.

Mr. Porath: Just on the other side of the house.

Ms. Taylor: Correct. If I could, I would let him and try help them out or whatever, but...do you have any questions?

Chairman Wright: Okay, thank you.

Mr. MacCartney: Excuse me – I just have a question for the applicant to clarify for me the height of the proposed RV compared to the height of the privacy fence that's adjacent to it, can you compare those.

Mr. Horowitz: (pointing to Power Point) Sure. The fence is actually pitched. It's higher in the back a little bit lower in the front. For most of the proposed RV it is at the same height. The ornamental grass is higher. The ornamental grass is just about 13 feet from the ground to the top.

Mr. Porath: So in the location where it would be parked its entire length would be at or below the level of the privacy fence?

Mr. Horowitz: Correct. The picture on the right (pointing at the powerpoint) with the van. The van is parked where the proposed RV would be. So you can see, I know it is hard to see the fence, the fence is right around here, the fence is below – it lines up with the fence for most of it. Again, towards the back the fence is actually higher and then all the greenery is above.

Mr. Vasti: Counselor, from the previous picture, if you could go back Mr. Horowitz to the previous picture with the entrance, the proposed RV, the other one with the dimensions (pointing at the powerpoint) there's 7 inches higher according to the numbers that are delineated in front of us. Plus, that doesn't take into consideration the height of the a.c. units. So, with the a.c. unit maybe a foot/foot and a half.

Mr. Horowitz: The a.c. unit depending on which manufacturer, after using that particular unit, either 8 inches or 10 inches.

Mr. Vasti: So we are talking probably 17 inches above the fence line with the numbers that are up there. Because the RV itself is 8 foot 7 inches tall and the fence is 8 feet tall, so it's going to stick up 7 inches over the fence; that doesn't include the a.c. unit.

Mr. Horowitz: Correct, but again it's pitched in the back; so it does go up and it's pitched towards the road in the front.

Mr. Fox: So that's at its lowest point, Brian; so obviously as you go back towards the back of the house that level is higher.

Mr. Vasti: So if it pitches, it's going to go up even more than 8 foot 7 inches.

Mr. Horowitz: No, the fence is on a slope.

Mr. Vasti: The fence goes up – okay.

Mr. Fox: Towards the back of the house.

Mr. Horowitz: If the RV were parked at the road, then it would be higher...

Mr. Vasti: So it's a close call. It's pretty close.

Mr. MacCartney: Are you intending on keeping the ornamental grass or greenery there permanently?

Mr. Horowitz: Yes.

Mr. MacCartney: Would you be opposed to a condition that requires that to be there?

Mr. Horowitz: That would be fine. I would have no problem with a 6 foot fence, but I would need another variance.

Mr. Vasti: I have another question Mr. Horowitz – if you attach your vehicle, what are you going to use to tow it?

Mr. Horowitz: The van that you see here.

Mr. Vasti: The van. When you attach the van, you're going to be blocking the hydrant; you're going to be...

Mr. Horowitz: No.

Mr. Vasti: How close are you to the hydrant when your van is attached?

Mr. Horowitz: With the old one it wasn't blocking the hydrant and when it was backed up I did have to pull it forward to drop the tailgate on the old one to load up with the equipment I used to take to my property and then back it up to the house. So it was not blocking.

Mr. Vasti: How much room is there between the hydrant and your van when it is attached?

Mr. Horowitz: 25 plus 19 equals 44 and the driveway is 50 feet; so 6 feet.

Mr. Vasti: 6 feet. What's the law in Stony Point for a clearance near a hydrant? Is it 15 feet?

Mr. Horowitz: Parking on the street is (too many people talking – inaudible)

Mr. Vasti: So they can still get to all of the hydrant ports?

Mr. Horowitz: As always, the Fire Inspector came when we went through this the first time; the Town Engineer came when we went through this the first time and it was no problem.

Mr. Vasti: Did you obtain a letter this time from the Fire Inspector approving that there is no blockage with the trailer in your driveway and your van attached to it?

Mr. Horowitz: No.

Mr. Vasti: But, you said he had no problem with it.

Mr. Horowitz: There was no problem. It was Mr. Larkin.

Mr. Vasti: And this was with the old trailer?

Mr. Horowitz: With the old one.

Mr. Vasti: So this is even shorter?

Mr. Horowitz: This is shorter.

Mr. Vasti: It should be less of a problem.

Mr. Horowitz: Correct.

Mr. Vasti: Okay. Thank you.

Mr. Casscles: Basically, the only variance we are looking at is the 6 feet?

Mr. Horowitz: You are looking at...

Mr. Casscles: The height had nothing to do with the variance, right?

Mr. Horowitz: Right. Again, that barrier right here that demonstrates what the variance would be. I understand the height is – the problem with the old one really was the height. It wasn't the obstruction. We have no problem if the variance specifically sites the height limit. That would be fine. Officially, by the letter of the law, you can have a 6 foot distance variance...

Mr. Vasti: How wide is your driveway now?

Mr. Horowitz: At the front it is about 25 feet – actually it should say in the survey. Let me. You know what the survey is the old one. I have a new one. Give me one second.

Mr. Vasti: And you widened it since the last application, is that correct?

Mr. Horowitz: I widened it since (inaudible – walked away from microphone) and then at the last meeting I did an update survey that Mr. Zigler redrew and I don't have the (inaudible – walked away from microphone). The yard is 60 feet long and then the driveway is almost half of that. So you are looking at about 25 feet.

Mr. Vasti: That is pretty sizable.

Chairman Wright: If you bought a 19 foot trailer, there wouldn't be a need for a variance. How much of an impact is that on you and the way you use the trailer?

Mr. Horowitz: The van, I wish I had a better picture of it, the van is 19 feet long. Imagine trying to fit three people, two beds and food and clothes and all that. It's just not feasible. I'm not exactly a tiny guy. The 19 foot trailer all come with a full-size bed and maybe a second one. It's just not reasonable to take on a long vacation or long trip.

Chairman Wright: So the 25 foot is the smallest you can really go and enjoy your recreation.

Mr. Horowitz: And make it feasible, yes.

Mr. Casscles: Brian, can you find out from the manufacturer what the extra height for the air conditioner is?

Mr. Horowitz: If they go with genetic, and I can't remember the others – it's either 8 inches or 10 inches depending on which manufacturer they are using over that 8 foot center. Again...

Mr. Casscles: Can you get that from the manufacturer, just so that we have it?

Mr. Horowitz: Sure. Again, the air conditioner is this little box on top. It's not the whole height of the RV, but I can certainly pull up the specs for you. I can do that now. I can go on-line and pull that up.

Mr. Casscles: Okay, that would be helpful.

Mr. Horowitz: Sure.

Mr. Vasti: Do you intend to have that air conditioner running?

Mr. Horowitz: No.

Mr. Vasti: Only when you use the RV?

Mr. Horowitz: And rarely because again we run on solar power so we just can't keep up with the extra (inaudible).

Mr. Vasti: So it's not going to be parked there running and emitting noise that the neighbors could hear?

Mr. Horowitz: No. The shore line to plug it in is just to keep the battery charged.

Mr. Fox: So basically you gonna...the attention is just to store that on your property when not in use?

Mr. Horowitz: Correct.

Chairman Wright: Any questions for Mr. Horowitz?

Mr. Keegan: I have a question for Counsel. Counselor, we've already been made aware that there is several residences in the Town that are in clear violation of this ordinance, how does this case, if it is approved, effect the Town's ability to enforce the Code with these other people who are in obvious violation of the Code?

Mr. MacCartney: The Town can always enforce the Code as against – it's in the Building Inspector's discretion to enforce the Code as against anyone who may or may not be in violation. So the grant of the variance doesn't suddenly make other people in compliance. All the variances...

Mr. Keegan: Does this compromise the Town's position in terms of this particular ordinance?

Mr. MacCartney: No. Every property stands on its own merit and its own time. So this property, if this applicant received a violation notice it may be that others similarly situated elsewhere in the Town didn't receive a violation notice. There is no import to that. A Building Inspector has discretion.

Mr. Keegan: So we are not in any way establishing a precedent?

Mr. MacCartney: No. Some people might argue if they get struck with a violation and then they come before the Board and make an application for a variance that they say is similar in nature; they would be free to make that argument and it would be up to the Board to determine the similarity or differences between that particular circumstance and this particular circumstance. But, there is no blanket clause.

Mr. Keegan: But, legally we don't establish a precedent?

Mr. MacCartney: You don't establish a precedent – no, you don't establish a precedent. Each property stands on its own...

Mr. Keegan: That's always been the rule, but I just want to...

Mr. MacCartney: In other applicants, as in any variance that is granted by the Board or denied by the Board people are free to cite it as precedent, as persuasively as they can to try and persuade the Board that their particular property is as much like that particular prior application or grant or denial as they can. It's up to the Board to either determine on its own whether it is in fact identical – are there distinguishing features between this property and another property. Every property in the Town is unique. So this doesn't necessarily set a precedent, but if there is another identical piece of property with the identical set of circumstance and the identical size that would be one example; so that probably would set a precedent. But, most properties are unique and it would be up for an applicant to argue "yes, I am just like that one"...

Mr. Keegan: So, every case is based on its own merit.

Mr. MacCartney: Absolutely.

Mr. Keegan: Okay.

Mr. Morlang: I move to close the Public Hearing.

Mr. Casscles: Before we close the Public Hearing, can you just give him a chance to...

Mr. Horowitz: It will take me a couple of minutes – if you want to move on and come back that would be fine.

Mr. Casscles: Can we do that? I want to get the height of the air conditioner before we close the Public Hearing. Can we just hold it while he looks it up?

Chairman Wright: Mr. Novak did you want to...

Mr. Novak: I just want to make a couple of more comments here. I want to get a couple more of the issues really from our standpoint which is, again right next door and lots are very close together. Property value is very important. It is hard to sell a house as they can attest. They tried to sell their house, and I wished they did, so they could get another house and put any trailer they want in the back of it and that's what I suggest that they do. They want to buy a travel trailer or RV, sell the house, leave the sign up wait for the seller or buyer to come along and buy a bigger house where you can put the trailer along the side, along the back as opposed to lowering our property value or spoiling our sites and those overgrown bushes are an eyesore to, by the way, but there is nothing I can do about that along with the fence. Again, it is very important to have nice front yards, people spend time, people spend a lot of money to keep the houses nice and that's really a concern. Another thing – an RV does not belong in the front; whether it's half the size of the bigger one or something that's even within Code it does not belong in the front driveway. It belongs in the back; it belongs in whatever.

Jodi made – would like to help them out. I will make a suggestion – I don't know if the Fasano's were interested – they got a driveway, they used to do it years ago, he can pull up the driveway from the Fasano's house, go along Jodi's backyard and park the RV in the back. If she's willing to help out, that's an option. They can put it all the way in the back – go up the driveway from Fasano's house. Years ago that's what they did. The neighbor, my uncle, John Attiglioto, used to have the house next door. He used to take his truck up there and go to the backyard with his pick-up truck. It's doable. Maybe he should approach that avenue first and see if the neighbors that are willing to help out could help out and he could share their driveway for the time they want to take the RV in and out of the backyard. He's got plenty of room in the back. It's by the woods. It's where it belongs. And, they have access to it.

Chairman Wright: This is for Mr. Horowitz – if he had a 19 foot RV and he parked it in the driveway...

Mr. Casscles: He wouldn't be here.

Chairman Wright: There really wouldn't be any need to come here.

Mr. Novak: Then there's nothing we can do about that. If it's in Code, it's still an eyesore. Again, I don't believe an RV should be in anybody's front yard, front driveway. It should be along the back or in a trailer park or in a park upstate some place.

Chairman Wright: Any questions for Mr. Novak?

Mr. Fox: Yes. You mentioned the greenery there – if you were to get this variance would the objection if we cut the greenery back to maybe a few feet past the trailer to give you a view back there. Would that be something that you would be interested in entertaining?

Mr. Novak: No, it will block whatever. The fence blocks everything.

Mr. Fox: You already have a blocked view.

Mr. Novak: I know.

Mr. Fox: You've already got a blocked view.

Mr. Novak: With the big RV there it was very much more blocked. The old application and we have pictures of the trailer there – it showed how blocked it was. You looked out your window and it was a wall, a trailer wall, and it spoiled the nice street, the view. Again, I will go to the property values – if somebody came to look at my house, if I tried to sell it, they would go out on the front porch, looked to the right, besides the overgrown bushes they are going to see a big trailer, again I don't know how big this one is going to be, they would say why would I buy this house here when I can go down the road and get a house where I have a nice view and no trailer – no RV trailer that he has a special variance to get. Again, that's what my issue is. It is something larger than what belongs there and it will spoil the property value. Again, I will make the statement that go to Fasano's, who don't object, go to Jodi, who doesn't object; park it all the way in the back, go along the back road, put it up in the top. Nobody will steal it because you won't be able to get it out of there in the middle of the night without somebody hearing it. If you want to...if your actually thinking about approving this I think you should come up and see the neighborhood, see where it's going to be, see if he can possibly get the trailer up in back, see if the neighbors are willing to allow that to happen, they probably won't, but...

Mr. Fox: Were all those neighbors present, or just one?

Mr. Novak: Just one and the other one is just their driveway.

Mr. Fox: The other one is just their driveway.

Mr. Novak: Now I think they didn't object either so maybe they are...

Mr. Fox: What if those individuals were to sell their homes, then we would back here to square 1 – hypothetically, it is reality.

Mr. Novak: But, again I am more concerned about my home and my property values and my view and selling my house two or three years down the road. And, the fact that it's something that doesn't belong in the front yard of a nice neighborhood. Anything else?

Chairman Wright: Any other questions? Thank you, sir.

(inaudible – too many people talking)

Mr. Horowitz: The first – property values as far as appraisals, without me in the picture, when you go home tonight go on site like Zilla, go on Yahoo homes, whatever, look up property values, look at the criteria that they use to establish a value of the house, ask an appraiser you might know, see if a RV effects the value and you will see for yourself that it doesn't. It's not a structure, it's not considered permanent; it's a movable thing. Just to satisfy your own minds, if you wouldn't mind take a few minutes and do that yourself and see that it is not considered a criteria for the value of a house. That's all – I will look up the air conditioner.

Mr. Casscles: Thank you.

Chairman Wright: Anybody else have any comments on this application? So I think we have – looking for one piece of information, but other than accepting one more piece of information about the height of the air conditioning...

Mr. Porath: Can I ask – I am confused about the air conditioning question. Unless I am mistaken he said it is either 8 inches or 10 inches. So what – maybe I missed something – what are we waiting for other than in addition to that information?

Chairman Wright: That's it.

Mr. Casscles: I just want him to confirm how high it's going to be. You say either 8 or 10, maybe it's not.

Chairman Wright: So I will take a motion to close the Public Hearing, notwithstanding we have one piece of information coming from Mr. Horowitz.

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

Chairman Wright: The next item on the agenda, thank you everybody for coming – appreciate your input, the next item on the agenda is the request of Tolake Corporation for a Public Hearing.

Mr. MacCartney: Mr. Chairman, I would just like the record to reflect that I am recusing myself in regard to this matter.

Chairman Wright: Thank you. Are you going to be around for awhile?

Mr. MacCartney: If you would like me to, I can.

Chairman Wright: Yes. We probably want to talk to you.

Mr. MacCartney: Absolutely.

Mr. Mulhearn: Good evening gentlemen.

Chairman Wright:

Request of Tolake Corporation – App. #13-08

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article XIV, Section 95A – Expansion of a non-complying use, at 33 Lakeview Drive, Tomkins Cove, New York, for a deck.

Section 10.02 Block 1 Lot 56 Zone RR

*****MOTION: Mr. Porath made a motion to open the Public Hearing; seconded by Mr. Fox. Hearing all in favor; the motion was carried.**

Chairman Wright: Is there a representative for the applicant here? Please step up and identify yourself and your address.

**Karl Javenes
2 Ridgetop Drive
Tomkins Cove, New York**

Chairman Wright: The following testimony you are about to give is truthful?

Mr. Javenes: Yes.

Chairman Wright: Do you just want to give us a little background about what you are going to do?

Mr. Javenes: It's a community building. It's a community lake house – that we call it. We use it for functions there for the community. Right now the community wants to put a deck in the front of it. Right now there is a small deck, maybe 10 x 5 that a set of stairs goes down and we just want to extend it both ways to the end of the building and then on the side we want to put a handicap ramp, because a lot of the older, there are some older people there now that can't get in the building. So we are going to put a handicap ramp for them coming up the side, change the door on that side of the building to make it a handicap ramp. That's really it.

Mr. Fox: What about the facilities inside the building itself?

Mr. Javenes: As far as...

Mr. Fox: Handicap?

Mr. Javenes: We are not doing anything with that at this point.

Mr. Fox: Okay, so you are just making accessible to the building – that's it.

Mr. Javenes: Right, some day I am sure we will have some money...

Mr. Fox: If you are making it accessible...

Mr. Porath: Those amendments there are big enough to where there is no issue as far as accessibility even if you were in a wheelchair.

Mr. Keegan: Karl, this deck does it create any new variances – is it all within the Code, the use. It's conforming use.

Mr. Javenes: Yes. It's going to be built to Code. It's going to be...

Mr. Keegan: Thank you.

Mr. Fox: The ramp that's coming from the rear or does it come from the front and turn.

Mr. Javenes: This is the front of the building – this is where the door is now. This is the side. It's going to go back towards the back of the building. So it's not going to be an eyesore in front and then there will be a path coming around to the front of the building. That's really it.

Mr. Casscles: Just on the application – just so we have it correct item #2 it says applicant's information, Karl you put all your address and everything there; you should be down to item #3 as a representative; not the applicant.

Ms. Kivlehan: I helped Mr. Javenes – it was my fault, not his. I will correct his application.

Chairman Wright: Does anybody else have any other questions for Mr. Javenes? Does anybody from the public have any questions?

Mr. Javenes: The only thing – if you guys can vote on it tonight because we didn't have a meeting in August and now its...we would like to do it before our last membership meeting I think is – the next membership meeting is October, the first week in October, so we are trying to get it done so the people can enjoy it.

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

*****MOTION: Mr. Casscles would like to make a motion to vote on this request tonight; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.**

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

In the Matter of Application #13-08 of Tolake Corporation for a variance from the requirements of the Town of Stony Point Zoning Code, Chapter 215, Article XIV, Section 95A – Expansion of a non-complying use at 33 Lakeview Drive, Tomkins Cove, New York, for a deck and handicapped ramp.

The premises which are the subject of this application are located at 33 Lakeview Drive, Tomkins Cove, New York, at Section 10.02, Block 1, Lot 56 approximately 945 feet west of the intersection with Deer Place, in the Town of Stony Point, in a RR Zoning District.

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

Application; Narrative; Short Environmental Assessment Form; copy of portion of tax map; Building Inspector's Denial Letter dated August 26, 2013; Rockland County Planning Board memorandum dated September 6, 2013, which approved the proposed variance; Affidavit of Publication, dated September 12, 2013; Affidavit of Posting, dated September 6, 2012, Affidavit of Service by Mail, dated September 6, 2013.

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 September 19, 2013, and the testimony of the following persons was duly considered: Karl Javenes.

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.

WHEREAS, this Board has examined the written documentation and reviewed the testimony of the witnesses with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, has made the following determinations:

(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 use variance":

No undesirable change will be produced. In fact, the addition of a handicapped ramp for the premises is socially desirable.

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

The benefit sought by applicant cannot be achieved by any other means.

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

The requested use variance is not substantial.

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

The proposed variance will not have any such adverse effect or impact.

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

The alleged difficulty was not self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application of Tolake Corporation for variances from the provisions of Chapter 215, Article XIV, Section 95A, of the Zoning Local Law of the Town of Stony Point to permit the construction, maintenance, and use of a deck and a handicapped ramp, as set forth in the application submitted herein, is hereby approved and the Building Inspector is hereby directed to issue to the applicant a Building Permit and Certificate of Occupancy upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations, and with the requirements of the Rockland County Planning Department.

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 remaining item on the agenda is to accept the minutes of September 5, 2013, meeting.

*****MOTION:** Mr. Vasti made a motion to accept the minutes of September 5, 2013; seconded by Mr. Morlang. Hearing all in favor; the motion was carried.

Mr. Keegan: I will like to make a motion to adjourn.

Chairman Wright: No, I still need to meet with Mr. MacCartney.

Mr. Horowitz: They have so many different models. They vary a little bit. This is a 2012 (away from microphone – inaudible).

Mr. Fox: The worst case scenario - it's a foot then.

Mr. Casscles: I just wanted to know the maximum was. I know what they are because I had one at home. Just wanted to know what the height of it was.

Chairman Wright: So does anybody have any discussion on the trailer?

Mr. Fox: I would just like to say; obviously they've come before us for an obstruction...

Ms. Kivlehan: Do you still want the tape on?

Chairman Wright: Yes.

Mr. Fox: They are coming to us for relief and obviously we've come across some unique situations where ordinances is part of what he is obstructing with the trailer – the setback isn't far enough. Is that the ordinance or is that statement saying nothing in the front yard; a certain footage?

Mr. Casscles: According to the Code you are allowed a camper/trailer in the front yard.

Mr. Horowitz: (inaudible) 30 feet back from the setback.

Mr. Casscles: It says here...

Chairman Wright: Mr. Horowitz you can't give us any feedback as the Public Hearing is closed.

Mr. Casscles: One recreational vehicle or boat, or boat trailer maybe parked or stored on any developed residential lot behind the front setback. So the only variance we need to vote on is the 6 feet. It doesn't mention nothing about height or any of that.

Mr. Porath: That actually helps...you know that is funny because what I saw as the issue was...

Mr. Casscles: There is somewhere, I was just looking for it, I haven't found it, I think you are allowed basically up to a 35 foot trailer, as long as it is behind the setback. So if for some reason they took the corner off of his house he could put the 33 footer back there or 35 footer back there – as far as the height goes that's between the neighbor. That has nothing to do with our application. Our application, his denial was for 6 foot...

Mr. Porath: In the setback – see that actually helps me a lot as I am kind of weighing a lot of it just offer an opinion.

Mr. Casscles: Of that 6 feet, 3 foot of it is hitch. So it's not 6 foot of trailer; its 3 foot of trailer and 3 foot of hitch. The hitch is only 2 foot off the ground.

Mr. Fox: So does that fall into the variance though?

Mr. Casscles: It is attached to the trailer, but it's...that 6 foot ain't going to have nothing to do with that.

Chairman Wright: That's important. Are you sure the 3 feet is part of the 6 feet.

Mr. Casscles: Yes, I am sure. Your overall length is 25 feet – bumper to hitch. That is usually the way they classify trailers.

Mr. Horowitz: It depends on specific models. The one I just showed you that's actually 25'11" with bumper attached to it.

Mr. Casscles: When you buy a trailer that hitch is included.

Chairman Wright: Mr. MacCartney, how would we go about that then? I think that's important piece of information. How can we get that back into the discussion about the...

Mr. MacCartney: Does the 3 feet, in other words the question is – is the 6 feet, the 6 foot variance is 3 of it just hitch or is it all 6. You could do a couple of things.

Chairman Wright: We can unanimously...

Mr. MacCartney: You can unanimously vote to open the Public Hearing for the limited purpose of getting that information from the applicant, if the applicant has it and we can close the Public Hearing again.

Chairman Wright: And we can do that tonight?

Mr. MacCartney: You can do it right now if you liked to.

Chairman Wright: Okay.

*****MOTION:** Mr. Fox made a motion to re-open the Public Hearing; seconded by Mr. Vasti. Hearing all in favor; the motion was carried.

Chairman Wright: Okay the motion is just to open it up to get a couple of pieces of information from Mr. Horowitz after which we will close the meeting. Kathy, is the tape still on?

Ms. Kivlehan: The tape is still on.

Chairman Wright: Mr. Horowitz can we just ask a couple of questions to you.

Mr. Horowitz: Sure.

Mr. Casscles: I just want to make reference to the bulk requirements for the R1 area. It says accessory use is permitted by right. Accessory to a one-family residence, storage of not more than one unoccupied trailer or boat, not exceeding 35 feet in length. If it's within on the setback. So if he actually had the room he could put a 35 footer in there. I just wanted to make that...

Chairman Wright: And then Mr. Horowitz a question for you then – is based on this 25 feet can you help us understand how much of it is rear bumper protruding and how much is the front frame protruding that part of the whole 25 feet.

Mr. Horowitz: Sure. The one that's pictured there on the hand-out on the diagram that's one of their 25 foot models. That particular one is 25 foot 11 inches when you count the rear bumper and the front of the hitch. There are so many different models and there are so many variations that they call them 25 and there is a little bit of play on each one.

Mr. Vasti: Is the hitch about 3 feet?

Mr. Casscles: Generally they are.

Mr. Horowitz: I would guess a little bit less. Again, I...

Mr. Vasti: Alright then really we are looking at 25 feet less 3 feet for the hitch. So we are looking at maybe a 3 foot/4 foot variance. Which is very close.

Mr. Casscles: Because the bumper is not in the variance because that's back towards his house.

Mr. Porath: I would suggest we close the Public Hearing more to protect Mr. Horowitz's point that he made that as a police officer we don't want to create any appearance that we opened this up for a discussion, and I know that's not our intent, but I think we should close the hearing.

Mr. Vasti: I agree.

Mr. Morlang: Mr. Chairman, I have a problem.

Chairman Wright: Mr. Porath issued a motion, but I haven't received a second on that. Steve if you could wait and let Mr. Morlang go – is that alright.

Mr. Porath: Oh, I am sorry. If there was another question, I am okay.

Mr. Morlang: I'm just – I have a question - that we close the hearing. We allowed all the people who testified to leave and then we re-opened the hearing again.

Chairman Wright: We re-opened the hearing because as part of the discussion we came up with...

Mr. Morlang: But, those people who were here might have participated in what we are discussing now.

Chairman Wright: Right, we didn't force anybody to leave though. I never adjourned.

Mr. Fox: But, we did close the Public Hearing.

Mr. Porath: And, that's my concern that I don't want to create the appearance that we opened the hearing in their absence even unintentionally, so...

Chairman Wright: So let's do this then – do we want to close; does anyone want to make a motion to close the Public Hearing.

Mr. Vasti: There is a motion to close it. I will second the motion.

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

Mr. Porath: I think it is also important for the record that the hearing was opened for a very specific objective piece of information; not a subjective discussion. That's important for that distinction to be noted.

Mr. Vasti: I also think that Mr. Morlang made a very valid point and I respect his point that I think is very valid.

Mr. Porath: I want to clarify in my mind the issue that I wrestled with as I heard the residence, and I assume one of them was the next door neighbor on the one side and I assume the other couple were like across the street; one of the houses across the street – is that...

Mr. Fox: I think they are all on the same side.

Ms. Kivlehan: Cooney is down further.

Mr. Fox: Cooney is two houses over.

Ms. Kivlehan: Cooney is down further on the same side as Horowitz.

Mr. Porath: I guess in my mind, and I wanted to throw this to the Board, is the issue I was wrestling with as I was hearing the opposition and it kind of crystallized as we were discussing the issue that Mr. Casscles bought up that we're really simply deciding on these few feet. It's not weather the appropriateness of an RV or not and to my point; the residents they didn't seem to care a lot about that 6 feet. They didn't care about 4 feet, 3 feet. They didn't care about any height really. It was the quality of life. They just felt it wasn't appropriate to have a RV in a driveway. And if I understand correctly based on the Codes while that may be their feelings it's really not relevant that if this piece of equipment was 6 feet shorter they probably would still not want it in their driveway, but they couldn't legally do anything about it. Is that accurate?

(nodding of the heads)

Mr. Porath: So really they just don't want it. They just don't think any RV belongs in that neighborhood.

Mr. Vasti: I agree and I feel to that point that whether we look at this from a view point of dimensions; dimensionality, there is a perception whether there is a Code or no Code; if it's in the Zoning Code or not there is a perception of several neighbors of the aesthetics and the negative impact on the aesthetics. They were quite adamant about how they felt about that and whether or not that does or does not have a monetary value might give a positive on the value of a home again that is a very very subjective and very valid aesthetic viewpoint and towards that point the fact that there are numerous other people in the community that are in violation of the law doesn't make this anymore right or wrong. It doesn't justify it, it doesn't sanction it. So, I mean these are things we heard tonight that we need to perceive and we need to deal with very clearly in looking at this application. Being 3 feet or 6 feet or whatever feet there is a feeling in the community of the aesthetic impact of this trailer in their neighborhood. So I just wanted to get that out.

Chairman Wright: Just as a – to throw it out there – we don't have to...the Public Hearing is open, but even like what we did with the gasification plant if you want to bring this back to a discussion at our next meeting, go back, you want to look through the Town Code, get a better sense of it, read through some of the testimony. We can open this back up for just a discussion at our next meeting and go from there. So we don't have to end everything tonight. We got a lot of information and maybe it is worthwhile to say let's put it back as a discussion item in our next meeting and then that way we can get a better sense as to where we think we need to vote.

Mr. MacCartney: The law provides you 62 days from the close of the Public Hearing to issue a decision. So you have time to do that if you so choose.

Chairman Wright: Thank you.

Mr. Fox: I got a lot out of the opposition there that it was about more about an eyesore and they did mention their property values. What's to stop anyone of your neighbors having a junk car in the driveway or a boat – nothing. Will that bring the value of their homes down? We are not talking about something that was abandoned and he is putting it in the driveway or looking to put it in the driveway. It's not going to be distasteful, so to speak.

Chairman Wright: What I would say the Code would prevent you from having too junky; so there's a point of which the Town says "hey it was protection".

Mr. Porath: The Code prevents having a giant vehicle in your driveway that obviously is inappropriate. I don't think the Code is not designed to prohibit RV's and I would suggest it's a very slippery slope when we start to make decisions based on personal likes and dislikes of the neighborhood. Where do you draw the line of where it is appropriate?

Chairman Wright: One of the criteria's we have is that it is going to impact the quality of the neighborhood. It's one of our points.

Mr. Porath: We have to decide whether it's valid or not. If you paint your house a color I don't like, and let's say it was against the Code – you only have so much say about your neighbors.

Chairman Wright: It would come into play if it was against an existing variance that the Town has passed as law. So to the extent that I can call it anyone I want, that's one thing, but to the extent they do things and it's breaking the law then it is different. Then it comes before us.

Mr. Casscles: But, it is a use permitted by right, also. They are allowed to have the trailer in the front yard.

Mr. Porath: That's a good point.

Mr. Casscles: If it was a 19 footer, they would still have to look at that 19 footer whether they liked it or not.

Mr. Porath: And they probably would be just as upset.

Mr. Casscles: It will devalue their homes either way.

Mr. Vasti: And we did hear that tonight. We did hear some misconceptions that some of the neighbors or at least one of the neighbors I heard say you are not allowed to have an RV in front of your house and we know that that's not true. That's not the law.

Mr. Porath: And I think Mr. Novak he actually said, the words he said was "if it was within Code there is nothing we can do about it".

Mr. Vasti: Exactly.

Mr. Porath: We wouldn't be happy with it. There is nothing we can do about it. But, I think the challenge we have is in my opinion, at least myself, I have to say does that 6 feet or whatever is that an undue impact. I guess, in my mind, the sole issue I have to deal with.

Chairman Wright: So – that was a very good discussion. We should have had that for the gasification.

Mr. Casscles: I am sure it could be moved back to 6 feet - it would be.

Chairman Wright: So let me do this then –

Mr. Fox: What I was getting to the point – or the application that comes before us because people are looking for relief to get outside these areas that they are restricted because of their situations and that's what we are here for. You want to look at these things as enlightened as you can, but to consider that point of giving people relief where it is needed.

Chairman Wright: Now I think of some things you can mitigate too, because it came up about the screening being permanent and those things and to the extent that those could be drafted and made part of the decision I think you can probably mitigate some of the complaints the neighbors may have to. So any way, that's an option if we want to decide that. So I guess the question I got for everybody is do you want to – do we need to go into Executive Session with Mr. MacCartney, do we want to maybe think about it and come back into a decision for a discussion next meeting. What's the sense of the Board on that?

Mr. Casscles: I have just have one more thing – in reference to this whole thing, according to our fence law you are allowed 6 foot fence as long as it isn't in the front setback. So for 20 feet of this trailer there could be a 6 foot fence where that screening is. You definitely could not see the trailer. You can see the end – 3 or 4 feet at most.

Chairman Wright: A sense of the Board do you want to read through your notes, come back next week, um our next meeting or do you want to just hear Mr. MacCartney in Executive Session and then...

Mr. Casscles: I have nothing further.

Mr. Porath: I have no other.

Mr. Vasti: I have no other.

Chairman Wright: So – what I will do is take a motion to go into Executive Session so we can go through some of the legal specifics with Mr. MacCartney.

*****MOTION:** Mr. Vasti made a motion at 8:08 PM to go into Executive Session, pending litigation; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Chairman Wright: Mr. Horowitz, we are going into Executive Session so we need you to leave the room.

*****MOTION:** Mr. Vasti made a motion at 8:35 PM to come out of Executive Session; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Fox made a motion to adjourn the meeting of September 19, 2013; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan
Secretary
Zoning Board of Appeals