

**ZONING BOARD OF APPEALS
TOWN OF CANADICE**

Canadice Town Hall

October 13, 2021

Present: Diane Horning, Vice Chairperson
Ed Bott
Jesse Hallett
Linda Moorhouse - Absent
Marty Gascon - Absent

Guest: Joseph Palma
Sean Palma
Serge Tsvasman

PUBLIC HEARING – Joseph & Jo-Ann Palma

Vice Chairperson, Diane Horning called the meeting to order at 7:30 p.m.
Vice Chairperson, Diane Horning introduced the Zoning Board of Appeals members and stated that a quorum was present to hear the application. The criteria, which the Zoning Board of Appeals uses to make decisions regarding an area variance were reviewed.

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.

Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance.

Whether the requested area variance is substantial.

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

Whether the alleged difficulty was self-created, in which consideration shall be relevant to the decision to the Board of Appeals but shall not necessarily preclude the granting of the area variance.

D. Horning - Joseph and Jo-Ann Palma at 6159 Southwest Shores in regards to a variance for the small deck he put in alongside his house, that he did not get a variance for. Would you like to explain to us what you are doing and what you did? We went over this before, but for the official Public Hearing, we have to redo and go over everything. I see we got a letter from Mr. Hogan and his wife.

J. Palma - So, what happened, is we added additional decking on the side of the house that is kind of takes from being on the ground and unlevelness, etc. We brought it up onto the decking, so we could have a kitchen area there, a cooking area for it. I felt that it adds to the look of the property, as overall. And, in speaking with Paul, Paul Hogan the neighbor, did not have an issue with the addition. In his letter that he sent, he does put a stipulation as to that it does not go up high. Just the flatness that it is today.

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D. Horning - Ok, does anyone got questions?

E. Bott - This is 2ft. from the property line?

J. Hallett - Can we get an actual measurement of that?

S. Smith - You would have to get a site plan from an architect for that. I was down there, and it's 2ft., was 2ft.

J. Hallett - Ok.

D. Horning - Ok, any other questions that anybody has in regard to this?

E. Bott - Nope.

J. Palma - Just a clarification point, it's not 2ft. all the way, because of the way the property line goes. It's on an angle. So, there is one point that it's 2ft. and there are other points that are 3-4ft.

E. Bott - It looks like about half of it is 2ft., by the way, this drawing is here.

D. Horning - Yes.

J. Palma - But, understand Mr. Bott, that angle of the property line is not a straight line going down, it's an angle line going down.

E. Bott - As I am going from the drawing you got right here, this one here. (Looking at the drawing with J. Palma)

J. Palma - Umhm.

E. Bott - That would indicate that is pretty much 2ft., that whole time, til it starts to angle back this way. The picture shows it angling back, part way down it, right?

J. Palma - Umhm.

E. Bott - Ok, and that is 16ft. long? The deck, 15.5?

J. Palma - Correct.

E. Bott - There's approximately 8ft. along there is about 2ft. from the line.

D. Horning - Ok, we will close this part of the Public Hearing.

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E. Bott made a motion to close the Public Hearing, D. Horning seconded, all in favor.

E. Bott explained the process of accepting the application for the variance as it stands and then voting on whether to grant the variance or deny.

E. Bott - Made a motion to accept the application as it stands, seconded by J. Hallett, all in favor.

D. Horning read the permitted action of the board.

Roll Call Vote to accept or deny:

D. Horning, **NO**, E. Bott, **NO**, J. Hallett, **NO**

D. Horning - 1. Yes, 2. No, 3. No, 4. No, 5. Yes - **NO**

E. Bott - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **NO**

J. Hallett - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **NO**

D. Horning - We have denied the variance. Steve, it's up to you, what's got to go?

S. Smith - Well, you can make it narrower, the deck. That's up to you, the size you want.

E. Bott - This has already been denied, the variance as it stands.

S. Smith - It's not for me to judge. Do you want to make a stipulation then?

E. Bott - We are past that point. They didn't offer to make it narrower or anything like that beforehand. So, now it's just a matter of -- and just for clarification, the permit, that's between you and the enforcement officer of the town. I think that is what Diane is asking about. What's the next part? Because, I believe you have to take it down.

S. Palma - The existing deck that was there already?

E. Bott - No, just the new one.

S. Palma - Just the new part, we have to take down? So, the old part that's 2ft. from the property line is cool? But, the new part.

S. Smith - I also have information on that from Paul, wrote me and said , or I had a discussion with him. That deck in the front, the only thing that was there originally was a porch. The deck in the front was also built without a variance, or a permit. Paul believed it was 2002. Extended the front deck in 2002, without a permit or variance, which is connected to the side deck.

S. Palma - Paul didn't live there in 2002.

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S. Smith - That's when he bought the property, I believe.

S. Palma - Is that right?

J. Palma - I don't know.

S. Smith - He seemed to think he was there. He said that was when he bought the property.

S. Palma - That may have been possible. I don't know.

S. Smith - I don't think they were staying there.

S. Palma - I don't know, maybe, I don't know.

J. Palma - Understand that the deck was built to be close to the kitchen. Mr. Bott brought up the point that it could be built on the other side, yes it could. But, then it's not close to the kitchen and that was what we were trying to do, keep it close to the kitchen and make an improvement on that side of the property.

D. Horning - You should have come and got a building permit, before you built it.

E. Bott - Whether you got the permit or didn't get the permit. It's whether we grant the variance or not. That's why you go to find out ahead of time. And your neighbor even advised you of that. As far as the existing deck, that's not in front of us for discussion.

S. Palma - Ok.

E. Bott - There are a lot of places down there that had things put in without a permit, that's why we put all these laws in place, because that is what was happening all over the place. And, not just to the lake. There are places up in the hills, where people just started building stuff and nobody even knew about it. They found a lot of stuff when they were putting in the satellite stuff. There were people building stuff all over the place, without permits. So, it's not just something that happens on the lake. That's why we have the frontages on the lake, because we called it "The Race To The Lake". One person builds closer to the lake, then the next person builds closer. They put these things in place to try to prevent all of that. That's why when you go to build something, you come in to get the permit and find out what the laws are, so you don't go through what you guys did.

S. Palma - So, at the end of the day, if we take this thing down and apply for a variance, is it something that would be considered?

E. Bott - You have to wait a year.

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S. Palma - Is that the rule?

E. Bott - Yes, that's the rule.

S. Palma - Ok.

D. Horning - You are going to have to narrow it down.

S. Palma - Narrow it down or take it down?

E. Bott - You have to take it down now, otherwise you have an unpermitted building, basically. And, that can get real expensive real fast.

S. Palma - As far as?

E. Bott - Fines. That's why there is a Code Enforcement Officer.

J. Palma - So, if the deck comes down and becomes a moveable structure, that's not an issue?

S. Smith - It's a structure.

J. Palma - My question is, my understanding is the fact that, if it's portable, it doesn't become a structure anymore.

J. Hallett - It would have to be a registered vehicle, at that point.

J. Palma - What do you mean, a registered vehicle? It doesn't have a motor on it.

S. Palma - That's not necessary. What if it's like an aluminum shed, or something like that?

D. Horning - They have to follow the same rules.

J. Hallett - There would be a square footage thing on that. If it was under 144 sq. ft.?

S. Smith - They can't build anything over there without a variance. Even a carport requires a permit.

J. Palma - Does a fence require a permit?

S. Smith - No. There are some stipulations to fences, but they don't require a permit. A fence can go right on the property line. The finished side of the fence has to face the neighbors. There are heights down on the Honeoye Lake Shore District. And that is because they don't

want you blocking the views, up and down the lake. And at intersections and roadways. Blocking views, obviously for safety reasons. So, those are some of the stipulations for a fence. No, you don't need a permit to build one. And, you can put them right on the property line. You could put a patio there, like a paver stone patio, something like that. You don't need a permit for that. It doesn't require setbacks, because it's not a building.

E. Bott - It's on the ground. So, you guys can discuss your options with him and get a better understanding of what the laws are.

S. Smith - You could pour a pad. You can't put a roof on it or anything like that, but you could pour a pad or paver stones, or anything like that.

J. Palma - When does this deck have to be down by?

S. Smith - I can give you, I would grant you 60 days. I can write that up and send you a letter on that.

J. Palma - So, if I bought the property next door to me, just a question, if I bought the property next door to me, that becomes my property, so, I can now extend it?

E. Bott - You would have to combine the lots, for that to be the case. That would change the property lines. For reference, people have bought adjacent properties and redone the property lines. But, you would have to go through the Planning Board and they would do a site plan review. We have had situations where people, it happened right here on 37. There were 3 cabins on 2 pieces of property and the actual property line ran through 2 of them. So they combined them and then split up the property lines so they didn't run through the buildings. And there was somebody on the lake, I think it was last year. They bought the lot next to them and then they re-split them. When you re-split lots, you have to go to the Planning Board for a site plan. People have done things, just like what you are talking about to alleviate these issues. If they had that lot split the first time, your house is too close when they drew the lots. I don't know when that happened, it was before we had all the rulings and stuff we have in place now.

S. Palma - You said that the ruling, what year was it again?

E. Bott - In the 90's. I can't remember the exact date.

S. Palma - Our property was split in 2002, I believe. We bought the house in 2002. Paul did not buy the house in 2002, regardless.

E. Bott - They have the review and the planning board people do that to prevent these problems. So you are not so close to the line. I don't know how narrow or wide the lots are, they control those too.

S. Palma - It's just disappointing that our existing property was split as such, there the rules were broken.

E. Bott - I am not disagreeing with that at all. That's one of the issues they are supposed to take up when they talk about those splits creating a bad situation. If that property line was moved over 5 ft., then your original, you would have probably been fine. Because, I think the first one was like 3 ft. away.

S. Smith - That would have made it 3 ft. variance.

E. Bott - It would have made it like 8 ft. or something like that. It would have made a big difference. The variances aren't for you, they are for your property. So, if you are too close to your property line, what happens with a wooden structure is, now the guy on the other side can't get, I think it's 10 ft., or 20 for the state? That's why they do this, they don't want buildings so close together that if one catches fire, the other one can catch fire.

S. Palma - I understand that. But, let's face it, there are properties on Honeoye Lake that are closer than 10ft.

E. Bott - That's why they put these things in the code, to try to stop that.

S. Palma - I understand where you guys are going with it. The problem is, that's not the common, typical piece of the area, right? If an appraisal was done on a property and we are looking at variances and so on and so forth, it's common typical for homes to break those codes because they are either grandfathered in or it's just common typical for the area.

E. Bott - There have been a lot of people doing things without getting permits and getting variances. Whether that porch was done before---

S. Palma - No, no I mean just in general, you're saying it's to protect the property, but in reality there are--

E. Bott - That is the reality.

S. Palma - There are a hundred examples on the lake of properties within the code that you are talking about and because it is common typical for the area. It doesn't affect the marketability of the home, it doesn't--

E. Bott - This isn't about market.

S. Palma - I understand, but you are telling me this is to protect the property. I'm telling you it doesn't affect the marketability of the home, which is what homeowners want.

E. Bott - The market is not our concern.

S. Palma - It doesn't affect the safety of the homes, because at the same time, it's there, it's not moving right? It's just disappointing that the codes were broken to split property lines because of a certain reason, I don't know what those were, but now they are not being considered.

E. Bott - The codes are being considered.

S. Palma - Ok, today, but they weren't.

E. Bott - I can't do anything about 20 or 30 years ago.

S. Palma - I know, I know.

J. Palma - If Paul agrees to sell me 5 ft. of property on that side, would that be acceptable?

S. Smith - You would still have to apply for another variance and you can't do that for another year. If he sold you 7 ft. and you would have your 10 ft., you wouldn't have to have a variance.

E. Bott - Actually 8.

S. Smith - If he sold you 8 ft. along that area where your deck is. I don't know how close his cottage is to the property line.

E. Bott - It would still have to go through the Planning Board, so they could review that.

S. Palma - Who's the Planning Board? Is that you guys too?

S. Smith - Ted Mayhood is the Chairman. Now you are looking at, you can't create another non-conforming lot. I know Paul's rentals are kind of close to the property line. I'm not sure about that. If you moved over 8, it's going to make that 8 ft. closer. If he was 10 ft. from that new boundary line, all would be good.

E. Bott - It doesn't have to be completely straight either.

J. Palma - All I am thinking of if Paul sells me to where the deck ends--

J. Hallett - Like a horseshoe piece around the deck.

S. Smith - Square it off the deck. I think his cottage sits back more toward the road than the deck does, if I remember correctly.

E. Bott - Even if he agrees, you still have to go to the Planning Board to get approval, because

now you are creating, I don't know if it would be two non-conforming lots or what the actual rules on the size of the lots are. That's what they get into.

S. Palma - What would be considered, and you probably don't know what the nonconforming piece of it.

S. Smith - I don't think you are going to make that nonconforming.

E. Bott - He's at least 50 ft. I don't know how big the other guy is.

S. Smith - He's got a pretty good sized lot.

E. Bott - That might not even be the case. I'm just giving you a heads up on how they work things and what they are looking for.

S. Smith - Let's say if you are within the 60 days and I get some information from Paul and you guys that you are going to the Planning Board for a subdivision. Paul would have to apply for the subdivision and would have to have it surveyed again. But, he has a current survey because of the house and all that, you know. If we get some kind of paperwork going that you are going to the Planning Board for a subdivision application, or Paul is, we could extend the 60 days. As long as you follow through with the Planning Board. That would be Paul's application.

E. Bott - Yes, because it is coming off his property.

S. Smith - Yes, because you are subdividing his property.

E. Bott - The people in town have done things like that, where they already had existing situations that weren't causing problems, they did the same thing that you guys are talking about. We just had one last year, where they split it off and they tore one house down. They bought the lot first, because they had to, just like what you are talking about. They took ownership of the whole area and then they could apply to resplit it. But, you have to do it in that order.

S. Smith - We had a guy that built a barn, up near you, I think. He built a barn and a little bit was on his neighbors property, so he bought that strip of property.

E. Bott - This just doesn't happen on the lake.

J. Palma - So, my question is, does this have to be the 8 ft.?

E. Bott - You have to be 10 ft. from the property line. Otherwise, you have to have a variance.

S. Smith - You have to wait another year to get a variance.

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J. Palma - I understand that. Just asking, does it have to be 10 ft.? Because, when I talk to Paul, I want to be precise. If I can get away with 6 ft., I want to tell him 6 ft.

S. Smith - You have to go with 8 ft., so you don't have to come back in for a variance. That way you wouldn't even have to apply for a variance.

J. Palma - Ok.

S. Palma - We are just talking about the new addition piece?

E. Bott - Yes.

S. Palma - Ok.

S. Smith - I would extend it right out to the front of the other porch.

J. Palma - I will ask. My throwback is going to be just the new decking at the 10 ft. line. I can ask him for the full part.

E. Bott - That's the only thing we can consider, because we don't know the history of the other one.

S. Smith - I don't know the history, because it was long before I started working here.

E. Bott - We can't hold you guys accountable for something that happened before you did this. That's irrelevant.

S. Palma - Very good, thank you. We appreciate it.

The Public Hearing concluded at 8:05 p.m.

PRELIMINARY HEARING - Judy & Tim Plain

Serge Tsvasman from Design Works Architecture is representing Judy & Tim Plain for their variance request.

D. Horning invited Serge Tsvasman to come and sit before the board.

S. Tsvasman introduced himself and stated he was representing the Plains'.

S. Tsvasman - So, we also have a nonconforming situation with a side area setback. We are looking to put two additions on it. One is on the east and west on the property. We are asking for an additional, I believe it's 8 ½", or so for the nonconforming side yard.

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E. Bott - So, why the 8 ½”?

S. Tsvasman - That’s what it does to the side yard, because it follows the building line to the west.

E. Bott - So, you are extending on?

S. Tsvasman - West side

D. Horning - The front and the back.

S. Tsvasman - Yes, the front and the back.

E. Bott - You are extending on both ends.

S. Tsvasman - On both ends, yes.

S. Smith - On both ends, would actually be north and south.

S. Tsvasman - East and west.

E. Bott - You have north and south going on to.

They discussed the drawings.

S. Smith - The addition on the south side would be a deck, also?

More discussion of the drawings and how the existing building is situated on the lot.

S. Tsvasman - There is an addition on the north that wraps around, but that does not affect the zoning variance.

E. Bott - Ok, because that is on the other side.

S. Tsvasman - It’s the south setback that is the issue.

S. Smith - Which butts up to Rick Mitchell’s property.

S. Tsvasman - So, there is actually a property here that’s non-buildable. Apparently, it’s a right of way for the other homes that are up the hill.

E. Bott - Is that on the north or south side? North side?

S. Smith - It would be on the south side, Rick Mitchell's property. I'm not aware of a right of way down there, but there could be.

E. Bott - So, this side here, the side that is closest to the...

S. Smith - He owns a large home there and he also owns a home in the back. He actually had three cottages there, on that property that he had demoed.

E. Bott - So, you think there is a right of way on this side?

S. Tsvasman - That is what I was told, for the cottages up here to be able to have access to the lake.

E. Bott - Yup, there is a lot of them around the lake. You need to find that out.

S. Smith - There's no cottages really above Rick Mitchell. He goes right up to 36.

E. Bott - Yes, but there's, we've come to this before, where there are right of ways. Lake access right of ways, because you will see the house advertised from the other side of the road, that they have lake access.

S. Tsvasman - It's not a buildable lot. There's no neighbors.

S. Smith - The right of ways vary down there to, they are 10, 15, 20ft.

E. Bott - You're going to need to find that out. That can make a difference. You need to find out if that is a right of way down there, because that could affect...

J. Hallett - So, I am looking at the county web site here.

S. Smith - I might have it on my phone. OnCor shows a right of way along the property line?

J. Hallett - It's loading.

D. Horning - All those on Sweet Pea say in the deeds, right of way to the lake.

S. Smith - That right of way can be whatever, but that is in Rick Mitchell's deed.

S. Tsvasman - Showed the board the picture from OnCor that he downloaded on his laptop. He explained the property and where the right of way was located.

S. Tsvasman - It is my understanding that that is a family parcel, so it's not buildable. I don't know that it's an issue.

There was discussion of the map S. Tsvasman had on his laptop.

E. Bott - What we described to the previous people sitting here, the variance isn't for the owners, the variance is for the property. If that is another lot, then it is another lot, period. If they sold it, somebody else would be affected by whatever is on the lot next door. Where the right of way there, it shows that little silly strip in there, now that's the case where something can't be built. There are places down along the lake that have big run-off ditches and stuff, where it can be close to the property line, because there is a ditch there and nobody is going to build there anyway. Those things can affect the realistic distance from the next place.

D. Horning - So, here the existing set back is?

E. Bott - It's 5ft. It's crooked so if they extend it, it just makes it closer.

S. Tsvasman - Unfortunately, that is the situation here.

S. Smith - It would just be the south side here, looking for the variance.

S. Tsvasman - Yes, that is why it is non conforming.

J. Hallett - You are asking for an additional 8 ½" for the already non conforming lot?

S. Tsvasman - Yes, so that we can build towards the rear yard, which is to the west.

E. Bott - Is this a deck here.

S. Tsvasman - That is the addition with a stair access.

E. Bott - So, that's new too?

S. Tsvasman - Yes.

E. Bott - That's only 7 ½ ft. there. That's under 10ft.

S. Tsvasman - That's under 10ft., yes.

E. Bott - You need a variance for both sides. That one is 7 1/2ft. which isn't missing the 10 by that much and the other one is a little bit closer.

There was more discussion of the drawings.

S. Smith - You will have to get the deed, who owns the actual right of way. Somebody is paying taxes on that lot.

E. Bott - Actually, the right of way doesn't even come into play with this, because there is a lot in between it.

S. Smith - So, the right of way is not on the property line?

E. Bott - You have a lot and the right of way is next to it. If they combined the lots, then we wouldn't have to worry about it. Instead of drawing a straight line, they drew it to match the house.

D. Horning - That piece right there is owned by the family?

S. Tsvasman - That's what I was told.

S. Smith - We actually don't know that until we get the deed. He has to get the deed and see if it's owned by the family.

E. Bott - It's still a split lot. If they sell it then, it is affected by that.

S. Smith - If they combined it, there wouldn't be a problem.

E. Bott - If they combined it, it would be a non issue.

D. Horning - That's true, it wouldn't make a difference. They could build all they want on that side.

S. Tsvasman - I don't know if that's on the table, or not.

S. Smith - If that little strip of property is actually in the family, it doesn't take much to combine properties.

S. Tsvasman - I suppose, but I'm not here to speak on that.

S. Smith - If it's in the family, they would have done that already.

E. Bott - There are actually two variances. Both ends of the house are going to require a variance.

S. Smith - I thought just one.

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E. Bott - The other one is only 7 1/2ft.

S. Smith - The other one is only 7 1/2ft.?

J. Hallett - Does that make for two whole separate variances, instead of just the one.

E. Bott - Yup.

S. Tsvasman - Even though we are adding to the east side...

E. Bott - Any time there is a new footprint.

S. Tsvasman - Either way we are non conforming in both directions?

E. Bott - Yup.

S. Tsvasman - Got it.

S. Smith - I was only aware of the south side addition, not the north side addition.

E. Bott - That's why I was asking all the questions.

S. Smith - On the first proposal, they were just going south.

E. Bott - So, it is actually two variances. We need to make that part of the record.

S. Smith - We can just do that under the same application.

E. Bott - You can do that.

S. Smith - Since it is the same property.

They discussed the two separate variances.

D. Horning - Do we have any more questions on this?

E. Bott - So, that is 7 1/2ft. to the stairwell?

S. Tsvasman - The stairs service that new addition, yes.

E. Bott - So, without that, you wouldn't have this variance to the front. Is there going to be an opening on the side over here, is that the plan?

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S. Tsvasman - Did you get the images of this? I printed out some 3D's of what the proposal looks like.

S. Tsvasman - I think you are misreading the dimensions of that. It is 3ft. 7 ½" from the property line.

E. Bott - Oh, that's 3ft.7 ½"?"

S. Tsvasman - Not from the new building, but from the stairs. The building is further away and more conforming on the lake end.

E. Bott - Put the stairs on the other side and you won't have to worry about it anymore.

S. Tsvasman - The porch is not on the other side.

E. Bott - The porch is across the whole front of it.

S. Tsvasman - But, it's not, it is actually a livingroom on the other side and the porch is on the south side..

J. Hallett - The windows over here are not the porch?

E. Bott - So, this is split right there.

S. Tsvasman - Yes, there is a wall right there. This is the porch.

They discussed the drawings for more clarification.

E. Bott - I'm going to need what the existing situation is to the property line from this corner of the house. This one says 5ft. and the other one isn't marked.

J. Hallett - Is this shed still there, I don't see it in any of the pictures?

S. Tsvasman - Yes, the shed is still there. It may have gotten cut out of the picture. It wasn't intentional.

They talked about the location of the shed.

E. Bott - So, you are looking for a variance of 3ft. 7 ½" on one end and 4ft. 3 ½" on the other side.

S. Tsvasman - Correct. So, right now it is 7ft. 2". It's not a set back, but an encroachment to

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the 10ft. So, we are looking at half of that into the 10ft.

S. Smith - You are looking for 6ft. 4 ½” on the stair side.

S. Tsvasman - So, the building is 7ft. 5 ½” from the property line. So, I guess the stair landing is the issue here?

E. Bott - Yes.

J. Hallett - You can't put the stairs around the front?

S. Tsvasman - No, it's not an ideal situation. This is the supposed living space, with a sun room.

J. Hallett - Just an idea.

S. Tsvasman - This is all windows and if the stairs went across the front, it would block the view of the lake.

S. Smith - There is another thing that needs to be taken into consideration, on the lake side, the addition on the lake side. I know the neighbor to the south, his home is fairly close to the lake. There's also a law in the zoning that this addition on the lake side, towards the lake can only go half the distance of the adjoining properties. So, what I do, I go down and measure from the neighbor on the north side, from their structure to the lake and I do the same from the south side, from their structure to the lake and take the average and that is as close as that addition on the lake side can go out towards the lake. So it is not blocking views.

E. Bott - That's what you've got here?

S. Tsvasman - We did that before we did anything. I marked that right on the map.

S. Smith - Ok, good.

E. Bott - This is the first one that has actually done that.

S. Tsvasman - We went through the whole process, before we even drew anything.

D. Horning - We will see you in a month.

S. Seeley - November 10th at 7:30 is the public hearing.

S. Tsvasman - So, today there is no decision?

S. Seeley - It's a preliminary hearing today and next month is the public hearing.

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S. Smith - I thought I explained that to you.

S. Seeley - There will be an ad in the paper about it.

S. Tsvasman - I guess that is why I didn't see a legal notice about it on the web site.

E. Bott - That won't happen until the next meeting.

S. Tsvasman - November 10th at 7:30.

S. Seeley - Steve will go down and put signs up.

S. Smith - I go down the week before and post signs that it is under review.

S. Tsvasman - So, do you guys deliberate then?

E. Bott - Yes. That is exactly what we did before you came up a deliberation on the variance.

S. Tsvasman - So, that was a public hearing?

E. Bott - Yup.

J. Hallett - They were here last month to do what you just did.

S. Tsvasman - I see. Do I get any indication on how I am standing or what the board feels about the project today, so that I could share that with the client?

E. Bott - I can't give you anything official. I will tell you, you are too close.

S. Tsvasman - What would alleviate that burden on the client? Something in writing from the property owner on the adjacent lot?

E. Bott - It doesn't help a lot, because it's not for the land owners, it's for the lot. So, for example, if they sold that lot next door, now someone else is burdened with that encroachment. So, just in general, one of the things we have is whether the request is substantial and that is pretty much based on percentage. So, if you are more than 50%, it leans in your favor, if you have less than 50%, it goes against you. That's the general ruling. Once you get below the 50% of the request for the variance, now the odds are going against you. But, that's not the only thing. If there was a ditch there or a right of way, where nobody could ever build in a right of way, then that can affect it too.

S. Tsvasman - In a positive way or a negative way?

E. Bott - In a positive way, because if you've got a 15ft. right of way, no one can actually build there, ever. That's the whole point. Personally, it's like 15ft. of no man's land. Nobody else can build in there either. That's the whole point, it's too close.

S. Tsvasman - That's how it was described to me and I will have to verify what the deeds say, if there is actual proof of that.

S. Smith - I do have a question for you, Serge. The width of the stairway landing?

E. Bott - It's got to be about 3 ½ ft., in that range.

S. Smith - Yes. What I am thinking is, if you moved the slider over to the north side of the house.

E. Bott - That makes a big difference.

S. Smith - Put a stairwell off of there. Move the slider over to the north side of the house and just put the double windows on the front. It's not like they are going to be sitting out on that if it is only 3ft. wide, anyway.

S. Tsvasman - So, this stair is 4ft. wide. Could a concession be to take 6" off the stair?

S. Smith - It's more egress than anything. My suggestion might be to put the slider on the other side, the stairwell and the landing on the other side. And that saves you 3 1/2ft.

J. Hallett - Do you mean on the east side, just around the corner, or do you mean the completely opposite side of the building?

E. Bott - Opposite side of the building.

S. Tsvasman - So, you are saying, put it on the lake side. Put the stairs...

S. Smith - On the lake side, yes.

S. Tsvasman - Then we are blocking the views and you have a deck over here.

S. Smith - What do you mean, for the railing? The railing doesn't have to be slats. A lot of people are using the coated wire, that really isn't obstructive.

S. Tsvasman - Ok, I will share the feedback.

S. Smith - Just something to think about.

S. Tsvasman - So, I need to find out exactly what that deed says about the property.

E. Bott - If they are combined, you don't have to worry about any of that. But, if they are not combined, we still have to treat it like it is a separate entity. Because they could sell it in the future.

S. Tsvasman - Do you need anything else from me?

D. Horning - No, I think that's it for now. You've got your homework.

E. Bott - You've got the details. You've done your job.

D. Horning - Ask questions about that lot. That would be part of what the decisions are on that part.

S. Tsvasman - Should we ask less because it is a stair, opposed to a deck?

S. Smith - It's still considered part of the building.

S. Tsvasman - Well, thanks guys.

D. Horning - Thank you for coming.

E. Bott - You've done a good job providing the details.

S. Tsvasman - If there is anything else you can think of.

S. Smith - Ok, Serge.

S. Tsvasman - Good night everyone.

Preliminary Hearing for Plain concluded at 8:30p.m.

PRELIMINARY HEARING - DAVID RYDELL

David Rydell was not present for the preliminary hearing. The board reviewed the variance application.

E. Bott - I can tell you that the problem I have with this one is the same kind of thing. But, they said they need to put a porch on for safe access. This porch is 25ft. wide. That's a little more than safe access. It's the full width of the house.

J. Hallett - But, they aren't extending the house any closer than it already is, just making it

longer.

D. Horning - What is the setback there?

E. Bott - That's the problem, they are going to have to give us all that information. The house is grandfathered 3ft. from the south property line. The porch should match the roof line of the house.

J. Hallett - So, we are looking at a 3ft. setback?

E. Bott - Yes, extending the 3ft. setback.

J. Hallett - We don't know how deep the porch is.

E. Bott - They don't talk about how deep it is, you can just tell by how wide it is.

S. Smith - The variance runs from the road.

E. Bott - Oh, how close are they getting to the road, there is nothing there either.

S. Smith - 16ft.

J. Hallett - It's supposed to be 20.

S. Smith - 20 on Honeoye lake shores.

E. Bott - This is one of the ones where, if they don't make it so wide. It's only a 25% reduction and again the percentage comes into play. It's not invading the right of way. To me it's one of those things that if you don't make it as wide, you don't have a problem.

J. Hallett - If they cut 7ft. off of it. They could center it around the front door.

D. Horning - The width, if they cut it off here and made it $\frac{3}{4}$ of the way. They wouldn't need a variance on that part.

J. Hallett - They could center it around the front door.

D. Horning - How about the setback?

E. Bott - You said the new one is only 16ft.? We don't know what it is now.

J. Hallett - They want this porch to be covered.

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D. Horning - You can still cover it. Well, if he didn't want to come and explain to us what they wanted.

S. Smith - He probably forgot.

E. Bott - He will have a good chance to talk at the public hearing.

S. Smith - I will make sure I get a hold of him before the next meeting.

D. Horning - Just tell him he has to come.

S. Smith - I have been in touch with him.

E. Bott - He doesn't have to come, it's not going to help him any, that's for sure.

D. Horning - Does he live there?

S. Smith - David Rydell lives in Rush. I have it on his building permit application.

D. Horning - They don't need a full porch across the front of that house.

E. Bott - No.

Preliminary Hearing for Rydell concluded at 8:35

Old Business

E. Bott made a motion to approve the minutes from the September 8, 2021 meeting,
D. Horning, seconded, all in favor.

D. Horning made a motion to adjourn the meeting, E. Bott seconded, all in favor

Meeting adjourned at 8:40 p.m.

Respectfully,

Stephanie Seeley, Secretary