

TOWN OF DOVER ZONING BOARD OF APPEALS REGULAR MEETING HELD ON WEDNESDAY, February 18, 2009, AT 7:00 PM AT THE DOVER TOWN HALL:

PRESENT: Chair Marilyn VanMillon
Member George Wittman
Member Anthony Fusco

Also in attendance was Secretary to the Board, Maria O’Leary, and Attorney Michael Liguori of Hogan and Rossi.

Chair VanMillon called the meeting to order at 7:02 pm and began with the Pledge of Allegiance.

Chair VanMillon stated that the first item on the Agenda was a discussion for Ten Mile River, LLC, but has been removed from the Agenda. She then read the second item on the Agenda as follows:

Re-opening of the PUBLIC HEARING - **CAMP RAMAH** – Z 2008-02 – Applicant seeks two area variances to appeal Section 145-11 B. of the Town of Dover Zoning Law. The requested 9,576 sq ft area variance and the requested 25’ area variance would, if granted, allow the applicant to erect a gymnasium on the property without meeting the required 6,000 sq ft maximum and the required 40’ front yard setback from Ramah Road for the RU district. This property is located at 91 Ramah Road, Wingdale, NY, on tax grid #7161-00-610450.

In attendance were the applicant, Joe Zarecki of Zarecki & Associates, Rabbi Resnick of Camp Ramah, Business Manager Mr. Landau and Attorney Michael Hayes of Daniels and Porco, LLP.

MOTION: Member Wittman motioned re-open the public hearing; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye Member Fusco – Aye
Member Wittman – Aye

Attorney Liguori: I would like to make brief comment for the record just to advise the Board as to where we had left off and why we’re doing what we’re doing today. Previously, the Board had voted to deny the requested variance; this was done prior to a negative declaration being adopted under SEQRA in connection with the review by the Planning Board. Generally, area variances are Type II Actions under SEQRA, so if this was an application for a variance that was otherwise not related to something else, it would be a Type II Action. Since the Planning Board had site plan approval, it wasn’t a Type II Action, it’s an unlisted action but required variances from the Zoning Board of Appeals. SEQRA requires that the environmental review be conducted before an approval is granted, which means that it’s appropriate for a negative declaration to be adopted before the ZBA would go forward. It’s been my opinion to the Board and remains my opinion that that prior denial was void because SEQRA wasn’t completed. This public hearing was scheduled and we can turn the meeting over the applicant and its representatives.

Joe Zarecki: I’m here tonight with Rabbi Resnick and new business manager, Mr. Landau and attorney Michael Hayes to help go over the project. The project lies pretty much centered within the facility of the Camp itself and the proposed gymnasium and the nearest property line is about 400’ away. Where the facility is proposed is actually in the hollow, so it’s really not visible

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from the area around it and the one variance is a side yard setback. Although the applicant owns the entire property, there is a sliver of property that runs along the old road bed and it's probably 20' - 30' wide, so by technicality, there is a property line there for which the variance is being sought for the setback, but on both sides of that little strip of land is the applicant's property.

The building is going to be used for a gymnasium and a bathroom facility to have some indoor entertainment in the event of inclement weather; that would be the gathering place; a lot of the activities will be indoors. The facility is roughly 15,576 square feet and basically it's going to be a basketball court, which pretty much dictates the size of the facility; the ordinance requires a variance for anything over 6,000 square feet. In all technicality, three 6,000 square foot buildings with a separation between them may have been built, but we want to keep it confined and have a nice looking building on the property so it's all uniform.

We've been to the Planning Board and as we've said, the SEQRA determination was made and we also have been in front of the Architectural Review Board and showed them the plans of the facility and they are in conceptual agreement with the plans and going back to the Planning Board. At the Planning Board process, there will be other site plan approval processes which will need to be taken care of. We submitted preliminary storm water reports, we had preliminary negotiations or discussions with the Dutchess County Department of Health for water and wastewater for the facility and everything else seems to be falling into place. We're here tonight in front of the Board hoping that you'll see that the impacts on this site have a negative impact on the property or project.

Attorney Hayes: I'm a partner with the firm of Daniels and Porco located in Pawling. I do a fair amount of this kind of work; I do work for applicants who appear before Boards as well as representing Boards including all the Boards in the Town of Amenia and the Village of Pawling, so I've got a pretty good familiarity with the question that you have to answer tonight and I'm going to come at it from my lawyer's perspective, which is to really look at the five factor test that's laid out in the NYS Town Law and explain to you why, from our perspective anyway, that we believe that in applying the test, the variance is justified.

The first factor is whether or not an undesirable change in the neighborhood would be produced or whether there would be a detriment to nearby properties if the variance was granted. We believe the answer to that question is no, there will be no detriment to nearby properties or an undesirable change in the neighborhood and both the courts that have looked at this as well as the leading commentator in the area, an attorney from Rockland County named Terry Rice, who I'm going to speak about in length tonight and who I'm going to quote from somewhat extensively as he is the leading commenter on land use and zoning issues and has written the practice commentaries to the NYS Statute book that many of us lawyers in the land use field rely on pretty heavily, so where I can, when I can point to language from his commentaries and present it to you in the sense of somebody who has written on the subject than simply coming from my words as an advocate as representing a client, I want to highlight areas where I'm doing that and both the courts as well as Mr. Rice have said that while no one of the five factors that you have to look at is determinative, that it's clear that the effect of a variance application on the character of neighborhood is of paramount consideration. This factor gets more weight than any other factor, so I'm going to spend a little more time on this factor than on some of the other factors.

First, as Joe has indicated, the proposed gym site is located in close proximity to the majority of the existing buildings within the Camp and it's centrally located. As a matter of fact, a number of

the activities that will take place in the gymnasium will draw people into the center of the property whereas the way the property is currently set up, a lot of those same activities are being drawn away from the center and out to the outline areas where there are basketball and volley ball courts. So in terms of the impact on the neighborhood and on the community, if people are going to be drawn to the center of the Camp, it certainly will not be a negative impact on the neighborhood or the community and the factor of potential benefits.

I have been told that over the years, there were periods of time when noise complaints have been issued. Again, by drawing activity to the center of the property as opposed to pushing it out to the edges of the property, we believe that that will be responsive to some of the noise complaints that have been voiced by neighbors, both at a public hearing and other venues.

As Joe also mentioned the Planning Board has issued a negative declaration in its capacity as lead agent for SEQRA. As I'm sure you're aware, because you deal with SEQRA too as the ZBA, in acting as the lead agency and in the issuing of the negative declaration, the Planning Board was required to go through a determination of significance process. In order to ultimately issue a negative declaration, the Planning Board was first required to thoroughly analyze the project's potential impacts on any number of environmental constraints, including visual impacts, noise impacts, water quality impacts, water quantity and water supply impacts, traffic impacts on community character and impacts of neighborhood character. Under SEQRA, if the Planning Board felt that there could have even potentially been one significant impact in any of those areas of review, the Planning Board would have been required to issue a positive declaration both with the FEIS process and full environmental review; the Planning Board didn't do that; the Planning Board instead adopted a negative declaration and the only way they could have done that is that they determined that there affirmatively will not be any significant impacts in any of those areas of review, which, again, include community character and include neighborhood character.

I understand you have a different decision that you have to meet, but recognizing that the Planning Board is lead agency and has looked at those issues from an environmental perspective, I do think that's an important factor to put before you that you did not have before you when you made your earlier vote. I certainly agree with the analysis of your council with respect to that vote being void and therefore, not binding you as a Board in anyway, in whatever decision you may ultimately make on this application and hope that with the benefit of the Planning Board's negative declaration that that may influence your assessment of whether this is going to have sort of negative impact or affect on the neighborhood or the community at large, because again, the courts and the leading commenter on this topic have said that that is the factor that is of paramount consideration; it's a factor that I'm going to come back to when we get to the issue of substantiality, which I believe is perhaps one of the areas that the Board is focused on as to whether or not in applying the substantiality factor, this is a variance that can or should be approved.

I also want to talk about the potential impacts on the neighborhood and the community. This is not part of a larger proposal to also add cabins or facilities then the number of kids who are going to be coming to camp each year, this is rather an attempt to better serve and better provide services to campers who are there without a corresponding proposed expansion of the Camp. Again, we're looking at what the impact is on what we're requesting here in the community. You're really not going to see it if they are less likely to hear than what you already hear going on and there's no proposed expansion that would involve increases in traffic or increased density of use on Camp property and I respectfully submit that applying this first

factor that there will not be any negative impacts or detriment to the community and there's potential for some positives.

The second factor that we're going to have to apply is whether the benefit sought by the applicant can be achieved by some other method which is feasible for the applicant to pursue other than an area variance. The simple answer to that question is, no. As Joe has indicated, the basic dimensions of the basketball court require construction of the building that's larger than 6,000 square feet. You can't have an indoor basketball court in a building of less than 6,000 square feet. As I understand, some are between 8,000 and 9,000 square feet minimum just to serve that use, so, no, you can't achieve this same goal without a variance at all. Could you ask for a lesser variance by building a smaller gym? I guess you could, but it will ultimately put the applicant in a position where they would need to build two buildings instead of one building; the second building may also need a variance and ultimately, I don't think it's feasible for the applicant to build two buildings when one could be built to serve all needs; from an environmental standpoint, I don't think it's in the best interest of the Town that if you have two buildings, you have increased impervious surface, you have increased infrastructure, you can increase potential impacts on water quality and water supply and so I don't think it's feasible nor would it make sense to build two buildings right next to each other when one building could be constructed to serve the primary use.

The other factor here is, what's the purpose of the 6,000 square foot requirement? Why do we even have this requirement? Your Zoning Law provides that answer. According to Section 145-11 in your Zoning Law, footnote 10 of the dimensional use table, the purpose of the 6,000 square foot requirement is to maintain the historic scale and character of development in Dover and I would say that that is certainly the purpose that would make sense in a lot of communities with a lot of streets and blocks, but when you're talking about a camp that has existed for a very long time, and about a building that is wholly and centrally located within a camp, and not particularly visible from the outside world, nor will it's construction have any particular impact on the outside world, I don't believe that approving a variance would, in any way, interfere with being inconsistent with the overall scale of development within the Town of Dover itself. I don't think this is a situation that that 6,000 square foot limit and that purpose was designed to address, which brings me to the third factor. Is the variance substantial? It is obviously a significant difference between the amount of requested square footage and the 6,000 square foot limit. I'm not here to tell you any differently; I'm here to tell you that mathematically this is not a substantial difference, then I would not expect you to listen to anything I had to say. Mathematically, it is a substantial difference, but legally, how that substantialness factors as applied, is not limited to the mathematical computation, it's the first step in the process.

The second, and more important step in the process, legally, is we've identified the mathematical number. That being said, what's the true impact or effect on the neighborhood? When I first started talking, I said I was going to quote from Terry Rice in certain situations. I'm going to quote from him a little more extensively than I normally like to in a public speaking environment because it involves reading from a piece of paper and we may lose a little bit of the connection, but as I recognize him as an advocate for my client and because I think that Terry Rice has repeatedly in his commentaries come back to this point, and he updates them on an annual basis and multiple years he has spoke to it. Let me just give you two minutes of Terry Rices' words on this subject, then I'll explain how I think that applies to our situation.

The Zoning Board of Appeals generally should not view substantiality in the abstract. The totality of the relevant circumstances must be evaluated in determining whether a deviation is truly substantial. Although that percentage deviation from the applicable bulk requirement is not

an irrelevant consideration, the overall impact of requested variances is a more germane and accurate indicator of a substantiality of the requested variance. The effect of the variance in the neighborhood, its true impact, and the necessity for compliance when the regulations mandate all are highly significant considerations in undertaking such an analysis. Substantiality of a variance cannot be judged solely by a comparison of the percentage deviation for the mandated requirement of the zoning regulation. Instead, the overall affect of the granting of relief is the relevant inquiry; therefore, the more logical approach is to consider the affect of the deviation and the circumstances as a whole in order to rationally assess whether a variance is statistically large or statistically small is actually substantial. That ends the quote.

In applying that analysis to our situation, the Planning Board has looked at it and issued a negative declaration where it's not going to be visible from most areas. In any area where it might potentially be visible, it's not going to have any significant impacts, where it draws activity into the center of the Camp and is located at it's closest point more than 400' from any property lines, where it's consistent with the historic use of the property, it has the potential to minimize the complaints that neighbors have previously had about the activities that occur at the Camp on a seasonal basis. We apply all of those factors; mathematically the difference in numbers is a substantial number when you apply the actual legal test and focus on the overall affect and impact on the variance. That, I think, you could rationally determine that in fact the variance is not substantial given the very precise legal meaning of substantial as in the context of this five factor test.

The fourth factor is whether the proposed variance will have an adverse affect or impact on the physical environmental conditions on the neighborhood or district. The Planning Board has looked at that. They said that there's not even the potential for a significant adverse impact and therefore, it should be a negative declaration.

Finally, is the alleged difficulty self-created? Applying the legal standard to self-created hardship, this is not a self-created hardship. The Camp has been in operation long prior to the 6,000 square foot maximum building size having been enacted in the zoning. The property has been owned and operated for a particular use prior to the adoption of the new zoning law. The owner is not deemed to have engaged in any self-created hardship by asking for a variance because the owner could not be expected to anticipate the potential changes in the zoning that might occur after acquiring ownership and commencing operation of the property as a camp.

I appreciate your patience of me speaking of these dry issues, but the legal test is ultimately what guides your decision and I wanted to take the opportunity to address each of those factors. Having spent part of the last couple days down at the Association of Towns, I know how difficult it is to be in a conference when the presenter is focused on legal issues and dry topics and I hope I fall too deeply into that category and certainly I'm here with two representatives of the Camp to answer any questions you may have regarding any of the factors we touched on or anything else that is something that you're concerned about.

Member Wittman: I think he did a very good presentation of the facts for his client. I don't have any questions; I think you covered it fairly well. I don't know if there are any other people here that wanted to speak tonight.

Chair VanMillon: I do have the determination and should read it into the record.

Attorney Liguori: You can simply note that it was read in.

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Chair VanMillon: We also received an e-mail from James Haggart, who is the Chair of the Dutchess/Putnam Appalachian Trail Management Committee requesting that any new structure be designed in such a way to minimize their visual impact. (She then read the e-mail into the minutes.) I'm not sure if we want to close the public hearing, because that would mean that we would be voting on it tonight or within the next 62 days.

Attorney Liguori: It's up to the Board as to whether or not they want to close the public hearing. If you anticipate additional comments, it's a decision for you to make.

Member Fusco: If we close it tonight, we have 62 days to vote; we don't have to vote tonight, correct?

Attorney Liguori: Yes, but if there are concerns from the Board, then we should certainly discuss them tonight.

Member Wittman: If we close it tonight and do not vote, if something does come up that needs to be entered into the record, it's already closed. Unless we're going to vote tonight, then we should keep it open to the time we want to vote.

Chair VanMillon: I also feel that if we keep it open, we may get additional members on the Board, which I don't think there is anyone coming on the Board in the near future.

Attorney Liguori: It needs to be an affirmative vote by all three members. The first decision is if you know that you're not ready to make a decision tonight and would like to keep the public hearing open, you can keep it open; it's within your right to do that. If you're ready to vote, you can close the public hearing and make the vote or you can close the public hearing and vote within 62 days.

Member Fusco: Would it better serve the public's interest if we keep it open just to make sure we have all the public comments?

Member Wittman: I would think that if there were going to be more public comment, they would have been here.

Secretary O'Leary: The neighbors were re-notified and it was also noticed in the Poughkeepsie Journal.

Member Wittman: Then the only reason why we would keep it open realistically, I think, is if one or more of us feel we need more time to do this. I don't think I need anymore time.

Member Fusco: I was more concerned about the public. If the neighbors were notified again, then I'm fine.

MOTION: Member Wittman motioned close the public hearing; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye Member Fusco – Aye
 Member Wittman – Aye

Member Wittman: I'm not sure that we have, in spite of the fact that this gentleman made an excellent presentation, any additional facts that we didn't have the last time. My comments from the last time would be identical to what I would say tonight, and that is basically that, while I

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understand what they want to do there, the amount of the variance is still almost 160% over what is allowed. Listening to what their attorney had to say and quoting from a book on zoning matters, that does not change the fact that our zoning law says 6,000 square feet. For whatever reason it is, that is something we can try to determine. We have tried that in some cases in the past where it wasn't clear, but nevertheless, there was a reason for that and it's basically in a rural area. We're not talking about a commercial or industrial zone.

I would think that if a variance of this size were required for some reason, then a zoning board of appeals would not be doing their job correctly if they made such a huge change over and above what a town board has adopted as a zoning law without having the applicant appeal that particular requirement directly to the elected officials in town; i.e., go before the Town Board and ask for a change in zoning. I see our duty here and I'm probably getting a little over my head because I'm getting into legal things, but I see our duty here as providing a little bit of relief for people and variances for people where the law cannot be followed exactly; a few feet here on setbacks, or a small percentage of square footage if it's necessary for some reason, but a change of this magnitude, I believe, falls into the elected official category. I don't think it's an appointed official's duty to start making huge changes to zoning, otherwise we don't have an affective zoning law.

Chair VanMillon and Member Fusco: You're certainly right, we have to agree.

Member Wittman: I just don't think we can take it upon ourselves to make huge changes in zoning laws, and I see this as a huge change.

Member Fusco: I do agree; it is a substantial change; we're not talking about a few feet.

Member Wittman: As I said, and correct me if I'm wrong, an applicant does have the right to go before the Town Board to appeal their case as far as changing the zoning.

Attorney Liguori: They can certainly go to the Town Board to request a zoning change amendment, which could modify the zoning.

Member Wittman: But that could affect the entire zone, otherwise, it would be spot zoning.

Attorney Liguori: Spot zoning is certainly an issue that can come up, but it's always within a landowner's right to petition a town board to make text amendments to the zoning code to benefit their property.

Member Fusco: I have to agree with you, but it's such a large change that I don't feel comfortable with it.

Attorney Hayes: I think you've struck on the difficulty on going for a zoning change, which is how do you do that without opening the door to a zoning change on a district wide or a larger basis, which is why we're here rather than going to the Town Board; we don't want to put the Town Board in an identical situation.

My sense is that the Planning Board and the Architectural Review Board have been fairly favorably disposed to it. For the Town Board, I think this is a good project, but in changing zoning law to accommodate this project, it may open the door elsewhere within the town, particularly in the RU district; that's not something that we're looking to do or put the Town Board in that situation, which is why we're here looking for project specific, property specific

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relief. We recognize that the number is substantial, but when we look at the impact on the neighborhood and community, because of where it's sited, and because of the other factors I went through, this particular project will not become a substantial affect or impact. The number might be substantial, but the impact and the affect will not be, and this is more of a, say, a surgical way, trying to pursue this than going through a zoning change, which can have a lot of repercussions that are hard to predict or imagine at the time of going through that process, this can't have any implications beyond this application.

Member Wittman: I know you are the attorney for them, but I would argue the fact that this sets a precedent, and it will not go unnoticed by other people in the RU district with similar situations who are looking for large variances; so that's the "Pandora's box" that I'm afraid we would be opening. I'm not saying that will happen, but there's a very good possibility that it would be noticed by other people in your position for other clients.

Attorney Hayes: I understand what you're saying, because the appropriate forum is the Town Board.

Member Wittman: You heard my rational for that. They are the elected officials, we are not, we are appointed. In a sense, we're in their place to make decisions because they're doing other things. I think that in making a decision like this gets involved with a much larger context here with the populist, and I think its best left to elected officials to make those types of decisions; that's how I feel about it.

Chair VanMillon: My next question is, do you want to vote on it tonight?

Member Wittman: I'm ready to vote.

Member Fusco: I can vote tonight.

Attorney Liguori: You can certainly extend the option to the applicant to leave the public hearing open if they want to wait for an additional member or members, but there's no one on the horizon that I know of from the Town Board. You don't *have* to do that; you can *consider* doing that if you'd like to or you can move to the vote; it's entirely within your discretion.

Member Wittman: I would prefer to move with the vote and I don't want to keep this thing any further. I think we owe it to the applicant as well that they know what their decision is going to be instead of waiting for Board members that may never appear.

Attorney Liguori: Just a note to not just answer in the affirmative or negative in response to the test; it is beneficial for the Board to really focus on the criteria of the five.

Code of the Town of Dover – Section 145-59 D. (2)

Chair VanMillon went through the five-factor test as follows:

- a. Whether an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance. Chair VanMillon: I don't think so. Member Wittman: It is a camp and as it has been pointed out by the applicant, it's not right next the boundary or property lines and there are other buildings there, granted they may not be the same size, but there are other buildings on the property.

- b. Whether the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance. Member Wittman: It's hard to put myself in the applicant's head entirely here in the sense that if they're looking for a gymnasium, which requires approximately the requested amount of square footage, then, no, but that doesn't necessarily mean that... I have no idea if they can achieve this in another way. Apparently not with a building, I don't know what other options are available to them. Chair VanMillon: I don't ever remember being told how much the footage of just the gymnasium was, because I know they want to put other stuff in. Member Fusco: It was the bathrooms. Member Wittman: If I understand, and I think this was brought out by previous information, that there's a size for the court, there's a size for the bleachers, there's a size for the bathrooms and so forth; so it is my understanding that this was the minimum square footage necessary in order to achieve the type of structure that they wish. Attorney Hayes: My understanding was that just for a basketball court, that alone was 8,500 square feet and the others would be an important part of the use bringing it to 15,000. If you just wanted to basically just have a basketball court with a roof over its head, you would already be at 8,500 square feet and over the 6,000 square foot threshold. Rabbi Resnick: Plus needed space for safety around the court. Member Wittman: I think it was amply brought out in previous sessions that that consideration was given when it was planned.
- c. Whether the requested area variance substantial. All members: Yes. Member Wittman: It's about roughly 160% over the maximum for this district.
- d. Whether the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Member Wittman: Apparently not. Through SEQRA as the attorney pointed out, they didn't find any problems there with environmental impact and again, it's not next to the property line, so it's not going to be as noticeable as if it was within the minimum setback area.
- e. Whether the alleged difficulty self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance. Member Wittman: I would say, yes, for this reason; the applicant, in spite of what the attorney said, as far as zoning matters go, the decision to build a building of this square footage is definitely self-inflicted. If that's what you want to do, then it is self-created. Member Fusco: And there are outdoor basketball courts now.

MOTION: Member Wittman motioned to deny the applicant the requested area variance and stated, we're talking specifically about the area of the building, we're not talking about the setback from the road, but I don't think we need to vote on that because if this is not going to be voted on, or if this is not going to be accepted, then the other one is a mute point. Attorney Liguori: I didn't get a chance to look at the particulars on the second variance where it relates on the site plan, so if that's something that the applicant wants to be heard on and go forward on... Member Wittman: If they want us to vote on that, yes. Attorney Liguori: I just didn't recollect if it was associated with the gymnasium or for something else on the site. Chair VanMillon: It's in front of the gymnasium. Member Wittman: That's why I say that I think we not go to vote on that unless the variance was positive for the building. Chair VanMillon: So, this is to deny the application for the building? Member Wittman: Correct, for the square footage of the building; Member Fusco: No, also; motion seconded by Member Fusco. Chair VanMillon: All in favor?

VOTE: Chair VanMillon – Aye

Member Fusco – Aye

Member Wittman – Aye

Chair VanMillon: I will take an individual vote. Member Wittman: I'm voting that we reject it.

Chair VanMillon: And I say no. The variance for the building has been denied. Do we want to entertain the 25' area variance for the footage?

Member Wittman: If there's no building, there's no setback.

Attorney Hayes: I would ask for you to go and take a look at that only because if we end up coming back to the Board with perhaps two buildings now, or a building of a different square footage, if we end up one way or another finding a way to move forward based on the first decision, it would be good for us to know whether the 25' issue on the interior road is also going to be a stumbling block or if you're comfortable with the 25' request and our folks going forward.

Member Wittman: I have a problem with that because we're voting on a setback for something that is not approved and I understand where you're coming from, you want to know how far you can go, but I think that is all dependent upon the proposal that's made for the building; is the building is going to be turned and where the setback is going to be and how extensive it's going to be, so I would rather not vote on any kind of setbacks until we know whether or not there is going to be a building or not.

Attorney Liguori: They certainly have the right to ask. I have to say that I can't give you an answer "on the fly." We don't have to vote on it tonight, and that will give me time to research whether or not you're obligated to do it.

Member Wittman: Do we want to reserve that and if that's the case, then we have 62 days from the closure. I still have a problem voting on a setback for something that doesn't exist and it's not an approved.

Attorney Hayes: Do you typically do a findings statement or do you have your minutes act as your finding statement?

Secretary O'Leary: I do an actual variance. Normally, I do ahead of time, but for something like this, I didn't do it; I'll have it by tomorrow. I'll give you an actual variance.

MOTION TO SET MONTHLY MEETINGS

Chair VanMillon: Do we want to keep our regular meetings on the third Wednesday at 7:00 p.m.?

MOTION: Member Wittman motioned to keep our regular ZBA meetings scheduled for the third Wednesday of each month starting at 7:00 p.m.; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye Member Fusco – Aye
Member Wittman – Aye

APPROVAL OF MINUTES - Approve November 24, 2008 minutes.

MOTION: Member Fusco motioned to approve the November 24, 2008 minutes; seconded by Member Wittman.

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VOTE: Chair VanMillon – Aye Member Fusco – Aye
 Member Wittman – Aye

MOTION: Member Wittman motioned to adjourn the meeting at 8:10 pm; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye Member Fusco – Aye
 Member Wittman – Aye

Meeting adjourned at 8:10 pm.

Respectfully submitted by:

Maria O’Leary
Secretary to the Zoning Board of Appeals