

ZONING BOARD OF APPEALS

JULY 18, 2016 MEETING MINUTES

**Present:** Chairman Ron Nolland, Kathleen Insley, ,  
Connie Fisher, Kellie Porter (Alt) April Kasper (Alt.),  
Joe McMahon, Building Inspector  
Kyle Burdo, Housing Code Inspector

**ABSENT:** Scott DeMane, Kathy Latinville (Alt.)

**Also Present:**

Appeal #2073 James Latinville  
Appeal #2077 David Bover  
Appeal #2078 Maria Alexander  
Appeal #2079 James Francisco & Katie O'Neil  
Appeal #2080 Bruce Martin  
Appeal #0282 David Stone & Jeanne Hunt

Mr. Nolland called the meeting to order at 7:05 PM. The following items were on tonight's agenda.

<b>APPEAL</b>	<b>APPLICANT</b>	<b>REQUEST</b>
2071	BETTY JOCK 16 ELIZABETH STREET	CLASS B VARIANCE ADD BEDROOM AND BATH TO REAR OF HOUSE WHICH ENCROACHES IN SIDE YARD
2073	HILZACK PROPERTIES LLC 78 SOUTH PERU STREET	CLASS B VARIANCE MODIFICATION OF VARIANCE APPEAL #2047 TO CHANGE BUILDING HEIGHT FROM 13' TO 19'
2076	KATHIE CAMERON MURRAY 61 PROSPECT AVENUE	CLASS B VARIANCE REQUEST TO WIDEN DRIVEWAY IN FRONT YARD
2077	DAVID BOVER 80 STELTZER ROAD	CLASS B VARIANCE REPLACE ROTTING ROOF IN FRONT ENTRY WHICH PROTRUDES INTO FRONT YARD SETBACK
2078	MARIA ALEXANDER 58 LYNDE STREET	SPECIAL USE PERMIT REQUEST TO INSTALL 8' FENCE

2079	JAMES FRANCISCO 31 LORRAINE STREET	CLASS B VARIANCE REQUEST TO BUILD ONTO EXISTING BARN FOR CAR PORT
2080	BRUCE MARTIN 11 GRACE AVENUE	CLASS B VARIANCE REPLACE GARAGE THAT IS TOO CLOSE TO PROPERTY LINE
2081	JOSHUA KRETSER 4 MACDONOUGH STREET	CLASS B VARIANCE REQUEST FOR LESS PARKING THAN REQUIRED
2082	DAVID STONE 180 PROSPECT AVENUE	CLASS B VARIANCE REQUEST TO CREATE SUBSTANDARD SIZE LOT WHICH LACKS REQUIRED WIDTH

Mr. Nolland advised there are 3 appeals that will not be heard tonight. They are:

#2071	Betty Jock	Postponed
#2076	Kathie Cameron	That's been withdrawn.
#2081	Joshua Kretser	Applicant does not yet have a contract and has asked to postpone on Board's behalf.

*MOTION:*

*By Ms. Insley, seconded by Ms. Fisher*

*TO POSTPONE APPEAL #2081 ON BOARD'S BEHALF FOR 60 DAYS.*

*ALL IN FAVOR:           5*

*OPPOSED:               0*

*MOTION PASSED*

None of the board members are within 500' of any of the above listed properties.

The **first** item heard was Hilzack Properties LLC, 78 South Peru Street for a Class B Variance for Modification of Variance Appeal #2047 to change building height from 13' to 19'.

This was heard at the August 17, 2015 zoning board meeting. There was an existing structure that was going to be moved. At that meeting, a Class B Variance was approved for an accessory structure and a height variance was given for 13'1".

Mr. Nolland continued saying the accessory structure building was built at 19' instead of the granted variance of 13'1". The real issue here is we have a problem when people building and then come to us after. Mr. Latinville advised the point was well taken.

Mr. McMahon added this new building actually closer to 20' average than 26 to the peak. Mr. Latinville asked if 13-1/2 was the old. Mr. Nolland said the height required is based on the height requirements from eave to the ridge.

Ms. Fisher asked why so tall. Mr. Latinville explained when they went to move the existing building it fell apart. It was rotted from the floor up. There was no salvaging it. He explained further. Also the overhead door would not be big enough for a back hoe. This will be a maintenance building for his Lewis Heights project and this 24 apartment building. He stated this was his fault in how he didn't look and see if this new building was being built the correct height. Mr. McMahon then advised Mr. Latinville that he could not build that high without another variance.

Ms. Fisher said he didn't need the pitch that high for that particular door. Mr. Latinville said the dormers are 5-1/2 wide in front and 6' in back. The windows are up high enough so no one could peak in. He is siding and putting in security camera's with lights and dress it up. He believes it's a 1-1/2' taller than the existing gable end on the 24 unit building. In perspective it's a lot bigger than the one there. Did he make a mistake? Yes but did not do it in the zoning board's face. He didn't look at the variance that was granted. He spoke further.

Mr. Latinville then explained what the surrounding properties looked like (Nursing Home, Rambachs) and asked these properties owners if they were upsetting the neighborhood by putting up this building. All surrounding neighbors seemed to not have a problem with the height of this building.

Mr. Latinville continued stating looking at the use of this they tried to make this appealing and nice with the neighborhood. They will be putting a 4' fence dark chain link fence on the side and to the building. It will be gated. This building is on street side and will have junipers on the street side. The sidewalk will be returned to the L-shaped building.

Ms. Porter stopped him saying the issue in front of them is the height of the building, not the use. They gave him a variance to move existing building that was 6' shorter, along with increasing the height. There was no other permission to build any higher and he went and built it up w/o permission. The issue is not how nice the property will be and what you are doing with it. That was already established. She feels I have seen

the property and think it's beautiful. What's there now is better than what was there however, at the same time she isn't sure how to address the issue that he built a building higher after the fact.

Mr. Latinville said it all boils down to intent. He again reiterated he did not intentionally do this. Can he cut it down?

Mr. Nolland asked what stage of construction to the BI notice this was too high. Mr. McMahon advised when they were putting the trusses on when he notice this was a problem. Mr. Nolland asked if a stop order was issued. Mr. McMahon said Mr. Latinville had asked him what does he do now. Mr. McMahon advised if he applied for a variance right away, that would be a stay-of-proceedings and in theory he could keep going. The risk in that is the board could deny this variance.

Ms. Insley asked for clarification on a stay of proceedings. Mr. McMahon advised when an applicant applies for a variance this allows for a stay of proceedings. Ms. Insley asked the applicant can continue to build? Mr. McMahon said yes.

Mr. Nolland then explained that process but wasn't so sure he agreed because he applied for a variance that he got a stay of proceedings that he could continue to build. If this was 100% built - that would be another thing. The problem he has is once Mr. McMahon told him and the trusses weren't totally up, it wasn't sided, the dormers weren't up and it didn't conform - the smart thing would have been to stop.

Mr. Nolland explained one of the purposes of the 12' average is stop people from creating these big storage spaces and activities on a 2<sup>nd</sup> floor of an accessory structure. The whole point of the ordinance is to stop activity and hanging out over peoples yards on 2<sup>nd</sup> floors. This is a residential district. Mr. Latinville disagreed. Not the use. The use of it will be a maintenance building. Mr. Nolland disagreed saying it's a residential property. And it affects everybody. The purpose of the ordinance is to stop people from using the second floors of accessory structures.

Mr. Nolland explained why the variance is in place. He's not saying it's not nice. The real problem is you got a variance and knew what it was. The situation changed because when you took the existing structure down it fell apart. They understand that but once you knew it didn't conform - why did you continue.

Ms. Insley did not think intent factored into their analysis. Mr. Latinville then suggested alternatives in what he could do.

Mr. Nolland said what should have happened is when the Building Inspector came to you and stated the building is much taller than what was granted - you should have gotten a set of plans and gone to the Zoning Board and asked what would you allow me. He explained further.

Now the board is stuck in a position that if they grant this variance, other applicants can reference this appeal as precedent setting. Ms. Insley commented that most after-

the fact variances have been pretty minimal discrepancies. This is quite a large variance to ask for. She spoke further.

The letter from Clinton County Nursing Home was then read into the record.

The letter from Richard Perry, 65 South Peru Street was then read into the record. [7:30 pm]

**PUBLIC COMMENTS:**

Mr. Nolland asked if anyone would like to speak to this appeal. With no one speaking, Mr. Nolland then closed that portion of the meeting for this appeal.

Mr. Latinville did some measurements of surrounding buildings. The DOT main building is 30' high. The Alpert barn is 26' high. Lake View Towers is 10 stories. He gave further examples of housing and structures above 19'. Ms. Insley said this is an accessory structure with different rules applying.

Ms. Insley's other concern is the main purpose of this to get heavy equipment and trucks in this new building. She felt Mr. Latinville could have achieved this without the height he went for and storage up there. With this kind of a variances - is this desirable or is this really necessary for the use of the property. It seems like a "desirable" and not necessary.

Ms. Porter then asked if the building he was going to move have a 12' door? Mr. Latinville said it had no door.

The "Area or Dimensional Variances" sheet were then read into record.

Mr. Nolland said the aesthetics and quality of building makes no difference to him. That's not the issue. If he had come to the board back when the Building Inspector stopped him and said that the current one has fallen apart, this wouldn't be such an issue. The real issue is the process on how they got to this point. The SEQR has nothing to do with the height of the building.

**LONG FORM SEQR:**

Page 1 of 4	#2	Add ZBA & Building Permit
Page 2 of 4	#5	b. Change "Yes" to "No."
Page 2 of 4	#12	a. Change "Yes" to "No."

**MOTION:**

*By Ms. Insley, seconded by Ms. Porter*

*AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM PART 1 ANSWERS TO QUESTIONS THAT UNDER PART II NO OR SMALL IMPACT MAY OCCUR BE CHECKED FOR QUESTIONS TO 1 – 11 AND THE CHAIR BE AUTHORIZED TO CHECK THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ENVIRONMENTAL IMPACT*

ALL IN FAVOR: 5

The County Planning Board deemed this a local issue however stated “The proposal does not meet the test for an area variance as submitted. The proposal is substantial at approximately 50% greater height than permitted, can be achieved by other methods and is self-created. A project plan was already approved by the city at the original height.”

Mr. Latinville then discussed the door opening to get his backhoe in this building.

Mr. Nolland reiterated the problem of building something not allowed and then coming to the board after the fact. This is a big issue for the Zoning Board.

[Discussion on reducing the height, needing a 14’ door entryway, 60’ long, putting plows in this building also, dropping the back area down to 15’, dropping the height of the trusses, trusses are 18 on center, dropping back area down, reducing 26’ down to 23’, allowing applicant to make compromise that board could live with.]

Ms. Porter questioned where Mr. Latinville was originally going to put the 14’ door in the older building. He was originally going to make “due” the first time.

Ms. Insley questioned what the minimum would be that he needed.

Mr. Latinville asked for common ground.

Mr. McMahon advised the walls are 14’ to the eaves.

Mr. Nolland thought the best way to change this would be to a 3 on 12 pitch, single span, no storage. We will assume it will be 16’ and not 19’. Applicant won’t have to touch the walls. The building inspector can then verify what that is. They are assuming the building is 32’ wide which he will be reducing it to a 3 on 12 pitch, reduce it by 4’.

None compliance is the sticking point.

Ms. Porter asked if they are asking to reduce this building to 16’. Mr. Nolland said the worst case the building will be 16’.

[Further discussion on dimensions of building, how wide building is, dropping to 3 x 12 pitch, what exactly is the pitch of the current roof, variance wording, lowering pitch,

removing existing roof and reduce the roof pitch to 4 on 12 or 3 on 12, reducing the height of the variance required to around 14 or 15'.] 7:55 PM.

This appeal was then adjourned waiting for the information on the width of the building.

The motion would be to reduce the height of the roof.

Mr. McMahon then clarified the building is 32' wide. Actually a 9 on 12 pitch. If you went to a 4 on 12 pitch you would be reducing it to 5 on 12. So over 16' you would be doing 1-1/3 this would be just about down to the variance you were granted. Currently he has a 9 on 12 pitch. For 16' for a 4 on 12 pitch you would have 5 1/3 feet. Ridge would be almost 20'. Different would be 17' average. Peak would be around 20'.

Ms. Insley said this would be 6' above what was first approved. This is not going to be around the original variance. Mr. Nolland agreed. The eve is 14'.

Ms. Insley questioned this is not down to original variance. Mr. Nolland said he was mistaken.

*MOTION:*

*By Ms. Fisher, seconded by Ms. Insley*

*TO GRANT A VARIANCE FOR APPEAL #2073, FOR A VARIANCE TO CHANGE THE BUILDING HEIGHT TO AN AVERAGE OF 17' (APPROXIMATELY) WITH 4 ON 12 PITCH*

*ALL IN FAVOR: 4  
(Ms. Insley, Mr. Nolland, Ms. Fisher, Ms. Kasper)*

*OPPOSED: 1  
(Ms. Porter)*

Clarification of Votes:

Ms. Porter felt he had plenty of opportunity to stop before he got himself into this. The bigger issue is this sets the board up for having to deal with other people. She said no for principle.

Ms. Kasper said she felt is trying to work with them to bring back down.

Ms. Insley agreed with Ms. Kasper in that it will eliminate the use of the 2<sup>nd</sup> floor.

Ms. Fisher agreed with coming back and making a compromise and the neighborhoods don't object to height and keeps the integrity of the main building.

Mr. Nolland voted yes because he didn't mind the building but the issue is the whole coming back after the fact. He thinks it fits.

Mr. Latinville knows he messed up.

The **second** item heard was Appeal #2077, David Bover, 80 Steltzer Road for a Class B Variance to replace rotting roof in front entry which protrudes into front yard setback.

This is replacing a rotted porch roof. This is an area variance.

PUBLIC COMMENTS:

Mr. Nolland asked if anyone would like to speak to this appeal. With no one speaking, Mr. Nolland then closed that portion of the meeting for this appeal.

SHORT FORM SEQ:

Page 1 of 4	#2	Add ZBA
Page 1 of 4	#4	Check "residential."

MOTION:

*By Ms. Insley, seconded by Ms. Fisher*

*AFTER REVIEW OF THE SHORT ENVIRONMENTAL ASSESSMENT FORM PART 1 THAT IN PART 2 NO OR SMALL IMPACT MAY OCCUR AND CHECK THE BOXES 1 – 11 AND THAT THE CHAIR BE AUTHORIZED TO CHECK THE BOX THAT BASED ON THE INFORMATION AND ANALYSIS ABOVE THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT*

ALL IN FAVOR: 5

MOTION VARIANCE #2077:

*By Ms. Fisher, seconded by Ms. Porter*

*FOR APPEAL #2077 THAT MR. BOVER BE ALLOWED TO REPLACE THE ROOF AS PER THE DESIGN SUBMITTED IN THE DRAWING AT 80 STELTZER ROAD, SAME SIZE AS THE DRAWING SUBMITTED.*

Mr. McMahon advised this roof was bigger than the old roof. The old roof was 3' X 4'. The new one will be 5-1/2' x 2'. Mr. Bover said the old porch roof did not cover the entire landing.

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

The **third** item heard was Appeal #2078 Maria Alexander, 58 Lynde Street for a Special Use Permit request to install 8' fence.

This is put a fence on the rear of her property.

Mr. Nolland divulged he has worked with Ms. Alexander at Catherine Gardens on professional basis and feels it won't affect his vote.

Mr. Alexander explained there used to be a nice hedge in the rear of their property but it didn't belong to them. Now they want their privacy back. Also the rear of their property is lower than their pool.

**PUBLIC COMMENTS:**

Mr. Nolland asked if anyone would like to speak to this appeal. With no one speaking, Mr. Nolland then closed that portion of the meeting for this appeal.

**LONG FOR SEQR:**

Page 12	b.	Check "no."
Page 13	E.3.h.	Check "No."

**MOTION:**

*By Ms. Insley, seconded by Ms. Fisher*

**BASED ON THE REVIEW OF THE FULL ENVIRONMENTAL ASSESSMENT FORM THAT THE BOARD DETERMINED THAT THIS PROJECT WILL HAVE NO ADVERSE ENVIRONMENTAL IMPACTS ON THE ENVIRONMENT**

**ALL IN FAVOR: 5**

**MOTION ON SUP APPEAL #2078**

*By Ms. Fisher, seconded by Ms. Insley*

**FOR APPEAL #2078 THAT THE ZONING BOARD ALLOW THE ALEXANDERS TO PUT AN 8' FENCE ON THE BACK PROPERTY LINE**

**ALL IN FAVOR: 5**

**OPPOSED: 0**

**MOTION PASSED**

The **fourth** item heard was Appeal #2079 James Francisco, 31 Lorraine Street for a Class B Variance to build onto existing barn for car port.

This is Dr. Ladue’s old house and a beautiful old house. They are putting a cobble stone driveway as well.

There is a slab already on the side the barn. The issue here is the car port will be too close to the property line. This building will be 24’ deep to match existing barn.

The aerial picture is the existing barn. The neighbors have commented how nice the improvements have been to this property.

**PUBLIC COMMENTS:**

Mr. Gil Duken, 22-28 Durand Street is the adjacent property owner and stated this has been significantly improved since Dr. Ladue lived there. He thinks this is a good idea.

**CLOSED PUBLIC HEARING.**

**SHORT FORM SEQ:**

- Page 1 of 4            #4    Check “Residential.”
- Page 2 of 4            #5    Check both “No” to A & B.
- Page 2 of 4            #17b. Check “Yes.”

**MOTION:**

By Ms. Porter, seconded by Ms. Kasper

AFTER REVIEWING THE SHORT ENVIRONMENTAL ASSESSMENT FORM WE FIND THERE IS NO ADVERSE EFFECT TO THE ENVIRONMENT AND IN PART II THERE WILL BE NO OR SMALL IMPACT THAT MAY OCCUR AND CHECK BOX 1 – 11 AND HAVE THE CHAIRMAN SIGN IT

ALL IN FAVOR:            5

**MOTION ON APPEAL #2079**

By Ms. Fisher, seconded by Ms. Porter

FOR APPEAL #2079 TO BUILD A CAR PORT 8’ ON SHORT SIDE, 10’ ON LONG SIDE AND HAS A WIDTH OF 12’ AND LENGTH OF 29’ ON EXISTING PAD SHOWN

ALL IN FAVOR:            5

OPPOSED:                0

MOTION PASSED

The **fifth** item heard was Appeal #2080, Bruce Martin, 11 Grace Avenue for a Class B Variance to replace garage that is too close to property line.

Mr. Martin is asking to tear down existing garage, which is in poor condition and rebuild 2 car garage on existing slab to match house.

Mr. Nolland said it's not the size it's the existing garage was they want to put it back there. If it had not been torn down and only done wall by wall, this would not have needed a variance. The board does recognize these issues.

Mr. Nolland and Martin spoke about the miscommunication resulting in this variance application.

The garage should be located 5' from the property line, not 2'4".

A letter was submitted from Lauren Eastwood, 9 Grace Avenue, next door neighbor and read into the record in support of this variance.

Ms. Fisher asked what the new garage will look like and how tall it will be. Mr. Martin explained they were going to do a second story. However the Martin's have decided on 12' height for the new garage. In 2003 a variance was granted for an addition in the rear of the house. At that time, the slab was poured for a new garage but the new garage was never built. They now want the new 2 car garage to be built.

Mr. Nolland reiterated people don't want a huge garage in their back yards.

Ms. Fisher asked if this will be a A frame roof, will it be pitched and not a gable. Mr. Martin agreed.

#### PUBLIC COMMENTS:

Mr. Nolland asked if anyone would like to speak to this appeal. With no one speaking, Mr. Nolland then closed that portion of the meeting for this appeal. [8:40 P.M.]

There is 4'8" between both garages. Mr. Martin advised they do have a shared driveway.

#### SHORT FORM SEQ:

Page 1	#1	Check "No."
	#4	Check "Urban & residential."
Page 2	#5	b. Change "Yes to No."

Ms. Fisher questioned the storm water coming off the roof. Mr. Nolland said it would be no more than it did before controlled with gutters and down spouts. Mr. Martin said this would remain the same.

*MOTION SF SEQ:*

*By Ms. Kasper, seconded by Ms. Porter*

*BASED ON THE ANSWERS TO PART 1 THE SHORT ENVIRONMENTAL ASSESSMENT FORM THAT NO OR SMALL IMPACT MAY OCCUR AND BE CHECK 1 – 11 ON PART 2 AND ALSO THE CHAIR IS AUTHORIZED TO CHECK THE SECOND BOX THAT BASED ON THE INFORMATION AND ANALYSIS ABOVE THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS.*

*ALL IN FAVOR:                    5*

*MOTION APPEAL #2080*

*By Ms. Kasper, seconded by Ms. Porter*

*TO APPROVE APPEAL #2080, BRUCE MARTIN, 11 GRACE AVENUE TO REPLACE A GARAGE THAT WAS TORN DOWN AND IT'S WITHIN 2'4" OF THE NEIGHBORS PROPERTY LINE (WHERE IT WAS BEFORE) WITH AN AVERAGE HEIGHT OF 12'*

*ALL IN FAVOR:                    5*

*OPPOSED:                        0*

*MOTION PASSED*

The **last** item heard was Appeal #2082, David Stone and Jean Hunt, 180 Prospect Avenue for a Class B Variance to create substandard size lot which lacks required width.

This is a big lot on Prospect Avenue. The applicant requests to make 2 lots out of this large lot. The lot required is 62' wide x 153'.

Mr. Nolland advised there are 2 things. The 197' dimension is actually 180. The 62' is correct. We did get 4 letters objecting to this subdivision. The problem is that it's very hard for the board to create substandard lots because people come to expect a certain size lot within their plan.

Another issue the applicant would have to go to the Planning Board for a subdivision and does not like them to create substandard lots. Mr. Stone advised he had been told that. A second issue is the board is not supposed to give relief from ordinances (variances) that is more than (a) minimum required and (b) has to be based to on several items. This is not a use variance so the burden of proof is not quite as great. However even area variances have to have a burden of proof and only allow to enrich someone. That is no reason to give a variance so someone can become "enriched." Mr. Nolland gave further examples.

Mr. Stone thought this would be an uphill battle. Mr. Nolland wanted him to understand the process and why. One of the problems is – besides what the neighbors are saying is it's very hard for the board to create a substandard lot. Most of those property lots are very large on that side of the street where on the other side they are smaller.

Another huge item is setting a precedence. People will feel if they give him a variance, they will want the same variance. Eventually what happens it erodes the quality of the neighborhood.

Mr. Stone said there aren't many lots left which can be subdivided. This might be one of the last ones in the City. This comes from the Realtors.

Mr. Nolland said it's not big enough to be divided. Did Mr. Stone understand the problem with this request.

The applicant asked to subdivide this lot to build a new home for him and then sell the other home.

Mr. Stone explained they have the highest assessed residential property on Prospect. He feels their taxes are high. On top of mortgage, insurance & maintenance they are a bit hamstrung financially. They have been in this house 11 years. They want to stay and live in Plattsburgh. They want to own a home in Plattsburgh. He had medical issues but was deemed cured. This was reflection time and his income has changed.

Mr. Stone did want to work until he physically couldn't. But they are limited in funds. And with speaking with friends someone then suggested dividing their lot. That is their motivation for this subdivision request.

Mr. Nolland reiterated the problem and issues are:

- 1) His taxes are high because of the nice piece of property he owns. How much less would his house be worth if this was subdivided out and the other so close to it.
- 2) Cost to build 2<sup>nd</sup> house today is so extraordinary compared to buying one already built that financially may not be feasible. He's not sure the economics would work.

It's very hard for the board to create a substandard lot. Mr. Nolland explained further. The code is 75' which gives an open enough feeling to city lots.

Ms. Hunt mentioned other lots on Prospect that have less than 75' frontage.

Mr. Stone said he answered all the questions and Mr. Nolland has not answered and addressed anything on these pages. This is the first time he has heard about the above questions. Should they even bother.

Mr. Nolland then referred to the "Area & Dimensional Variance" questions. This board is designed and empowered to protect the quality of life in Plattsburgh and to help foster development. It's just not to say no or yes. They follow a very critical path and they walk a bit a balance and say "is this OK for everyone concerned." Precedence was mentioned again.

Mr. Nolland continued saying the Board will listen to Mr. Stone's elaborations however he has to advise the applicant of what he is up against. He is trying to be honest with the applicant. Mr. Stone appreciated the Board's role in protecting the quality of life in Plattsburgh, which include the Stone's. Mr. Stone had no argument with the above but Mr. Stone was thrown and was not prepared to speak about the opening remarks that Mr. Nolland made.

Ms. Insley thought she represented the Stone's when they bought this house. She felt this was no conflict to her. A lot of what the Board does seems like minor variances and adjustments to properties. She lives in Brookfield Manor. To her the minimal lot requirements for a home in this area seems important because it seeks to maintain a certain space, comfort level between homes. To her the plan that he proposes seems to shoe-horn in that would not fit in this part of the street. She knows there are other parts of the street that pre-exist the code. She does think it's damaging the value and aesthetic of their existing home to add another home there in that area. It will weaken the appearance. If she was in the neighbor's position, she would feel the same. This is a pretty big variance requested.

Ms. Porter completely appreciates their desire and what they are looking for. She knows this street. She has friends there and recognize there are lots that are not

conforming. They are pre-existing. If the variance they are seeking was not so large it would definitely be something she would be thinking about. But the people who purchase these homes were looking for something specific that wouldn't exist any longer if they start allowing those changes to be made. This general area has more spaces between the homes. It's a different feel. Mr. Stone did not understand what she was referring to. Ms. Porter explained the whole area is different than across the street.

Ms. Insley added she is not particularly persuaded on anything going on behind him. There is hedge. There is space. She is thinking about the people on either side of his lot.

Ms. Hunt referenced the 11' hedges behind their lot. There is a lot of privacy there. She can't image this subdivision would change any of that privacy. The neighbor's kiddy-corner to this lot doesn't even see this house from their property, none-the-less being impacted by this.

Mr. Stone commented and stated the Board should dismiss the complaint from this corner property.

#### PUBLIC HEARING COMMENTS:

Mr. Richard Higgins, 176 Prospect, read his comments into the record requesting to not grant this variance. [9:12 PM].

Being no further public comments, Mr. Nolland then closed the Public Hearing portion of the meeting.

Mr. McMahon noted the red lines on the pictures presented are an overlay the county. They should all be shoved over 15'. The dimensions are correct but the property lines should be shoved over. Property lines were discussed along with pictures presented by Mr. McMahon and Mr. Stone.

Mr. Higgins clarified the property line is basically in the middle of the trees. RMS surveyed his property.

Mr. Stone said the property line is consistent with the fence line. There is a stake at that location.

The following letters were read into record:

1. Chris & Ashley Anctil, 4 Summer Hill Court, requesting to not grant the variance.
2. Gil & Judith Duken, 3 Summer Hill Court requesting to not grant the variance.
3. Mary Ryan, 6 Summerhill Court, requesting to not grant the variance.

Mr. Nolland hoped the applicant got the feeling on how the board felt about sub-standard lots.

Mr. Nolland said the applicant could postpone their variance request. Mr. Stone said he wanted his statement into the record, what he brought and what they presented. Mr. Nolland said the board is in a difficult position with this request.

Mr. Stone advised they answered the questions that were required and want his comments into the record.

1. Did they pursue other means to get this done?

Yes they did. They did contact other lenders about refinancing. This option was not feasible due to the current interest rate they were offering. They did speak with Higgins about buy some of the their lot. This did not materialize. Mr. Stone explained other avenue he's pursued.

2. Will an Undesirable change to neighborhood. Mr. Stone believes there will be no negative impact on the neighborhood or surrounding properties. They sought input from Home Building Ken Mousseau and George Barnette. Both shared the opinion that a new home built on this lot would have no detriment effect there. There are 22 residential properties on Prospect that have lots widths less than 75'. Their proposal is not precedent setting nor inconsistent with the current neighborhood.

The Anctils are against this variance. It isn't even likely the new building will be in their site line. Their privacy remains protected. They feel the new home will enhance the neighborhood. We believe this objection has no substance. The house they are currently in is closer to them than the one being built.

The Dukens at 3 Summerhill Court are concerned about privacy security and noise. The Duken house is not in the site line of the proposed plan. That collection of foliage and trees completely blocks their site line. There are 11' hedges along all the back line against these 3 houses.

The addition of this new home does not compromise the Duken's privacy or safety nor would be the noise increase.

Mr. Stone has been increasing the attractiveness of his property for 11 years. There is no data to support this objection.

The Ryan's at 6 Summerhill Court – the property line has a row of cedar hedges 11' tall and very thick. Part of the reason they are thick and healthy that section of their property was overgrown. It hadn't been tended to for years. The Ryan's advised the Mr. Stone his tree was killing his hedge. Mr. Stone then spent \$2,000 to clear the back. They have been reclaiming the back, 20' per year to tune of several hundred dollars a year.

The hedges are a tremendous buffer. He doesn't believe the Ryan's privacy will be compromised. He believes there will be no increase in traffic.

Prospect Avenue & Tom Miller Road intersect with Summerhill so unless someone is going to Summerhill, this subdivision will not make a difference.

Everyday there is conjection at Tom Miller Rd. & Prospect from the shift changes at University of Health Network CVPH.

The issue of increased noise will not likely may have a beneficial result and it may absorb more of the traffic noise. They do not believe the projected will materialize for any degree.

Mr. Stone reiterated the conversation with the Higgins on selling a portion of their lot and the above discussion. He has their best interest.

Mr. Stone advised their lot is 31,000 SF. The request for variance is about 9300 SF. They won't encroach on land or species. There is no threat to environmental sensitive areas. There is no threat to this community with this variance.

Mr. Stone then asked when was the last time this Board created a substandard lot.

Mr. Nolland didn't remember ever creating a substandard lot so another structure could be built on it. There might have been 2 buildings on a lot but he does not remember every doing this.

Mr. Stone asked about granting variances to Ken Mousseau for lots less than 75'. Mr. Nolland thought maybe one on Montcalm but not to build one new house. Mr. Mousseau said the Board would help Mr. Stone.

Mr. McMahon thought there were subdivisions out on the base with vacant lots.

Mr. Nolland didn't remember creating substandard lots. Mr. Stone said Mr. Mousseau said he has done this with this board.

Mr. Nolland spoke about substandard lots on the Air Force Base based on the fact there were existing conditions. Mr. Mousseau might have had some on vacant land on the new base. Mr. Nolland spoke about setting precedence's. That is not setting the same precedence and this variance is requesting.

The Board has to consider many factors when looking at variance applications. If the Board allows a substandard lot, that impact is forever. Mr. Stone said it would also add property to the tax rolls.

Ms. Stone advised they went down this road looking at this financially and there are very few lots left in the City to build on. Had that not been true, she might have entertained something else.

Mr. Stone thought this was an academic exercise. They have tried to do all asked for but it doesn't matter. Mr. Nolland said they can't grant a variance only because his personal situation.

Mr. Stone did appreciate the role of community standard. He is talking about the process and said the process is useless.

Mr. Nolland said it's not useless just because you thought it doesn't affect the neighborhood, they may not agree. He just read the letters.

Ms. Insley thought it was important to note we don't invite people to ask that adjustments to be made. People want differences in the code for their property. But the other thing there is a unique aspect to the property - that is what a variance is designed to correct. Your circumstances are really not all that different than a lot of people. Her taxes are killing her too. Medical and maintenance expenses are all the same and not unique just to him. It has nothing to do with the property. That's not part of the factor they consider.

Ms. Stone said they should have been told that variances of this kind are hardly ever given by the board. And should have been told about the criteria.

Mr. Stone said the information given was so vague there is nowhere in the process where they could have look at this. This should be tweaked.

Mr. Nolland said they are a volunteer board. He explained the process that he and the board goes through. He spoke about Mr. Latinville even making a mistake and not understanding the process fully. At best it's confusing and often simplified.

Mr. Nolland advised he learns every day. The problem is realistically it's very hard to approve a substandard lot in an existing neighborhood with a huge lot. He did apologize for the process and will take heed and advise the applicants of a better way.

Mr. Stone said there should have been interchange regarding this process. He complimented Mr. McMahon and Ms. Nephew in how useful and helpful they were to him.

Mr. Stone said had they been informed, he wouldn't have gone this far. Mr. Nolland said this is a complex process. Mr. Stone said he is withdrawing his application.

Mr. Nolland apologized. Every situation is unique. Mr. McMahon said you cannot define uniqueness.

Mr. Stone said he looks forward to seeing the changes and will hold Mr. Nolland personally accountable.

Mr. Higgins spoke about Mr. Mousseau leveling this property and building 3 houses on it. Mr. Nolland and McMahon commented about this statement.

Motion to Adjourn:

*By Ms. Fisher , seconded by Ms. Kasper*

Adjourned at 9:50 PM

For the purpose of this meeting, this meeting was recorded on the Back up Olympus recorder due to the VIQ in the Community Room not recording this meeting. This is a true and accurate copy and transcription of the discussion.

Denise Nephew  
Secretary  
Zoning Board of Appeals