

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
November 19, 2020
Remote meeting**

On November 19, 2020, the Zoning Board held a remote meeting. It was called to order by Chairman Olivieri at 7:04. LakeCam was recording, and it was streaming on Facebook Live.

Members present:

John Olivieri, Jr., Chair; Nora Cline, Clerk; Gerry Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Campeau, Associate; Christopher Sheedy, Associate

Also present:

Atty. Amy Kwesell, Town Counsel; Michael and Maureen Martowska, applicants, Bill and Mary Tribou, Jess Leary, Marie & Kenneth Scarpelli, abutters; Bob Bouchard, Conservation Agent; Kathryn Pink, Janice Pink, Carolyn Goudreau, applicants; Kevin Snarksy, Nancy Henderson; Madelyn Maksy, applicant, Jamie Bissonnette, Zenith Consulting Engineers (ZCE), Bob Messier, Liam Conway; Chris Chapin, applicant

Agenda item #1

Mr. Olivieri read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely.

Martowska hearing, continued - 2 Edgewater Drive

Mr. Olivieri opened the continued Martowska hearing at 7:05. He advised that at the last meeting they had gone through some of the concerns the Board and neighbors had. He then turned it over to the Martowskas to explain what they had done so far. Mr. Martowska said he put together a slide presentation because a lot of comments made against this project stated it would not fit into the neighborhood. He advised the Board should have the most recent drawing dated October 15, 2020, that showed the water flow mitigation efforts that will be taken with this project. They also should have received a letter today from Outback that explained how the water was being mitigated.

Mr. Martowska then shared his screen for his presentation which detailed the concerns that had been raised. He did have a section that spoke to the character of the neighborhood. It noted there was a variety of house styles, building heights, and

setbacks. He displayed pictures of some of the abutting homes. Mr. Martowska next discussed the size of the garages in the neighborhood. In this regard, there was also a variety of garages, sizes, and accessory structures. He displayed two that he felt were comparable in size to what he was requesting.

Mr. Olivieri said he appreciated the presentation. However, he was not sure that at this point the Zoning Board was going to base their decision on strictly if they were in the character of the neighborhood. One of the issues was the encroachment into the setback and the possibility of adjusting the plans to some degree to make it less non-conforming into the setback. The other issue was water and where it was going to flow. Mr. Olivieri asked that the focus be on those two points as it was obvious it has been established that there are other properties in the neighborhood that have oversized and larger garages.

Mr. Martowska said Mr. Olivieri's comments suggest that he would reduce the size of the garage, and he did review that option. They have decided to keep the same garage size and if this permit is denied to move it back 20 feet from the sideline and 40 feet from the street. Maybe the Board can consider moving it closer to the street, but not closer to the sideline. If he was forced to go to a two-car garage, he would have to do multiple structures.

Mr. Martowska then continued his presentation with the next section devoted to setbacks in the neighborhoods. There were both new construction and old pre-existing structures within the side setback and street setback on nearby non-conforming lots. Mr. Olivieri noted he believed when their bylaw refers to keeping in character of the neighborhood, it has to do with the structure and its appearance. It does not mean when someone else has a pre-existing potentially grandfathered structure that is within the setback, that a new setback is created for the neighborhood. Mr. Martowska said he understood. His last point was that a well-designed garage will enhance his property value which tends to raise the value of neighboring properties.

Ms. Cline noted that going back to their last meeting. The Board had requested engineered plans that showed the water impact and the corrected impervious coverage percentage. Did they have that information? Mr. Martowska replied the latest drawing dated October 15, 2020, should have that information. She would like to have that spoken to at this point rather than all the pictures that are now being presented. Mr. Martowska said that plan was submitted at the last meeting. A letter from Outback Engineering was submitted today. Mr. Martowska said the letter summarized the mitigation that would be done.

After discussion, Mr. Carmichael said he thought a Site Plan they could all view on the screen so they could have a conversation about 2 Edgewater Drive, not any other location, would help them move in the right direction. Mr. Olivieri agreed. He asked if the Site Plan they had been given provided enough information to determine or understand the water issue. It was suggested they continue this hearing until the end of the meeting to allow Mr. Martowska time to get the Site Plan and letter from Outback.

Mr. Carmichael made a motion, seconded by Mr. Sheedy, to continue the Martowska hearing until the end of the meeting.

Roll Call Vote: Ms. Cline-Aye, Mr. Sheedy-Aye, Mr. Carmichael-Aye, Mr. Noble-Aye, Mr. Olivieri-Aye

Pink hearing – 119 Hemlock Street

Mr. Olivieri opened the Pink hearing at 7:30 and read the legal ad into the record. Mr. Jamie Bissonnette from ZCE was present for the applicants. He shared his screen and displayed the plan. Mr. Bissonnette advised they were here tonight for the razing of an existing accessory structure and for the reconstruction of it. He advised this property is going to have some work done to it as far as stabilization on the slope being with the seawall. As a means to be able to get to the front of that water side of the house and construct that seawall, the existing outbuilding is in the way. Contractors have looked at it, but it is not something that can be moved, so it was decided to take the building down and reconstruct it after construction is complete. They would like to add an additional four feet onto the building just for some extra capacity. They are not going to be getting any closer to the existing property lines. They are currently about three quarters of a foot, and they would be roughly about a foot off the edge. Mr. Bissonnette stated they would maintain the same angle, and it is the back side where they want to extend the additional four feet.

Mr. Olivieri then read the November 3, 2020, letter from the Board of Health into the record. It stated as the plan showed a proposed tight tank on the lot and the existing dwelling remains unchanged, they had no reason to recommend denial due to public health issues. The November 17, 2020, memo from the Planning Board had no comment regarding the petition. The November 18, 2020, memo from the Conservation Commission indicated a hearing had been held and an Order of Conditions had been issued. Some special conditions that had also been issued included notifying the Agent for a pre-construction meeting, review the erosion control and siltation barrier, and determine if a turbidity barrier is required.

Mr. Carmichael asked where the structures were on the adjacent lot. Mr. Bissonnette displayed on the plan where the existing house was. He noted the lots were very small and long in length and about 50 feet in width. Mr. Carmichael asked if they had more than ten feet. He was unsure. Mr. Carmichael said that he was concerned about fire jumping from one roof line to another. He would suggest spinning or twisting the existing shed so as to pull it a few feet back from the lot line. Mr. Olivieri asked if that accommodation could be met. Ms. Janice Pink said her only concern would be the access depending which way they wanted to turn it. They do have a proposed access to the existing path. Mr. Carmichael suggested moving it so it would be more perpendicular to the lot line, and then getting that roof line away from the existing structure. They could also move it forward or back but whatever has to be done to get it away from the neighbor's roof line. He could see how it slopes down but that would be his suggestion.

Mr. Bissonnette asked if they could have an approval conditioned to verify that they position the shed at a minimum of ten feet from the adjacent structure. Mr. Carmichael said that he would not want it any closer than three feet from the lot line. He was not concerned with the size of the building. Ms. Pink asked if she understood it to be they will move it three feet from the property line. Mr. Carmichael said that was correct. Mr. Bissonnette said it would be two feet closer to the path that is proposed. Mr. Olivieri asked how much flexibility there would be to spin it, or was there a reason it is at that particular angle.

Mr. Carmichael said they would be looking at the gable end from the street. Even though they might be used to looking at it from a certain perspective, they would still have their additional storage area, and it would be safer for the neighborhood. Ms. Pink asked if the other option would be to move it over three feet from the property line? Mr. Bissonnette replied it would be two feet as they were already one foot from the line. Mr. Bissonnette clarified, if they held the back corner where it was and spun the building so it was parallel with the property line, that would satisfy Mr. Carmichael. Mr. Olivieri added you are turning the structure so it would be parallel to the property line, as opposed to the front being parallel to the road. Mr. Bissonnette agreed, and said it would be close to a 20 degree turn.

Ms. Kathryn Pink wanted to make sure that would not compromise the need for putting in the tight tank. Mr. Bissonnette said it would not. Ms. Goudreau was also okay with the change. Mr. Olivieri asked Mr. Sheedy to participate in the vote. Mr. Olivieri then asked if anyone had any comments regarding the petition. No one spoke.

Mr. Carmichael made a motion to approve the petition with a setback of three feet for the accessory structure which will be made parallel to the side setback. The motion was seconded by Ms. Cline.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri-Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:46.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of November 3, 2020

Conservation Commission correspondence of November 18, 2020

Planning Board correspondence of November 17, 2020

Maksy hearing – 149 Bedford Street

Mr. Olivieri opened the Maksy hearing at 7:47 and read the legal ad into the record. It was noted Mr. Olivieri read the address as 194 but the correct address was 149. Mr. Jamie Bissonnette from ZCE was presenting for the applicant. He then shared his screen and displayed the plan. He advised they were in front of the Board tonight with a Special Permit request for two items although three sections are referenced. The first item they are looking for a Special Permit is to reconstruct a building that is not meeting the required setbacks for new construction. Presently, at the site there is a building that is very close to the roadway. The applicant is looking to raze the existing structure and construct a new commercial building as shown. The setbacks would increase from approximately two to three feet off the property line to 15'+. The second request is for a sign that is approximately 9.25 square feet larger than what is allowed by right. He believed the applicant and sign specialist were present for the Board's questions.

Mr. Olivieri asked Mr. Bissonnette to first give the Board a rundown on the Site design. Mr. Bissonnette advised they had their second meeting with the Planning Board last night. They seem to be leaning favorably towards an approval with the building. He believed the Planning Board had sent the ZBA some comments in regards to the sign and to have the Board look at it from a safety perspective. He advised they presently have a curb cut on Route 79, Rhode Island Road, and have access off of Bedford Street. They are not using the access on Rhode Island Road. They are looking to close off the access on Bedford Street and move it down to a safer spot past the guardrail and closer to the liquor store. That will give a much longer site distance, and better reaction time for people to be able to get in and out.

Mr. Bissonnette added this does give them a longer entrance in, which has a greater expense for site construction costs but it is definitely a move in the right direction for safety. They presently have a little less than 1,500 square feet of area proposed so they will provide six parking spaces which will satisfy the bylaw requirement. They will be doing drainage on site so they will be meeting stormwater management requirements. They will also be installing a new septic system to meet the Board of Health requirements. They will be looking to tie into Taunton's municipal water on the roadway.

Mr. Bissonnette said in speaking with the Fire Chief, the State Fire Marshall has a dead end without a turnaround limit of 150 feet. In this case, when you pull down to the end, it is roughly 250 feet so the Fire Chief has expressed a concern in regards to that. Since they don't have the ability to turn around and back up in the area because of easements on Site and the lack of width, it was discussed to provide a 15-foot emergency access only, which will be gated and locked with a knox box padlock. The Chief also wants Do not Enter and Emergency Only signs erected, and he wants the gate locked and it to be plowed and maintained as conditions.

Mr. Bissonnette said this is to be an office building with one of the primary functions to be a real estate office. There is also going to be an advertising type of business. The

proposed sign is 9.25 square feet larger than what is allowed by right and goes hand in hand with the business.

Atty. Kwessel then stated that 6.6.3.4 states unless permitted elsewhere in this bylaw, no sign may exceed 32 square feet in area. She did not understand why the application is for a Special Permit. Mr. Bissonnette said in the 7.4 section, it has the relief in it. She said she did see that, but it requires a business to have an unusual requirement or a long name which would require the larger sign. Mr. Olivieri asked what is the unique circumstance that requires the additional square feet. Mr. Bissonnette said he believed it was the nature of the business and also the nature of the sign itself. On the top of the sign is the address, but the bottom is where the advertising would be. He noted this was the smallest sign they could get for this purpose.

Ms. Maksy said there were two signs offered but the lighting on this one made the pictures clearer on this size screen. She said they could always take out the address if they need to make it smaller. Atty. Kwessel said there are two criteria; you have to show that the business has unusual requirements or a long name. If getting rid of the address would reduce the sign by nine square feet, they would be much better off or they would have to prove one of the two criteria.

Mr. Bob Messier, the sign manufacturer, was present to answer any questions. He advised the sign is a high-resolution digital display they can advertise on. Daktronics is a world leader in manufacturing these types of products. All their products use a photocell that will automatically dim that display down to an industry standard of no more than .3 candles above ambient light, which is far less typically than any street lighting or porch lights on a house. It then brightens up during the day. It goes from 100% to about 4% automatically. The sign is not flashing, animated, or scrolling. It is a static image that changes every eight to ten second or whatever that hold time is determined to be.

Mr. Messier advised Mass Highway has done numerous studies and a pilot program many years ago. They came up with that ten second hold time which is a State ordinance where any of the digital displays under this pilot program can only change every ten seconds with no flashing, no animation, must dim automatically to no more than .3 candles above ambient light. As far as the square footage, that would be Ms. Maksy's decision to eliminate the address portion, typically it's never a bad idea to have the address there.

Mr. Olivieri said it sounds like the size that is being proposed is standard or probably the minimal size in order to get the clarity you would want. Mr. Messier said that was correct. They look at the viewing distance, the traffic, the speed of the traffic, and the time that they can read and see it clearly without having to struggle. Mr. Olivieri said they did want people to be able to see it. He asked if there were any questions in regards to the sign.

Mr. Carmichael had a concern with the size, the closeness to the road, and its placement at a four-way intersection with a light. He did not think it fit in with the nature of the

Town and the rural setting. He could not support the sign. Ms. Cline agreed. She asked if Police and Fire have reviewed the sign. She is concerned with its close proximity to a major road that is getting a major overhaul and also having anything flashing coming into that intersection.

Mr. Olivieri asked where this is a State highway, do they have to go through Mass DOT to get approval too? Mr. Bissonnette said he did not believe so. The State does have their own division for billboards which they have worked on with them. They will have to permit the curb cut with Mass DOT. He did meet with them this week and showed them these plans, but they can't officially file until they have all local approvals in hand. In regard to the issue of Fire and Police reviewing the project, they did review it and issued comments to Planning Board. He advised the Fire Chief wanted to make sure he had the ability to turn around or exit because of the State Fire Marshall's 150-foot dead end length. The Police Chief had some concerns about the ability of somebody to be able to crash into the building. There were no comments about the sign.

Mr. Carmichael asked what the elevation of the sign was. He advised he had just gone through a billboard permitting process in another Town where State requirements were required. He didn't know why being on a State road this also wouldn't have to be signed off on by the State. Atty Kwessel said that because it is a State road she would think they would have to have some kind of input, but she didn't know for sure. She thought the concerns were valid and Police and Fire should take a look to make sure they're comfortable with it.

Mr. Campeau asked in regards to the advertising, was there any intent to advertise other types of businesses or services not related to real estate, and what governs that going forward. Ms. Maksy replied that is exactly what their new business is going to do. Exposure Marketing Group, LLC is the formal name of the business. She and Liam Conway will have the ability to display advertisements and public bulletins on their sign. They hope to offer public messages, in addition to having other businesses that may want to advertise and be a member of the Exposure Marketing Group Company. They are offering it as a membership so they can have some wall space, shared conference room, and shared secretarial offices. They would be part of this business and one of the benefits would be to be able to advertise on the sign.

Atty. Kwessel noted the content of the sign cannot be considered by the Board. Mr. Campeau just wanted a confirmation that the sign did not have to be in direct relationship to the established business. Atty. Kwessel replied from the Zoning bylaw, it would appear to her they do. Included in the bylaw, is a section that applies to signs that are off premises. However, the bylaw doesn't actually state that advertising for something off premises is not allowed. It is complicated but usually when you have an off-premise sign, you are dealing with a billboard and they are rented out. Technically, this could be considered a small billboard because it appears that is what's happening.

Mr. Noble asked about the proposed construction on Route 79. Mr. Bissonnette said that he had checked with the company that had done the conceptual, but he didn't think it had

progressed since the last time he had reached out to them. He did fully anticipate that there was going to be work on Route 79. Mr. Noble said none of that was taken into consideration to the designs on the backside. Mr. Bissonnette said no. Mr. Sheedy said the proximity to the intersection and having that kind of distraction is a big concern. Nine square feet doesn't sound like much but it's actually 28% larger, and it sounds to him like it's a small mini version of a billboard. He would like to know the opinions of the Fire and Police Departments considering distracted driving is such an issue.

Mr. Olivieri asked if the Police Department was looking for something to protect the building and how the Planning Board had left that. Mr. Bissonnette replied he believed their opinion had been that the sliding of the building further away from the road is an improvement over what is there. They have not been asked to provide anything. Mr. Olivieri said it seems like the vast majority of the Board would like to receive Police and Fire comments, specifically in regards to the sign, or if they have no opinion. The other question is what is the role of Mass Highway in their authority or oversight of the project in general with sight lines and things of that nature, or the sign specifically.

Mr. Bissonnette replied his experience so far with signs on Bedford Street have not involved any permitting with Mass DOT, but he would be more than willing to reach out and confirm that. Atty. Kwessel recommended when he did that, he should disclose it is a changing sign that will be advertising businesses that are not on site. Mr. Bissonnette said that it is his understanding the zoning regulations give the Building Inspector and the Police Chief the ability to shut the sign down if it is a danger because they feel it is changing too quickly, too bright, or even the content.

Ms. Cline asked if the applicant should also be seeking relief under 6.6.2.2 which talks about the general sign prohibitions. Atty. Kwessel said that would be a variance; there is no relief from that. Mr. Bissonnette added their intention is this is not a flashing, moving, or dangerous sign in that aspect. Mr. Olivieri said his recollection is it's a digital sign but it is stagnant for eight to ten seconds or whatever is decided or conditioned. Atty. Kwessel added that most zoning bylaws have not kept up with sign technology but 6.6.2.2 appears to be concerned with glare. Ms. Cline said she is still concerned with that being so close to the intersection as it exists today, and with the improvements to be made to Route 79. Mr. Bissonnette said if the Board was amenable to it, he would like to get some answers to their questions.

Mr. Carmichael said if they were going to continue this, he would like to request some kind of elevation especially from the intersection or from both angles so they could see what the sign will look like, and know how many luminaires it's going to have. He would also like to see the written comments from Police and Fire.

Ms. Barbara Mancovsky of 17 Johnson Drive wanted them to know that residents consistently say that they want them to maintain the rural character of the community. She would like them to keep that in mind as they think about this plan or anything else as their community is undergoing tremendous change right now. Ms. Maksy said she appreciated what Ms. Mancovsky said but would like to add that the Master Plan for the

Town wants to grow business. Mr. Carmichael agreed but a digital billboard illuminating at a four-way intersection might not be the right location or the right place for that. Ms. Maksy asked if she should discuss with Mr. Bissonnette the possibility of moving the sign. Mr. Carmichael replied they still need to see an elevation because right now they don't even know what they are looking at.

Mr. Bissonnette then displayed what the sign would look like and the placement of it on Bedford Street. He estimated they were approximately 45 feet from the intersection. Mr. Carmichael suggested moving it as far as possible from that intersection. Mr. Olivier reviewed for their next meeting he would like Mr. Bissonnette to reach out to Mass Highway for their involvement, if any, in this process and to also give the Board some different options as far as to the sign's placement. The ZBA will reach out to Fire and Police to get their comments on it. Mr. Carmichael would like an elevation of the Site in whole or some type of 3-D rendering. Mr. Olivier said it should show what it would look like coming down Route 18.

After further discussion, it was agreed to continue the hearing. Before a motion was made, Mr. Olivier asked if there were any questions in regard to the building. Mr. Carmichael asked if the building could be moved further down. Mr. Bissonnette replied they did look at that but some factors affecting the placement are a Mass DOT drainage easement, keeping the septic utilities out of the easement, maintaining the 100-foot setback from the existing well that is on the abutting property, and trying to stay out of the buffer zones to the resource area to be in compliance for Conservation is what pushed them into this layout. Mr. Carmichael said he understood that but a two-story building is going to create a bad sight line at that intersection. If they could get that building back feet or even inches, that would help them.

Ms. Maksy noted that Mr. Bird who lived in the abutting property would like to tie into Town water. If he could, that would change the distances for the well. Mr. Bissonnette said that could change the placement of the septic enabling them to slide the building down. Mr. Bissonnette said this was all new information to him so they could look at some alternatives.

Ms. Cline then made a motion, seconded by Mr. Carmichael, to continue the Maksy hearing until December 15, 2020, at 7:00 p.m.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Campeau-Aye, Mr. Olivier – Aye

The hearing closed at 7:42

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of November 3, 2020

Conservation Commission correspondence of November 18, 2020
Planning Board correspondence of November 17, 2020

Chapin hearing – 15 South Avenue

Mr. Olivieri opened the Chapin hearing at 7:43 and read the legal ad into the record. Mr. Bissonnette was present for the applicant. He then shared his screen. He advised the application is for the razing and reconstruction of an existing dwelling, and the construction of a new accessory building, a garage on a slab. This is on Long Pond so the property has a relatively new tight tank, and it is connected into the seasonal water system. They would not be changing the number of bedrooms.

Mr. Chapin said they had been to Conservation but the hearing was continued because they needed additional information. The secondary structure was re-located. He also noted the existing dwelling is not being taken down but they are adding a second floor to it. Mr. Olivieri asked if they were here only because the size of the lot. Mr. Bissonnette replied it was also because they don't meet the front setback for an accessory structure.

Mr. Carmichael made a motion, seconded by Mr. Noble, to approve the petition as submitted.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri –Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 8:48.

Documents distributed for the hearing:

- Petition packet
- Legal ad
- Plan to accompany a Notice of Intent Filing
- Board of Health correspondence of November 3, 2020
- Conservation Commission correspondence of November 18, 2020
- Planning Board correspondence of November 17, 2020

Martowska hearing, continued - 2 Edgewater Drive

Mr. Olivieri reopened the Martowska hearing at 8:48. Mr. Olivieri believed that some correspondence had been received from Outback Engineering, and it had been brought in to be submitted. Ms. Murray replied she had not received anything except for a PowerPoint presentation. Mr. Martowska thought the document had been emailed but apparently, that was not the case. Ms. Martowska then shared the letter from Outback Engineering and members took the opportunity to read it for themselves. Mr. Olivieri

then asked Board members if they were confident that the water mitigation has potentially been satisfied.

Ms. Cline said she would like to see some numbers behind this as to what it is capable of managing. She had gone out after the horrific rain storm they just had and looked at the water run-off. She would like a quantification of this, and how much it handles. Mr. Olivieri said the letter refers to mitigate, which in his opinion is not a definitive word. There are water issues in that neighborhood, and they want to make sure they are not going to change with the scope of the project. Ms. Cline said if they could get Outback to explain this to them, it would be helpful.

Mr. Carmichael agreed. He would also like to see a Site Plan. Ms. Martowska then displayed the Site Plan on the screen. Mr. Carmichael said they are proposing a 10-foot setback on one side and a 17-foot setback on the other. He asked if they had moved it further back from their last discussion. Mr. Martowska said they had not. Mr. Carmichael said he had the same concerns about the size of the structure and how close it was. He would like to hear from the neighbors. Mr. Olivieri said that there was room to move it but that was a decision to be made by the Martowskas. He thought they had left it last time with potentially seeing if anything could be done to shift it a little further away, but earlier it had been said that Mr. Martowska wanted this size garage and was not going to move it because he likes where it sits. He had no interest in reducing it a little bit as an offset to get a little closer to the property line. Was that his understanding? Mr. Martowska replied a two-car garage would not work. He still thought this was the ideal location. If they gave him a number, he would adjust the drawing to that but if he moves the garage into the 20 feet, his neighbors will get the garage the way it is, and they will not get all the mitigation that he is offering.

Mr. Sheedy said he did not understand why the garage can't be pivoted approximately 15 degrees and then slide it in a northerly direction. He would be right in that 20-foot setback, and this whole discussion becomes moot. 7.4.1.3 states the applicant has no reasonable alternative available, but he saw that there was an option to either reduce the size of the structure or to move the garage. He was struggling with the fact that Mr. Martowska is choosing a location that benefits his aesthetic desire and the neighbor is suffering the consequences with a building that is ten feet from their property.

Mr. Olivieri said the question is why does the petitioner need this relief and is it strictly a preference. Mr. Martowska replied the primary benefit is aesthetically and open space but it also goes into the driveway. He set the driveway up to have enough room to park cars outside the garage, but not pulled into the garage to still have a place to turn around on a relatively flat area. As he moves it further in, he is having less space and aesthetically, if his house looks bad that lowers his value and affects the neighbors. He noted that if he did move the garage, it would block more of the water view for his neighbors. He was the primary beneficiary of this, but part of his goal was to make things better for everybody else.

Mr. Olivieri asked if Board members had any additional questions regarding the placement of the garage. Mr. Carmichael said Mr. Martowska had said that if he pushes the garage in he would not have to address the water drainage, but he absolutely will have to. It is against the law to divert any water from his property onto anybody else's. He is also required to do drainage around his foundation so that includes the downspouts. Mr. Olivieri agreed and said the mitigation Mr. Martowska is referring to isn't necessarily mitigation, but what he is going to have to address no matter what.

Mr. Olivieri noted there had been some comments on Facebook but they had all been addressed. Mr. Tribou said as had been discussed at the last meeting, they signed in good faith the Settlement Agreement and in that the garage was never expected to be bigger than 24' x 28'. They have other options, so why are they were pursuing this. He noted that on the new plan the coverage was down to 24.9%, but he would like to know how that was able to be reduced. He would also like to know what makes up that number. Mrs. Tribou said that she had also submitted some information regarding the neighborhood with pictures. She did not think it is in keeping with the neighborhood. There is only one structure, a horse barn, that is larger than what is requested. She said they couldn't be happier with the stormwater and drainage but as far as the positioning of the garage, they see no benefit.

Ms. Jess Leary said her main concern remains the same with the water runoff. What are the detailed plans for drainage? Ms. Marie Scarpelli asked the Martowskas how this would enhance the neighborhood. Mr. Martowska replied that when anybody improves their property, it increases the value and its good for the neighborhood and everybody in general. Ms. Scarpelli said she understood but with the positioning of the garage almost on the street, it doesn't seem to be consistent with what they see in the neighborhood. It was noted that the placement of the garage would decrease Ms. Scarpelli's view, and would not be an enhancement.

Mr. Olivieri said although they have been focusing on the garage, there is a second part to the petition. It has to do with the 16' x 12' pavilion/patio. What did Board members think about that portion of the petition? The site plan was then shared again. There was a roof but it was open on all four sides. Members had no objection to the pavilion. Mr. Carmichael said if the pavilion was approved he would like the caveat that the drainage be approved through Conservation to be run into the lake and not on the neighbor's property. Mr. Martowska said that he has already viewed this plan with the Conservation Commission, and they did not give him any constraints beyond what he has there now.

Mr. Olivieri said there are two main issues here. One is the relief requested is more to do with a personal preference. A lot of the water mitigation that was discussed would have to be dealt with anyways when putting a structure of that size on your property, even if going directly to the Building Commissioner. He thought their major concern is they are unsure of the runoff, and their questions haven't been fully answered. The petitioners may be better served by having their engineer present to answer the Board's questions and have them be comfortable that the neighbors will not be impacted. He could call for

a vote, but they would need four out of the five board members to vote in favor in order to grant the Special Permit.

Mr. Martowska replied he had asked Outback to be present but they couldn't make it. He was getting the impression that he won't get the setback that he is requesting but there might be a chance with the additional input that they may grant something. His other option is to move forward with a vote and work with a mitigating system later on. If he is going to pay for that system then he would rather do it with a chance to get it closer to the property line and/or closer to the street as he has asked. For those reasons, he is willing to continue to the next meeting and get some people in to answer any other questions the Board may have.

Ms. Martowska asked if they continued regarding the garage portion of the petition, could they vote tonight on the pavilion/patio. Mr. Olivieri replied because this is one petition, they should vote everything at the same time as opposed to breaking it out separately like that. Atty. Kwesell agreed.

Ms. Cline made a motion, seconded by Mr. Sheedy, to continue the Martowska hearing until December 15, 2020, at 7:00 p.m.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Olivieri-Aye, Mr. Carmichael-Nay, Mr. Sheedy-Nay. The motion passes.

The hearing closed at 9:39.

Meeting Minutes

Ms. Cline made a motion, seconded by Mr. Carmichael, to approve the minutes from the October 1, 2020, meeting.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri-Aye

Ms. Cline made a motion, seconded by Mr. Noble, to approve the minutes from the October 15, 2020, meeting.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Campeau-Aye, Mr. Olivieri-Aye

Old Business

There was no old business.

New Business

Mr. Olivieri advised there were some CPTC e-fall workshops, if anyone would like to attend a class.

Mr. Carmichael noted that there had been a lot of last-minute information put out today, and then they were trying to review all this information. He would suggest they have a one-week deadline for any submittal so they could have time to review it. Mr. Olivieri asked Atty. Kwesell for an opinion if they could put a restriction on submittals. She replied they can put a restriction and what that would mean is it wouldn't necessarily be considered that night. The problem they might have is when they run into instances where they have a simple project and the applicant submits a minor change to the Board that night. They wouldn't want to hold them off until the next meeting because it's minor.

Atty. Kwesell thought there should be a policy that all new information should be submitted a week ahead of time, but at the same time they should be flexible. Mr. Olivieri was correct that they could not reject a document at a meeting, but it doesn't mean that the Board is ready to vote on it that night. If they ask the applicant for a continuance and they don't agree to a continuance, it would be part of the record that they gave the information that night but the Board did not have enough time to review it.

Mr. Carmichael then made a motion, seconded by Ms. Cline, that they impose a one-week deadline for submittals with the caveat that the Board has the discretion of asking for a continuance and/or whether to consider the submittal that night or not.

Mr. Olivieri asked how do they make that determination of what they are going to accept or aren't going to accept. Atty. Kwesell replied for example, if someone comes in with a new plan because another Board asked for changes, they didn't have that chance to have it in a week ahead of time. In this case, the Outback letter and plan should have been in a week ahead of time. The applicants had two months to get everything in. He would have to just be flexible.

Mr. Noble asked when this could go into effect. Did it require a notice? Atty. Kwesell said it did not as it was just a policy. Mr. Carmichael amended his motion to include that any future submittals after this date would require a one-week deadline.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Campeau-Aye, Mr. Olivieri-Aye

Mr. Campeau then made a motion, seconded by Mr. Noble, to adjourn the meeting.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Campeau-Aye, Mr. Olivieri-Aye

Meeting adjourned at 9:52.