

**ZONING BOARD OF APPEALS**  
**Town of Lewiston 1375 Ridge Road**  
**Lewiston, New York 14092**  
**Thursday – July 13, 2023**  
**ZBA- 07-2023 (A)**

**Agenda LMK Realty-Ridge Road (A), 5/4 Development Jefferson Way (B), The Broadway Group- Saunders Settlement Road (C), Conway- Sara Court (D)**

**Present: Conti, Heuck, Machelor, Maggard, Warnick**

**Presiding: Norman Machelor, Chairman**

**Pledge of Allegiance**

**A motion to approve the minutes of June 8, 2023, was made by Maggard, seconded by Heuck .**

**Machelor: A motion made in the second to approve the minutes as written all in favor say AYE**

**Members: AYE**

**Machelor: Abstained I abstain I wasn't here**

**Machelor: If you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to deny or grant requests to vary the Town of Lewiston Code, hence a variance request to allow or disallow a project brought to us because it cannot be built or performed as presented without a hearing to determine whether upon presentation of the details of the request the Board will grant a variance to continue the project or denial to prohibit a project as presented. I wanted to make an announcement at the beginning and that is that the variance request for LMK Realty Associated 691 Ridge Road which was tabled on June 8, 2023 has been withdrawn for today.**

**Serianni: Mr. Machelor that's not correct.**

**Machelor: Oh**

**Serianni: The applicant has just requested that this matter be tabled for another month it has not been withdrawn.**

**Machelor: Ok alright**

**Heuck: So, it's a continuance**

**Serianni: Correct**

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Machelor: Excuse me make the minutes say the right thing. And anybody that's here for that I wanted to make sure you knew that. Ok so we have the second one is a use variance request for 5/4 Development 836 Jefferson Way SBL 88.13-1-8. Is someone here for that?

Yes, I am Joe Giusiana 5/4 Development

Machelor: Ok speak up sir because I don't think our microphones working either

Giusiana: I am requesting that I be allowed to put a for sale sign as you know I had a project at president's park apartment complex that's been approved concept previously my marketing had problems for sale as we continue to do our final engineering design and construction cost. What I am requesting currently is to placing a sign at 836 Jefferson Way which would be on the corner of Creek Road and Jefferson Way. The property that makes up president's park is back on Washington Drive so I don't have the same exposure that I would have if this for sale wasn't up on Creek Road. So that is basically what I am asking for.

Machelor: Ok. A Use variance criteria are very strict. There is 4 general items that we use to decide whether we are going to grant a use variance. The first one is that you cannot realize a reasonable return- substantial as shown with financial evidence. It's going to make a difference financially. It's a hardship and it's unique and does not apply to substantial portion of the district of the neighborhood. So, it would have to be a hardship. Will not alter the charter of the neighborhood and the hardship has not been self-created. We don't have a lot of leeway for granting things that don't meet those criteria. So

Conti: And they have to meet all 4 criteria

Machelor: All 4

Conti: For a use variance. Those are state regulations that's something that is very strict.

Machelor: So. Mr. Giusiana I mean I don't know how you would call it a hardship. Why would it be a hardship?

Giusiana: Umm I don't have the exposure that would obtain by traffic design on Creek Road. Madison, Washington Drive very little traffic from the residence that live there putting it out on Creek Road would give it more exposure...

Conti: So just giving you better exposure than if you put it on the property. But if you are looking for better exposure, I guess you could also turn around and rent a billboard and put it on.

Giusiana: But I guess I am looking for exposure due to the location of the property rather than put a billboard up on the 190 on Grand Island or by Home Depot or something like that

Machelor: When people buy a piece of property and they know what the zoning for that property is. They are already aquatinted with the things that can or can't be done on that property. And a use variance means you are going to change what the zoning says is allowed on that property to something else. That's why it's so strict. That we can't let who people buy a property and think well because of where it is and because of my situation I can ask that a use variance be changed. And so again I am going to say this you have to have a hardship that you need and doesn't comply to...it may be unique but it doesn't really affect a substantial portion of the neighborhood except that these all you know R1 areas and you're not permitted to put signs on them advertising a property that is somewhere else.

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Giusiana: Well, I guess I am placing a sign a piece of property that was part of the original subdivision so and if you look at it on ... basis I am still within the limits of the total subdivision. So just a question they are telling me I need to come here for a variance to place the sign on a piece of property that was you know

Conti: But that's not yours now

Giusiana: It was originally approved as a co-project yes

Conti: But that piece of property is not yours right now

Giusiana: I understand that

Machelor: Well, that's the problem

Conti: And the first thing is that the applicant yourself cannot realize a reasonable return- by competent financial evidence and it needs to be illustration of financial evidence for the sale of the property, present value of the property, expenses for maintenance, leases, rental agreements, tax bills, conversion costs, realtor statements inability to rent or sell. So, you need financial proof also

Giusiana: I guess I wasn't told. You know I sat with Tim Masters I sat with Tom Seamans. First, they told me I had the wrong permit then they told me this was the permit I needed in order to put that sign up. Didn't recognize or realize I need a financial analysis to put up a for sale sign. The exact same thing down on River Road to benefit his project. So, the presidents already been set it was explained to me that is shouldn't be an issue.

Machelor: Well, you know those people aren't here that gave you that advice but didn't they say to you that this is a use variance.

Giusiana: Yes

Machelor: Did the tell you what you had to do to have a use variance? They should have

Giusiana: Not in the detail that you are presenting

Machelor: We do this every month I read these things over and over and they haven't changed. Both of those people certainly know that. Umm it's a problem with character of the neighborhood.

Giusiana: I have permission from the homeowner does that in any way count for anything

Machelor: Well, he doesn't speak for his neighborhood either.

Giusiana: I mean I have letter from the owner of the property

Machelor: Yes.

Conti: That's this letter here right

Machelor: We take the owners opinion into consideration but the owners not granting variances. Questions?  
Dave?

Warnick: Nope

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**Maggard:** Yes. Couldn't you get the same exposure from newspapers, tribune those types of areas

**Giusiana:** I do have it on the internet I am working with a real-estate broker I am doing everything I can from our property aspects. Just one more thing I think would enhance the ability to market this property. We are continuing our design work to bring this project to life but in the meantime, there is someone else out there that are more ready position than I am. That's what we are looking to do.

**Maggard:** Well, I think our chairman has already gone through the steps very good and a use variance is very, very difficult to achieve.

**Machelor:** Gary?

**Heuck:** What?

**Machelor:** Comments

**Heuck:** No none

**Machelor:** Ok. Well, this is a public hearing so Mr. Giusiana if your complete I would ask that anyone else that is here that wants to speak to this issue. Come on up please

My name Cleaton Miller 4557 Creek Road which is directly across on Jefferson. The sign was up for one day maybe a month and a half ago I work from home. I am working on my front porch there are several near accidents on Creek Road. The sign was very high you couldn't see making a left hand turn.it was equally challenge making a right-hand turn. There is Hickory Stick golf course which is right there so in terms of business proposals I have no opinion on that I would say if it is through a real-estate agent the exposure should be taken out of the commission the potential commission on that sales probably about \$100,000 would propose to get that exposure should come out of Hunt Real-estate, they had the original sign. So, my intention is from a safety stand point on Creek Road and again not just for 3 hours one day and there was almost 3 accidents and someone that lives there is just a bad accident 50 feet from my house I really don't want to see another accident. So that's just what I wanted to talk about.

**Machelor:** Ok Thank you! Is there anyone else that would like to speak to this issue? Ok I will close the public hearing. And ask the Board if you have any more questions? Who would like to make a motion?

**Conti:** I will make a motion that the applicant has failed to prove unnecessary hardship through the application for the 4-test required but the state statues and therefore the application is denied.

**Heuck:** I will second the motion.

**Machelor:** Ok we have a motion made in the seconded any further discussion. Hearing none I will call the question. All those in favor say AYE

**Members:** AYE

**Machelor:** Carole Pull the Board

**Mr. Conti:** AYE **Mr. Heuck:** AYE **Mrs. Maggard:** AYE **Mr. Warnick:** Aye and **Chairman:** AYE

**Machelor:** Thank you!

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Machelor: Ok I would like to open the public hearing on a variance request for parking and rear yard setback The Broadway Group LLC 2835 Saunders Settlement Road SBL 118.20-1-5/118.20-1-6

DeAnna Hyche: Good evening how are you?

Members: Good

Hyche: My name is DeAnna Hyche I am with the Broadway Group from Huntsville Alabama and I come to you tonight to discuss a proposed development at 2835 Saunders Settlement Road for a commercial retail facility. That facility is proposed for 10640 square feet in total the sales floor would be about 85 22. Actually, can I bring some more papers

Machelor: Sure, we need more papers

Hyche: It will condense what I am looking at for you. All I did was give you a site layout in conjunction with... but it's smaller and its part of... So, as we mentioned I am area variances parking and rear setback. The store that I am proposing at Saunders Settlement Road productively only requires 35 parking stalls your ordinance would require 60. Additionally, your rear setback requirement because we abut a property that has a home on it although it's general business, we have to consider it residential so the rear setback would be 50 feet. Right now, our proposed development is only at 19.7 feet. I want to talk to you about why I don't think that those are issues. I actually think that it's better for you all because it reduces our foot print. If you turn to the first page, I am sorry the 3<sup>rd</sup> page of the package I just gave you it shows you the area that we are looking to develop. If you flip to the next page, we are looking to create the 1.43 acres that I am showing you through combination parcel ending in one five and parcel ending in one six. The zoning map that you flip to shows you that all of the land that I am interested in developing is actually general business. And if you go to the next page, you will see our plat and it shows you that I am assuming parcel ending in 5 and parcel ending 6 and adding acreage

Machelor: They don't show up well here can you come up

Hyche: What's key in that picture is that it's really not the parcel number what's key is that you look at the rear setback of the property that is to my west that is general business but has a home on it. Their rear property boundary is at about mid-point of the parcel that I am creating. So, my setback requirement you're assuming a 50-foot requirement when in actuality everything at the back of that store abuts to is general business which would only require a 30-foot setback. Still asking for a variance of 10 foot but not nearly as substantial as what it would be next to a resident. So, the rear of my building sits way back behind the home that is to my west does that make sense?

Machelor: So far yeah

Hyche: Ok. That's why I think the rear setback variance is not necessarily an issue. In terms of parking 61 is just not something that this development requires and we have the land to do it. If you look on the next page you will see the proposed layout and when we originally designed this development to the east of our driveway, we could add an entire strip of parking and we could meet the 61 requirement. However, not only do we not need it as it is established by the letter, I provided you from a client that has over 20,000 facilities either in construction or in operation. The other issue with this site is the permeability of the soil. There is zero infiltration it's all... about 4 feet down you start to hit weathered bedrock we have a shallow foundation so that doesn't concern us all that much. But it just creates a hardship in terms of trying to treat the run off from the building as well as the normal storm water for the building so the less foot print that we can make asphalt anything impervious improves our ability to manage the storm water for this development. And so that is why we would ask it allows us to leave you more green space and that's why we would ask for the parking variance.

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Machelor: Ok. So, you're talking about 2 things at the same time right.

Hyche: Yes sir

Machelor: Kind of drawing along

Hyche: Drawing along

Machelor: Let's talk about the parking for a minute.

Hyche: Ok

Machelor: So, your contention is that you only need half as much parking places as required.

Hyche: Sir yes

Machelor: That's basically it

Hyche: That is

Machelor: That's tough for zoning boards because it's substantial. The merits of your argument are we understand that. Because people have been here before and I think we understand the type of customers you have also. So...

Hyche: At any given time, this particular development on average does 15-20 transactions an hour. Taken into account that our busiest hours of operation are 8am to 10am and again in the evening from 4:30-6:30/ 5-7 it kind of depends on the area and so those would be the hours that we would hit over that. So, 61 is just extreme.

Machelor: Well, what you know... you say... what about the area next to you the bio retention area number 2.

Hyche: On the east side or west side I am sorry I don't know what you

Machelor: I guess it's the east side

Warnick: East side

Conti: It's on the east side

Heuck: East side

Hyche: Ok. We can put another strip of parking in let me clarify that. We can. If that's exactly where it would go but it's a lot of asphalt that creates additional impervious pavement that increases the amount of treatment for the water that we are dealing with on the site. We leave you more grass this way we disturb less acreage this way

Machelor: Well as I say the merits of what you are saying we understand the merits. The problem is when we do these things, we make permanent decisions. And you know we are always conversant of the fact that somebody is going to come along later and say hey I don't need that many parking places and I don't have a retention area to put the places in. And all of that detail is lost in the future. The other thing that's in the future is what we did. You know so.

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Hyche: 2 questions or comments actually the area variance follows the development and so it at a future date there is not this particular development which is not a common occurrence then the area variance goes away correct. And there's land to add the land existing to add the parking. So, the individual that would change the use increase the parking would come to you or decrease which ever they would come to you for decrease. They have to come to you the same way that I am trying to. So, your justification can absolutely be explained by benefits to the environment in what I am offering.

Machelor: Ok. So, does anyone have any questions?

Conti: Well, I don't think that I have issue as much with the parking I think you put forth proof that shows that 35 parking spots is more than enough for a dollar store. I can't remember if it's a dollar tree dollar general

Hyche: Commercial retail facility.

Conti: The biggest problem I think we have is the 19.7 feet from the rear setback.

Hyche: And I can get additional land but what that does is once again it increases the footprint of the building. And the fact that isn't road frontage and the fact that no visibility issue there or anything I would hope that you would take that in to account.

Conti: Is there a possibility of purchasing another 30 feet of the property behind you?

Hyche: There is, there is I would talk to my seller. But it increases the amount of water then that we have to manage in terms of our storm water. So

Conti: Not too concerned about that

Machelor: Were not as concerned about that as you might think

Heuck: Retention

Machelor: Yeah, you do have retention

Hyche: That's for the land that's currently going to be developed. The other thing that I would as you to consider if in fact you are not as comfortable granting the variance once again, I would argue that the setback requirement would only be 30 foot for this development. Because the back side of this property does not about a property that is being used as residential it abuts commercial or general business.

Conti: But there is residential there. That's why we have to concern that's why we have to concern with that amount

Hyche: If I were asking for a variance on the west side, I would understand but it's a rear.

Conti: Unfortunately, that's how our laws here are as far as that goes. So, we have to look

Hyche: Interpretation

Machelor: Well, it's not interpretation it's pretty plain so. The question is it's substantial too again it's like the parking the parking areas not as much of a concern even though it is substantial change. This is the same thing but more importantly we don't like to recommend to people what they do with the money and how they do things

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but you know coming here and asking for variance for 20 feet as opposed to 30 feet or whatever. That's where we run into the problem.

Hyche: Well, I had discussed with Tim and Ed whether it would actually be a 30-foot variance or if it could be considered a 10-foot variance and they said to discuss

Conti: Could you take the store that faces Saunders Settlement is here and put it this way?

Hyche: No not with the way the property is. The width of this property would not allow for the truck turn

Conti: Gotcha

Hyche: As a matter of fact, interestingly enough if you look on the back page of the presentation that I gave you there is actually a sample this is also an upgraded presage just so you know hardy and the one that I the picture that I found actually is a longer I just wanted to show you the materials that we would be using but that gives you an idea of the challenge we face with the way that the property is.

Maggard: How would the truck come in and where?

Hyche: If you look at my... if you look at the site layout it shows you my drive and the truck will turn in and then back into the long asphalt drive. So, it will make a turn into like right here and then back in here.

Conti: The loading docks are back that way

Hyche: Yeah

Machelor: Ok. If you will I am going to ask if any...Keep the public hearing open ask if anybody else wants to speak to this issue. If they do, please come forward.

Alright my name is Dennis Bell. I live directly across from this property. There are a couple things that stand out immediately your talking draining water you should be concerned about. I definitely alright that area where this is going you may not be aware of it but it floods consistently it looks like a lake out there. We got seagulls out there enjoying bathing themselves having a great time. So that comes from snow and if you use 35 parking spaces and you're looking for 61 where is that snow going where are we going to push that off to? If we still have 35 parking spaces that you need are necessary and still have to allow for trucks to come in out, where are we putting it? If that snow were to start to build up in one area or another, have you taken an environmental study of how that snow is going to be eliminated is there a plan for taking care of that? If we cut away from those extra spaces that you need you be having pushing the snow and not up against their property. Or if we do have that snow and we do have that parking is that going to be directly across the street from an elementary school or are they going to be parked out on the street? Where we have buses going back and forth and in and out. That becomes a concern. That's were talking about moving it up. By moving it up with Dollar Generals is supposed to be here correct I live within 200 feet of the school property and that becomes a problem as well. Because now were taking that variance and we are changing that and once you change that it's there for good just as you just said. You made that decision and it's staying there. So have we made this were we making that decision because of a hardship. A hardship was involved so we allow for this for the hardship or we did it because it becomes more convenient it's less expensive and that's what we are going to go with. That seems like that decision is what we should be looking at. I don't care about the store being across the street. I mean it is with traffic studies and other things that need to be done as far as that goes. I am sure you are doing your diligent but I don't want to be cutting our throats when we do it by allowing somethings that are still under have to be under advisement. As far as this goes and how it will affect the area around it. Ok so that's the basic thought process on that. And then knowing the



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variance of where this is because if that building got God for granted new businesses always seem to be pretty successful but if they do you have a gigantic shed there because of the way these are built. They're not resalable you will see those sit forever. And that's something else we have to consider.

Machelor: Thank you

Maggard: Thank you!

Machelor: Anyone else? Anyone else want to speak to this? Ok I will close the public hearing. And ask the board if you have any further questions?

Maggard: The one reason why I asked about the truck turn around is because of the West Street School across the street. That really is sort of a problem.

Hyche: They do all their turn movements within our property

Maggard: But you have school buses coming in and out of there all the time what does that do. I'm really concerned about it

Hyche: We are working with the department of transportation on our access. I can't think of his last name at the moment. Are development has already been given to the department of transportation and is being reviewed for access and will do whatever the requirements state.

Machelor: Dave?

Warnick: No

Machelor: Joe?

Conti: And you did say that you could purchase additional land behind.

Hyche: I haven't spoken with him yet but I most certain that I can. I don't know if I can speak to a couple of the issues that were brought up by the gentleman that came up. I don't know if he wants to look at my lay out. But we have plenty of room for the snow to clear and we hire people to clear.

Members talking

Hyche: So, this development is extremely extensive retention and actually we've got 3 sets off we are required to create a development that supports a 100-year flood scenario and we have done that.

Machelor: If you like to speak you sit down if you like to speak, please come up

Bell: If I could just readdress the idea that she said there have been studies done as far as where it's going to be there is significant runoff, I watch it every single year. I see this flooding I know the floodings there and if were taking that pushing here pushing there that's where the flooding will be there's not anything that is draining at all nothing it doesn't happen it sits there becomes a lake and that will actually go to your parking lot it's going to happen it's just where it is. So I am hoping that study..

Machelor: Alright Thank you!

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Vicki Bell 5775 West Street so my husband I am a 8 year parent group president of West Street Elementary School I have been involved with that school for many years. My concern is reducing parking is Christmas time holiday time more parking people are going to park on 31. The traffic and she mentioned herself her busiest time 8-4 school goes on from 9-3 that corner is insane already when schools going on with parent pickup, parent drop-off busing now if you get people parking cause there's not enough room in the lot and then parking up and down 31. Like it happens when there's events at West Street they park up and down 31. It's insane.

Heuck: Illegally

Bell: The traffic the accidents it's...

Machelor: Thank you!

Conti: One thing here for this particular meeting for the zoning board there's 2 things in front of us. Not the proposal of the project itself it's the rear set back and there's the parking. So as far as the actual project goes and they are talking about sales everything else that's not in front of us. The only thing we can do vote on the rear set back and the parking. So just know that I mean what will do here today there might be other thing you're not happy with but that's planning board stage and town board meetings that would not be necessarily for here.

Bell: Our concerns aren't about the project itself

Conti: Right

Bell: Were talking about the setback but if the setback you allow for the set back then it's outside of the violation of the other portion of this

Conti: Right

Bell: Then that does become a problem that has to be taken into consideration

Conti: Right absolutely right. But just saying just know that if we approve or deny whatever we end up doing. But that's not saying that the project doesn't go forward.

Bell: No, I understand that

Warnick: The building will not be moved forward to get the rear setback I think that's what you mentioned it will stay where it's at. What she's wanted is for us to put a variance on the set back not move the building 50 feet. Ok

Machelor: Yes sir

My name is John Ceccato I own the acreage that butts up next to its kind of hard to explain I am on Bridgeman Road but my acreage comes out it's close. My concern is drainage in our property we had to get a swale we had to get it approved by the board to get a swale to carry it out to route 31. And it's still an issue I only I don't question the commercial aspect of it but the water drainage it just I want to present to the board to make sure that it's taken care of properly and were not left with an... because I had to get a permit when I first bought the acreage 19 years ago and it was a problem we had to dig a swale it comes out between 2 homes that face route 31 the neighbors had to approve the ditch it's covered but it's still a problem because in the Spring there's a lot of water. It's an issue for us. I can't work the field not that I am a farmer but we have a farmer work that field. We just have it's an 11-acre horse farm. The drainage is our concern the water I just want to present that to the board to make sure that is finished.

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Members: Ok thank you!

Machelor: As Joe has said the only 2 issues before us are set back and the parking. All of these things have are connected more parking less drainage right. More parking more run off so on the one side people say well we need more parking because of something and on the other side someone says well if we have more parking, we are going to have less bio retention areas for example. I think at least on the surface it looks like they adequately address the bio retention area for their piece of property. It's difficult to project what people next door what the property owner next door is going to do. You know these things they go on they have a life of their own. My property about a foot and half lower than my neighbors nothing I can do about it.

Conti: As far as the SEQRA

Serianni: Yeah, so for the purpose of the SEQRA the has about I was about to mention this as you know this project is also going to go in front of the Planning. The Town Board will ultimately take lead agency for purposes of the SEQRA so the only issue with the Zoning Board taking action on this variance before the planning board and getting your necessary approvals is that we should make a determination or we are suppose to make a determination on any action that is before this board for purposes of SEQRA. However, these are type 2 actions pursuant to SEQRA so I just want the board to make note that these are type 2 actions but for purposes of SEQRA we are going to allow the Planning Board to make that determination.

Members: Ok good

Conti: That's the way it should be

Bell: May I ask one more question

Machelor: Yes Sir

Bell: What about hardship

Talking

Machelor: This is a area variance not a use variance. An area variances have a lot of leeway to do things. Ok

Hyche: I was just going to say I was under the impression that vote would be taken contingent upon my follow up.

Machelor: Ok. I would like to close the public hearing. And ask the board if they have any further questions? Looking for a motion.

Conti: I would like to make a motion as far as the parking I would say that the benefits of the applicant does outweigh the detriment to the neighborhood or community therefore the PARKING variance is approved to go from 61 to 35. The set back the benefit of the applicant does not out weight the detriments of the neighborhood or community and therefor the variance for the SETBACK is denied.

Machelor: Ok we have a motion that's been made

Warnick: I will second that

Machelor: I got a motion now seconded. Any further discussion on the motion?

Heuck: I am just wondering if there can be a condition put on to that?

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**Hyché: I am sorry I didn't hear you**

**Heuck: A condition of you purchasing that property behind you**

**Conti: It wouldn't matter**

**Hyché: I would have to because you**

**Talking**

**Serianni: What I would recommend is she acquires the additional property it would meet the rear set back**

**Heuck: I can't hear ya**

**Machelor: If she were to purchase the property, she wouldn't need a variance**

**Heuck: That's right**

**Machelor: But we are voting on the denial today. Ok I am going to call the question all those in favor say AYE**

**Members: AYE**

**Machelor: opposed**

**Maggard: No**

**Heuck: No**

**Machelor: One no two nos did you say no Gary**

**Heuck: Yeah**

**Machelor: Ok Pull the board**

**Mr. Conti: AYE Mr. Heuck: which one both**

**Conti: Were doing both?**

**Machelor: We are doing both**

**Conti: You want to do them separately**

**Machelor: No**

**Heuck: You gotta to them separately**

**Serianni: You should do them separately**

**Conti: Ok the first one will be for the parking approval**

**Maggard: Is this for parking? AYE Mr. Warnick: AYE, Chairman Machelor: AYE**

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**Conti: Ok and the second one is for the denial of the rear set back**

**Mr. Conti- AYE, Mr. Heuck- AYE**

**Machelor: Ok second motion**

**Conti: We already did that**

**Talking**

**Machelor: Call the question on the second**

**Conti: We did that already**

**Talking**

**Serianni: She's pulling the board**

**Machelor: Pull the board I didn't hear it**

**Talking**

**Mrs. Maggard: Nay Mr. Warnick: AYE and Mr. Machelor: AYE**

**Carole: 4-1**

**Machelor: Ok. Thank you!**

**Conti: No, the parking was approved from 61-35 the rear setback was denied**

**ZB-07-2023 (D)**

Machelor: Ok the last one is a variance request Michael/ Susan Conway 706 Sara Court SBL 87.20-2-47 come on up. Ok state your name and what you would like to do.

Michael Conway 706 Sara Court we don't have a front porch on the front of our house it's exposed to the elements but we have a pad on it. It's 6 feet it's under a 4-foot foundation that was already on the original setback when we built the house. So, it was put on a foundation we are looking to put a front porch on it a covered front porch and with the setback I need approximately 24 more inches

Machelor: You need

Conti: 2 feet

Machelor: 2 feet

Conti: Ya

Conway: The 2 feet is how the boards are going to go maybe it's a little less so

Machelor: I think we better call in the legals on this one

Laughing

Machelor: Well, it's a public hearing so questions

Conti: So, you are basically going from 38-46 feet

Conway: Yeah

Machelor: Ok thank you! Anybody else want to speak to this anybody here to speak to this issue? Ok close the public hearing ask the board if they have any questions?

Conti: I would like to make a motion

Serianni: Hold on. I just have a couple. The application didn't state anything on it I just want to make sure our findings are there. Had you considered cutting down on the porch by 2 feet is that feasible?

Conway: Ascetically no then I would have enough rafter length.

Serianni: What is the type of neighborhood is this single family

Conway: Yeah, Sara Court Yep

Serianni: You're asking for 2 feet

Conway: Yes

Serianni: And you don't intend on changing any of the grading of the property or any other

Conway: No

Serianni: Thank you!

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**Conti:** I would like to make a motion now. So your only looking for 2 feet correct

**Maggard:** I thought it was 3

**Conti:** No it's just 2 48-46. I would like to make a motion of the benefit of the applicant does out weight the detriment to the neighborhood or community therefore the variance is granted for 2 feet from 48-46 feet

**Heuck:** Second

**Warnick:** I'll second

**Machelor:** Ok we have competing seconds

Laughing

**Machelor:** I think Gary was first.

**Warnick:** He got in there first

**Machelor:** He's close to the microphone. Ok any further discussion?

**Maggard:** Yes I was out there and I think it's going to do enhance the whole front of your house.

**Conway:** Right. Thank you!

**Machelor:** Ok I would like to call the question now all those in favor say AYE

**Members:** AYE

**Machelor:** Opposed. Carole please pull the board

**Carole:** Mr. Conti-AYE, Mr. Heuck-AYE, Mrs. Maggard-AYE, Mr. Warnick-AYE, Chairman Machelor- AYE

**Machelor:** Thank you sir

**Conway:** Thank you!

**Machelor:** Good luck with your project

**Conway:** Thank you very much

**Conti:** Make a motion to close do we have anything else to discuss?

**Machelor:** Motion for adjournment

**Conti:** Second

**Machelor:** All those in favor say AYE

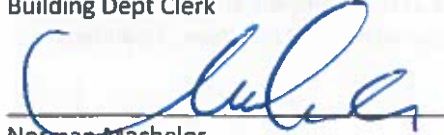
**Members:** AYE

**Machelor: OK**

Respectfully submitted by,



**Lisa Wisnieski  
Building Dept Clerk**



**Norman Machelor  
Chairman**