

**In The Matter Of:**  
*Town of Mamakating*  
*Zoning Board of Appeals*

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*Meeting Minutes*  
*3-28-19*  
*March 28, 2019*

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*Jeric Corporation*  
*Court Reporting Services*  
*P.O. Box 385*  
*Narrowsburg, NY 12764*  
*(845) 252-3515*

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ZONING BOARD OF APPEALS

MINUTES

March 28, 2019

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

CATHY DAWKINS, Acting Chairperson

GEORGIA RAMPE, Board Member

KENT FINDLEY, Board Member

MATTHEW MORREALE, Board Member

STEVEN MOGEL, ESQ., Attorney

KYRA PLATT, Building Department

JERIC CORPORATION  
Court Reporting Services  
P.O. Box 385  
Narrowsburg, New York 12764  
(845) 252-3515

Reported by: Rosemary A. Meyer

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING  
ZONING BOARD OF APPEALS

----- X

Jason Degroat  
Public Hearing - Area Variance  
Tax Map Section 59.A; Block 1; Lot 19  
Neighborhood Residential Zone

----- X

Town Hall  
Town of Mamakating  
March 28, 2019  
7:00 P.M.

ZONING BOARD MEMBERS :

- CATHY DAWKINS, Acting Chairperson
- GEORGIA RAMPE, Board Member
- KENT FINDLEY, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Jason Degroat, Applicant

JERIC CORPORATION  
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P.O. Box 385  
Narrowsburg, New York 12764  
(845) 252-3515

Reported by: Rosemary A. Meyer



1                                   - RE: J. DEGROAT -

2           CHAIRPERSON DAWKINS: Thank you.

3           So, Mr. Degroat.

4           MR. J. DEGROAT: Yes.

5           CHAIRPERSON DAWKINS: As you probably can tell, two of  
6 those of us who are here tonight were not here last month.

7           MR. J. DEGROAT: Yes.

8           CHAIRPERSON DAWKINS: So I think it might be prudent  
9 if you would just give us an overview of your request again  
10 so that you have an opportunity to speak both to Matt and I  
11 who missed last month.

12          MR. J. DEGROAT: Sure. I'm just looking --

13          CHAIRPERSON DAWKINS: You can step up to the podium.

14          MR. J. DEGROAT: How you doing, Matt?

15          BOARD MEMBER MORREALE: Pretty good.

16          MR. J. DEGROAT: I haven't seen you in a while.

17          I'm just looking to build a garage, a place to put my  
18 toys. They say some people stopped by the property. You  
19 can see, I am a toy connoisseur and I need someplace to put  
20 them.

21          So the issue I'm running into is I'm on a corner lot  
22 so the only setback I'm not meeting is the street wall  
23 setback. But technically, I am trying to build it on the  
24 side and behind my house which is the way it's actually  
25 positioned. And here we are.

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2           BOARD MEMBER DAWKINS: Can you, or maybe Kyra can, we  
3 have a document that shows what you designated in 2013 as  
4 the rear yard.

5           And Kyra, although you gave us a copy of this, we  
6 can't tell exactly where that is.

7           MS. PLATT: So back in 2013 when you applied to build  
8 the inground pool you had designated --

9           CHAIRPERSON DAWKINS: A rear yard?

10          MS. PLATT: -- a rear yard. You made Yankee Lake,  
11 this front part here, Yankee Lake, as the front yard which  
12 left the line directly opposite of that as the rear yard.  
13 So Con Way Road is side yard.

14          CHAIRPERSON DAWKINS: Now, according to code, he  
15 doesn't designate a front yard, he only designates a rear  
16 yard because both street frontages count as front yard. So  
17 that said, with that in mind, I looked at the data that the  
18 architect designated as the rear yard. She also designated  
19 a side yard. At any rate, the definition of a rear yard  
20 seems to get a little bit lost when you have two front  
21 yards. And I quote from 199-13, Subparagraph 2. Rear  
22 yard: An open space extending the full width of the lot  
23 between the principal building and the rear lot line,  
24 unoccupied, unobstructed from the ground upward. So we  
25 have Con Way on one side and then Yankee Lake Road on the

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2 other. You can't achieve a straight line without impinging  
3 on one of the two front yards. So my gut is that the rear  
4 yard is sort of a quadrant, the quadrant that's furthest  
5 from Yankee Lake Road and furthest from Con Way. Does that  
6 make sense?

7           MR. J. DEGROAT: Like a Catty corner?

8           CHAIRPERSON DAWKINS: No, a quadrant.

9           BOARD MEMBER FINDLEY: So his rear --

10          CHAIRPERSON DAWKINS: It's impossible because between  
11 the house and Yankee Lake Road is one of the front yards,  
12 between the house and Con Way is the other one. So what is  
13 left, my interpretation, is that's the rear yard and that  
14 seems to comport with what the architect created as the  
15 rear yard space. So between the house and Yankee Lake Road  
16 is one front yard, between the house and Con Way is the  
17 other front yard. What's left is this sort of quadrant  
18 here.

19          BOARD MEMBER FINDLEY: See, I was just talking.

20          BOARD MEMBER RAMPE: From the front of the house.

21          CHAIRPERSON DAWKINS: Okay. Now -- well, yes, okay,  
22 from the front of the house. Okay, I could go with that.

23          BOARD MEMBER FINDLEY: No, that's your side yard.

24          CHAIRPERSON DAWKINS: He doesn't have a side yard.

25          BOARD MEMBER FINDLEY: It says all other yards are



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2 side yards in the code, according to that thing that we got  
3 with this.

4           CHAIRPERSON DAWKINS: All of the yards are side yards.

5           BOARD MEMBER FINDLEY: It says right here: The  
6 remaining yard shall be deemed a side yard.

7           CHAIRPERSON DAWKINS: So he has no rear yard.

8           BOARD MEMBER FINDLEY: And the definition of a side  
9 yard, the way I read this definition in here, is if this  
10 was a normal lot, if I understand correctly.

11          CHAIRPERSON DAWKINS: If you look, look at

12          BOARD MEMBER FINDLEY: Which letter are you referring  
13 to? I'm saying if this was a normal lot.

14          BOARD MEMBER MORREALE: Right.

15          BOARD MEMBER RAMPE: If this were a universal lot.

16          MR. MOGEL: Right.

17          BOARD MEMBER FINDLEY: Universal.

18          CHAIRPERSON DAWKINS: Right, front, rear side.

19          MR. MOGEL: Right.

20          BOARD MEMBER FINDLEY: So since we have a --

21          MR. MOGEL: -- corner lot.

22          BOARD MEMBER FINDLEY: -- corner lot and a road ...

23          CHAIRPERSON DAWKINS: Front.

24          MR. MOGEL: Yes.

25          CHAIRPERSON DAWKINS: And then this would be two

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2 sides.

3       MR. MOGEL: That would be one side.

4       BOARD MEMBER FINDLEY: This is the rear, side, side.

5       MR. MOGEL: Well, now you have --

6       CHAIRPERSON DAWKINS: Four side yards.

7       BOARD MEMBER MORREALE: Where is that code?

8       BOARD MEMBER FINDLEY: I'm going by what I read there.

9       BOARD MEMBER RAMPE: You've got one.

10      CHAIRPERSON DAWKINS: By what you view it or by what  
11 you're reading now?

12      BOARD MEMBER FINDLEY: Well, I interpret.

13      MR. MOGEL: Describe to me how the yard that's behind  
14 this road constitutes a side.

15      BOARD MEMBER FINDLEY: This house exists here, right?  
16 This is a side here. So this is a side on that, here and  
17 here, and this is the front here.

18      CHAIRPERSON DAWKINS: I agree with you that this would  
19 be a side and this would be the rear.

20      BOARD MEMBER FINDLEY: And if you go to the next  
21 property, you're going to have the same thing. This is the  
22 front, your house is here somewhere. This is your side and  
23 this is your rear. So to me, it's side, side, rear. I'm  
24 not saying --

25      MR. MOGEL: Correct.

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2           BOARD MEMBER FINDLEY: This is my interpretation.

3           MR. MOGEL: Right. And the answer is if the code  
4 doesn't have a description --

5           CHAIRPERSON DAWKINS: That makes sense.

6           MR. MOGEL: -- that makes sense, and here is something  
7 that can be brought up in the future about. It is  
8 something that could be brought up in the context of the  
9 Comp Plan, that that would be beneficial. It seems like  
10 it's completely open to interpretation. To some extent,  
11 the Board has to take its discretion in terms of making  
12 sense, the reason being the verbiage that's in the code,  
13 that's cobbled together, a rear yard.

14           I mean just to ask the Building Department, so the  
15 denial was based on this accessory structure. It's solely  
16 based on the accessory structure being closer to the --

17           MS. PLATT: To the street.

18           MR. MOGEL: -- street than the street wall of the  
19 primary structure.

20           So according to the Building Department, where is this  
21 accessory structure proposed to be constructed? In what  
22 yard?

23           MS. PLATT: Where he's proposing it?

24           MR. MOGEL: Yes.

25           MS. PLATT: Front yard.

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2           BOARD MEMBER FINDLEY: That's clearly the front yard.

3           CHAIRPERSON DAWKINS: Front yard.

4           BOARD MEMBER FINDLEY: I don't believe we have an  
5 argument about that one.

6           MR. MOGEL: Okay.

7           CHAIRPERSON DAWKINS: It's clearly his front yard.

8           BOARD MEMBER FINDLEY: It's clearly the front yard.

9           MR. MOGEL: Okay.

10          CHAIRPERSON DAWKINS: He's proposing it closer to  
11 the --

12          BOARD MEMBER FINDLEY: The question really starts to  
13 get fuzzy because Cathy has brought up development issues.  
14 Part of it is how much of the back yard is developed. A  
15 rear yard, not the back yard.

16          CHAIRPERSON DAWKINS: Here's one for --

17          MR. MOGEL: Right. And here's a second parcel there.

18          CHAIRPERSON DAWKINS: So now the question is this full  
19 area back here the back?

20          And frankly, I looked at certain calculations. The  
21 architect proposed calculations. I think what she proposed  
22 is very reasonable. I'm willing to go with that.

23          MR. MOGEL: So I mean the issue that the Board is  
24 considering right now is actually not the issue that was  
25 raised by the Building Department with regard to variance

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2 and the peripheral issue that pertains to development  
3 coverage.

4           CHAIRPERSON DAWKINS: There are two issues. One is  
5 development coverage over the whole lot. So that's  
6 development coverage, which is defined. And then there is  
7 another which is 199-13 requires that accessory buildings  
8 not cover more than 20 percent of the rear yard.

9           MR. MOGEL: Okay.

10          CHAIRPERSON DAWKINS: So that's the second issue.

11          MR. MOGEL: Okay. But here, it's in the front yard.

12          BOARD MEMBER FINDLEY: Right. The garage is not --

13          CHAIRPERSON DAWKINS: The garage is in the front yard.

14          MR. MOGEL: Correct.

15          BOARD MEMBER FINDLEY: Then the garage is not at all  
16 the rear yard.

17          MR. MOGEL: Correct.

18          CHAIRPERSON DAWKINS: So the garage is not altering  
19 the rear yard, it's only altering the development coverage.

20          MR. MOGEL: Okay. So --

21          BOARD MEMBER FINDLEY: We're good on the development  
22 coverage.

23          MR. MOGEL: We're good on development coverage.

24          The variance seeking is closer to the street than the  
25 street wall of the principal structure.

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2           And the last issue being --

3           CHAIRPERSON DAWKINS: Well --

4           MR. MOGEL: -- the rear yard coverage. The rear yard  
5 total?

6           CHAIRPERSON DAWKINS: The rear yard accessory  
7 structure coverage.

8           BOARD MEMBER FINDLEY: But I will say --

9           CHAIRPERSON DAWKINS: There is no rear yard coverage  
10 for development purposes.

11          MR. MOGEL: Okay.

12          CHAIRPERSON DAWKINS: So it's whole yard for  
13 development coverage and rear yard for accessory structure.

14          MR. MOGEL: Okay.

15          CHAIRPERSON DAWKINS: I think before we go too far  
16 down this path --

17          BOARD MEMBER FINDLEY: That accessory structure that  
18 we're contemplating --

19          CHAIRPERSON DAWKINS: Would be in the front yard.

20          BOARD MEMBER FINDLEY: Right.

21          MR. MOGEL: Correct.

22          CHAIRPERSON DAWKINS: Yes.

23          BOARD MEMBER FINDLEY: And nothing has changed in the  
24 rear yard.

25          MR. MOGEL: Correct.

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2             BOARD MEMBER FINDLEY: So in my opinion, we should  
3 avoid that.

4             MR. MOGEL: I would agree.

5             CHAIRPERSON DAWKINS: Yes. Do I have a motion to open  
6 the public hearing?

7             BOARD MEMBER RAMPE: I'll make that motion.

8             BOARD MEMBER FINDLEY: Yes.

9             BOARD MEMBER MORREALE: I'll second that motion.

10            CHAIRPERSON DAWKINS: All in favor?

11            BOARD MEMBER RAMPE: Aye.

12            BOARD MEMBER FINDLEY: Aye.

13            BOARD MEMBER MORREALE: Aye.

14            CHAIRPERSON DAWKINS: Aye.

15            All opposed?

16                                 (No verbal response.)

17                                 (The motion was approved and carried.)

18            CHAIRPERSON DAWKINS: Do we have anyone here tonight  
19 who would like to offer an opinion about this issue?

20                                 (No verbal response.)

21            BOARD MEMBER RAMPE: Everything was sent out?

22            MS. PLATT: Everything was sent out and it was posted  
23 properly in the newspaper.

24            CHAIRPERSON DAWKINS: Thank you.

25            MS. PLATT: Nobody has signed up to speak.

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2           CHAIRPERSON DAWKINS: So I have no speakers. Okay.

3           Do I have a motion to close the public hearing?

4           BOARD MEMBER MORREALE: I'll make that motion.

5           BOARD MEMBER RAMPE: I'll second.

6           CHAIRPERSON DAWKINS: All in favor?

7           BOARD MEMBER RAMPE: Aye.

8           BOARD MEMBER FINDLEY: Aye.

9           BOARD MEMBER MORREALE: Aye.

10          CHAIRPERSON DAWKINS: Aye.

11                   (The motion was approved and carried.)

12          CHAIRPERSON DAWKINS: Thank you.

13          Kyra, does the Building Department have any additional  
14 input for the Board?

15          MS. PLATT: The designation, I disagree a little bit  
16 with you. There's only one front yard. The rest are  
17 either the rear yard or two side yards.

18          CHAIRPERSON DAWKINS: 199-45. I'm sorry. Site plan  
19 review, 45(A): Approval required except for single-family  
20 -- wrong citation. Excuse me.

21          MR. MOGEL: Look at the mall one.

22          CHAIRPERSON DAWKINS: The mall one?

23          MR. MOGEL: Yes. Periwinkle, I think is the case.

24          CHAIRPERSON DAWKINS: 199-12, yard regulations. On a  
25 corner lot each yard fronting on a street shall be deemed a



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2 front yard.

3 BOARD MEMBER RAMPE: Then? Read on.

4 CHAIRPERSON DAWKINS: At the owner's discretion one  
5 yard other than the front yard shall be deemed a rear yard,  
6 which is what --

7 MS. PLATT: The remaining yard.

8 CHAIRPERSON DAWKINS: The remaining yard --

9 MS. PLATT: Shall be deemed to be a side yard.

10 CHAIRPERSON DAWKINS: -- side yard.

11 So we have two front yards, one rear yard and a side  
12 yard.

13 MS. PLATT: So then that really does limit where they  
14 can build because you can't build in your front yard.

15 CHAIRPERSON DAWKINS: Right, which is why he's here.

16 BOARD MEMBER FINDLEY: Right.

17 MS. PLATT: He's on an opposite -- oh.

18 BOARD MEMBER FINDLEY: It's still a front yard.

19 CHAIRPERSON DAWKINS: Yes.

20 MS. PLATT: The opposite.

21 CHAIRPERSON DAWKINS: Right.

22 MS. PLATT: e's not worried about this front yard,  
23 he's worried about --

24 CHAIRPERSON DAWKINS: Right. he wants to build in the  
25 Yankee Lake front yard is what he wants.

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2           MS. PLATT: Okay. That was my only concern with that.

3           CHAIRPERSON DAWKINS: With that?

4           MS. PLATT: Not that it matters so much for your case,  
5 but it is something I just to have in the minutes, if I  
6 may, about the building inspector's right to enter property  
7 to examine it, if it's okay.

8           CHAIRPERSON DAWKINS: Please.

9           MS. PLATT: According to the 2015 International  
10 Residential Code, R-104.6, right of entry, I'm not going to  
11 read the whole thing, I'll just summarize it, the building  
12 inspector or any building official has, if they have  
13 reasonable cause to believe that something on the property  
14 or within a structure is against code, is unsafe or is in  
15 violation of code in any way, they have a right to enter  
16 that property, and in some cases enter the structure, to be  
17 sure that it is in code compliance or that it's not so they  
18 can rightfully cite them.

19           Likewise, Town of Mamakating does have a code for  
20 that, as well. Section 189-5, Right of Entry. The section  
21 basically says the same thing as the international code.  
22 So once again, not so much relevant to your project, but it  
23 did come up because of a site inspection for this.

24           MR. DEGROAT: Yes.

25           MS. PLATT: We went over rear yard.

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2           MR. MOGEL: The Fourth Amendment to the Constitution  
3 would require that there be a warrant. A building  
4 inspector, at that point, would be acting as a branch of  
5 government and an individual property owner would have a  
6 right against unreasonable search and seizures. There are  
7 provisions for obtaining an administrative warrant. That  
8 can be done in order to ...

9           MS. PLATT: So going back to the residential code, I'm  
10 quoting now --

11          MR. MOGEL: Okay.

12          MS. PLATT: The building official or designee is  
13 authorized to enter the structure or premises at reasonable  
14 times to inspect or to perform duties imposed by this code  
15 provided that if such structure or premises be occupied,  
16 that credentials be presented to the occupant and entry  
17 requested. If such structure or premises is unoccupied,  
18 the building official shall first make a reasonable effort  
19 to locate the owner, the owner's authorized agent or other  
20 person having charge or control of the structure or  
21 premises and request entry. If entry is refused, the  
22 building official shall have resource to the remedies  
23 provided by law to secure entry.

24          MR. MOGEL: Correct. Thank you.

25          MS. PLATT: So, yes.

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2           MS. PLATT: When the inspector did go out after she  
3 was informed by members of the Board who had gone to the  
4 property, she went out and did a site visit of her own.

5           Should I mention the commercial vehicles?

6           CHAIRPERSON DAWKINS: Yes.

7           MS. PLATT: Yes, okay. Sorry.

8           There are multiple vehicles that appear to be  
9 commercial vehicles on the property, two of them, and then  
10 one truck. I did talk to the Applicant. The truck is  
11 their primary go around vehicle. The other two are listed  
12 for sale.

13           The rest of the toys, as the Applicant called them,  
14 the garage will be a means of a way to store them.  
15 However, I did tell him that all of the debris and material  
16 needs to be cleaned off the property.

17           Likewise, as they are in violation, all of the objects  
18 on the property, they would need to be removed from the  
19 property if your approval is granted before the Building  
20 Department would be able to issue a permit.

21           CHAIRPERSON DAWKINS: Now, does that address the  
22 recreational vehicles, as well?

23           MS. PLATT: Yes. You are allowed one recreational  
24 vehicle accessory to a residential structure. However,  
25 commercial vehicles, you have to have at least an acre.

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2           This is from Section 199-16(A)(1). One commercial  
3 vehicle not exceeding 25 feet in length may be parked on a  
4 residential lot. The minimum lot size shall be one acre.  
5 No commercial vehicle shall be stored within the front yard  
6 of front yard of lot, nor shall any vehicle be parked  
7 within 25 feet of any lot line or within a required yard,  
8 whichever is greater.

9           Heavy construction equipment, which is also Section  
10 199-16(A)(5), shall not be parked or stored on any  
11 residential lot except as part of any construction  
12 occurring on the site.

13           And then 199-16(B), Storage of Recreational Vehicles:  
14 The on-site parking of recreational vehicles shall be  
15 permitted only as accessory use to a single-family detached  
16 structure.

17           One recreation vehicle or boat is permitted for every  
18 20,000 square feet of lot area. The building inspector  
19 found this to have 23,522.4 square feet, .54 acres.

20           MR. MOGEL: Was a Notice of Violation issued or --

21           MS. PLATT: It will be issued tomorrow. She had gone  
22 out today to inspect it.

23           There was one more that Mary had discussed. You can  
24 store one, I don't recall if it was commercial, pardon me,  
25 vehicle on site with a garage as long as you have a minimum

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2 of .5 acres. You have .54.

3           CHAIRPERSON DAWKINS: So I think that's the  
4 commercial.

5           MS. PLATT: One vehicle not exceeding 25 feet.

6           CHAIRPERSON DAWKINS: And the shed?

7           MS. PLATT: There is an approximate 16 by 16 shed that  
8 we have no record of getting a permit and the assessor's  
9 office does not note it on their site plan. That was  
10 discussed, as well.

11           MR. DEGROAT: I was 23 years old. I had just built  
12 the house. Didn't even know I needed a permit to build a  
13 shed.

14           CHAIRPERSON DAWKINS: It's resolvable.

15           MS. PLATT: So that would just need a permit, which we  
16 had mentioned to them.

17           BOARD MEMBER FINDLEY: But those topics are not before  
18 us today; correct?

19           CHAIRPERSON DAWKINS: The topics are not before us  
20 unless we choose to consider them. I think the  
21 consideration at hand is when somebody comes before the  
22 Board asking for consideration for a variance from code, we  
23 should consider whether or not we're comfortable doing that  
24 with violations in place that are existing and whether  
25 there's a plan for resolution with the Building Department.

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2             BOARD MEMBER FINDLEY: Well, doesn't the proposed  
3 garage solve a lot of the issues?

4             CHAIRPERSON DAWKINS: I think it solves one of the  
5 three commercial vehicles. It probably solves one of the  
6 recreational vehicles. And then it probably resolves a  
7 number of the toys.

8             MR. DEGROAT: Yes.

9             CHAIRPERSON DAWKINS: But not --

10            MR. DEGROAT: There's only one vehicle with commercial  
11 plates there.

12            CHAIRPERSON DAWKINS: Yes. But there's one vehicle --

13            MR. DEGROAT: Even my truck that you probably see as  
14 commercial is a passenger vehicle.

15            BOARD MEMBER FINDLEY: Right. All trucks over a  
16 certain weight are registered commercial. That's just the  
17 way it happens.

18            CHAIRPERSON DAWKINS: Yes. I'm just going on what  
19 Mary has advised us.

20            BOARD MEMBER FINDLEY: Right. I don't --

21            MR. DEGROAT: Yeah, like, nothing is lettered or  
22 they're not ...

23            CHAIRPERSON DAWKINS: So if you look at the  
24 photographs that she provided, one truck has expired  
25 commercial plates and one truck has writing on it that

1                   - RE: J. DEGROAT -

2 designates that it's a commercial vehicle.

3           MR. DEGROAT: You guys want to buy it, it's for sale,  
4 cheap.

5           BOARD MEMBER FINDLEY: I don't --

6           BOARD MEMBER FINDLEY: To me that --

7           CHAIRPERSON DAWKINS: At any rate, again, that's not  
8 for us to interpret.

9           BOARD MEMBER FINDLEY: Right.

10          CHAIRPERSON DAWKINS: We're just taking what the  
11 building inspector has advised us.

12          MR. MOGEL: I mean I think the Board does have  
13 discretion on it. I know that the Board has discretion.  
14 For example, in considering the granting of a variance the  
15 Board does have discretion to make determinations as to the  
16 Applicant's record of compliance with code. I think the  
17 Board, at this point, certainly, as you know, after the  
18 closing of the public hearing the Board has 62 days in  
19 which to make a determination on an area variance, so the  
20 Board will also have that option. If it elects not to  
21 proceed to a vote this evening, it can wait until next  
22 month or a later meeting to decide --

23          CHAIRPERSON DAWKINS: To decided whether --

24          MR. MOGEL: -- to decide whether the variance is  
25 granted or not.



1 - RE: J. DEGROAT -

2 CHAIRPERSON DAWKINS: And whether or not these other  
3 thing have been resolved.

4 MR. MOGEL: Yes. That is at the Board's discretion.

5 The Board can also vote this evening and the vote  
6 could be made conditional upon compliance. That's another  
7 possibility.

8 CHAIRPERSON DAWKINS: Georgia, what are your thoughts?

9 BOARD MEMBER RAMPE: Well, we looked at the  
10 calculations for the coverage. I don't think we spoke  
11 about that. I mean even if we were going to go to a vote  
12 we'd have to reduce the size of the garage.

13 CHAIRPERSON DAWKINS: Or give him a variance for the  
14 bulk table.

15 BOARD MEMBER RAMPE: For the bulk, oh, okay.

16 CHAIRPERSON DAWKINS: My calculations, he barely comes  
17 in over the 25 percent. I have the coverage coming in at  
18 26.2 percent, so it's a very narrow excess lot development  
19 coverage allotment. I think if we're going to consider  
20 that, we would need to give him a variance for that, as  
21 well.

22 BOARD MEMBER MORREALE: What's the square footage he's  
23 over?

24 BOARD MEMBER FINDLEY: So which?

25 CHAIRPERSON DAWKINS: The left-hand column, Matt, is

1                   - RE: J. DEGROAT -

2 the column ...

3           BOARD MEMBER MORREALE: Okay, I see.

4           CHAIRPERSON DAWKINS: So up here is existing  
5 impervious surfaces; new, which would include the garage  
6 total; development coverage allowable. So he's over by  
7 what, 300 square feet?

8           BOARD MEMBER MORREALE: And 25 percent is that number.

9           BOARD MEMBER FINDLEY: And what number did you just --

10          CHAIRPERSON DAWKINS: No. Twenty-five percent is this  
11 number. This is what he has.

12          BOARD MEMBER MORREALE: Oh, okay. I see.

13          BOARD MEMBER FINDLEY: What area do you disagree with  
14 that the architect has shown?

15          CHAIRPERSON DAWKINS: The only thing I did  
16 differently, she gave delta, and what I did was give you  
17 two columns, the existing impervious surfaces. So here,  
18 she gave you 2300, which is the existing 2400 minus 200  
19 removed, plus 100 added. So I gave you the existing and  
20 then the proposed. I gave you existing impervious surfaces  
21 coverage is 22.6 percent; proposed is 26.2 I didn't make  
22 those numbers up.

23          BOARD MEMBER FINDLEY: So you did not deduct in the  
24 driveway.

25          CHAIRPERSON DAWKINS: I gave actual. I did not deduct

1                               - RE: J. DEGROAT -

2 in the driveway. So maybe I had a boo-boo.

3           BOARD MEMBER FINDLEY: Because it appears --

4           CHAIRPERSON DAWKINS: That part of the driveway would  
5 be --

6           BOARD MEMBER FINDLEY: -- removed.

7           BOARD MEMBER MORREALE: Removed.

8           BOARD MEMBER FINDLEY: They're removing some here.  
9 And the garage covers some of it.

10          CHAIRPERSON DAWKINS: That brings them under.

11          BOARD MEMBER FINDLEY: Right. That's what I was  
12 getting at. I mean we're taking --

13          CHAIRPERSON DAWKINS: 200 square feet is all.

14          BOARD MEMBER FINDLEY: That's all they --

15          CHAIRPERSON DAWKINS: So it's only 100 square feet.

16 Negative 100, plus 100 is 100. So this would be 1100  
17 instead of 1200. So it would change the number but it  
18 wouldn't change the fact that it's over. I made a mistake  
19 in my math, by I only made a mistake by 100 square feet.  
20 It would change the percentage but not by enough to kick it  
21 under. I would recommend that when we consider the  
22 variance we consider giving him a variance for this, as  
23 well, so that he's covered.

24          BOARD MEMBER FINDLEY: I just want to make sure we're  
25 counting everything right because she's saying the total

1                   - RE: J. DEGROAT -

2 coverage here is 6118.

3           CHAIRPERSON DAWKINS: Is 6118. and I have 6171.

4           BOARD MEMBER FINDLEY: Right.

5           CHAIRPERSON DAWKINS: So negative 100.

6           BOARD MEMBER FINDLEY: But How is her 24 8, even

7 though --

8           CHAIRPERSON DAWKINS: Can you do the math?

9           BOARD MEMBER FINDLEY: I can. I have a phone here.

10          CHAIRPERSON DAWKINS: You're an engineer.

11          BOARD MEMBER FINDLEY: So our lot is 24,000?

12          CHAIRPERSON DAWKINS: I have 24,686 is what she used.

13          BOARD MEMBER FINDLEY: Right.

14          CHAIRPERSON DAWKINS: There is a slight variation

15 between what's on the tax table and what his architect

16 used. The .54 is rounding. So the number that I have is

17 24686.

18          MS. PLATT: Yes, they're using .57 based on a survey  
19 that they had. I don't know what year the survey was from.

20          MR. DEGROAT: Probably 2005, 2012.

21          CHAIRPERSON DAWKINS: By the way, Mary was concerned  
22 that we don't have a survey with this application and she  
23 would like see one before we make a final determination.

24          MR. DEGROAT: Didn't I submit one with the  
25 application?

1                               - RE: J. DEGROAT -

2           MS. PLATT: A --

3           BOARD MEMBER FINDLEY: 2486, .15 times .25 equals  
4 6171.

5           CHAIRPERSON DAWKINS: .5?

6           BOARD MEMBER FINDLEY: .5.

7           CHAIRPERSON DAWKINS: That's what I came up with.

8           BOARD MEMBER FINDLEY: Okay.

9           CHAIRPERSON DAWKINS: And her number of what she had  
10 is 61 ...

11          BOARD MEMBER FINDLEY: 61118.

12          MS. PLATT: You had submitted this one. It doesn't  
13 list the shed on it or your pool. That would need to be  
14 updated officially.

15          BOARD MEMBER FINDLEY: You actually agree here. Let  
16 me see this. You say 1200 for the house. I'm going to  
17 write that here. We agree on that.

18          CHAIRPERSON DAWKINS: This is the new, the proposed,  
19 right over here.

20          BOARD MEMBER FINDLEY: Right. 2300 for the driveway,  
21 which is what she said.

22          CHAIRPERSON DAWKINS: 2300. 2400 square feet minus  
23 200 removed, plus 100 added.

24          BOARD MEMBER FINDLEY: So 2300, which is what you  
25 have.

1                   - RE: J. DEGROAT -

2           Patio deck, 962.

3           CHAIRPERSON DAWKINS: Is 962.

4           BOARD MEMBER FINDLEY: You agree with that.

5           CHAIRPERSON DAWKINS: Yes.

6           BOARD MEMBER FINDLEY: 750, pool, patio, you agree  
7 with that.

8           CHAIRPERSON DAWKINS: Yes. 256.

9           BOARD MEMBER FINDLEY: You have that.

10          CHAIRPERSON DAWKINS: And then this is where it is.  
11 She has a delta of the garage, the 992 square foot of the  
12 garage minus the 342 overage.

13          BOARD MEMBER FINDLEY: That she's covering here.

14          CHAIRPERSON DAWKINS: Okay.

15          BOARD MEMBER FINDLEY: So that's where the  
16 difference --

17          CHAIRPERSON DAWKINS: That's where it's coming in.

18          BOARD MEMBER FINDLEY: Right. And that's where it  
19 will come in. So are we agreeing that's 650.

20          CHAIRPERSON DAWKINS: So let's put minus 300 --

21          BOARD MEMBER FINDLEY: Well, I'm just going to put the  
22 numbers in and add it up.

23          CHAIRPERSON DAWKINS: Yes, I'll add it --

24          BOARD MEMBER FINDLEY: Okay.

25          BOARD MEMBER FINDLEY: -- just for my purposes.

1                               - RE: J. DEGROAT -  
2           Minus 342, garage driveway.  
3           BOARD MEMBER FINDLEY: Garage overlap  
4           CHAIRPERSON DAWKINS: Driveway overlap. Okay.  
5           BOARD MEMBER FINDLEY: So, now, if we take your number  
6 of 6460 --  
7           CHAIRPERSON DAWKINS: Subtract 342.  
8           BOARD MEMBER FINDLEY: Six ...  
9           CHAIRPERSON DAWKINS: 6460 minus 342.  
10          BOARD MEMBER FINDLEY: So you concur.  
11          CHAIRPERSON DAWKINS: And then do --  
12          BOARD MEMBER FINDLEY: So do we agree that this number  
13 is right?  
14          CHAIRPERSON DAWKINS: Sure.  
15          BOARD MEMBER FINDLEY: Okay. So it is just under.  
16          CHAIRPERSON DAWKINS: Just under.  
17          BOARD MEMBER FINDLEY: Just under.  
18          CHAIRPERSON DAWKINS: Okay.  
19          BOARD MEMBER FINDLEY: So we're under that lot  
20 coverage.  
21          CHAIRPERSON DAWKINS: Right.  
22          BOARD MEMBER FINDLEY: Okay.  
23          CHAIRPERSON DAWKINS: Georgia.  
24          BOARD MEMBER RAMPE: You know, I doing lot coverage  
25 over it.

1                               - RE: J. DEGROAT -

2           CHAIRPERSON DAWKINS: No, just under, because there  
3 was agreement of 42 negative for the driveway.

4           BOARD MEMBER FINDLEY: Yes, because the garage goes  
5 over part of the existing drive.

6           BOARD MEMBER RAMPE: So that's what this is.

7           CHAIRPERSON DAWKINS: Right, right.

8           BOARD MEMBER RAMPE: Plus the 650 plus the 1619.

9           BOARD MEMBER FINDLEY: 6118 is good.

10          BOARD MEMBER RAMPE: 6118.

11          BOARD MEMBER FINDLEY: Yes, that's good. That makes  
12 it 24.8 percent.

13          CHAIRPERSON DAWKINS: 24.8.

14          MR. MOGEL: So we're back to just one variance.

15          CHAIRPERSON DAWKINS: Just one variance.

16          BOARD MEMBER RAMPE: No, it doesn't make it 24.8.  
17 Allowable is 5881.

18          MS. PLATT: They have .54 acres.

19          CHAIRPERSON DAWKINS: Allowable is 6171.5. If you  
20 take this amount of square footage --

21          BOARD MEMBER RAMPE: Oh, I got a different amount.  
22 Yes, I have a different amount. I guess, I don't know if  
23 Mary wrote this.

24          MS. PLATT: We have it as .54 acres. The County has  
25 it as .54 acres. This survey is showing .57 acres.



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2           BOARD MEMBER RAMPE: Oh, okay.

3           MS. PLATT: They're going off the --

4           CHAIRPERSON DAWKINS: I think that's part of why Mary  
5 would like to see a survey. She would like to see --

6           MR. MOGEL: Is there a survey that was provided with  
7 the application?

8           CHAIRPERSON DAWKINS: No.

9           BOARD MEMBER FINDLEY: Well, no. It says --

10          BOARD MEMBER RAMPE: A site plan.

11          BOARD MEMBER FINDLEY: This says it's based on a  
12 survey by Ernest Johnson.

13          MR. MOGEL: Okay.

14          CHAIRPERSON DAWKINS: But it doesn't show all of the  
15 data. Mary is concerned that she would like to see the  
16 full survey.

17          MS. PLATT: So what we would have a proper layout of  
18 everything.

19          CHAIRPERSON DAWKINS: And to understand what the  
20 property square footage is.

21          MR. MOGEL: Do you have the original survey?

22          MR. DEGROAT: Yes.

23          BOARD MEMBER FINDLEY: Do you have it with you?

24          MR. DEGROAT: Maybe. I might. I don't know. I  
25 probably put it back in the safe.

1                                 - RE: J. DEGROAT -

2             MR. MOGEL:   And the survey is being requested?

3             MS. PLATT:   Now it's a conflict in the acreage.

4             MR. MOGEL:   With regard to the acreage.

5             CHAIRPERSON DAWKINS:   Acreage of the property.

6             BOARD MEMBER RAMPE:   But on this little site plan it's  
7 saying lot area, so ...

8             CHAIRPERSON DAWKINS:   But Mary wants to see why their  
9 number is different.

10            BOARD MEMBER FINDLEY:   Yes.   It's .54 and .57.

11            BOARD MEMBER RAMPE:   Oh.

12            BOARD MEMBER FINDLEY:   And an acre is what, 42,520?

13            CHAIRPERSON DAWKINS:   So she sees the number that  
14 she's got, but she wants to understand why the County and  
15 the Town have it different than what the survey says.

16            MR. MOGEL:   Okay?

17            CHAIRPERSON DAWKINS:   Georgia, did you have any other  
18 questions?

19            BOARD MEMBER RAMPE:   My only issue is there is a two  
20 bay garage under the house and this would make, altogether,  
21 five bays.   And with the addition that we've talked about  
22 that's allowable, one commercial ...

23            MS. PLATT:   One per property.   It's not per garage,  
24 not per bay, it's not per square foot.   It's one per  
25 property.

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2             BOARD MEMBER RAMPE: One per property.

3             MR. DEGROAT: I don't have it with me. I live close  
4 by, though. I could go get it.

5             CHAIRPERSON DAWKINS: So let me ask you a question.  
6 Georgia was implying a question about the size of the  
7 garage. We talked about the number of vehicles that are on  
8 the lot. It's your assertion that all of the recreational  
9 vehicles would go in this garage?

10            MR. DEGROAT: Yes. So I've never really -- I guess  
11 I'm not following exactly what's being considered  
12 recreational. Like, I have a boat and then I have a little  
13 rowboat because I live in Yankee Lake. Everybody has  
14 rowboats. And then I have two waverunners, and then I have  
15 quads and dirt bikes and stuff like that. But I think the  
16 only thing that's outside, is side by side, the  
17 waverunners, the rowboat and the speed boat. So that's not  
18 okay?

19            MS. PLATT: One recreational vehicle or boat. Whether  
20 they mean an electric boat or ...

21            BOARD MEMBER FINDLEY: Going to start writing a lot of  
22 variances in Yankee Lake.

23            MS. PLATT: So going back to --

24            MR. DEGROAT: It's like don't have anything.

25            MS. PLATT: -- Section 199-16 --

1                                   - RE: J. DEGROAT -

2           MR. DEGROAT:   Even though your taxes are \$8,000 a  
3 year, don't have anything at your house.

4           MS. PLATT:   -- (B), the storage of recreational  
5 vehicles, which I had quoted before:  Outdoor storage of  
6 one recreational vehicle or boat is permitted for every  
7 20,000 square feet of lot area.

8           CHAIRPERSON DAWKINS:  So he could keep the others in  
9 the garage.

10          MS. PLATT:  Yes, because it says outdoor storage.  You  
11 could have one boat.  Or if you're counting a quad or  
12 something, one of those.

13          MR. DEGROAT:  So that's fine.  I mean my big boat, I  
14 didn't plan on putting it inside, but as long as that can  
15 be outside, I'm in good shape.

16          CHAIRPERSON DAWKINS:  Matt, do you have any questions?

17          BOARD MEMBER MORREALE:  No.

18          CHAIRPERSON DAWKINS:  Well, I'll be honest.  I have  
19 very competing views about this.  On the one hand, I'm a  
20 real advocate, especially in situations like you're getting  
21 a garage or a shed so that you can get some of that stuff  
22 cleaned up off the property.  It's going to be nice for  
23 you, it's going to be nice for your neighbors, it's going  
24 to be nice for the property value.  I'm an advocate of  
25 that, where it seems like it's going to make the property

1                                   - RE: J. DEGROAT -

2 more attractive.

3           MR. DEGROAT: Right.

4           CHAIRPERSON DAWKINS: I share a little bit of  
5 Georgia's concern that we are turning this into a property  
6 that has a moderate size house and five garage bays on one  
7 nonstandard lot, so that's a lot. We're barely squeaking  
8 by the development coverage issue, which that means we're  
9 squeaking by. That means it legitimate.

10          BOARD MEMBER FINDLEY: Right, we're allowed to squeak  
11 by.

12                 But is there any code to the number of garage bays?

13          CHAIRPERSON DAWKINS: No, no. It's just a matter of  
14 interpretation and what makes sense. I'm certainly not  
15 saying that that would be the basis on which I would reject  
16 it.

17                 My perspective is I would like to see the shed permit  
18 resolved. I would like to see the commercial vehicles and  
19 recreational vehicles resolved either through a formal  
20 resolution or some kind of a plan that the Building  
21 Department comes to with the property owner before I'm  
22 really comfortable in --

23          BOARD MEMBER FINDLEY: I think two things. One is  
24 those alleged violations don't actually exist yet. And  
25 two, they will be resolved. If there is a violation they

1                                   - RE: J. DEGROAT -

2 will be resolved. I think to consider that is  
3 inappropriate at this time.

4           MR. MOGEL: What do you mean that the violations do  
5 not exist?

6           BOARD MEMBER FINDLEY: They don't exist. If you ask,  
7 right now --

8           MR. DEGROAT: I haven't been sent the violation.

9           CHAIRPERSON DAWKINS: The citation may not exist, but  
10 --

11           BOARD MEMBER FINDLEY: It doesn't exist. What I mean  
12 is there's been no violation issued.

13           MS. PLATT: We have --

14           MR. MOGEL: There's an indication that there's a  
15 Notice of Violation --

16           BOARD MEMBER FINDLEY: There's an indication.

17           MR. MOGEL: -- that's going to be issued tomorrow. I  
18 mean the Board is certainly invited to take that into  
19 consideration. You don't have to simply say, Well, it's  
20 only theoretical because the actual violation hasn't been  
21 issued. That's a hypertechnical, sort of hyperlegal kind  
22 of description of the violation.

23           BOARD MEMBER FINDLEY: That very well may be.

24           MR. MOGEL: They've been observed to exist. The  
25 paperwork simply hasn't been issued.

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2             CHAIRPERSON DAWKINS: And I don't mean to imply, even  
3 remotely, that I would reject the Applicant based on that.  
4 I simply think it's in the best interest of considering the  
5 interest of the town to be sure that we have all our ducks  
6 in a row before we issue a variance. So many of the  
7 factors are just butting right up against the criteria that  
8 I think it behooves us to be sure before we issue. The  
9 code is something that everybody in the town lives by  
10 unless they come before us, and I thank you for doing so,  
11 and ask us to do them a favor and give them dispensation  
12 from the code. I think that's reasonable and fair. But I  
13 think in order to do that, we owe it to the other citizens  
14 to be sure that we're giving dispensation to someone who is  
15 either in compliance or working to be in compliance with  
16 all the rest of the code.

17             BOARD MEMBER MORREALE: Can I suggest a compromise?  
18 Some of the concerns mentioned will be alleviated when the  
19 garage is built. He's actively trying to get rid of the  
20 cars or the trucks. The one, I guess outstanding issue,  
21 would be the shed. If we could vote to a variance subject  
22 to him taking care of the shed in a certain period of time,  
23 then would that be something that you would consider voting  
24 on?

25             CHAIRPERSON DAWKINS: I probably would except for the

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2 fact that Mary, she asked me if I would ask for the formal  
3 survey. I think there is a building body of information,  
4 that we need to say there's nothing -- I have no intention  
5 whatsoever, or I would prefer to not reject him tonight.

6             BOARD MEMBER MORREALE: Right.

7             CHAIRPERSON DAWKINS: I would prefer to give him the  
8 benefit of the doubt and let everything ride for a month to  
9 get all the paperwork in order, to get the survey in, have  
10 him meet with Mary and have Mary be comfortable with the  
11 plan on all three of these issues. And then next month I  
12 think we could all be comfortable in making a decision  
13 unencumbered by what ifs.

14            BOARD MEMBER MORREALE: I agree that we should know  
15 the square footage of the lot.

16            BOARD MEMBER RAMPE: I have a what if. Where this  
17 shed is located, is it possible to put, like, a two bay  
18 garage in that area?

19            MR. DEGROAT: No. My leach fields run all along that  
20 side, and that's septic.

21            BOARD MEMBER RAMPE: Oh, okay.

22            MR. DEGROAT: That's why I chose the location that I  
23 did.

24            CHAIRPERSON DAWKINS: Did you ever consider attaching  
25 the garage to the house?



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2             MS. PLATT: Yes. He would then have to meet the  
3 setback requirements as if he were building a house.

4             MR. DEGROAT: Yeah. So then I don't meet the rear  
5 yard setback or one of the others.

6             MS. PLATT: The side yard, I think it was.

7             MR. DEGROAT: Yeah.

8             MS. PLATT: We had discussed that before he had come  
9 to the Board.

10            MR. MOGEL: Let me just also remind the Board that the  
11 Building Department did indicate that if there are  
12 outstanding violations on the property, even if the Board  
13 were to vote on the variance this evening and grant it, the  
14 building permit would not be issued until such time as  
15 the --

16            CHAIRPERSON DAWKINS: So we're not delaying him,  
17 necessarily, by doing that.

18            MR. MOGEL: Well, I --

19            MR. DEGROAT: Well --

20            MR. MOGEL: I mean actually I won't opine either way.  
21 If the Board isn't willing to vote this evening, and I'm  
22 assuming this gentleman is going to need to come back next  
23 month to be heard again, that could certainly constitute a  
24 delay. Whereas, if he were able to adequately address it,  
25 if he were to receive it tonight and adequately address it

1                                 - RE: J. DEGROAT -

2     in the next week or two weeks, he would be able to move  
3     quicker.

4             BOARD MEMBER MORREALE: Right.

5             MR. DEGROAT: And I have three young children that I'm  
6     not with right now for the second time.

7             MR. MOGEL: Congratulations. You probably don't want  
8     to come back another time.

9             MR. DEGROAT: Yeah.

10            MS. PLATT: So if I could again, on a Building  
11     Department perspective, if a variance were to be granted,  
12     because the recreational vehicles all along the property  
13     are in violation, we, technically, would not be able to  
14     issue a permit until the violations were cleared. So I  
15     don't know if the Board would put in a stipulation, if a  
16     variance were granted, that the vehicles be allowed on the  
17     property until such time the garage is built. That would  
18     be the only way around the violation.

19            CHAIRPERSON DAWKINS: Even excepting the larger of the  
20     boats, I'm hard-pressed to believe that all of the  
21     recreational vehicles and the -- I mean I understand you're  
22     trying to sell the trucks, and the quads, I'm just  
23     hard-pressed to believe that they're all going to go in  
24     that garage.

25            BOARD MEMBER MORREALE: To put it sort of cold and

1                                   - RE: J. DEGROAT -

2 bluntly, that's Mr. Degroat's problem. If we give a  
3 conditional approval and he doesn't get rid of them or  
4 store them properly, then --

5           CHAIRPERSON DAWKINS: But part of his plan, he has  
6 said, is that the garage resolves some of this problem.

7           BOARD MEMBER MORREALE: Sure.

8           CHAIRPERSON DAWKINS: If somebody has a boat and a  
9 truck and boat, I'm inclined, when they say, I want a  
10 garage, to be understanding, that the stuff that you have a  
11 problem with will go in the garage. But when I objectively  
12 look at the stuff and I can't see where it's going to fit  
13 in the structure that's being proposed, then I have a  
14 problem giving a conditional based on the fact that that  
15 stuff is going to go in the garage because it doesn't  
16 appear to me that it would fit in the garage.

17           BOARD MEMBER MORREALE: Whatever doesn't fit you  
18 violate.

19           CHAIRPERSON DAWKINS: But we don't know that until he  
20 gets the garage. I mean we've got a Catch 22.

21           MR. DEGROAT: Can I explain this for a second?

22           BOARD MEMBER FINDLEY: He said it was a small rowboat,  
23 a motorcycle, the quad and some waverunners.

24           MR. DEGROAT: Yes.

25           BOARD MEMBER FINDLEY: They are very small.

1                               - RE: J. DEGROAT -

2           CHAIRPERSON DAWKINS: Go take a look at the property,  
3 Kent.

4           MR. DEGROAT: So the two trucks, I actually have a  
5 business address, which is 262 Toad Pasture Road in  
6 Middletown. Literally, the only reason that they're at my  
7 house, my wife does not allow those trucks to be at my  
8 house, is because I'm trying to sell them. I bought my  
9 guys a new truck. I could show you the pictures of it.  
10 That's currently what they're driving. And these trucks  
11 are to go. Whether I got to call the junk yard to come get  
12 them or whatever I have to do, these trucks, they're going.  
13 I mean I put them online today for, like, next to free  
14 because I need them to go.

15           And the other thing we're talking about literally is,  
16 like, four-wheelers and a couple waverunners. So I mean  
17 it's -- I try to be very much so in compliance.

18           CHAIRPERSON DAWKINS: That would solve part of the  
19 problem.

20           MS. PLATT: That would solve the open storage,  
21 multiple commercial vehicles.

22           CHAIRPERSON DAWKINS: Commercial vehicle. And then  
23 without those trucks, I think it would be feasible to get  
24 the other stuff in the garage.

25           BOARD MEMBER RAMPE: Right, that's my issue, too, is

1                                 - RE: J. DEGROAT -

2 if we grant a variance for this very large garage in your  
3 front yard and then it doesn't make a difference how it  
4 looks.

5             MR. DEGROAT: Well, I mean who lives in my house? I  
6 mean you've seen it. That's all from my back. Every  
7 brick, every rock, every flower, that's me. I built that  
8 house. It was woods.

9             BOARD MEMBER RAMPE: Right.

10            MR. DEGROAT: The way that that front yard looks right  
11 now kills me. I've probably got a half million dollars in  
12 that property and I'll never get a penny of it back.  
13 So ...

14            BOARD MEMBER RAMPE: It's a nice lot.

15            MR. DEGROAT: You come by the summer, the grass has  
16 stripes; right? Like, I love my yard. It's not going to  
17 look like that.

18            BOARD MEMBER MORREALE: I drive by Mr. Degroat's house  
19 every day, and it's usually kept very nice.

20            MR. MOGEL: I think the Board needs to have a vote as  
21 to whether you are going to make a decision on this this  
22 evening or not make a decision on this this evening.

23            The larger question that you would be voting -- I mean  
24 I guess you could go at it one of two ways. You could  
25 either to a vote this evening, and there's no violation so

1                   - RE: J. DEGROAT -

2 I believe it would be a majority rule on granting, granting  
3 or not granting. I'd have to double-check whether it's a  
4 majority of the entire board or whether it's a majority of  
5 the board members that are here this evening. But I think  
6 the question, I would say that if you were going to vote as  
7 to whether you are going to a vote this evening, which I  
8 usually make fun of Matt for doing but in this case I think  
9 it makes a lot of sense, that would be a majority rule  
10 based on the members that are here. If you have a tie, I'm  
11 not quite sure how that would proceed.

12           CHAIRPERSON DAWKINS: We just wait for ...

13           Where is our alternate?

14           BOARD MEMBER FINDLEY: Sick.

15           MS. PLATT: Jon is sick.

16           MR. DEGROAT: And then my other feeling is, like, this  
17 gets pushed another month, that's another month my yard  
18 looks that way. I mean it's killing me.

19           MR. MOGEL: Informally, does the Board have an  
20 inclination?

21           CHAIRPERSON DAWKINS: I made it clear. I'm inclined  
22 to wait and get the full data before we make a decision.

23           Georgia, do you want to tell us what your inclination  
24 is?

25           BOARD MEMBER RAMPE: I think I have to agree with you.

1                   - RE: J. DEGROAT -

2 I'm very divided about this.

3           CHAIRPERSON DAWKINS: I am, too.

4           BOARD MEMBER FINDLEY: Let me ask you question.

5           CHAIRPERSON DAWKINS: Matt, we're not formally voting.

6           BOARD MEMBER MORREALE: My inclination is a  
7 conditional vote.

8           CHAIRPERSON DAWKINS: A conditional vote.

9           BOARD MEMBER FINDLEY: All right. So apparently,  
10 there is a survey, I mean we haven't seen it, that says  
11 this acreage is X amount. What's going to change? What  
12 does the survey provide us?

13          MS. PLATT: Well, your lot coverage. Your total lot  
14 development coverage would be affected

15          BOARD MEMBER FINDLEY: Agreed. But we have something  
16 that's from an architect, a licensed architect, I presume,  
17 that says the lot coverage is this.

18          MS. PLATT: And the Count of Sullivan --

19          BOARD MEMBER FINDLEY: Agreed

20          MS. PLATT: -- is stating it is something else.

21          BOARD MEMBER FINDLEY: Agreed, agreed. So where do we  
22 go from there?

23          MS. PLATT: That's what you guys have to decide.

24          BOARD MEMBER MORREALE: I would just like to  
25 interject.

1                                 - RE: J. DEGROAT -

2             Working in real estate, the tax maps, the County  
3 records are usually not correct. They're an approximation,  
4 at best. I'm willing to lean on this rather than lean on  
5 the County records.

6             BOARD MEMBER FINDLEY: And even if there is a  
7 discrepancy, how does it get resolved? I mean we're not  
8 responsible for resolving that.

9             MR. MOGEL: If there's a discrepancy you would go -- I  
10 mean I think undoubtedly, you would go with the licensed  
11 survey.

12             CHAIRPERSON DAWKINS: And then you would change the  
13 records and that would be that.

14             BOARD MEMBER FINDLEY: Okay.

15             So I don't -- again, back to the fact that this is a  
16 licensed --

17             MR. MOGEL: A licensed architect.

18             BOARD MEMBER FINDLEY: -- a licensed architect that is  
19 documenting that this is based on a survey by Ernest  
20 Johnson, which is also a PLC, a licensed surveyor. I don't  
21 see what a survey is going to tell us, what we accomplish  
22 by delaying the gentleman another month.

23             MR. MOGEL: And I think that both positions are  
24 legally supportable. I think you're entitled, as a board,  
25 to accept a document that's being referenced in a licensed



1                                   - RE: J. DEGROAT -

2 architect plan just the same as you would be for the  
3 survey. The Board is under no obligation to require its  
4 applicants to come in with a certified survey. I'm of the  
5 opinion than that is often, under most circumstances,  
6 overkill. You're absolutely entitled to rely on this and  
7 you're also absolutely entitled to say, No, I'd rather see  
8 the survey that's being referenced in this document.

9           CHAIRPERSON DAWKINS: To be honest, the survey is an  
10 issue, but I'm frankly more concerned about the fact that  
11 there are three violations sitting there and I would like  
12 to see them before we vote.

13           BOARD MEMBER FINDLEY: But you have the Building  
14 Department is saying, Hold on, we don't care what the  
15 Zoning Board does because we're not issuing a building  
16 permit until this is resolved.

17           CHAIRPERSON DAWKINS: I get that.

18           BOARD MEMBER FINDLEY: So does waiting another month  
19 do?

20           CHAIRPERSON DAWKINS: What it does is it gives me the  
21 ability to say I'm not giving the benefit of the doubt to  
22 someone who hasn't shown me that they're complying with  
23 code.

24           MR. DEGROAT: Coming here, though, I'm complying with  
25 the code.

1                   - RE: J. DEGROAT -

2           CHAIRPERSON DAWKINS: I'm not blaming you, I'm just  
3 saying I would like to give you --

4           MR. DEGROAT: It feels that way.

5           CHAIRPERSON DAWKINS: I would like to give you a  
6 chance to show me. And I understand that you didn't hear  
7 about these issues until tonight.

8           MR. DEGROAT: Ten minutes ago.

9           CHAIRPERSON DAWKINS: You haven't had an opportunity  
10 to show me.

11          BOARD MEMBER FINDLEY: I disagree greatly. This isn't  
12 the principal's office.

13          BOARD MEMBER RAMPE: True.

14          BOARD MEMBER FINDLEY: I can say more, but I won't.

15          BOARD MEMBER MORREALE: Would your inclination change  
16 with a condition providing the survey? I mean this is  
17 something that can hold him up one day versus a month.

18          BOARD MEMBER FINDLEY: Again, he's not even required  
19 to provide a survey.

20          BOARD MEMBER MORREALE: I know, but I'm trying to get  
21 the vote.

22          MR. DEGROAT: I mean I could even move the vehicles.

23          BOARD MEMBER FINDLEY: He's not required. You can ask  
24 him for it, he could say no.

25          MR. MOGEL: Well, I'm not so sure about that, but ...

1                   - RE: J. DEGROAT -

2           CHAIRPERSON DAWKINS: I have faith that he has a  
3 survey and he's going to provide the survey. That's really  
4 not -- I don't have any to reason believe he'll withhold  
5 the survey that he has in his safe at home.

6           BOARD MEMBER FINDLEY: I think -- I'm not saying any  
7 more.

8           CHAIRPERSON DAWKINS: Are we going to take a vote on  
9 whether to vote?

10          BOARD MEMBER MORREALE: A vote to vote?

11          MR. MOGEL: I'm going to give my opinion. You can  
12 take the vote, but if there's not a majority of the Board  
13 this evening that says that you can go to vote on the  
14 variance, then it's going to be my opinion that you can't.  
15 I think you need a majority of the Board to indicate that  
16 you're willing to go to a vote. If you don't have a  
17 majority willing to go to a vote, then there will be no  
18 vote this evening.

19          I'm going to tell you that I think that taking that  
20 step makes this process more messy legally than it really  
21 needs to be. Taking a vote on going to a vote and not  
22 having a majority of the Board willing to vote on this this  
23 evening I think makes the matter messier. I think that  
24 probably the cleaner legal procedure would be simply to  
25 take a vote, which would be unfortunate for this applicant

1                   - RE: J. DEGROAT -

2 because it sounds like if the vote were forced to be this  
3 evening it would be 50 50. At that point, I think it would  
4 be, I'll double-check, but I believe it would be a denial.

5           CHAIRPERSON DAWKINS: And I don't want to do that.

6           MR. MOGEL: Right. That's my point.

7           CHAIRPERSON DAWKINS: Under no circumstances do I want  
8 to deny the Applicant tonight. I simply want to be sure  
9 that the interests of the town are addressed appropriately  
10 before we issue him a variance. Issuing a variance is  
11 giving someone dispensation from the law and I think that's  
12 a serious issue. It's not perfunctory. I think  
13 Mr. Degroat is showing good faith and I would like to give  
14 him an opportunity to prove that good faith rather than us  
15 make assumptions.

16           BOARD MEMBER FINDLEY: What issues is not being served  
17 to the town?

18           CHAIRPERSON DAWKINS: Right now, as it stands tonight,  
19 the facts that we know tonight are facts that Mr. Degroat  
20 has come to us, he's provided plans, he's gone and gotten  
21 professional documentation of what he plans to do --

22           MR. DEGROAT: \$4,000 worth.

23           CHAIRPERSON DAWKINS: -- why he wants to do it.  
24 Unfortunately, unbeknownst to him, he has three issues that  
25 result in violations. He's told us, I would think with

1                   - RE: J. DEGROAT -

2 full forthcomingness, if that's a word, what he plans to  
3 do about that. But I would prefer rather than give someone  
4 dispensation from our law, I would prefer to give him an  
5 opportunity to meet with the Building Department, come up  
6 with a plan and prove to this board that he has a viable,  
7 reasonable plan, that the materials that are on the  
8 property will, in fact, fit in the structure that he is  
9 proposing. I mean this is a very large accessory  
10 structure. This is really --

11           BOARD MEMBER RAMPE: That's what my issue is. It's  
12 very big.

13           CHAIRPERSON DAWKINS: It looks and feels like a second  
14 house. I'm not saying it's unattractive. In fact, this is  
15 where I come back to this issue of I really advocate having  
16 somewhere to put the stuff. I'm an advocate of that. But  
17 this is a very large accessory structure.

18           BOARD MEMBER FINDLEY: Then your issue should be with  
19 the code and not with this applicant because the code says  
20 you can have 25 percent coverage.

21           BOARD MEMBER RAMPE: But not in its front --

22           CHAIRPERSON DAWKINS: When you drive --

23           BOARD MEMBER FINDLEY: Well, it's unfortunate he has a  
24 corner lot.

25           BOARD MEMBER RAMPE: Yes.

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2           BOARD MEMBER FINDLEY: That is unfortunate, yes.

3           CHAIRPERSON DAWKINS: And to be honest, his lot is  
4 interesting. I agree with him a hundred percent that the  
5 layout of the house on his lot faces --

6           MR. DEGROAT: Con Way.

7           CHAIRPERSON DAWKINS: -- Con Way. However, when you  
8 drive down the main road, the driveway and the appearance  
9 is that it's fronting on Yankee Lake Road. The main road  
10 is Yankee Lake road, and it's a very large structure.

11          BOARD MEMBER FINDLEY: Yankee Lake has many accessory  
12 structures in the front yard. I mean that's the way it is  
13 there.

14          CHAIRPERSON DAWKINS: The way it is at Yankee Lake is  
15 if you have lakefront property the accessory structure is  
16 between the house and the road. This is not lakefront  
17 property. While I agree with the concept, it doesn't  
18 really apply here.

19          MR. MOGEL: Okay. Let me just add. In order to grant  
20 a variance you would need a majority of the full membership  
21 of the Board of Appeals. The full membership is five  
22 members. You would need three votes in order to obtain a  
23 variance this evening.

24          I'm going to give you my opinion and then the Board  
25 can act however it chooses to act. We're at 8:30 at this

1                   - RE: J. DEGROAT -

2 point, and even with my late entry, we've spent an hour of  
3 debate on this matter. I don't see the value in continuing  
4 to discuss this. It seems to me that the Board should put  
5 this matter over. That is my opinion. It is not a legal  
6 opinion, it is a practical opinion. That this board should  
7 put this over to the next meeting. And hopefully, by that  
8 time, all outstanding issues will be resolved.

9           I think otherwise, the Board could proceed with a  
10 vote, a vote to go to a vote, and that vote will be  
11 deadlocked. And technically, legally, if I were to give my  
12 opinion, my opinion is that you shouldn't be having a vote  
13 to go to a vote, you should be having a vote on the  
14 variance which would --

15           CHAIRPERSON DAWKINS: Or not.

16           MR. MOGEL: Or not. If you're having a vote on the  
17 variance, the result would be a denial. I don't think that  
18 anybody really wants to see this applicant denied on the  
19 spot. I think he would have very little recourse at that  
20 point.

21           BOARD MEMBER RAMPE: I agree with you a hundred  
22 percent.

23           MR. MOGEL: That's my opinion. I won't say anything  
24 else.

25           CHAIRPERSON DAWKINS: I agree.

1                   - RE: J. DEGROAT -

2           BOARD MEMBER MORREALE: Do we propose a motion to ...

3           CHAIRPERSON DAWKINS: We just leave it be.

4           MR. MOGEL: Just leave it be.

5           BOARD MEMBER RAMPE: Because otherwise, you're going  
6 to end up ...

7           CHAIRPERSON DAWKINS: I don't want to run the risk  
8 that you get denied because that costs you money.

9           MR. DEGROAT: I know.

10          MR. MOGEL: Well, I do think --

11          MR. DEGROAT: You really believe I'm not going to move  
12 a couple of four-wheelers? I mean that's really, like, the  
13 argument here.

14          BOARD MEMBER RAMPE: No, it's not that. It's a  
15 massive building in your front yard. People come to us --

16          MR. DEGROAT: You don't want me to do it?

17          CHAIRPERSON DAWKINS: No.

18          MR. DEGROAT: Because I won't do it. I just won't do  
19 it.

20          BOARD MEMBER RAMPE: No, no, no, no.

21          CHAIRPERSON DAWKINS: That's not --

22          BOARD MEMBER RAMPE: People come all the time to get  
23 their garages a little bit ahead of their house, which, you  
24 know, a couple of feet is fine. But this is a big  
25 structure.



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2           CHAIRPERSON DAWKINS: It's a big garage and it's  
3 completely in front of the house.

4           BOARD MEMBER RAMPE: In front of your house.

5           CHAIRPERSON DAWKINS: Looking from Con Way, it's  
6 behind. You know, it's halfway. Looking from Yankee Lake  
7 Road, the entirety of the garage is between the house and  
8 the road.

9           I happen to think the way you have kept your house is  
10 nice. I fully expect this garage to comport with the rest  
11 of your property and your house.

12           I'm not saying I don't trust you, I'm just saying that  
13 from a moral perspective, you've got all these people out  
14 in the town, they all follow the code. Occasionally, one  
15 comes before the Board and asks us, Can I please have a  
16 favor and not have to comply with the code? We look at the  
17 circumstances, and like you, there are pros and cons and we  
18 come to a conclusion. I personally don't feel like I'm  
19 doing the right thing if I give that dispensation when  
20 there are these other outstanding issues. I firmly believe  
21 you're going to me address that. You seem like a great  
22 guy.

23           MR. DEGROAT: And I would.

24           You know what my problem is? This has been going on  
25 for two months and the Building Department only took it

1                                   - RE: J. DEGROAT -

2 upon themselves to go there today to see if there's an  
3 issue. So now I suffer for that?

4           CHAIRPERSON DAWKINS: There's a different way to look  
5 at it.

6           MR. DEGROAT: Yeah, but that's the way I have to look  
7 at it.

8           CHAIRPERSON DAWKINS: No. But the way you can look at  
9 it is the violations have been going on and you got away  
10 with it for awhile and now you're being given an  
11 opportunity. But you got away with it for awhile, so  
12 that's great. That's great.

13           MR. DEGROAT: I know. But they said mail out 30  
14 letters. I went the same day, mailed out 30 letters. Came  
15 back the same day, said, Here you go, here's your receipts.

16           MR. MOGEL: I mean my question --

17           MR. DEGROAT: And everything they said, I'm like --

18           MR. MOGEL: -- at this point, do you believe that  
19 continuing this evening that you will be able to convince  
20 the two board members that they should proceed to a vote or  
21 are you just expressing your frustration?

22           MR. DEGROAT: My frustration. I can't understand why  
23 they don't --

24           CHAIRPERSON DAWKINS: Can I tell you that empathize  
25 with you. I fully see where you're coming from. But I

1                                 - RE: J. DEGROAT -

2     feel like we have been entrusted by the town to be sure  
3     that when we give someone permission to violate the law,  
4     which is what we're doing, we're giving you special  
5     permission to not follow the law, I think that is something  
6     we should take very seriously.

7             BOARD MEMBER RAMPE: You shouldn't take it personally.  
8     I'm not thinking about this personally. I'm thinking about  
9     everybody in Mamakating who comes to us for variances and  
10    how great are you able to sway. Do you know what I mean?  
11    It's a big building.

12            MR. DEGROAT: Well, that's why I said, if it's the  
13    size that's the issue, let it be said so I can fix it.

14            MR. MOGEL: Do you want to proceed to a vote tonight?  
15    You don't have to proceed to a vote.

16            CHAIRPERSON DAWKINS: I would prefer not.

17            MR. MOGEL: The other option, I'll just mention it, if  
18    you were to proceed to a vote and the variance would be  
19    declined, you could come back next month and ask for a  
20    rehearing. If the rehearing was granted on an unanimous  
21    vote then the Board could hear this all over again without  
22    the addition of new notices. If you were to vote this  
23    evening, and the vote sounds to me like the vote would be a  
24    denial, if it was denied, you could come back next month,  
25    ask for a rehearing. If the Board unanimously, and it's

1 - RE: J. DEGROAT -

2 required to be unanimous, were to grant him a rehearing,  
3 you would not need to renote it or send out new notices  
4 and the Board could, at that point, hear it all over again  
5 and vote accordingly. Again, I'm not sure what advantage  
6 that would grant anybody, but that's another option.

7 BOARD MEMBER RAMPE: Then we would have Matt. We'll  
8 have the fifth member. So ...

9 MS. PLATT: You also have the option to just table  
10 this until next month.

11 MR. MOGEL: Right.

12 BOARD MEMBER FINDLEY: Did we close the public  
13 hearing?

14 MS. PLATT: Yes.

15 MR. MOGEL: Yes.

16 BOARD MEMBER FINDLEY: Okay.

17 BOARD MEMBER RAMPE: What are you going to do?

18 CHAIRPERSON DAWKINS: I would like to have a motion to  
19 adjourn the meeting.

20 MR. MOGEL: I would just say to table.

21 CHAIRPERSON DAWKINS: To table.

22 MR. MOGEL: To table.

23 CHAIRPERSON DAWKINS: I'd like to have a motion to  
24 table this to the next meeting.

25 BOARD MEMBER MORREALE: I'll make that motion.

1                   - RE: J. DEGROAT -

2       BOARD MEMBER RAMPE: Second.

3       CHAIRPERSON DAWKINS: All in favor?

4       BOARD MEMBER RAMPE: Aye.

5       BOARD MEMBER MORREALE: Aye.

6       CHAIRPERSON DAWKINS: Aye.

7       BOARD MEMBER FINDLEY: Nay.

8       CHAIRPERSON DAWKINS: All opposed?

9       BOARD MEMBER FINDLEY: I oppose.

10                   (The motion was approved and carried.)

11       CHAIRPERSON DAWKINS: Motion to adjourn.

12       BOARD MEMBER FINDLEY: I make that motion.

13       BOARD MEMBER RAMPE: Second.

14       CHAIRPERSON DAWKINS: All in favor?

15       BOARD MEMBER RAMPE: Aye.

16       BOARD MEMBER FINDLEY: Aye.

17       BOARD MEMBER MORREALE: Aye.

18       CHAIRPERSON DAWKINS: Aye.

19                   (The motion was approved and carried.)

20       CHAIRPERSON DAWKINS: Thank you.

21                   (Time noted: 8:38 p.m.)

22                   \* \* \* \* \*

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## REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Jason Degroat, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script that reads "Rosemary A. Meyer".

ROSEMARY A. MEYER

Date Transcribed: April 19, 2019

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