

“Minutes are not official until approved by their respective board.”

TOWN OF FALLSBURG ZONING BOARD MEETING

April 27th, 2023

Larry Zierler, Chairman, Neil Sapolsky, Mike Bensimon, Ellyane Hutchinson, Jennifer Lishansky, Steve Altman, Board Members, Gregg Pitula, Code Enforcement, Dylan Harris, Town Attorney

- **Larry Zierler** called the meeting to order at 7:00PM
- **Larry Zierler:** I'm also gonna to read what is customary in terms of the notice around sewage and water. Please be aware that while the Town of Fallsburg Planning Board will continue to review all applications on the merits, the based on town of Fallsburg zoning code, subdivision code, and other applicable laws and regulations, a Planning Board approval does not guarantee a feature of a water or sewer permit by the Department of Public Works. And due to current and expected future constraints on both the water and the sewer system, which we discussed in open public comment during the a joint Town Board and Planning Board, and Zoning Board of Appeals meeting on May 9th, 2022, all water and sewer connection and extension applications will be accepted and denied based on the then existing facts and circumstances. Each application made for connection or extension to the town of Fallsburg water and sewer systems will include a review by the town engineer, will be guided by the town engineer's expertise and his knowledge about the town's current water and sewer systems, the public health, safety and welfare and the publicly available water and sewer systems information that is posted at the Department of Public Works for public viewing. The Town Board is taking responsible measures to address the water and sewer capacity issues. I sometimes hesitate because I'd like to think of a shorter way of saying all of this, but we have to be official and clear. And so that, hence the full paragraph is read. As we said in the work session, I'm just reiterating just for the interest of our being able to vet their business in the most expeditious and effective way. And I'd like the record to reflect the agreement of this board. I believe that we would like all efforts to be made when submitting applications that the applications are written in a way that is legible and clear with proper and easy to follow maps and directions so that we can actually buy properties and do what we wanna do in order to be able to serve our responsibilities to the post and most effective way to possible.

- **Scott Lederman:** You have a very good point there. But our human nature says to me that people are gonna bring their handwritten drawings and we, we've always rejected not always, but most of the time we reject them in the past.
- **Larry Zierler:** Okay, so therefore you're agreeing that we should accept or not.
- **Scott Lederman:** I agree that we should make decisions based on proper drawing.
- **Larry Zierler:** Okay, good. Appreciate it. Again, I know this is just good and welfare. I mean, it's the kind of thing we want. Good housekeeper, guys.
- **Scott Lederman:** I guess just to be a little contrary, I think the issue of context is very important. So under certain conditions, I agree with you. More formal drawings might in fact incur some costs. But we've had people come for us. I remember this one woman came with a design for a shed against her building and had her neighbors and all sorts, everything she did, she did by hand. I had no clue if I was to put a ruler to it, if it was to, you know. So I do appreciate cause I've said on the ARB that was a big concern as well, but at the same
- **Larry Zierler:** We don't want to overburden people, you know, have within reason, let's say. Okay. Then, you know, if someone has a good home drawn map, someone's got good cursive, good printing, Then we'll take that benefit, you know, we'll take that benefit, but if you don't, we, you know as well as for, and, and this is also where your department can actually guide people
- **Gregg Pitula:** Well, in the past, and we may be at fault as the department, if most of the Zoning Board requests, a lot of the Zoning Board requests come from people that need a variance because they need relief from it's not like big projects. It's usually homeowners wanting to book pools someplace. We never really, unless, unless we really needed to have like, surveyed setbacks and stuff, like there was, there was unless there was really a crucial setback that the neighbors were gonna worry about, that it was exactly a certain amount of feet, then we might have to have draw a survey drawn up with the, with the proper, with the proper dimensions. But when it comes to, when it comes to like a shed or location of a building, we usually allowed our clients to hand draw. If it wasn't really crucial where it was gonna go and it wasn't gonna be a problem for the neighbors, then usually we didn't ask for anything besides the hand drawn sketch.

- **Larry Zierler:** So when you hand out, could you, there'd be something that was appended to every application?
- **Gregg Pitula:** We could definitely, we've just had a lot of turnover in my office and I'm training all new people, so I will work on making sure that the girls accepting the applications look through things more thoroughly

NEW BUSINESS:

1.DANIEL ZANETTI – SBL: 60-1-29 – Requests an area variance for reduction in distance from the road 100' to 56' and 100' to 30' from the lake. Zone: REC. ACRES: 274.95. Location: 28 Keener Rd.

- Larry Zeirler and Steve Altman recused themselves
- Daniel Zinetti represented.
- **Gregg Pitula:** Where are we at, Dylan?
- **Dylan Harris:** I think we're ready to get started on the first item. You know, there's nothing in the code as far as the zoning code goes that says you need to have professionally drawn items. But obviously depending on the project, it might be necessary. And it's really just providing sufficient information that the board can review it and understand it. I think that's the critical piece. So I think we're ready for item number one on the agenda for new business.
- **Mike Bensimon:** So before you present your case, Daniel Zinetti is the applicant. He requests an area variance for reduction in the distance from the road of a hundred feet to 56 feet and a hundred feet to 30 feet from the lake. It's an REC zone. It's 274, closer to 275 acres. But, you know, it's owned by a board and it's all sub-divided. So the issue at hand has to be what has to do with the fact that the applicant is looking to build a hunting or a fishing cabin, and our town code states that all cabins have to be between six and 800 feet, which I believe is looking to do 750 feet, which is fine. But the issue is that it cannot be placed any less than a hundred feet from the edge of the road. And it cannot be placed within a hundred feet of a lake or a stream. In this case, it's gonna be you're looking to do it from a hundred feet to 30 feet from the lake. Yep. And therefore it requires an area variance.

- **Daniel Zinetti:** Yep. That basically sums it up. So basically, I mean, I'm surrounded by homes that are similar to what I'm trying to do. The house directly next door to me is also a hunting fishing cabin. It's about the same distance it was built, you know, I dunno, probably 60, 70 years ago. I'm not changing anything like that. There's really no environmental impact because the law has already been clear. It was clear a couple years ago. The holding tank that I would get for the septic systems is a completely enclosed holding tank that if for some reason it seeps and leaks, it leaks into my home. So you don't have to worry about going into the way we also test our lake. I believe we've also, I'm sorry, we test our lake like three, four times a year, I believe. They tell the hot spots and if they see that something is, you know, they go right to people. But since I've been there, I've not seen any issues at all. We are well known for having one of the cleanest lakes in New York.
- **Larry Zierler:** Are you upgrading from a different unit to a new unit?
- **Daniel Zinetti:** No, I have no, it's just a, it's a fair lot there.
- **Mike Bensimon:** So are you a new member to the?
- **Daniel Zinetti:** For the past? This will be my third year. Third year.
- **Mike Bensimon:** And where have you been living up?
- **Daniel Zinetti:** I live in Pine Bush. They're all seasonal alums over there. Cause you can't live on that.
- **Mike Bensimon:** So when you come up do you camp there, do you stay by a neighbor?
- **Daniel Zinetti:** Typically I just come up for the day
- **Ellyane Hutchinson:** Can you just tell me the dimensions of the property or your lot? The lot.
- **Daniel Zinetti:** Yeah. It should be right on there. That's actually an efficient drawing. This is a hundred feet here. I know that. I know it is 100 at the bottom. I think this is like 180. And then the back is like 86.

- **Jennifer Lishansky:** My understanding is that the Lake Association has a rule in which it's okay to be 30 feet from the lake, or is that, is that just grandfathering
- **Daniel Zinetti:** I mean it's just, yeah, they don't have strict rules as far as how close to it you are, you know, and in, in that situation.
- **Jennifer Lishansky:** I just wanna state though that the town's rules and regulations would always supersede that of the HOA.
- **Gregg Pitula:** Since it's one huge property, our setbacks are kind of out the window. The association split it into lots, so they're able to make their own separation. The only thing that we're ever concerned about is the fire separation between units, which the town has set. If you have good, if you have no water, 25 feet, I think they have plenty of water there the fire department can access to. So I would say I never let any structures in the lake community be built closer than 25 feet. So as far as setbacks go, and then I, I kind of needed a little clarification from the Zoning Board on the road variance. Are you guys gonna consider this dirt road in their interior property as a real roadway? Because the code says edge of pavement, which means I'm assuming a town road edge of pavement. So here we are dealing with an interior road one way interior road. It's essentially a one way road. You have to pull over to let the other person in. And it's owned and maintained by the and the property is on both sides of the, the lake owns both sides of the road and they own all the adjoining property on the other borders. So my thing was I was looking for clarification whether we even need to grant that. So I was looking to see if we'd even need to grant that variance for the, for the road distance and just concentrate on the lake. But I figured I'd leave the interpretation up to you guys. But again, the, the
- **Scott Lederman:** The definition of a hunting cabin it's sort of the assumption that it was a separate property. In other words like you said about some of people just buy to build a home the by the lake. I'm just trying to get my head going here.
- **Steve Altman:** Can I help out?
- **Gregg Pitula:** No, sir.
- **Steve Altman:** Can I help?
- **Gregg Pitula:** No, Steve, you're not allowed to speak. You have been recused

- **Steve Altman:** I just wanna explain how the structure of
- **Gregg Pitula:** Steve, you're gonna have to the room
- **Scott Lederman:** : So, in a sense, the town has to rewrite from law to include, because this is just one piece of property. It's basically, if you think of it like, you know, like a campground, right? It's just a campground and, and people will cut lots and the oversight or liability is on the campground primarily. So that is the question of whether or not it should have come up here. And basically we're gonna grant for something that might be intended for something else. That is just the point I'm academically trying to make.
- **Gregg Pitula:** So I have my questions about this also, but I took it to Dylan. I took it to our attorney and I took it to Molly and I asked them if we should be here. And they both felt Dylan, right? That we should be here tonight just to see this through?
- **Dylan Harris:** Yeah. I mean, I think whether it's an interpretation or granting variances, I think it is necessary. We have, unfortunately with law, sometimes it ends up being as clear as mud. So that's what a board like this is here to, you know, delve through the actual application, how it applies to sometimes these somewhat gray rules and regulations that we have.
- **Jennifer Lishansky:** I just wanna understand, Scott, what you're saying, which is like, do we need to think about whether or not we're granting an interpretation? Because the idea is that we're saying, are we setting rules for a singular lot in a larger piece of property?
- **Scott Lederman:** Well, so before when I was talking about the idea of, well, we have this rule, right? The rule says a hundred feet. Okay. And the question of, well, we see evidence of this rule not being followed in the adjacent properties, but that's based on the fact that it's one property around the lake as opposed to lots. And I think the law or the zoning code is written for lots, not for this.
- **Gregg Pitula:** So my confusion in this was too
- **Scott Lederman:** My point is if we brand this a variance, my concern was, oh, are we sending a bad precedent? And we're really not, because someone who has a lot and comes in and says, Hey, I want to build less than a hundred feet.

And meanwhile to have an acre, let's say, well, no, that doesn't apply, right? Because no, there's the zoning code.. Oh, but what about this guy? Well, that's a different dynamic. So I don't know how that gets better explained or is gonna go back to, you know, the board to make new zoning laws to accommodate this. I don't know how much, you know, the population or how it exists. So that's all I'm trying to say.

- **Gregg Pitula:** So, just so you know, in a normal circumstance, when you buy a single property around a lake, you don't own the lake. In this case, they own the entire lake, both sides of the lake. So it's actually all their property. So honestly, it could be looked at like it's all their property in a campground, like where if this was an individual piece of property he just bought on a side road and it bordered a lake, odds are their property would come up to the shoreline of the lake and it would end. So that's where the restrictions, I believe, were put into place for, in this case, the property, the 300 acres encompasses the lake, so it's all their property. But if I did grant Mr. Zinetti a permit to do this, and somebody said, You didn't follow the rules, then I wasn't doing my job. So that's why I brought it here for you guys to determine, maybe you would determine it doesn't need a variance. Maybe you want to grant the variances, but you're gonna have to work that out.
- **Dylan Harris:** Yeah. And that's part of the review. You know, the board could say that based on everything it's looked at, public hearing comment, et cetera, et cetera, that you don't think the variances are necessary and that it's your interpretation that this specific code to the specific set of facts at hand here do not apply. And that could be, you know, ultimately what you do tonight. I mean, it could be one of two outcomes, either voting on the actual variances or just doing an interpretation and saying these just don't apply. You know, this is meant for a public lake that's not owned. It's made for single lots rather than one large lot with their own internal system in which to, you know, carve them out. So there's a couple pieces here.
- **Ellyane Hutchinson:** Is the property on stilts or is it a foundation?
- **Daniel Zinetti:** Stilts
- **Mike Bensimon:** Any other questions from the board? After Board questions, we'll do public comment and then Board comments. So you'll have another chance to ask. Do you have any other questions?

- **Dylan Harris:** I do have a quick question. Sorry. Under the bylaws, could you put a camper or something like that on this property? Or is that against the rules?
- **Daniel Zinetti:** I mean, you, they have a certain lot designated for that. That's, yeah.
- **Gregg Pitula:** There's no campers there.
- **Steve Altman:** No campers there. There's no campers there. They're not allowed.
- **Gregg Pitula:** Steve, you're on this board, so you had to recuse yourself
- **Steve Altman:** I recused myself so I couldn't vote. I sir,
- **Mike Bensimon:** We're gonna open up the public.
- **Gregg Pitula:** Then Mr. Zierler's gonna come and be able to comment for the public too. So I would just suggest, Steve, that you stay silent, please. Or am I wrong, Dylan? I don't wanna be outta line here.
- **Dylan Harris:** I mean, typically if a board member recuses themselves, they don't participate in the public hearing has been the way I've always done it and seen it. Just because again, you have the connection to the board. So there can be the appearance of impropriety, which is always the concern.
- **Steve Altman:** The only thing I wanted to do, Dylan, is to have the board understand the nature of the club
- **Gregg Pitula:** Steve, just gimme a second.
- **Mike Bensimon:** I just wanna make one, one statement. So, Dylan, my understanding of the open meetings laws that you wanna be as open as possible to any public comment. Like even though they don't have a right to vote because they're recused or there's a conflict that doesn't mean that they can't represent themselves as a resident of the town and give their 2 cents. So I would like to

hear 'em out as far as members of the public and know that they're not making any comments or decisions on behalf of the board. Is that okay with you?

- **Jennifer Lishansky:** Well, I think the point that Dylan was making though is that there's, there's a sense of impropriety, right? There's a connection based off of shared board membership that could seem to be swaying us. And I just wanna say that's something I would care about if I were a member of the public is the perception of like, if I'm on the board and I recuse myself talking about my home association, if I stand up that because of the connection that we all have asserting on this board that it would and outplay, right?
- **Scott Lederman:** We should have a standardized recusal, which basically states any interest. You sit down and be quiet during that whole session and after the session, you do come back and join us. Yeah. Is that simple enough?
- **Mike Bensimon:** I'll leave it to the board.
- **Gregg Pitula:** So we do have the president, we do have the president of the board on Zoom here, which I'm sure he'll speak on behalf of the club. So Steve, please just. Please, because then we're gonna open another whole can of work. Yes, Jim is here. Thank you. Hi, Jim. You'll get a chance to speak when we open a public comment. Thank you. All right, go ahead.
- **Mike Bensimon:** So then let's open up the public comment. Okay. And if anyone wants to speak from the public, please step up. Give us your name.
- **Gregg Pitula:** We'll start here in the room. Is there anybody who would like to speak on this from the public? All right. On Zoom, is anyone on Zoom that wants to speak? Jim is raising his hand. Hold on a second. I'm gonna unmute. Jim, can you hear me okay?
- **James Creighton:** Yeah, I can hear you. I know this is a very unique application. It's something that we struggled with. Mr. Zinetti has been through the ringer. The Building Department knows well the struggles that he's had to go through to try to get a cabin. We don't allow campers, we do have the ability to bring a camper in for a limited amount of time, but then it has to leave. It's something that would be a temporary thing. In terms of a cabin what he's proposing is exactly what is around the lake. It's actually the cabin I have, it was built in the late fifties. Most of the cabins along the west shore of Pleasure Lake were built around the late fifties or earlier. And they're in that six to 800 square foot range and are all within 20 or

so, some are less than 20 feet from the lake. And at the time when we had the property at, the property was only about a hundred feet deep to be, you know, at, at, you know, for most of the time that we had the property. So the hundred foot restriction would essentially say you can't build on the property, or you can't have a fishing or hunting cabin there. So I think there are a lot of reasons why this makes a lot of sense. But the biggest is it just fits. I mean, this is exactly what is in character with the community. This is not a self-created issue. You know, I could go through the five factors with you if you'd like, but from the board standpoint we are very comfortable with his submission. We would rather everybody around the lake put in a cabin, six to 800 square feet. But the town typically has a rule that every house needs to be built now for year round status, and has to be no less than, I think, 1500 square feet. So we've been getting much bigger cabins or much bigger houses around the lake just because that's what people were required to do if they're building now with all the health department regulations. But if we had our way, we would tell people you could only build six, 800 square feet and, and do exactly what Mr. Zinetti is requesting. So I'd be happy to answer any questions if anybody is interested in how it's set up or you know, what it looks like. But essentially every member around the lake is restricted, and can have no more than 100 feet of lakefront. And then the property goes back from the lake to wherever the property line is or the maximum we allow people is 215 feet from the lake. And in this case, Mr. Zinetti has actually a cliff behind our interior driveway. We call it a road Pleasure Lake Road, but it's really a dirt road that we maintain. It's a one-lane dirt driveway that is really the closest pavement, the closest road to the lake to Mr. Zinetti's lot maintenance. We call them lots, but it's really just his spot where he's able to put a cabin. I think the nearest road is Heiden Road, and that'd be about 750 to a thousand feet away, if not more.

- **Mike Bensimon:** Well, first of all since we have you any other questions from the board before moving on to other members of the public?
- **James Creighton:** And I did submit a letter, I don't know if Mr. Zinetti submitted it to you all. A letter to Molly and, and for the board that just highlights the board's official action approving his application. And it does go through the five factors to the extent that you need to to make a determination under a variance. But I'm not even sure. I struggle with this the same as your counsel does.
- **Mike Bensimon:** I have a quick question for you. Do you have a master map of all the little lots, you know, with the, I guess, you know, something visual for us to see how many lots you have in total? What are their, you know, what are their sizes you know, anything like that, because I, obviously you have 'em, you know,

cut up in a certain way, but we don't have any of that in our paperwork. Is that something that's available?

- **James Creighton:** Right. I could provide you with something that shows the members around the lake. We really don't have a surveyed map going around the lake that I know. We have surveys for our metes and bounds around the lake itself for our property, where our adjoining property owners are. But within what we have a very informal system where we put in pieces of rebar, with white caps over them. And those mark out what we call the lot maintenance lines. Those are the areas where somebody's, you know, you, you're gonna do anything. It's within those lines and beyond that, that's your neighbor. But we could, we could get you something that looks like I think roughly what you're looking for. It won't satisfy you in terms of a typical site plan with a subdivision or anything like that. But you know, we'll let you know who's, who's around the lake, if that's what you need.
- **Mike Bensimon:** Well, that gives me a better understanding as to how many possible members, how many, you know, and for that matter I understand that you may have, assuming that this parcel has stayed the same since you've had it, have all the I guess lots been decided from the very beginning or as the years progressed, you decided to kind of squeeze in more lots and, you know, and reach lines and things like that.
- **James Creighton:** No, no. They were all, they were all separated. Pretty much we counted from one end of the lake to the other and counted off a hundred feet as we went around. So every lot, 1, 2, 3, 4, all the way around to a hundred has been designated. Not everyone has had a cabin put on it. Some people, you know, would just go up and camp. But for the most part around the west shore where Mr. Zinetti's I believe that just about every lot is accounted for and has a cabin on it. There may be one further down about maybe 15 lots from his that might still be open. But for the most part, everybody has already built cabins on their lots.
- **Jennifer Lishansky:** How many unbuilt lots are there? Lots that have not been built upon?
- **James Creighton:** So we have a hundred members, but among those hundred members are people who happen to have houses that are not on lake property, but adjacent to the lake property. So people like Mr. Alport who was a member of our club, but he had a big house and he had a lake lot out in front. His neighbor,

Mr. Altman has his house that is not on lake property, but he has a lake membership, which allows him, there's nothing built on the lake portion of his lot. He just has the ability to go out from his house and down to his dock and enjoy the lake. So as you go around the west shore where Mr. Zinetti is, every lot that is assigned to a member has a cabin on it already, other than one. I believe lot 15 is not built on.

- **Mike Bensimon:** Do we have any other members from the public that wanna speak either here or on Zoom?
- **Gregg Pitula:** Raise your hand. Raise your hand button.
- **Mike Bensimon:** Okay. All right. So at this point I'm gonna close the public portion and we'll go to board comments. I just have one quick question for Greg. So obviously, you know, these internal lot lines are, you know, more or less made up and really not part of the town's tax map. So outta curiosity, if any, if somebody were to purchase 250 acres, And now they have this one parcel and they wanted to throw hunting cabins on them. You know, is there a limit to how many they can have? Or, you know, is there internal setbacks there that they
- **Gregg Pitula:** So we would have to, yes, we have zoning for every code already set up. This place has been in existence since before the codes existed. So anybody purchasing property from now on, if they wanted to do a campground, campgrounds are only allowed in certain zones. REC zones that, you know, it's REC zones. And then if they wanted to do a campground and split it up, like you're saying, they would have to go to our Planning Board. And the Planning Board, they would've to bring a site plan in and say, this is what we're doing for our campground. And they would show all the lots. We just did a place called the Getaway. Which is on Church Road. They purchased 200 acres. They did 70 individual campsites with a staff house in the front. They showed it all around the map. They went through the whole procedure and they got their approvals to do it. So that's what would happen. In this case they own this property. They paced off a hundred foot lots, drove stakes in the ground, and then they sold shares to everybody. So, Mr. Zinetti bought a share and I've put him through only because he couldn't get a septic system in there because of the ledge behind him in the rock situation was the only reason why he couldn't qualify for this house. I don't really agree personally with the 1200 square foot rule there, they should be able to do these cabins throughout there cuz there's a lot of old cabins in there that need to be torn down and replaced. The thing is, the ones that have cabins, you're allowed to replace them right back in the same footprint with no issues.

But any of the new lots that are still in there, a 1200 square foot home or bigger doesn't really conform to those, to those lots. So they should be allowed to do these hunting cabins. So I need a determination from the board whether or not we should be applying these rules to at least this specific property, maybe, and Mr. Zinetti, so that I know going forward how to handle this place. Because it's a huge lot and there's a lot of people that have been slowly fixing up the places and making it much nicer. So I just want to be able to do my job properly. So I'm looking to you guys whether you should grant the variance or for this specific lot, or maybe say that you feel that this place doesn't follow. Should it be following the rules that they set in place for their association? And in other words, here, going forward, I would follow those rules with the association, work with the association to make sure that there's responsible building around the lake.

- **Mike Bensimon:** Yeah. Thank you. Any more Board comments?
- **Jennifer Lishansky:** Sure. Just to say, I think we should vote on variances because I do think that we will in the future run into tricky situations if we say we're leaving this to lake associations, we're leaving this space off earlier purchasing. We're leaving this space off of how things have been mapped out previously. So I do think that we should vote on the variance here. I think that it's gonna set an important precedent for the types of issues that we hear moving forward.
- **Ellyane Hutchinson:** Yes it does sound to me like this roadway, I would consider it a driveway and on a road. So I wouldn't feel like we need variance on the back end. And I think that because it's very clear, you know, similar, doesn't change the character of the area. And I also do support building small. I think it's ridiculous that the town is forcing giant monstrosities. So I'm in favor of this, it just makes some sense to me. And I'm alleviated that if there's any issue with the septic, it's gonna affect the house first
- **Neil Sapolsky:** I think we need to look at interpretation. They won't inherit that. I get a little caught up with the town is telling them they have to build 1500, 1200 feet. So they do have a say there at the same time. And now if we say we have no say this isn't our job, it's like, we have to vote on the variance.
- **Gregg Pitula:** So I agree with you there, but maybe we should take a look at the zoning after this meeting for the specific code section to see if we need to make alterations to it to accommodate preexisting places or whatever.

- **Mike Bensimon:** Scott, do you have any?
- **Scott Lederman:** I actually think we should not vote on the variance. I think that something needs to be straightened out because this is a very unique situation that has been established for 60 odd years, and even more. So the point is I really believe that I'm big on upholding standards, but at the same time, understanding what I think the context of the precedent was, why they established this hunting code. Cause I was just looking up, for instance, campgrounds. Well, there's a whole other dynamic there, and they wouldn't fall under that. So it said to me that the board, the town has to really go back and look at this and look at really how this does affect, how many people or how many properties are owned that are similar to this. And of course we, you know, do we want some impact on that, especially concern with issues of or other kinds of pollution. But I think it would be over for me to, let's say, deny the variance. I mean I'm gonna grant the variance. That's how I'll vote. But in fact, I think at the same time that if we do not vote on it, we're shrinking the variance, but we're also making a statement that recognizes that the zoning doesn't apply, at least in my opinion. And that has to be kind of figured out or better delineated than it's now. So that's what I think
- **Neil Sapolsky:** I agree with Scott, just with the other, the bigger houses, that's why those hundred feet on the other side at the same time. I'm with you.
- **Scott Lederman:** That's a very good, excellent point. So there again, that even adds more to the conundrum of how do you figure this out with I think a very simplistic zoning code that back in the fifties or sixties is what we had in mind. So other ritualists, right?
- **Mike Bensimon:** So let me make a comment and then maybe, I guess some kind of something in the middle. So there are two area variances here to consider. One is the roadway issue, the length, the distance of the roadway, and one's the distance to the lake. I am personally of the opinion that when they're talking about a roadway, they're talking about the street and not this narrow driveway leading to the street. And there I would be comfortable making an interpretation that this is not a roadway. This is more the driveway. However, with the lake piece I think that it's, I don't think that really falls for interpretation. I think that that would be more, look at the variance because it is more cut and dry there. However, we can factor in, you know, mitigating factors including the fact that this was designed in this very specific way. You know, it's in keeping with the neighborhood. It's in keeping with the neighbors. Personally, I'm not a huge fan

of seeing a structure 30 feet from the lake, and I wholly support, you know, the legislative intent behind a hundred foot rule especially when it comes to environmental issues. However, the mitigating piece here is the fact that all of the units are like this. This is no closer than any of the other units. And again, it won't have that septic issue that, you know, so there are some mitigating factors here. Not to mention this was, in my opinion, a hundred years ago, it was always intended for something to be here, despite the fact that it doesn't fit into our current zoning. So I don't know how everyone feels. We can vote on both of them. We can do interpretation. I mean, Greg sounds like we should vote on both of them, even though I feel like the first one could be an interpretation.

- **Gregg Pitula:** I don't think we should vote on the first one.
- **Dylan Harris:** I don't get a vote. I think Mike's kind of hybrid approach makes sense. That would be my opinion on that. I think it's a sensical approach because the, you know, road versus the driveway I think is pretty clear cut what's going on here. Whereas the other one really is a very gray area. Is it a public lake? Is it a private lake? What does it, you know, apply to? So you're not creating a slippery slope or precedent if you're voting on the actual just a lake no matter what kind of lake it is, and then the setback. So I think that would be a good approach.
- **Gregg Pitula:** We'll look into the zoning after this variance case, and maybe change the wording so it says, public lake or something like that? I mean, we should look into it and discuss.
- **Dylan Harris:** Yeah, I'll, I'll talk to our town planner, Helen. I'm sure she's run into this and will have some good ideas on how we could tweak the code or add to it and make it a little more robust and apply to just the kind of modern situations.
- **Mike Bensimon:** So then let me poll the board on the first issue and then we can go through the criteria regarding the second issue and the actual area variance we're gonna vote on. Okay. So with regard to the determination that the roadway means the actual street and what is depicted here is not really a roadway, it's more of a driveway. Would you agree with that?
- All members vote agree
- **Mike Bensimon:** So it's unanimous. We, the Zoning Board, feel that the applicant does not need an area variance for the distance to the roadway, that is a hundred feet therefore that's fine. That's not gonna be voted on here. So now

we're gonna move to the criteria. We're gonna go through the criteria for the area variance, specifically regarding being 30 feet from the lake instead of the required hundred feet from the lake. So proof of mailings on this?

- **Gregg Pitula:** Yes. We had to go through the, since this property was so great, we had to go through the mailings and it ended up being that the lake owned within 300 feet. The lake owned all the property adjoining this. So there was a Heiden, there was a development and development and the lake property around. The attorney felt it was not necessary to notice all the surrounding 300 property owners, which would encompass the entire side of town in order, because this variance only applies to the area of the back of the lake right there, there would be, it would've been 3,250 mailings went out to the, if you went to the whole 300 acres around the lake. So they picked 300 feet from every surrounding property that it would affect around the backside of the lake. So yes, the mailings are correct what was worked out with the town attorney.
- **Mike Bensimon:** Okay. Any violations?
- **Gregg Pitula:** No.
- **Mike Bensimon:** So then do you, do you happen to have the decision letter?
- **Gregg Pitula:** They're not on the area variance decision letter?
- **Mike Bensimon:** I don't have the area variance decision.
- **Gregg Pitula:** Oh, I gave a couple 'em to you before the meeting started. There you go. They're on there, right?
- **Mike Bensimon:** My first question, and we'll start with Jen, whether an undesirable change will be produced in the character of the neighborhood.
- All Board members vote no.
- **Mike Bensimon:** Can the benefit be achieved through another method?
- All Board members vote no.

- **Mike Bensimon:** Whether the request area variance is substantial?
- 2 Board members vote yes, 3 vote no.
- **Mike Bensimon:** And whether the proposed variance will have an adverse physical environmental effect on the neighborhood.
- All Board members vote no
- **Mike Bensimon:** And whether the alleged difficulty was still created.
- All Board members vote no.
- **Mike Bensimon:** All right, so motion for lead agency.
 - MOTION:
 - **Ellyane Hutchinson** motions for lead agency. **Jennifer Lishansky** seconded. All in favor.
 - MOTION:
 - **Ellyane Hutchinson** motions for negative declaration. **Jennifer Lishansky** seconded. All in favor.
- **Mike Bensimon:** So now do I have a motion to approve or deny?
 - MOTION:
 - **Ellyane Hutchinson** motions to approve. **Jennifer Lishansky** seconded. All in favor.
- **Mike Bensimon:** Congratulations.

2. CONGREGATION CAMP D'MASPIDIM – SBL: 41-1-18.1 – Requests an area variance to increase height of fence from 4' to an 8'. Zone: REC, ACRES:92.14, Location: 69 Silver Lake Rd.

- Joel Kohn represented.
- **Joel Kohn:** My name is Joel Kohn representing Camp D'Maspidim. This is a camp on Silver Lake Road and Rosemont Road. They've been the owner for the past 5, 6, 7 years. And they have applied for some grants for security from the Department of Homeland Security, or from state and federal grants. And they have gone through a lengthy process of about five or six years of approving these grants for the security of the camps. And so I guess the contractor that they hired was not aware that there was a permit process and wasn't aware that there's a limitation on the height of the fence. So they just went ahead and started doing the fence and then they gotta stop work order. And that's what brought us in front of this board. I'm sure some of the members I know, maybe all the members have driven by and saw the fence. It's a nice fence. It's not a typical fence that you see here. It's a nice, expensive fence. And I have some pictures if anyone wants to see, and I also have a letter from the security consultant who guided them throughout this process. I can't hand it over to you. Dylan.
- **Gregg Pitula:** You want an email copy of it for the record afterwards? I can email it.
- **Dylan Harris:** Yeah, you can send it after. I'll listen now though. That's fine.
- **Joel Kohn:** I'll read this letter. This is from Weis Security Consulting New York. This memo is dated April 20th, 2023. This memo serves as a brief analysis of the security defense needs at Camp D'Maspidim. Weis Security Consulting, LLC has been working with the camp to improve the security office campers, staff, and buildings for approximately one year risk assessment, security audits and numerous site visits were conducted at a facility to better assess and protect its members and physical property. One of the major challenges that had been previously identified as a critical security deficiency had been the lack of sufficient fencing and gates along the property line. In part, as a result of these efficiencies Camp D'Maspidim was rated as having high breadth and risk profiles. Generally speaking, the higher the barrier, the more difficult and time

consuming to breach. According to ASIS and the Chaining Fence Manufacturers Institute 1997 for medium security applications, the fencing should be seven feet to 12 feet high in height and high security occasions would be 18 to 20 feet height. Fencing with any real security function. Generally starts at a minimum of eight feet in height as any lower is too easy to climb. The camp shows the minimum of eight feet in an effort to meet the basic security needs. The order shows an estates' palisade style of fencing to improve the aesthetics for its neighbors and simultaneously make it more difficult to climb. There has been a continued increase in hate crimes events against the American Jewish community and particularly the Jewish community in the state of New York. According to a recent annual report on hate crimes released by the Uniform Crime Reporting, the Federal Bureau of Investigation known as the FBI. 60.3% Religious Bias Crimes Jewish community significantly higher than any other religious class. It would appear that both the federal and state governments agree with this analysis as the camp successfully applied for and received multiple non-profit security grants from the federal government as well as multiple combating hate crime grants from the state of New York. These funds were in part to help fund the fencing gates and other target hardening measures that were deemed as critical. Not only a four to five feet fence height as noticed in the current code, would not even be permitted to be purchased with either federal or state security funding as lower height fencing is not recognized as providing a security function. Installation of fencing and gates around the perimeter of the property is a critical security enhancement that meets height requirements for security fencing and concur with its installation around the property as important elements of multilayered security approach.

- **Scott Lederman:** What kind of camp?
- **Joel Kohn:** Oh, it's a teenage camp for boys.
- **Larry Zierler:** There families who are enrich
- **Joel Kohn:** Staff families over there.
- **Larry Zierler:** But what about other families similar to, let's say, what might exist in and other camps where people have family cabins?
- **Joel Kohn:** It's basically just the staff with their family.

- **Larry Zierler:** It's basically yes and no. I mean, are there other families who have you know, from time immemorial family cabins. Where families who use it as cottage basically?
- **Joel Kohn:** No, it's basically just the summer camp, sleepover camp. The only families that we have is staff
- **Scott Lederman:** How many boys? I'm just curious. How big is the camp or what are the numbers?
- **Joel Kohn:** I don't remember exactly. I think they have the maximum population over there and they got Planning Board approval last year. I believe it's a total of 700 but I'm not sure. I'm not sure exactly, so don't hold me to that.
- **Steve Altmn:** Does this person have a child that goes to the campus?
- **Joel Kohn:** No there is an independent security company. I really wanted him to be on this meeting so he can kinda better explain it. But he had an FBI event
- **Steve Altman:** And who is he other than the people within the fence?
- **Discussion**
- **Gregg Pitula:** You know where Regency is? Regency in Woodridge?
- **Jennifer Lishansky:** So are there any residents who live there year round?
- **Joel Kohn:** I'm not sure if there is or not, I don't believe there is any year round.
- **Larry Zierler:** Oh, it's beautiful. It is a spike, black spike fence with open areas in between.
- **Ellyane Hutchinson:** And when did it go?
- **Joel Kohn:** Couple weeks ago.

- **Ellyane Hutchinson:** Is it only on that side or are they intending to put it on the other side?
- **Joel Kohn:** It's basically surrounding the property.
- **Ellyane Hutchinson:** It looks like it's two sides on the property.
- **Joel Kohn:** Well, I'm also showing the portion that needs the variance. There's already an existing fence on the side of the property. That's an existing 8 foot fence. The back of the property is permitted to be an 8 foot high fence That's why we're here for variance.
- **Ellyane Hutchinson:** Are they planning to put fencing on?
- **Joel Kohn:** No. This side, they don't have any campers or anything. They don't have any building staff.
- **Larry Zierler:** There's no fence here. That's what he is talking about. It's only on this side of the building.
- **Joel Kohn:** So what I'm saying is there is an existing eight foot between the Regency and Camp Silver Lake.
- **Joel Kohn:** I mean this is actually existing already up to this point.
- **Steve Altman:** Yeah. You put it up without permit.
- **Gregg Pitula:** Don't need a permit for the fence. They didn't read the zoning. There was no permit required for fencing. They just did not comply with the fencing requirements. They went higher than the code allowed.
- **Steve Altman:** So what's here Joe?
- **Joel Kohn:** This will be the fence. But that does not require a variance.
- **Steve Altman:** You're gonna put a fence here.

- **Joel Kohn:** That's correct.
- **Discussion**
- **Joel Kohn:** So I basically showed, I basically showed the area that required variance
- **Neil Sapolsky:** Why not back here?
- **Steve Altman:** You're going to put 8 feet back here.
- **Joel Kohn:** They don't need 8 feet
- **Jennifer Lishansky:** For the sake of the meeting. It's better if one person is speaking.
- **Scott Lederman:** So the blue is already what's existing? The orange is the proposed variance. And we are going to put a fence completely around.
- **Joel Kohn:** That is almost correct. We need a balance to the blue one as well.
- **Discussion**
- **Scott Lederman:** The whole property is going to have an eight foot fence set it.
- **Gregg Pitula:** Joel, if I am correct too, was there not a six foot chain link fence around the entire property?
- **Joel Kohn:** Not the entire property
- **Gregg Pitula:** There was a chain link fence that was dilapidated around the property.
- **Joel Kohn:** So it's a huge improvement to the property.
- **Larry Zierler:** And it's what used to be the height limit?

- **Gregg Pitula:** So the way the code reads, residential zones are allowed four foot in the front of the building. Once you reach the side of the building, you can step up to six or eight feet for screening purposes. But the road frontage, that's for residential zones. So this happens to be in a residential zone. It may be considered a commercial property, but it's in a residential zone. So like Mr. Altman's business is in a commercial zone, he's allowed a high fence right off the bat because of the commercial zoning, the fence height changes with the zone you're in.
- **Larry Zierler:** What if you have private parkland or, you know what's the height maximum?
- **Gregg Pitula:** Eight foot.
- **Larry Zierler:** It's 4 foot for residential residentials, and for parkland it's
- **Gregg Pitula:** It depends where it's at, what zone it's in.
- **Larry Zierler:** What if it's behind residential?
- **Gregg Pitula:** If it's behind the primary structure, it can be eight feet.
- **Jennifer Lishansky:** So I understand that safety is paramount no matter what, but I'm wondering if there was an impetus for this camp to try and pursue higher safety standards? Was there a direct impetus beyond the general feeling climate
- **Joel Kohn:** They wanted to get a fence. So they applied for funding because there's available funding for fences. Being that there's available funding, they applied for it to get that, that security consulting firm basically said you need to have an eight offense in order to get your funding.
- **Jennifer Lishansky:** I understand, but what I'm saying is that there wasn't a direct, like, threat to the campers.
- **Joel Kohn:** I dunno how much of a threat there was. They do have, you know, certainly off season people wandering into property, stealing, ripping out copper. They did have some issues with some of the people coming into the property and I'm not sure exactly to what extent, but they did have issues in the past. I mean,

it's nothing like in the city you know, sometimes it is not safe to walk in the street, but, they did have some issues

- **Mike Bensimon:** I have a quick question. Sure. So what are the plans for the entrance? I noticed the gates going in and then you have a cattle gate or something over there. Is there a plan for gates? You know, it doesn't seem to make a whole lot of sense. There's no real access over there.
- **Joel Kohn:** I'm not sure the exact, you know, the design of the gate of the. a
- **Mike Bensimon:** What about the guard booth? Have you seen what it looks like? This looks like a bunch of scraps. It's one cut out one air conditioner.
- **Joel Kohn:** They are working on improvements and they're continuing to work on improvements. There are some site plan elements that they have to comply with.
- **Mike Bensimon:** You have to go to the Planning Board?
- **Joel Kohn:** No. They have current site plan approval to demolish some of the buildings and add some more dormitories and staff units as well. That's the current approved site plan from last summer.
- **Gregg Pitula:** This camp is working on making a lot of improvements. It became one of the worst maintained camps. Then this new organization or new buyers came in and took it over and they've been rehabbing the old stuff and refreshing stuff, re-shingling all the roofs. They really put a lot of money into it. I mean, they threw millions at this place. I don't know if it's millions, but I mean it didn't even put a dent in the amount of stuff they had to do there. But they're well on their way to the right direction, let's put it that way. They're not a hundred percent, there's gonna be years before they get a hundred percent. There's just way too many existing buildings that were, you know, needed help. But they're all safe to occupy. But they're not up to perfect standards yet. But they're getting there.
- **Joel Kohn:** Right. And when they first bought this place there was a list of, I dunno, 20 or 30 old open permits. So, we went through with an engineer, did the report from the entire property. So there was a lot
- **Larry Zierler:** Who are the principals? What organization is behind D'Masmidim?

- **Joel Kohn:** What do you mean? What organization?
- **Larry Zierler:** D'Masmidim is just a generic name. Is it connected to any?
- **Joel Kohn:** I'm not sure if it's connected
- **Larry Zierler:** Hybrid procedure group or group.
- **Discussion**
- **Larry Zierler:** I want to know. I just, it informs in terms of their ability to do other things that have been discussed.
- **Discussion**
- **Larry Zierler:** I pull back the question. Sometimes information can shed light and be useful, you never know what it might spark something. The guard booth? Is that considered one and the same? Could that be considered something together with the fence?
- **Gregg Pitula:** No, no. The garden booth has nothing to do with it
- **Larry Zierler:** I just wanted clarification. I didn't know.
- **Discussion**
- **Larry Zierler:** I didn't know where we were going with it. I mean, it's open discussion. It does not necessarily mean that we're gonna require anything beyond what is being asked.
- **Mike Bensimon:** So I have one more issue if you could raise to the owners being that this is a security fence. There are several areas along the fence where there's a decent gap underneath the fence. And one area was big enough where they put like some rocks and stuff to kind of close the gap there, you know, but there are several areas where no animals can get through. I think even humans can crawl under. So I would just make bring that up
- **Joel Kohn:** I will bring that up

- **Steve Altman:** How old are the campers?
- **Joel Kohn:** I gotta look back at my notes.
- **Steve Altman:** Another purpose of the fence is to keep the campers enclosed. And there's a road there. Not the road, but there must be traffic on it.
- **Joel Kohn:** Definitely. I mean the fence keeps all the campers inside.
- **Larry Zierler:** There's no question about it. If there was a fence there, and if somebody got onto the road while that road seems desolate, that road is so winding and deep that it could be very dangerous. If campers had the access. I was rather shocked by the steepness of the road because if someone wants to use it, they will discover that road. It's a great dragway. We'll now open it for the public to comment. Is there anyone in the public present? Anyone in the public who is on Zoom?
- **Gregg Pitula:** Raise your hand if you're interested. We have two people on Zoom. If you're interested in speaking, please raise your hand. There's a little icon to raise your hand on there.
- **Dylan Harris:** We gotta close out the public hearings comments.
- **Larry Zierler:** Okay, we'll close up the public portion and now we'll open up a board comments. Maybe my board comment should have been before if I could just explain, the reason I asked about principles is that I just wanted, sometimes there's a name which is generic
- Discussion
- **Larry Zierler:** And I have no bias against any group. I come from that Hasidic background. Should it be in way seen as though I was speaking in a discriminatory way?
- **Joel Kohn:** No, I didn't take it there.
- **Larry Zierler:** Okay. That's fine. Perfect. I apologize if I created any insult.

- **Jennifer Lishansky:** I'd like to comment, which is to say that on matters of safety, my mind always goes to absolutely. You know, we need to keep people safe first and foremost. And so knowing that this is a path to that, absolutely. The challenge that I take with this is the precedent of knowing that anytime anybody wants to change their fence, to go ahead and do it, and then come to this board for the variance proof of the future. And the challenge that I have is how do we mitigate this in the future? If we keep saying yes, keep saying yes, keep saying yes. There are no consequences for taking what is truly, you know, illegal action before coming forward for a variance. So I'm a fan of the fence. I think it should stay. And simultaneously, I don't know what other strategies we have at our disposal to try to prevent future actions that are gonna come to us, asking for forgiveness versus asking for permission if we don't try to implement the hurdles that are in place as part of the laws of this town, the zoning of this town.
- **Joel Kohn:** I have a suggestion, if I may please. I'm just thinking about it. I don't know how many times this will come up. I mean, it may come up again in the future and I understand your concern. Anytime if someone is asking for a higher offense, make sure it's a nice fence. It's not a fence that is fully screened. That would just look like a wall, you know, just
- **Jennifer Lishansky:** How do we make sure of that if they've already built it?
- **Joel Kohn:** Right. I know that is a challenge, right. I'm just saying that could be some of the conditions, but you might impose it if someone wants to build higher. Cause typically my assumption is that the code, the height limits is basically for aesthetics, right?
- **Gregg Pitula:** Correct. I think it was, and I think it was designed for visibility in close neighborhoods. And for small neighborhoods I think we have the fencing law in there, like say Sheldrick shores, if anybody's familiar with Sheldrick Shores, if everybody was to build eight foot tall fences, it would look like a bunch of prison cells along the way.
- **Joel Kohn:** So that is something that I thought about just now
- **Ellyane Hutchinson:** I agree exactly with what you're saying, Jennifer, that I actually really liked the fence. I thought it was a good choice cause it was still visible. And I think part of why we don't do the eight foot thing residential is like, even, like if the police are called or something, you'd be able to see what you're walking into as an outside. So I actually liked the fence and that's why I was

wondering if it was. I wasn't sure if that was the fence already built, where they were gonna build across the street. But yes, I don't know what the mechanism that we can use, whether it's really somehow finding the builder, the fence people so that they at least just say that they have to build it into their process. Since you don't need to have a permit to build a fence in this particular area, I can see how it can be missed. But I actually liked the fence. I thought it fit, it did actually fit the area, I think. And the other chain link fences that were on the neighboring properties definitely needed a little help.

- **Joel Kohn:** You're talking about the contractor, the contractor's now a local contractor being that it has state and federal funding. I think they had to go through a bidding process. They had to give it out to three companies. It's a typical local contract that you see around part of the bidding,
- **Larry Zierler:** Part of the bidding process should be that they do the homework. Yeah. And they find out what the local law is.
- **Jennifer Lishansky:** But absolutely. The government grants, I'm working on one right now, and they make you go through every local legal law there is, you know, they make you go through every legal law.
- **Joel Kohn:** It's so hard to get up.
- **Jennifer Lishansky:** I mean, is it? I'm, I'm doing it right now, and it's not that hard.
- **Joel Kohn:** Oh, really? That's my sense from this camp that it took them so long. I mean, I guess they invested some time and trying to get at, and they were hired only a year ago. They hired this consultant, whatever, and they helped them get through it finally. So, well, what, you gotta know what you're doing.
- **Jennifer Lishansky:** Is there any sort of fine that happens when somebody does something to experience?
- **Gregg Pitula:** In this specific case, us as Code Enforcement, we don't think that this was done maliciously or whatever. Our code may be a little difficult, in my opinion, a little difficult to interpret because it says in residential zones, but then it says in commercial zones, the camp is actually a commercial entity. It's not a residential entity. So anybody reading our code could or interpret it. I might make

notes of all this stuff. Some people don't realize that it's a commercial entity, but it's in a residential zone. We didn't zone it like that. It just happens to be a commercial entity in a residential zone, but they still have to follow the residential zone requirements according to the town code. But the people are like, but I'm commercial, so I can follow the commercial. But it's not, it's tricky. So I could see where it would be confusing for fence people and they do call our office, people call our office continually about fences and our secretary's telling 'em the same thing is, you don't need a permit for the fence, just follow the local town zoning. They tell them where to find the zoning, but then it could be difficult for people to interpret what zone they're in, cuz then they have to find the zoning maps and find where they are. In this case, I don't believe it was done maliciously, like I said, it was just they didn't know. I sent a guy out to stop him because it was actually the highway department who asked about the fence because they were screwing up the ditch a little bit while they were running their machines in there to fix the fence. Then we came up to see that the fence was eight foot high. So essentially we have our rights to the neighbors and the neighborhood and people that were noticed, to make them aware. If they had an issue with the fence tonight, is their chance their chance to speak against it or for it?

- **Joel Kohn:** Well, you know, if you make changes to the code, maybe.
- **Gregg Pitula:** There is one neighbor on the one left side I believe, who has a concern, which she's a which she has addressed to me, which she also said that she was in contact with Joel. She doesn't have a problem with the fence. She likes the fence. It's just that she has a little confusion between where her property ends and where the, where the camp's property ends and her leach field runs through there. So she doesn't want them drilling holes through her leach field. So if you do grant the variance for the fence or whatever, I would just like there be a condition in there that the camp does communicate with Mrs. Jacobson to make sure that the fence along her property line is. They involve us a little bit.
- **Joel Kohn:** I did have a conversation with Ms. Jacobson who I happen to know well, she's the Planning Board Chair President at the village of Woodridge. So we made up with the camp director and he's gonna meet her on the property before they continue with any fencing to make sure that everyone is in the same understanding as where the fencing will end. Make sure that, you know, she doesn't have any issues in the future.
- **Mike Bensimon:** I live in this area. I live on the other side of this lake, and when I first saw this on the agenda, just the idea of seeing a eight foot chain link fence

just out of a hard No, I understand the security issues. Still the hard no. I went to a neighbor, spoke to him and his wife, and you know, I told him that, you know, I wouldn't even consider it unless they put tons of trees and, and bushes and everything in front of us, so we don't see it anymore. Then the neighbor told me, oh, it's already up. And I said, what? It's are, are you kidding me? He said, yeah, but it's not a chain link fence. It's iron. It's this iron rod, and it looks beautiful. We think it brings the neighborhood up. So I couldn't, you know, convince them otherwise. And so I said, okay, I need to go see this for myself. And I went to the property and, and it is kind of nice. I do admit that I just want to point out Silver Lake Road, where it is, it sits right between a development, the Regency and then on the other side sits between Rosemont and there's really nothing else on that road. There's nothing across the street. There's a couple of parcels, but I mean, it really has no impact or very little impact to the character of the neighborhood because of the fact that it is not something that would impact the neighbors. I also wanna mention one thing about preemption. So a lot of people don't deal with government a whole lot and so, you know, they don't really understand the differences between different agencies of government. And so a lot of times when they get an approval from one piece of the government they just assume that there's a preemption there, that they could just, now everything is cleared for them. Not realizing that they have to go through various levels on the local or even the county level. So I just wanna point that out. Not everyone is savvy enough to deal with the government enough to know that they need to go through all these various things. Sometimes you think you have a federal grant and you're like, okay, this is the federal government, they're gonna push everyone aside and, and let us do this. So like Greg said, I don't think there's anything nefarious here. I was thinking about putting bushes and trees in front of it, but really it would take away from what's there. So I like the way it is. I just kind of want to see the, you know, the gaps cleaned up and maybe the security booth would look like an actual security booth. But otherwise I am for this.

- **Neil Saposlky:** I mean, eight foot high is big. I saw it. It's huge. It looks like it's just a fenced in (inaudible). Minimum security on Riverside Drive. It's a nice fence. No barbed wire. I mean, listen, I work at a school. We're a security threat all the time. Are we gonna just barricade everything right now? Is school gonna have an eight foot fence? Is the movie theater gonna have an eight foot fence? I get the safety part. I totally understand that whole part of it, but we're gonna be a fortress.
- **Scott Lederman:** I don't really have a problem with the fence issue. Obviously the quality of offense definitely sways my thinking, but I do agree that it is systemic, that we have so many people who come before us and the work is

already done, or half of it's done. So again, I think that, I mean, I don't wanna punish people unnecessarily. Again, there's a context, but it just seems like in addition to the issue of applications that there's no, you know, this is an important committee. We're doing important work, treated as such, and don't deny them or don't, you know, try and get old. That's the sense of, that's the sense. So in this, that's my opinion.

- **Gregg Pitula:** In this case, they stopped when we. I live in the world every day. I live in the world every day of people building stuff and then getting permits later. But the only cases that you guys get brought in front of you are cases that don't comply with the zoning. We handle all the other ones with tickets, fines, whatever we have to do. But when I can't justify allowing it to continue, then I have to bring it to you guys. The Zoning Board is always hearing these cases after the fact. And it's gonna be 80% of the cases, because I'm not gonna say people are ignorant cause it's probably not the right thing to say, but people don't understand that. The people don't understand the codes. It is confusing. It is confusing to a lot of people. They don't understand why they can't have something next door that the guy has right next, right? They can't build what the guy has next door because they don't understand that the guy next door has had his for 50 years or he's in a different zone. So there's a lot of confusion. So the best thing to do is we try to educate the people when they come in legally to do stuff, but that's only probably half the people.
- **Larry Zierler:** I feel that ignorance still is not an excuse. And if we are going to use ignorance as an excuse everyone will be ignorant. And we need to have better public education. This is out of hand. You use the word systemic, say it's almost pandemic. And you know, to say that preemption is complicated. I respect what you said. It was a very good comment that you raised the issue of preemption. I think it's a very good place for us to be thinking about this from, but if we say that to people, if we give people the allowance to say, look, I'm not in this world. That's a Pandora's box, that's gonna be slow. And we know that we will be dealing with other issues in due time where people will cry all kinds of levels of ignorance. Ignorance is a very complicated thing over here. I would like the record to reflect that we need to have a vigorous program of public education and our forums. The Building Department has to be in the forefront almost on a crazed level because of what has happened, like on a feverish level to let people know when they come and make an application that you have to do your homework. We cannot accept this anymore. It's gotten to a point where it's costing us a lot of money. So I leave it at that and hope that others, you know

- **Larry Zierler:** I've been on board for a number of years and that's come up over and over and we keep making the same mistakes over and over.
- **Jennifer Lishansky:** I agree with what you said that the, I mean, the Building Department is at capacity. They're doing so much actually because this issue keeps going. And I think that the Zoning Board role is to send a clear message that Fallburg is a town that has zoning that will be enforced. That's our role.
- **Dylan Harris:** Just to kinda clear the record here, you know, when we're looking at variances, we have factors for each of those. One of the factors is self-created. So that's when this type of analysis comes in. And I think as a board, it's your job to look at the situation and say, is this the mistake? Mistakes happen? You know, we can't just say, everyone's out there, you know, doing it on purpose. So you have to gauge that and look at this element along with the other four and make a determination. But you can't just look at one element and hang your hat on it.
- **Steve Altman:** I suspect that a lot of people here that have a project to do hear from other people that had projects that got away with doing it before they got a permit. So why should they get a permit? And they go ahead and do it. And that's what I think what prevails through what comes through this board of what we get upset about
- **Neil Sapolsky:** And I was just reading the New York State, the introduction for zoning laws, community guide to future development to purpose. Not another intrusion, just a bit of red tape. The protections afforded property owners within the community from undesirable development come from the strictness of zoning.
- **Larry Zierler:** Okay. So we will close up the board comments and now designate a lead agency motion.
 - **MOTION:**
 - **Mike Bensimon** motions for lead agency. **Ellyane Hutchinson** seconds. All in favor.
 - **MOTION:**

- **Mike Bensimon** motions for negative dec. **Ellyane Hutchinson** seconds. All in favor.
- **Larry Zierler:** Okay. And now we have our criteria. So we have now we're gonna go through the questions starting from this end. Whether an undesirable change will be reduced in the character of the neighborhood to the detriment of nearby properties? Yes or no?
- 1 Board member votes yes. All others vote no.
- **Larry Zierler:** Can the benefit be sought by benefits not be achieved by the applicant by another method other than the area variance?
- 3 Board members vote yes, 2 members vote no.
- **Larry Zierler:** Whether the requested area variance is substantial.
- **All Board members vote yes**
- **Larry Zierler:** Whether the proposed variance will have an adverse effect, an impact on the physical or environmental conditions in the neighborhood or district.
- **Neil Sapolsky:** Yes, we didn't discuss the impact of wildlife, so yeah. Huge impact on wildlife on that. We didn't talk about that at all. I should have brought it up. Alright. But yes, it's big time.
- 2 Board members vote yes, 3 members vote no.
- **Larry Zierler:** Was the alleged difficulty self-created, which should be relevant, but not necessarily.
- **All Board members vote yes**
- **Larry Zierler:** Alright, now we have a motion to approve or deny.
- **Mike Bensimon:** Motion to approve with board conditions that you wanted to set.

- **Gregg Pitula:** I just wanna make sure that they work with the neighbor, Mrs. Jacobson, who is the Woodridge Planning Board Chairman. Just on the location of the fence, on her property, adjoining the camp. She just has some concerns. She has some septic pipes and stuff. I believe she's not concerned about the way the fence looks or the height.
- **Larry Zierler:** Is it over the property line?
- **Gregg Pitula:** They're not a hundred percent sure. She told me that they've been mowing the field like where it has been for the last 50 years or whatever. There was never where they're putting the fence back. They're gonna work with her to make sure it doesn't. It could be where her leach field lines may have run over their property line cuz stuff was done a long time ago. They just want to make sure that they don't, you know, damage some stuff. I feel fully confident Joel's going to to work with Mrs. Jacobsen
- **Mike Bensimon:** Is this Jacobson property? So I motion to approve on condition that they work in satisfaction of the neighbors of the Jacobsons.
- **Gregg Pitula:** Like I said she wasn't opposed to the type of the fence or the height of the fence. Just to wanna make sure that when they place the fence, they don't damage her septic lines and whatever. They'll work it out, I'm sure.
- **Larry Zierler:** The other condition about the guard. We're not allowed to go there.
- **Mike Bensimon:** Yeah. He'll let them know
- **Gregg Pitula:** The guy doesn't use the guard shack, by the way, unless it's completely pouring rain. Cuz it's a little plexiglass hut. And even with the air conditioner running in the plexiglass, he can't stand the sunlight. The security guard sits outside on a chair all day. He'd rather sit in the sun than in the plexiglass dump booth that they built.
- **Larry Zierler:** So we have a motion to approve and it's been seconded. All in favor go.
 - MOTION:

- **Mike Bensimon** motions for conditional approval. **Ellyane Hutchinson** seconds. **Neil Sapolsky** and **Steve Altman** voted against. All others in favor.

- **Gregg Pitula:** Okay. So it's a Yes. Three to two. We're gonna close the meeting. We're not open to the public, right?

- **Larry Zierler:** So the motion is to adjourn this official meeting. Close all deliberations.

- **Dylan Harris:** Yeah, it'd be a motion to go into executive session and then after we'll just go quickly on the record and close out the meeting.