

**Regular Meeting of the Great Valley Planning Board  
Zoning Board of Appeals  
October 14, 2020  
(no August or September meetings)**

Present: Chris Schena (chairperson)  
Amy DeTine  
Al Puszcz  
Don Roll  
Steve Ward

Others: Mark Alianello  
Dan Brown  
Peter Sorgi  
Jake Alianello  
William Berglund  
Becky Kurszynski  
Joel Kurtzhaots  
Jonathan Pearl  
Margo Pearl  
Bruce Savino

The Public Hearing for Bruce Savino was opened at 7PM by Chris.

Chris disclosed that he is the chairman of the Zoning Board of Appeals and Planning Board and a neighbor of Bruce Savino. Joel Kurtzhaots, attorney for Bruce Savino, said he had concerns about Chris being a part of the decision so Chris recused himself.

Peter Sorgi stated that 2 letters were received. Jack Harrington, town highway superintendent, said he was concerned about the structure being in the ROW and that zoning was designed to eliminate situations like this. Cathy Lacy, 4994 Snowbrook Rd., stated that her family was opposed to the structure. Mr. Sorgi told the board they were to determine a variance request (Town Law 267-b) and in doing so take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood.

Joel Kurtzhaots represents Bruce Savino. Mr. Kurtzhaots stated that it would be prudent to grant the variance because the benefit to his client outweighs the safety and welfare of the neighborhood. The survey map shows Bruce's property lines. He made several arguments for his client:

The RV structure is close to Bruce's residence for safety and so electric could be run from the residence;

Other existing structures didn't allow the structure to be located any place else – row of pines in the way, to the right of the structure is the house and barn with the location of the house no further back than the structure they are asking the variance for;

No greater damage to the public traveling on the road;

Behind the barn is another storage building;

Drainage swale prevents from going back any further;  
Bruce does own land across the road but it is a higher elevation and wet and it would be expensive to run electric across the road;  
Limited options with no other location to realistically put the RV structure;  
If not approved the structure would have to come down and it would be expensive;  
Snowbrook is a rural road with little traffic – Mr. Kurtzhaots saw no traffic and believes it to be of little risk;  
Other structures on the road are closer than 15' from the road, Dan Brown, town supervisor, has a garage 19' off the road;  
The drainage swale was created by the town;  
Request not out of the ordinary for the location;  
The structure does not alter the appearance of the neighborhood.

Mr. Kurtzhaots went on to say that when considering the variance request the board must consider other structures on the road. Even though the situation is self created it should not be the basis for denial. Bruce admitted he erroneously built the structure before coming to the board but the placement request would have been the same.

Mr. Kurtzhaots and Bruce also submitted pictures. The pictures showed the structure and a ditch; Bruce's house and barn and trees close to the road, boulders along the road which are closer than the structure, and Dan Brown's garage; the swale; area around Bruce's property as being very rural and that the structure does not alter the appearance of the neighborhood; and the conditions across the road. Steve asked about a picture that showed a driveway across from the house with an RV parked in it. Bruce said that was from 2005 when he had a smaller RV and the driveway is not there now.

Mark Alianello said the zoning law says the setback is 40' from the property ROW. The structure is in the ROW by .03' so the variance request is actually 40.03'. Zoning started in 2008 so Bruce's house is grandfathered in as are other structures on the road. Also, Bruce could have put gravel on the other side of the road – wet could be true of where the structure is located now. Mr. Kurtzhaots stated they are not complaining about other properties just that it should be consistent.

William Berglund lives at 5108 Snowbrook Rd. He is across the road from Bruce. He is concerned about how close the structure is to the pavement, meeting a snowplow with a truck, safety, possibly hitting the structure when swerving to miss a deer.

Chris Schena lives at 5025 Snowbrook Rd. Chris believes it is an obtuse structure. When heading down the road it is a blind hill and there are dirt bikes and 4 wheelers in the area. When backing the RV in there is a problem seeing. It is icy in the winter.

Dan Brown lives at 5346 Snowbrook Rd. His garage, that was mentioned earlier, was built in 1971 – long before zoning. The row of pines on Bruce's property were planted by Bruce and sand and salt can't clear the road because they shade the road which makes it icy. The RV blocks both lanes when backing in. He also stated that there are a lot of cars on the road.

Steve asked Bruce if he wanted to respond to any of the concerns.

Bruce said the RV is in Florida for the winter and it is usually parked when it is here. There are other trees along Snowbrook Rd. not just his. Mr. Kurtzhaots added that a plow wing would take out the house before the structure.

Al stated that if Bruce came to the board to begin with there wouldn't be a problem now. Mr. Kurtzhaots said that Bruce acknowledged that he didn't apply for a building permit. Mr. Sorgi said the board would have denied the permit.

Mr. Sorgi told the board the public hearing could be closed or tabled and kept open for more information.

Amy made a motion to close the public hearing at 7:35PM with a 2<sup>nd</sup> by Al. Roll call vote indicated Don was in favor, Amy was in favor, Steve was in favor, and Al was in favor.

The Zoning Board of Appeals meeting was opened by Steve.

Mr. Sorgi told the board that they could go into deliberations to go over the 5 criteria and overall test. They then could approve the variance and issue the SEQR and impose limitations; deny the variance; or table the request and make a decision within 62 days. If the variance is denied the town can say the structure has to be removed and Bruce can apply with a different request.

The board went thru the 5 criteria for an area variance.

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Steve said they heard from neighbors Berglund, Schena, and Brown and received letters from neighbor Lacy and highway superintendent Jack Harrington. They all felt it was a detriment. Amy said the big variance is a concern and significant for the municipality. Also, concern for safety of the road and people driving on the road.

2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Bruce stated he has tools in the shed. Also, he didn't want the structure to be directly across from the Berglunds. Don thought the structure could go towards the shed or back the structure up to the shed or remove the shed – may have to remove a tree. Mark Alianello said he could have put gravel on the other side of the road and built the structure there.

3. whether the requested area variance is substantial.

Steve said from 40' to 0' is significant. Mark Alianello said the setback is from the ROW and it is on the ROW by .03'. Amy stated that recently a sign had to be removed because it was in the ROW.

4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Steve asked if the structure were to be hit with injuries would the town be liable. Mr. Sorgi

said he is not a personal injury attorney but his opinion would be to sue all. He didn't know what the court would do but the town could have a liability. Mr. Kurtzhaots said he had researched that situation and found nothing but that he agreed with the opinion of sue all.

5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Steve stated that Bruce and Mr. Kurtzhaots admitted self created because of no building permit. Mr. Sorgi stated that had Bruce come to the board he would have been denied but now that it is built it is a problem and there is a cost to remove it. Steve asked when the structure was started and completed. Bruce said August and September of 2019. Bruce got a letter in the mail from Rich Rinko in October of 2019. Rich also told Bruce he had to come to a meeting. Mr. Sorgi said the zoning board denied the variance and the NYS Supreme Court in Little Valley upheld the denial but Bruce could apply again. The zoning board hadn't specified the reasons for denial.

The board summarized their findings. There was no building permit, hardship was self created, negative responses from neighbors and highway superintendent, safety, they reviewed alternatives, and the variance request is substantial.

For reasons stated in the summarization Al made a motion to deny the request with a 2<sup>nd</sup> by Amy. Roll call vote indicated Don was in favor, Amy was in favor, Steve was in favor, and Al was in favor. Bruce can petition the court and ask for a reasonable alternative.

A motion to close the Zoning Board of Appeals meeting at 8:25PM was made by Amy with a 2<sup>nd</sup> by Al. All in favor.

The Planning Board meeting was opened by Chris with the Pledge of Allegiance.

A motion to accept the minutes from the July 8, 2020 meeting as submitted was made by Amy with a 2<sup>nd</sup> by Steve. All in favor.

**Jonathan Pearl** opened a tire and lube shop in the gas station building at 4973 Rt. 219. He is doing a land lease from Randall Cranmer. He wants a letter stating that it is OK for him to open a full repair shop. He will not be selling gas. Jonathan said he had talked to Rich Rinko and was told he needed to go to the planning board. Mark asked if the business had been closed for more than 12 months. Jonathan said he researched back to 1982 and said it changed hands a few times but never shut down more than 12 months with gas not being sold since 2006. It was determined to be an allowed use. The gas tanks were removed before Jonathan took over and the DEC has tested and will retest in the spring. Chris asked about junk sitting around and was told it is a line up of vehicles waiting to be serviced. Peter asked if it could be moved because of the visual when coming into town. Jonathan said he is working on it but his property line is 20' into the Pub parking lot. Jonathan was told he is looking for a zoning compliance letter which would come from Rich. Chris will contact Rich.

Chris moved to adjourn at 8:50 PM with a 2<sup>nd</sup> by Don. All in favor.