

building with a crawl space above it so it would not be a large intrusion into the area. Mr. Johnson said that is part of the record.

Mr. Johnson asked about the stairs in the back. Mr. Figa showed on some photographs the side of the garage where Mr. Gumper had added a fence. He said it narrows and gets bigger. He showed the back of the stairs. He showed another shot which indicated it gets wider. He disagrees with the survey company because he measures 18'6" to the pin.

Ms. Swanson asked which part of the garage was he talking about? Mr. Figa said the building itself, not the stairs because the property gets wider as it goes toward his house. Mr. Figa showed a picture of the truss system. He did not understand why it was said to be one story because he had submitted the plans with a truss system of 16' wide x 8' high. There is no power upstairs except lights as it would be for storage only. There is no plumbing. He is using the garage for parking his cars and for storage.

Mr. Komorsky said, so currently the building is 18'6" from the line. Mr. Figa said his survey says 17'1" but if you measure with a tape measure it is 18'6". Mr. Johnson said it would appear that the stairs are closer to the line than that number. Mr. Figa said it goes wider. Mr. Johnson said he was looking at the survey. Mr. Figa said he had his survey updated to show the garage. He said there is no tree there and no one has cut any trees down. Mr. Figa said the fence shown on the survey is Mr. Gumper's fence and it is a foot from the property line. Mr. Figa said he saw the biggest tree and used that. It was not done intentionally. He would have made the garage wider and not as deep.

Mr. Polhemus asked for clarification that the first survey was obtained when Mr. Figa bought the house. Mr. Figa said, yes. He measured 50' from the corner of the house, staked it and built from there.

Ms. Swanson asked if the original survey showed a tree. Mr. Figa said yes. Mr. Figa said the survey they were looking at was the original survey with the addition of the garage. He bought the house in 2008 and the survey was done at that time.

Ms. Swanson asked if there are stairs inside. Mr. Figa said stairs could not be put inside because it is truss built and he said there was a note on the trusses stating "do not cut, alter or drill any member of the truss". He added that the building would collapse if any of the trusses were cut.

Mr. Komorsky asked about the doors. Mr. Figa said the door by the stairs is so he can store his children's toys up there. The other door is for the main level. Mr. Figa showed a picture of the inside.

Mr. Bisceglia asked if when he poured the footings, were they staked out by a surveyor. Mr. Figa said no because he and his builder went off the 50' mark.

Mr. Johnson said he has a hard time understanding, if he knew he was close to the line.... Mr. Figa said he did not know he was close to the line. Mr. Johnson said he came in for a 10' variance that meant he could be 20' off the line and now he was back because he had

made a mistake. Mr. Johnson asked why the builder did not verify the distance. Mr. Figa said they saw where the tree was and they measured from there. Mr. Johnson said he saw 3 pretty big trees in the picture Mr. Figa had provided. Mr. Figa said the tree he measured from was not in the picture.

Ms. Swanson asked if he had the earlier survey that shows the tree. Mr. Figa indicated the tree on the survey. Mr. Figa asked the surveyor to show him the tree. He said the surveyor responded "I don't know. You must have cut it down". He had not cut it down.

Mr. Komorsky said it appeared the back steps were a permanent structure in the rear which brings the setback even closer. Mr. Figa said that is where the 6' variance comes from. Mr. Komorsky said also that he was within the footage at the corner of the building so he didn't know what measurement he wanted to go by. Mr. Figa said he was a foot and a half away. Mr. Johnson asked if that included the stairway. Mr. Figa said that doesn't come into it because it comes out wider. Mr. Johnson said the survey does not say that. Mr. Johnson said the back steps are closer to the line than the edge of the building. Mr. Figa said the property goes wider.

Mr. Johnson asked when he bought the house if there was an accessory apartment in the house. Mr. Figa said yes, and it is still there. Mr. Johnson asked if it was a legal accessory apartment. Mr. Figa said he assumed so. He got the CO to buy the house. Mr. Johnson asked if he had a special use permit to have the accessory apartment. Mr. Figa said he had a certificate of occupancy. Mr. Figa said he bought the house the way he got it.

Ms. Swanson said when he came in for the original variance he said he could not put the garage closer to the house because there was a tree there. Mr. Figa said yes, it is a massive tree. He said there is a lot of rock on the property and if he moved it closer he would have had to dig deeper and there would have been even more rock.

Mr. Johnson again referred to the January 2009 minutes. On page 6 Ms. Swanson asked for the location of the doors. Mr. Figa had responded that the garage door went right on to the blacktop. They then asked about the house directly behind. He said the neighbor could not attend the meeting but he did not have a problem. Mr. Figa then showed the board the garage door and a side entry door. He said the garage would have electricity and the garage would also have some storage. Mr. Johnson said he did not see any mention of a stairway and door on the back of the garage. Mr. Figa said he did say that because it would be the only way of getting up there.

Ms. Swanson asked to see a copy of the plans submitted for the building permit. The plan was provided as part of the evidence of the application and Mr. Johnson said there were no steps on the back. Mr. Figa said he provided the plans to the town as well as the truss system. Mr. Figa said he did not use that plan to build because it showed 2' x 4' construction and he used 2' x 6' construction. He also did a 16' x 9' door and there was another piece of paper at home showing the positioning of the landing.

Mr. Johnson said what he was looking at were plans that were stamped "Approved for construction, Office of the Building Inspector Town of LaGrange January 9, 2009" so this would appear to be approval for construction plan for a garage with a relatively shallow roof. There was another smaller piece of paper that had a significantly different roof line with no stamping on it. It appeared to be a fax dated September 30, 2008 from PDJ Components, Inc. Mr. Johnson noted that the building that was approved for construction did not appear to have a door or stairs or any kind of landing. He also noted that the document which appears to be the 2008 fax document showing a much larger roof area did not have any indication of a back stairs, just the truss system.

Mr. Johnson said he had been handed a tag from the company that manufactures the truss system that says "Do not cut, alter or drill any member of the truss unless specifically permitted by the truss design drawing", production date 4/13, 2009. Mr. Johnson said that this means that you are not supposed to do anything with the trusses unless you have an engineer approve it.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application.

Chris Hunt was sworn in by the Chairman. Mr. Hunt said he is the builder. He arrived after the foundation was put in. He showed on the plan the location of the tree. He explained that before the fence went up there was a tree back there which was the only tree that could have been the one on the survey. He said there was nothing else to measure from. So they measured 25' from that point. Ms. Swanson asked which plans they were looking at. Mr. Hunt said the ones that showed a tree on the line. Ms. Swanson said she understood Mr. Figa to say that tree does not exist. Mr. Hunt said, not now, but there was one before he started framing the building. Mr. Hunt added that Mr. Figa did submit everything prior to getting his permit. Mr. Hunt said the property goes at a far angle that you can see from the markers. He measured off of whatever tree he could find at that point and that was on the line that they had on the survey and it measured 25' at that point. When he got it re-surveyed another pin was put in and it measured 18'6" from the corner to the post.

Mr. Komorsky said he is a little confused. He said they started out with 20' on the drawing. It turned out to be 18'6" and the surveyor said it was 17'1". Is that correct? Mr. Bisceglia asked if there were any other discrepancies other than the 17'1"? Mr. Komorsky said there was because there was no drawing on any of the plans for the rear deck and stairway. He said they do not know what the distance is from the corner of the deck to the fence because the surveyor did not do that. Is that correct? Mr. Hunt said, yes. Mr. Hunt wanted to clarify that it is not a deck, but a landing. It is 4' x 6'. Mr. Bisceglia said there is a post that goes all the way down. It is a permanent fixture.

Mr. Bisceglia asked Mr. Hunt if, when he is constructing a building, does he have it staked out by a surveyor. Mr. Hunt, said when he is building a house he does have it staked out.

Ms. Swanson said when she was out to the property that day she had seen Hunt vehicles parked on the property. Mr. Hunt said they are friends now and he parks them there. He uses Mr. Figa's stuff and Mr. Hunt uses Mr. Figa's stuff.

Mr. Komorsky referred to the January 2009 minutes. It was stated that the walls would be 3' on concrete with 10' of walls. Mr. Figa said the walls were 13' on the inside which shows on the plans. Then there is the truss system which was completely different. He made it uniform with the house. He said he has a four year old and a two year old and he needs the area for storage.

Ms. Swanson said when you are above the cars, what is the ceiling height? Mr. Figa answered that it is 7'6" by 16' wide. Ms. Swanson referred to the SR Sloan diagram. Mr. Figa showed the 7'6" and the 16' and it is all open. Ms. Swanson said she thought it depicted the whole garage but it is just the attic area. The 13'6" plus the 7'6" brings the total to about 23' total.

Mr. Johnson said if there were no further questions from the board, was there anyone else in the audience who wished to speak for or against the application.

Piotr Gumper of 575 Noxon Road was sworn in by the Chairman. Mr. Gumper said he is the next door neighbor with the fence. He said before Mr. Figa started planning this garage he got a letter advising him of the meeting on January 5 2009. Mr. spoke to Mr. Figa who explained that he was planning to build a one story garage and was asking for relief of 10' from the property line and everything was fine. He did not oppose this. When he read the minutes he said Mr. Gumper had a second house. Mr. Gumper said he does have a 1 1/2 story house that is occupied. It used to be a studio for many years. It is not an abandoned structure. After Mr. Figa started digging he realized that the garage was too close to his property. Mr. Figa said he referred to the tree. He Gumper said it is a wooded area with many trees. Mr. Gumper came to the town hall and got a copy of Mr. Figa's survey from before he bought the house in 2008 which showed the house to be 76'6" from the south east corner of the house. Mr. Figa said he was using the tree. Mr. Gumper said he felt the tree was irrelevant. He is now short 3', not counting the stairs. Mr. Gumper said if you look at the new survey done in December 2009, the distance is the same, 76'6" so it should not have been hard to find out where the border was. If he knew it was going to a 2-story structure he would have been here at the first hearing because it is an impact on the neighborhood, and he knew from reading the minutes that the zoning board was concerned about the size of the building He got the 10' variance because of the size of the building. He did not tell the truth.

Chris Hunt said he was present when Mr. Gumper approached Mr. Figa. He said the siding was being completed. That was the first time he heard the full discussion and Mr. Gumper said he had no problem. At that time the building had been up 8 months.

There being no further comments from the audience Mr. Johnson made a motion to close the public hearing.

Mr. Bisceglia had a question. He wanted to know if there was a survey, with pins set, of the property prior to digging this foundation. Mr. Bisceglia said there would be a back

line pin and a front line pin and you measure off that line. That should be an indication of what exists today. Mr. Bisceglia asked if it was 17'1" from the corner of the garage. Mr. Figa said that was not correct. Mr. Bisceglia said that Mr. Figa is saying that the survey is wrong. Ms. Swanson asked if the line was there, why did they not go off the line. Mr. Figa said he has pictures of the neighbor picking up the stake and moving it. Mr. Bisceglia said the line in question between him and his neighbor is not straight. If you look at the survey, it is not faceted in many different areas. Mr. Komorsky asked when the pins were recorded. Mr. Figa said when he bought the house. He said the pin at the back left hand corner (the north east corner) had been picked up and moved since he built the garage and before the fence went up.

Mr. Johnson suggested to the board that they schedule a site visit. Mr. Polhemus said he felt an on site visit was necessary because there are too many conflicting stories.

The earlier motion to close the public hearing was not seconded and did not carry.

Mr. Johnson made a motion to adjourn the public hearing in order to hold a site visit to determine what the garage is built as, look at the survey and get some clarification from the building department in terms of progression of the application.

Mr. Figa asked if the board could go out immediately to take a look at the property. Mr. Johnson said there were a number of issues that needed to be looked at. The official plans stamped as received by the building department do not agree with what was built and what was built is not consistent with the discussion that they had when they granted the initial variance. Mr. Polhemus seconded and the motion carried unanimously.

PUBLIC HEARING ADJOURNED AND SITE VISIT TO BE SCHEDULED

The site visit was scheduled for Saturday, February 6 at 12 noon. The board also planned on having some communication with the building inspector prior to the next meeting to clarify some of the issues.

There being no other business before the board, Mr. Johnson made a motion to adjourn the meeting at 8:35 p.m. Mr. Bisceglia seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley
Zoning Board of Appeals Secretary