

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, May 3, 2010 at LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Tracy Johnson called the meeting to order. Board members Paul Bisceglia, Nancy Swanson, Gary Polhemus, Aaron McPeck and alternate Marc Komorsky were present.

Mr. Johnson made a motion to accept the minutes of April 5, 2010 as corrected. Mr. McPeck seconded and the motion carried unanimously. MINUTES ACCEPTED.

NEW BUSINESS

05-10-01 USE VARIANCE AND AREA VARIANCE: ROGER REALTY INC. 1474
ROUTE 55, LAGRANGEVILLE, NEW YORK Grid No. 6560-01-473908

Seeking a use variance to construct an addition to a nonconforming use per Chapter 240-29 F.; also seeking relief of 5' from the required minimum lot frontage on a state highway of 225'.

Michael Gillespie, P.E. of the firm of Gillespie & Associates who are the project engineers for the proposal, was present to represent the application. Mr. Gillespie was sworn in by the chairman.

Mr. Gillespie explained that he is proposing on the front building a small addition to an existing office building. Mr. Gillespie added that the owners of the building, the Rodrigues brothers, were present.

Mr. Gillespie said he had initially made an application to the Planning Board and it was determined that the project was in the C-2 zone. When the property was purchased by the Rodrigues brothers approximately 15 years ago, they opened their business, Roger Realty, which is a concrete company. At that time the zoning was C-1 which did permit the use of concrete company but the zoning has since changed. Also, when the C-2 zoning took effect it also changed the requirement for road frontage to a minimum of 225'. The parcel has only 220' of frontage so they are 5' short. Therefore, they are also seeking an area variance for relief of 5' for the frontage.

Ms. Swanson asked what was the purpose for the addition? Mr. Gillespie said that the front building is exclusively an office and it is crowded. They have a conference room and people review plans in the conference room. The 700 sq.ft. addition will provide for a few more offices. There are no plans to add more employees but to allow more space to conduct their business. Ms. Swanson asked what was the current square footage? Mr. Gillespie indicated on the plan where it was outlined what was existing and what was proposed. Ms. Swanson said as she understood it there would be no more employees and no change in the nature of the business that would require this addition. Mr. Gillespie said that was correct, it would be the same business as has been there for 15 years. Ms. Swanson said it would help her to understand what the rest of the building is used for and what the addition will be used for. Mr. Gillespie said as you walk in there is an atrium, a reception area and offices and conference rooms. There is no cafeteria. There are bathrooms. Ms. Swanson asked how many offices and how many conference rooms? Mr. Antonio Rodrigues referred to the floor

plan of the addition, and Mr. Gillespie added that, although the Planning Board does not require an actual as built of the whole floor plan, it does give an idea of what is there and what is proposed. Ms. Swanson asked how many employees they have. Mr. Rodrigues answered that they have 8 people in the office right now. There are four rooms downstairs and four rooms upstairs. What they want to expand is the estimating room because there are many pages to a project and they need room to spread them out.

Ms. Swanson said when she read the EAF she noticed that 'residential' was not checked off as a neighboring property but she believed that the Spadafora lot to the rear was a residential lot. Mr. Gillespie said there is a residential property back there but the proximity of the actual residence is some distance away with access off Alley road. With regard to the access and the frontage along Route 55 there is a deli, a convenience store and the old Ryan building across the road, so in effect it is a commercial area.

Mr. Polhemus said he had visited the site that day. He knew there had been concern about debris on the property and he was able to confirm that the debris had been cleaned up. Mr. Polhemus was also assured that the pumper trucks were going to be moved to storage back off Route 55. This would improve the area in the front. Ms. Swanson asked if they are not going to park trucks there, would it be changed back to grass? Mr. Rodrigues said it is a turn around area, not a parking area.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There being no comments, Mr. Johnson made a motion to close the public hearing. Mr. McPeck seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Johnson said, since this a use variance SEQR action is required.

Ms. Swanson said if this building expansion is not an expansion of the use of the property or of the business, perhaps the board could address the area variance for the frontage first, at which time the lot would then be conforming and if they are not expanding the business then there would be no need for a use variance.

Mr. Johnson said the issue is an expansion of a nonconforming structure and he would like to address the variance in those terms, not particularly granting them any extended use of the building but allowing them to expand the structure itself. The board has had a number of cases in residential areas where people have wanted to improve their houses and they have had to get a use variance in order to expand a nonconforming structure. Ms. Swanson said she thought they were handled as area variances under 240-29 G. Ms. Swanson added if there is an area variance that applies, then a building is considered to be in conformance if the addition is on the back of the building and does not violate any other restrictions.

Mr. Gillespie said the issue is the use of the contractor's yard. He said he thought you could have the contractor's yard without having a building or office. Initially they looked at it as though it was two uses, one an office which is permitted in the C-2 zone and then the contractor's yard. It is the board's decision to say whether the office is part of the contractor's yard. If they are separated into the office and contractor's yard, which is a pre-

existing conforming use because it was at one point it did meet the regulations for the town, maybe that would help to provide some guidance for the board.

Ms. Swanson said a use variance needs to be referred to the Planning Board.

Members of the board referred to Chapter 240-29 Nonconformity and there was discussion on the different sections of the code.

Mr. McPeck suggested that the board might consider the use conforming because it was conforming when they bought it.

Mr. Johnson suggested that the board might want to grant the variance for the frontage on Route 55 and state an opinion that they assume section 240-29 G.(1) first sentence applies and that the enlargement will be conforming.

Mr. Johnson said that the applicant has submitted a Short Environmental Assessment Form . The board has come to a conclusion that they will grant an area variance which will make the site conforming to the area requirements The board recognizes that there is a question of whether the use is permitted or not but it is a pre-existing condition and they will simply allow them to enlarge an existing building which will be conforming. Therefore, the board would not have to go through the SEQR process.

Mr. Johnson said the board needed to consider the findings for the area variance for which the requirement is 225' of frontage on a state road. The lot has a frontage of 220' so they are requesting a 5' variance.

Character of the Neighborhood and Detriment to Nearby Properties – Mr. Johnson said this is a commercial area with a deli on one side and a storage area on the other. There is a private residence at the back but the lot is quite long and narrow and the private residence is quite some distance away from the proposed building. The addition will be a minor change in terms of the structure being approximately 700 sq.ft addition to the existing building.

Alternative Methods for Achieving Benefit Sought by Applicant The applicant requires the space to be able to conduct business in terms of studying plans and bidding information. Given that a certain amount of floor space is necessary for this, there does not appear to be another solution for the applicant.

Substantiality of Variance Requested – The variance requested is 5' from the 225' frontage requirement on the road. There is no impact in terms of the access from the road into the building so it is a very minor variance.

Effect or Impact on Physical or Environmental Conditions in the Neighborhood – Given that there will be no increase in the footprint of the building the impact on the physical or environmental condition in the neighborhood seems to be vary small. The applicant indicates that they do not expect to have any more employees working in the building and even if they add one or two people the area that is being added of 700 sq.ft. is not really large enough to have a substantial impact.

Self-Creation of Difficulty – The difficulty is created by a rezoning of the area since the applicant bought the property so it is not self-created.

Given these findings, Mr. Polhemus made a motion to grant an area variance for relief of 5'. Mr. Johnson seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Johnson said, as an opinion of the board, since the lot is now conforming, per Section 240-29 G.(1) Enlargement, any nonconforming building should not be enlarged, reconstructed or altered unless the enlargement, extension, reconstruction or alteration is conforming. Since the site is conforming and the board finds that the addition conforms to all other requirements of the code, given that finding the board feels that it is acceptable for the Planning Board to consider this application.

Mr. Polhemus wanted to make sure that it was part of the record that the trucks would be parked in the rear and the front turn around area is not for parking.

Mr. Johnson stated that the board had received a response from Dutchess County Planning & Development that this was a matter of local concern.

05-10-02 AREA VARIANCE: TACONIC REALTY LLC, 1351 ROUTE 55,
LAGRANGEVILLE, NEW YORK Grid No. 6560-01-128948

Seeking relief of 7% from the required minimum lot coverage as percent of lot area (buildings, structures, outdoor deposit, paving) of 50% in order to add 149 additional parking spaces

Kelly Libolt from Page Park Associates was present to represent the application. Ms. Libolt was sworn in by the chairman.

Ms. Libolt indicated on the plan the Taconic Crossings building, which was AT &T many years ago and has more recently been a financial institution. She also pointed out the Houlihan Lawrence building. The site is currently in the C-2 zoning district. There are 2 parcels totaling 10 acres, however they are planning on consolidating the lots so that the Houlihan Lawrence building and the Taconic Crossings building will be on one lot. Currently there are three points of access. Taconic Crossings had an ingress and egress and then a new entrance at Taconic Crossings that is a full ingress/egress turning movement.

Ms. Libolt said what they are proposing is a phased parking lot. The parking lot was built under a tight time frame for their new tenant, Health Quest. They brought about 280 people to the Town so they worked with the Planning Board to get the parking lot built. It is item 4 so they need to get the variance in order to continue with the approval process. During the process they realized that the permitted coverage was 50%, and they were at 57%, which is about 35 parking spaces. Right now they have 279 parking spaces on the property. Required is 544 so that shows how deficient they are with their parking. The site works but in order to meet the needs of the new tenant and some other tenants, they need to add 149 parking spaces. Ms. Libolt indicated on the plan areas in yellow/green that are there now and they

are working with the Planning Board to get approval to get the pink and blue areas. In order to do that they need a variance from the ZBA for about 7%. Ms. Libolt said they would still be deficient but they are trying to bring it up to code and provide the parking for some of the tenants.

Ms. Libolt explained that they are doing a pretty sophisticated storm water system with rain gardens to collect storm water and discharge it off site. They are closing off the middle entrance because it is confusing for drivers. They will use the entrance at the west and keep the ingress over at the east.

Mr. Johnson asked if the number of parking spaces was what the tenants were requesting. Ms. Libolt said yes, the only wanted to do the minimum needed in order to get this particular tenant in there based on their employees. Ms. Libolt said it is the corporate headquarters for Health Quest. It is a consolidation of several municipalities into the Town of LaGrange. There are no medical services there, it is strictly a headquarters so it will only accommodate the employees to do work at the site.

Mr. Polhemus asked if the 149 spaces were for all three phases. Ms. Libolt said that was correct. Mr. Polhemus asked for some clarification on a point that he had read. He said he understood they are asking for 7% additional impervious area, which it was stated on this parcel represents 1.7% of the total parcel. Ms. Libolt said this was confusing but she was trying to give the board a sense of how insignificant this was. Mr. Polhemus said does that mean when the two parcels are combined? Ms. Libolt said yes. Mr. Polhemus asked what would that number be when the two parcels are combined. Ms. Libolt said perhaps they should not focus on that number because when the parcels are combined the increase in the impervious area will be 7%. The code allows 50% and they are asking for 57% of the total parcel.

Mr. McPeck asked if there was any access from Velie Road to the Houlihan building. Ms. Libolt said there is no access at this time. There is a wet area and the buffer extends onto the property. In the future they would like to go through the permit process with DEC but preliminary discussions with them were not very positive.

Mr. McPeck asked what lighting was being proposed. Ms. Libolt said they would be using the same ornamental lighting in the front as they already had there. In the back would be the larger flood lights pointing down which would provide more lighting in the parking lot. Ms. Libolt said that as part of their discussions with the Planning Board, these existing lots do not conform to the landscaping requirements and parking islands. It is an existing parking lot and they did not want to dig up those spaces and ask for more impervious area. In lieu of adding the landscaping in the back that no one would see, they are providing a significant increase in the landscaping along Route 55.

Ms. Swanson said she would like to go through some of the numbers that were submitted with the application to the Zoning Board with Ms. Libolt. Ms. Libolt said a narrative that was submitted with the application was part of the original EAF. She explained that the plans that the board had before them are accurate which gave the numbers of the parking spaces as 74, 30 and 45 which total 149.

Ms. Swanson said she was trying to reconcile another paragraph with figures on page 3 of the EAF. Ms. Libolt said the EAF that was submitted was the same one that was given to the Planning Board but they should really have submitted a short form EAF to the Zoning Board.

Ms. Swanson said when she added up the acreage under “presently” and “after completion” she came up with 53% for “presently” or 68% for “proposed”. Ms. Libolt said the acreage on the EAF was incorrect but the bulk information on the plan before them was correct. The EAF has not yet been revised.

Mr. Johnson said Dutchess County Department of Planning & Development had a number of concerns. The first concern was that the County feels that our town code requirement for number of parking spaces for 1,000 sq.ft. of building is unusually high. He did not feel that was an issue here because they were not working to that standard. The County suggests that they should consider a phased parking approach and reassess parking needs after each phase is constructed to avoid unnecessary building. They suggest that a variance for surplus spaces could be approved but not built unless the need is documented to the board. The County questioned the parking lots in the front of the building. They note that the town’s design principles suggest parking on the side and rear of the building, and indicate that they think the rear side should be built before the front of the building. They note that the parking space standard in LaGrange is 9 ½ ‘ x 20’ with 25’ aisles. The Greenway Guide on parking lots recommends a 9’ x 18’ parking space with 24’ wide aisles between the parking lanes. They note that all the existing parking on the site appears to be built at or below the typical 9’ x 18’ standard.

Mr. Johnson made reference to one of the documents submitted which mentioned the parking spaces as being typically 20’ x 9.5’ wide and the aisle width as 25’. Mr. Johnson asked if the parking areas were based on those parking spaces and aisles. Ms. Libolt said that was correct – they had designed all parking spaces to meet the town code.

Mr. Johnson said he had gone out over the weekend and measured parking spaces in a variety of places in LaGrange and Poughkeepsie and they were uniformly 9’ wide and 18’ deep and they appeared to be adequate.

Mr. Johnson referred to section 240-42 D.(1). which says that each parking space shall be 9 ½’ wide and 20’ long. The code continues that where parking spaces are defined by curbs, such spaces may be reduced in depth to 18’. Backup and maneuvering aisles between rows of parking spaces shall be at least 25’ wide, which is what Ms. Libolt was saying.

Mr. Johnson continued to read from 240-24 D.(2) which states: The Planning Board may consider, in the site plan approval process upon the request of the applicant, a reduction in the size of the parking spaces for up to 15% of the total number of parking spaces. In no event shall any parking space be less than 8 ½ feet wide and 18 feet long. Ms. Libolt said that 15% would only be about 40 spaces.

Mr. Johnson said what the board could do would be to grant relief from the size requirements of the parking spaces, and the applicant could see if that is sufficient to reduce the size of the

whole parking area. Ms. Libolt said that would still not be enough, they would still be 4% over the code. Ms. Libolt added that her biggest concern is that they need to get these parking spaces in place because they have a tenant in the building. They worked very closely with the Planning Board to get the tenant into LaGrange and they don't have enough parking now. They have been holding off bringing additional employees in to fully occupy the building. Ms. Libolt said she would hate to have to return to the Zoning Board. Mr. Johnson asked if her engineer had looked at getting the number of parking spaces if they are slightly smaller. Ms. Libolt said they are still over by 4.6%. Mr. Johnson asked if they did them all. Ms. Libolt said she did not look at that.

Ms. Libolt asked if the board would consider granting the variance to avoid her having to come back, and then she would work with the Planning Board in reducing the size of the parking spaces. She said she had people who are parking on Item 4.

Mr. Komorsky asked if they are going to pave the same amount of area and just have more parking spots due to the smaller size spots. Ms. Libolt said they need 149 parking spaces so they can reduce the impervious area. She didn't think it would be tremendously significant but she just wanted to avoid coming back because if they didn't grant the variance that night then she would have to re-submit to the Planning Board and she has missed the submission date for May. June would be the earliest she could appear before the Planning Board which would mean the earliest she could return to the Zoning Board would be July.

Mr. Johnson wanted to note that Dutchess County Dept. of Planning & Development suggested that by shrinking the size of the parking of each individual lot and the space between the aisles, they suggest that the applicant would be using 15% less surface area. Ms. Libolt said she had to believe the Planning Board would be receptive to this, but if they are not, then she would be stuck.

Mr. Polhemus asked Ms. Libolt to explain what she is doing for the storm water retention areas and the water gardens and trying to help with the impervious area. Ms. Libolt said there are a lot of different options and a lot of green technology. She indicated on the map four rain gardens, similar to what is at the Houlihan Lawrence site. The storm water collection actually dissipates into the ground and it helps to grow the plants in the planter islands. Ms. Libolt also indicated another rain garden, but there is also additional volume that can be stored there so there is an overflow capacity that can be treated and go to the stream. This is green technology and also, in lieu of the landscaping in the back they are adding the landscaping in the front.

Mr. Polhemus asked if the rain garden would become a small retention area. Ms. Libolt said instead of having a mound there is a depression where the plants are and the storm water is treated naturally through the plant system. She said there would be no structures in the rain gardens. Deep tests have been done and the soil is very good.

Mr. Polhemus asked if Ms. Libolt had any estimate of what they are compensating for in the impervious area. Ms. Libolt said it would be hard to put a number to that.

Mr. Johnson asked if there was a time line for the phases of the parking. Ms. Libolt said there was but because the project has gone on for so long and the tenant is in the building, the parking will all be done simultaneously. The employees are there and as soon as the parking is completed the remaining employees will be coming into the building.

Ms. Swanson said she keeps seeing ads for DRA. Ms. Libolt said this is a different tenant. Health Quest is in a portion of the first floor and all of the second floor. DRA Imaging is a separate tenant in a small area on the first floor and they have radiology imaging. Their parking and visitor parking is accommodated. There are no medical services offered at this location for Health Quest, it is simply their corporate head-quarters. Ms. Swanson asked why they don't use some of the pavers that are pervious. Ms. Libolt said that is new and innovative and although a lot of people want to use it, it hasn't been proven in the north east. In lieu of that they are using some of the other green technology which also allows the storm water to dissipate through the existing soil. It is the same concept behind the porous pavement versus collecting it and discharging it off site. Ms. Swanson asked if that had been discussed with the Planning Board. Ms. Libolt said it has not. Ms. Libolt said one of the reasons they are reluctant to use the porous pavement is that the area has been prepped for paving. The Item 4 has been rough graded and is ready for binder course. In order to do porous pavement there is a very deep sub base – stone and then 18" plus of sand which is the dissipater. Ms. Swanson asked why was the preparation done? Ms. Libolt said at that time they did not realize they had exceeded the coverage. They were trying to move quickly with the town to keep the project moving.

Mr. Polhemus said as he understood it, the pink area on the plan is not what they are trying to add right now but is another phase, and the green is the one they are doing now. Ms Libolt said the green has Item 4 now. The other two will be built as soon as they receive their approvals. Ms. Libolt added that there is an area that is impervious right now because there is an access drive there. Mr. Polhemus asked how much of a percentage is the pink area. Ms. Libolt said it is 30 spaces which would be almost 6%. The 7% that they are over is about 35 parking spaces. Mr. Polhemus said it seemed to him that it could be mitigated a little by changing the size of the spaces and the pink area in a pervious design. Ms. Libolt said the only concern she has is that if the Planning Board does not approve that, the earliest she could return to the Zoning Board would be July and she has employees who have no place to park. There are another 60 – 70 employees who have not been able to come over yet because they do not have the parking.

Ms. Swanson asked Mr. Johnson if he was including the existing spaces when he said changing the size of all the spaces. Mr. Johnson said as far as he could measure all the existing spaces were 9' x 18' and what he is suggesting is that the new phases just be built at the existing standard, or the existing size that is being used that is 15% smaller area than what the official town code would require. Ms. Libolt said they were permitted to do 15% of the parking spaces and even then they were still over, she believed 4.6%. They haven't done all of the 149 spaces. She added that they would love to do all 149 parking spaces but she is asking the board to grant a variance to avoid having to come back to the Zoning Board.

Mr. McPeck said what they were talking about was 57% versus 54% and he didn't see a problem with giving them the extra 7% and let them put as many parking spaces in the 57%.

Mr. Johnson said 57% of the parking spaces reduces it down to 54%, that is 3% knocked down for just 15%. He felt that should be more than enough. Mr. McPeck said the board could grant the variance to allow 57% and if they do use 54% then that would be better.

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

Mr. Gary Beck said he was trying to do a calculation in his head and for every 18 spaces you would pick up 1 space by reducing it. For 149 spaces you would only lose 7 spaces, which he feels is insignificant. He felt in reality those extra 7 spaces would help the site even more.

Ms. Libolt said that 7% is such a de minimis increase. They are so deficient in the parking as the code requires 544 and they have 279.

Mr. Paul Doherty, Velie Road said his Red Wing property is behind the applicant's building and across the road. They did a lot line realignment with the little house a few years ago to allow them to have more parking. He has no objection to this and thinks it will be a terrific help to the town.

There being no further comments from the audience, Mr. Johnson made a motion to close the public hearing. Mr. Polhemus seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Johnson said what he proposed the board should do would be to grant relief from the section of the code that specifies the 9 ½ x 20' parking size and allow them to use the size that is existing and is used everywhere else, which is 9' x 18' with a 24' separation between them and then allow them to have the 149 parking spaces at that time. If they can't fit the 149 spaces in, allow them to exceed coverage by 5%, so that they can expand a little bit more if they need it but only allow them the 149 parking spaces at 9' x 18'. If they can fit more in, in the 50% coverage that would be fine, but not allow them to use the expanded coverage to put in more parking spaces. The problem is that the site is a certain size and they want to increase the coverage more than the code calls for. If the variance is granted because they are doing a great job and everyone is happy with it, what happens to the next person who wants to increase their coverage. They have had some cases where residential people have been getting very close to their lot coverage and there have been concerns.

Mr. McPeck questioned Mr. Johnson's proposal to only give up to 55% coverage. He suggested that the board give the applicant 57% lot coverage for as many spaces as they want with 9' x 18' spaces. That way they won't have to come back to the board. Mr. Komorsky added that they are short quite a few spaces anyway.

Mr. Johnson said the question becomes, why is this unique? Mr. McPeck said it is unique because they do not have the lot coverage for the building. Mr. Johnson said, so if anyone has a building that is too big automatically gets a variance. Ms. Libolt said this building has been there since the 1960's and it has grown with the town and zoning code. Mr. McPeck

added that the purpose of the board is to look at each application individually. This should not be a case of setting a precedent.

Ms. Swanson asked what exactly are they asking for, 149 spaces or a certain percentage of lot coverage. Ms. Libolt said the application is for 149 parking spaces at the dimension of 9 ½' x 20' with 25' wide aisles, which is 7% over.

Mr. Polhemus said the reduced parking spaces will be uniform with the existing parking spaces. He is still questioning the maximum lot coverage. Ms. Libolt again said she would request that the board assign a percentage so she does not have to come back.

Mr. Polhemus suggested limiting it to 149 spaces at the smaller size not to exceed 57%. Ms. Swanson said that is what they are asking for.

Mr. Johnson said we wanted to make sure that if the board grants the space for 149 but if that brings them in less than 149 they can build more, but he is not enthused about giving them 7% over and then they could put in another x number of spaces. Mr. Polhemus said that is why he suggested 149 spaces rather than saying they can go to 57% and pack in whatever they can.

Mr. Johnson then considered the findings:

Character of the Neighborhood and Detriment to Nearby Properties

There is a large industrial building on Route 55. There is a Page home improvement center to the east and a commercial building with a real estate office to the west on the same side. There are mixed commercial and residential buildings across the road. There is a substantial parking lot already associated with the commercial building in question. The neighbor immediately surrounding the property has no concern for the proposed expansion of the parking lots. The applicant is indicating that they will be adding substantial visual improvements along Route 55 in lieu of improving the area behind the area which is currently a parking lot so that the improvements will actually improve the visual impact along Route 55. The applicant is also going to re-route the parking which will make it easier to gain access and exit to and from the building.

Alternative Methods for Achieving Benefit Sought by Applicant

The board discussed some alternatives to impervious paving but the applicant has indicated some question about the feasibility of doing this, but should be thought about for any future applications,

Substantiality of Variance Requested

The variance requested is not particularly substantial. The applicant is requesting 7%. The board was considering something considerably less. The board's proposal to reduce the size of the parking areas is in agreement with the letter of referral from Dutchess County Planning and is also in agreement with the actual parking spaces that exist so there is no variation.

Effect or Impact on Physical or Environmental Conditions in the Neighborhood

The increased parking will have an impact on the drainage in the environment but the applicant is working on some new style rain gardens to control the water retention issues and the board believes that by reducing the size of the individual parking spaces the applicant will be able to meet the area coverage in the code.

Self-Creation of Difficulty

The difficulty is self created in the sense that it is a large building with limited parking, however the area is in a valley and is difficult to expand the parking area by buying further land. Also the town's code has changed over time.

Given these findings, Mr. Johnson made a motion to grant the applicant relief from Chapter 240-42 D. referring to size of parking spaces (code book dated May 2007). The code under paragraph 1 states that each parking space shall be at least 9 ½' wide and 20' long, in order to allow each parking space to be 9' wide and 18' long in accordance with the existing parking spaces; also to allow the space between aisles to be reduced from 25' wide to 24' wide. If the applicant is not able to fit the additional 149 parking spaces on the lot with the smaller sizes granted, the motion included granting relief of up to 7% from the maximum lot coverage as percent of lot area of 50%

Mr. Johnson reiterated that they are granting the requested amount if they need it to fit in the 149 spaces.

Mr. McPeck questioned whether it was legal to grant relief from the parking space size when the application did not request that. He said, why not allow the 57% and then they could have the parking spaces per the Town code if they wished to.

Mr. Johnson said, this is an area variance and the board is granting them an area variance for the size of each individual parking space. The purpose for that is to reduce the impact of the total variance that they are granting to as small a number as possible so that if they can get away from establishing a precedent with more than 50% coverage then it is worthwhile, given that all the parking spaces that he had measured were 9' x 18'. They are giving them a variance from one part of the code but they are attempting to maintain the standard of code in the other way in terms of the overall lot coverage.

The motion having been made by Mr. Johnson, Ms Swanson seconded and the motion carried unanimously. **AREA VARIANCE GRANTED**

There being no other business before the board, Mr. Polhemus made a motion to adjourn the meeting at 8:52 p.m. Ms. Swanson seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley
Zoning Board of Appeals Secretary