

MEETING
OF THE
BOARD OF ZONING APPEALS
VILLAGE OF THE BRANCH
September 22, 2020
7:30 p.m.

P R E S E N T:

JOSEPH MAGLIATO - Chairman

DENNIS BADER

JEAN ESSER

CHARLES ROBELEN

EVAN DICK

CHRISTINE COZINE, VILLAGE CLERK

APPEAL OF MR. VITTORIO COMO

Deborah Kniesser - Court Reporter

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COMO

THE CHAIRMAN: Good evening,
everyone. I'd like to open the
September 22nd public meeting of the
Board of Zoning Appeals, Village of the
Branch, again, September 22nd.

Going a little out of order, what
I'd like to do is first just have a
motion to approve the minutes from the
last meeting we had. It will be quick
because the transcript is 50 pages and
will be part of the public record. So
we're kind of doing things a little bit
different to make life easy instead of
having everyone review all 50 pages of
transcript. You can come down at your
own leisure and take a look, but I
think it's pretty accurate.

Okay. Can I see a motion to
approve the minutes from the last
meeting?

MR. ROBELEN: Motion.

THE CHAIRMAN: Second please?

MR. BADER: Second.

All in favor?

1 COMO

2 (Unanimous vote by the Board.)

3 THE CHAIRMAN: Unanimous. Thank
4 you.

5 Okay. Today we have, I think, two
6 public hearings. The first one is 4
7 Sutton Place, the Como property.

8 If you come up to speak, just let
9 us know your name and your affiliation.

10 MR. MUNISTERI: Would you like me
11 to sit here or come up?

12 THE CHAIRMAN: Up to you.
13 Whatever you're most comfortable with.

14 MR. MUNISTERI: Good evening,
15 Members of the Board. My name is Mark
16 Anthony Munisteri, architect,
17 representing Mr. and Mrs. Como who are
18 the owners and occupants of 4 Sutton
19 Place. This property is located in a
20 Residential A Zone.

21 We're requesting this evening
22 relief from several zoning codes to
23 allow Mr. and Mrs. Como to construct an
24 outdoor pavilion with a kitchen and a
25 two-piece bathroom for their backyard

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COMO

reduce the visual impact from the adjoining yards and the Comos will be installing a new tree line along the southern property line to eliminate any visual from the south.

Additionally, we're requesting to increase the total square footage of the structure from 300 to 540 square feet.

I believe you guys got a chance to look at the pavilion itself. It's an all-inclusive space which basically includes the kitchen, seating area --

THE CHAIRMAN: What was framed out; correct?

MR. MUNISTERI: Nothing's framed out, no. No. It's --

THE CHAIRMAN: Just a slab?

MR. MUNISTERI: Just a slab; right.

But what is most is to be a bar area, an outdoor kitchen, a half bath which includes two pieces, and a little storage area kind of behind it because

1 COMO

2 it's all roofed over.

3 There is just -- I would like to
4 submit to the Board, if it's okay, an
5 overview of a neighbor who's actually
6 adjacent which has an extremely
7 similar -- it's literally adjacent to
8 the property -- an extremely similar --
9 it's basically where they had the idea
10 from -- of a pavilion outside as well.

11 I can try and answer any questions
12 the Board may have.

13 If you'd like, I have an overview
14 of 4 Sutton which is my client's.

15 THE CHAIRMAN: At the site visit,
16 we had asked that you correct --

17 MR. MUNISTERI: Which we did.

18 THE CHAIRMAN: Okay.

19 MR. MUNISTERI: So it was
20 originally at 11, which I believe was
21 posted. It's actually 13-foot-4.

22 THE CHAIRMAN: Right. So those
23 changes were made --

24 MR. MUNISTERI: Yes, sir.

25 THE CHAIRMAN: -- with the

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COMO

adjoining properties and --

MR. MUNISTERI: Correct.

THE CHAIRMAN: I don't remember,
was there anything else, Board, that we
had -- to add to the plan?

You didn't --

MR. MUNISTERI: No, sir.

THE CHAIRMAN: You haven't
submitted it or --

MR. MUNISTERI: I believe it has
been submitted, the change.

THE CHAIRMAN: I'm still using the
one I had.

MR. MUNISTERI: I apologize. If
not, it will be submitted tomorrow for
sure.

MS. COZINE: I didn't get anything
new.

MR. MUNISTERI: I apologize.
But yes, I have one that reflects
the changes but this isn't it.

THE CHAIRMAN: Is there anyone
that would like to speak on this
matter?

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COMO

MR. MACCHIA: Is there a chance we could see what it looks like?

THE CHAIRMAN: Sure.

(Simultaneous speakers.)

THE CHAIRMAN: If you'd like to speak as well, we need your name and address.

MR. MACCHIA: I don't know yet.

(Simultaneous speakers.)

MR. MUNISTERI: So as you see, where it says proposed floor plan would be facing where the pool would be is patio, if you've seen the backyard, in front of that.

This is a little bathroom, a little half-bath, for a sink and a toilet and a door. Again, facing that around the back would be for the storage area.

And then this is kind of the bar slash eating area. It will have stools around these two sides.

And then this is the grill. He wants a built-in pizza oven. There

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COMO

will be under counter refrigerators and
a counter that runs around the
perimeter.

MR. MACCHIA: Where is it on the
property and how tall is it going to
be?

MR. MUNISTERI: So --

THE CHAIRMAN: You'll have to give
your name and address, please.

MR. MACCHIA: Sure. My name is
Francis Macchia. I live at 9 Cambridge
Drive. I'm right abutting the property
behind.

MR. MUNISTERI: So total height to
the peak is 12 feet. That's not part
of the variance. That meets the -- and
if you look again on that sheet that I
had given you, it's in the northwest --
northeast corner. Northeast corner.

MR. MACCHIA: Is that towards --
towards which road is that?

MR. BOTTO: It's towards Branch.

MR. MACCHIA: Thank you.

THE CHAIRMAN: It's on the north

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COMO

side of the property.

MR. MUNISTERI: Does that make sense?

MR. MACCHIA: Yeah.

MR. MUNISTERI: That's the way they come in the drive and the house is located here.

MR. MACCHIA: I see.

MR. MARCH: How is this new structure going to relate to the existing structure?

THE CHAIRMAN: We just need your name.

MR. MARCH: I forgot. Jim March, 2 Branch.

THE CHAIRMAN: Thank you.

MR. MUNISTERI: Besides the stone and the color, there's not much other to it. Meaning, the roofing will match the existing structure.

And I believe when you say the existing structure, you mean the house; am I correct?

MR. MARCH: Meaning whatever you

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COMO

call it. The pertinent structure that's going to be -- is it going to be altered? Is it going to be demolished?

THE CHAIRMAN: This is an accessory building. This is an application for an accessory building, Mr. March.

MR. MUNISTERI: This is a cabana.

MR. MARCH: Right. But there's an existing building there already.

MR. BOTTO: No. A shed.

(Simultaneous speakers.)

MR. MUNISTERI: There's a small shed that's being removed.

MR. MARCH: That's a shed?

MR. MUNISTERI: That's a shed being removed, yes.

MR. MARCH: I'm not sure.

MR. MUNISTERI: It may have been already removed. I apologize. It may have already been removed.

MR. MARCH: No. It's still there and -- I just couldn't understand that it's a shed since it has a smokestack

1 COMO

2 coming out from it.

3 MR. MUNISTERI: You're talking
4 about this structure right here;
5 correct?

6 MR. MARCH: I can't really tell
7 from here.

8 MR. MUNISTERI: You have it also
9 on that one if you'd like, or you could
10 look at this one.

11 This doesn't really work that
12 well.

13 That's the structure you're
14 talking about?

15 MR. BADER: They haven't built it
16 yet.

17 (Simultaneous speakers.)

18 (Whereupon, discussion between the
19 Board members and the public audience
20 was held off the record.)

21 MR. BADER: Each of you, one at a
22 time, state your name and address,
23 opposed to it, and a brief explanation
24 as to why.

25 MR. BOTTO: Roger Botto, 6 Branch

1 COMO

2 Drive.

3 I oppose the structure due to the
4 height, the water table, and basically
5 the location.

6 MS. BADENHOOP: Susan and John
7 Badenhoop, 4 Branch Drive.

8 Same reasons.

9 MR. MARCH: Jim March, 2 Branch
10 Drive.

11 Opposed for the same reasons.

12 MR. MACCHIA: Francis Macchia, 9
13 Cambridge Drive.

14 I'm not sure I oppose it, but I
15 think it should be toned down a little
16 bit, made smaller maybe a little bit.
17 You know, if you lower it from 12 feet,
18 make it a little bit smaller, that I
19 think would work for everybody.

20 MR. ORISHAK: Greg Orishak, 5
21 Cambridge.

22 I just think it seems excessive in
23 size. It's so much larger than the
24 current laws, you know, the current
25 statutory sizes. I don't know why it

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COMO

has to be so big. Thank you.

MR. MUNISTERI: Mark Anthony
Munisteri.

I just want to remind the Board as
well. We're not here for a height
variance or for the cesspools in any
form whatsoever.

THE CHAIRMAN: We understand their
concern. I mean, there is --

MR. MUNISTERI: Understood.

THE CHAIRMAN: -- a water
situation. It's not ground water
because we're 25 feet above sea level.

MR. MUNISTERI: I'm willing to
discuss with them if it's a factor of
height and they don't like the 12 and
they would like it lowered down.

I'm more than willing to -- I
don't want to be attacked, but I'm more
than willing to discuss it with them.
Of course. Absolutely.

I mean, it's not built yet so I
don't see a reason why. I mean, I am
about esthetics as well as feasibility.

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1 COMO

2 I don't see a problem about lowering
3 the overall structure.

4 THE CHAIRMAN: Again, just to be
5 clear, there's three variances that are
6 being requested tonight.

7 One, it's not height. It's --

8 MR. MUNISTERI: That's correct.

9 THE CHAIRMAN: -- rear-yard
10 setback, side-yard setback, and square
11 footage. That's what's in front of us,
12 just so you know.

13 And we did visit the site, all of
14 us, the entire board, and had a look.

15 Anybody else want to speak?
16 Because once we close the public
17 meeting, there will be no other
18 opportunity.

19 MR. MUNISTERI: So can I discuss it
20 with the neighbors first before you
21 close the meeting?

22 THE CHAIRMAN: On the record?

23 MR. MUNISTERI: Only just outside
24 with the neighbors.

25 MR. BOTTO: Once you're on the

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COMO

record, I just want to follow up with you, Joe.

THE CHAIRMAN: Yes, sir.

MR. BOTTO: I am opposed to the variance of the setback off the property lines on both sides, on my side and the other side. Just for the record.

THE CHAIRMAN: Okay.

MS. BADENHOOP: It's too close to our yard.

THE CHAIRMAN: Anybody else?

Okay. You're welcome to discuss anything you'd like outside of the -- you know, but once I close the public meeting nobody has an opportunity to speak except the Board.

MR. MUNISTERI: Okay. So is it all right if I discuss it with you guys?

MR. BOTTO: It probably would be better done in private.

THE CHAIRMAN: I think maybe --

MR. BOTTO: We've taken up enough

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COMO

of the Board's time tonight. So if you want to take it outside --

MR. MUNISTERI: That's what they're here for so I'm not worried about taking up their time.

MR. BOTTO: If you want to take it outside, we can give you our opinions, what we think.

MR. MUNISTERI: Is that fair?

THE CHAIRMAN: Once I -- all I'm saying is -- anybody else who would like to speak on the public record on this matter?

Okay. Then I'd like to close the public meeting.

May I have a motion to close the public meeting?

MR. ROBELEN: Motion to close the public meeting.

MR. BADER: Second.

THE CHAIRMAN: All in favor?

(Unanimous vote by the Board.)

THE CHAIRMAN: The public meeting is now closed. Thank you all for your

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1 COMO

2 comments. We appreciate it.

3 (Off the record.)

4 MR. BADER: So I just find it hard
5 to continue in a certain way without
6 the owner being present because we
7 can't ask certain questions of the
8 owner.

9 THE CHAIRMAN: Right.

10 MR. BADER: The architect is now
11 not even in the room so we can't ask
12 any questions of the architect.

13 As we know, the application before
14 us is the application before us.
15 Whether it's negotiated outside to be
16 different than it is is no relevance.
17 So we can only go with no questions to
18 ask for -- as you see fit.

19 THE CHAIRMAN: Jean, do you have
20 anything right now?

21 MS. ESSER: I would appreciate the
22 owner's input.

23 THE CHAIRMAN: Right.

24 MR. ROBELEN: I have questions.

25 THE CHAIRMAN: We'll see if he

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COMO

comes back in and you can ask him some questions.

But my concern is I'd like to speak to maybe Dan regarding the water, because --

MR. BADER: It's possible we can defer this agenda.

THE CHAIRMAN: I know what we could do. Thanks, Dennis.

In any event, if there's no other comments what I'd like to do is reserve judgment on deciding things.

Would somebody be so moved?

MR. DICK: Aye.

THE CHAIRMAN: We're going to reserve judgment on this.

Second for that?

MR. BADER: Second.

THE CHAIRMAN: All in favor of reserving judgment and tabling it?

(Unanimous vote by the Board.)

THE CHAIRMAN: I don't know if we can do it at the October meeting. We'll try. But I'd like to speak with

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the engineer Dan. He's been with us a long time, and he knows the ground water conditions.

And it is an issue. I don't know how much of it is an issue in that area, but something to think about.

(Whereupon, at 8:05 P.M., this hearing was concluded.)

MEETING
OF THE
BOARD OF ZONING APPEALS
VILLAGE OF THE BRANCH
September 22, 2020
8:05 p.m.

P R E S E N T:

JOSEPH MAGLIATO - Chairman

DENNIS BADER

JEAN ESSER

CHARLES ROBELEN

EVAN DICK

CHRISTINE COZINE, VILLAGE CLERK

APPEAL OF MR. SCOTT WEBER

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WEBER

THE CHAIRMAN: Opening the public meeting for September 22nd, we have the property at 26 Cambridge Drive, Scott and Kathy Weber.

Are they here?

MR. WEBER: Yes.

THE CHAIRMAN: Would you like to come up and tell the Board exactly what it is that you'd like us to consider?

MR. WEBER: Sure.

We're a corner house on the dead-end street of Cambridge Drive. And we had these huge pine trees, over 50-feet tall, on the Cambridge side of our property, the corner of the Cambridge side. And they had gotten diseased and we took them down a couple of years ago.

And before having a fence, you know, we really didn't feel that secure. We've actually had some theft on our property. We've had a wheelbarrow stolen. Our Christmas decorations we've had stolen. We even

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WEBER

had the garbage man walk onto our property and steal tomatoes from our garden.

And also since it's a dead-end street, we often have young couples who come down and park there and make out. And we just -- we felt very vulnerable in that area. So we decided to put up a fence.

And, you know, I've looked at the variance and I tried to answer all the questions as you have on record. I don't know if you want me to read it out loud.

THE CHAIRMAN: No, that's not necessary.

MR. WEBER: And then also the other thing is that, you know, for the added security, there was the recent protests that we've had in town. And there were actually people -- a mob of people coming down Cambridge Drive. It was a little unsettling, you know. That kind of -- we said, "Hey, we

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WEBER

really need to have a fence."

So I talked to my neighbors. I asked for their input. All the neighbors I talked to said, "That's great. Put up the fence."

I have some neighbors here, Kyle and John and Nick, who all received the certified letters. I also have texts from the same people, nine of the 12 that I sent the certified letters to about the public hearing. And they're on my phone -- I can give them to you -- saying they support the fence.

I did measure it out for the corner clearance, 75 feet from the middle of the intersection out one way, 75 feet out the other way, and then had a line drawn in between. I have a 200-foot pool measurer which I used. And that's how I judged to put the fence up there, me thinking that was all that I had to do. I didn't -- I didn't realize that the front yard thing and so hence the variance.

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1 WEBER

2 And so I think --

3 THE CHAIRMAN: Do you know exactly
4 what you're asking for in terms of a
5 variance?

6 MR. WEBER: It's stated in the
7 application. 10-foot setback.

8 THE CHAIRMAN: Right, a 10-foot
9 setback. But the variance is the
10 reverse of that which is where the
11 fence should be which is 40-foot
12 setback.

13 MR. WEBER: Okay.

14 THE CHAIRMAN: So you're asking
15 for a 30-foot variance.

16 MR. WEBER: Okay. Fine. That's
17 what I'm asking for, yes. Correct,.

18 THE CHAIRMAN: Does anybody have
19 any questions for Mr. or Mrs. Weber?
20 Is is there anybody here that would
21 like to speak on this issue?

22 MR. CORTES: My name is Nicklas
23 Cortes, 13 Oxford Lane.

24 I pass by their house, and I don't
25 have any objections with their fence.

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WEBER

I think it's beautiful. It adds security. People can't just walk through their yard thinking it's a public space. I have no issues with it.

MR. WEBER: Thank you.

THE CHAIRMAN: Anybody else?

MR. ALFOND: Kyle Alfond, 47 Cambridge Drive.

I've have no issue with the fence either, so...

MR. SOLOMOS: John Solomos, 24 Cambridge Drive.

I have absolutely no issues with the fence.

I just want to say as far as the 40-foot setback, I don't think his house is 40 feet off the curb on that side.

THE CHAIRMAN: That's part of the reason why it's -- and part of the code. It comes off the foundation actually which is where the house is.

Anybody else who would like to

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1 WEBER

2 speak on the issue?

3 MR. MACCHIA: Frank Macchia, 9
4 Cambridge Drive.

5 I drive my bike around there a
6 lot, and it looks great. It looks
7 nice. I was wondering how long it
8 would take him to put a fence up
9 because his yard is always wide open
10 like that.

11 MR. WEBER: Thank you.

12 THE CHAIRMAN: Just for the
13 record, I just wanted to make a minor
14 correction.

15 We never had a conversation.

16 MR. WEBER: There's another Joe
17 here that I -- the building inspector.
18 Yes, I got you two confused.

19 THE CHAIRMAN: I just want to make
20 that clear.

21 MR. WEBER: Fair enough.

22 I saw your name and you said you
23 weren't the building inspector. I'm
24 like --

25 THE CHAIRMAN: That's fine.

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WEBER

I think an important question that's probably in everybody's mind here, because lately there's been a lot of issues with -- well, first of all, how long have you lived in the Village?

MR. WEBER: 21 years. I'm a business owner as well.

THE CHAIRMAN: Okay. The procedure would be to contact the building inspector in the event you want to install a fence.

MR. WEBER: Sure.

THE CHAIRMAN: And then the building inspector would say to you prior to you actually building the fence you probably need a variance based on where you're locating it.

MR. WEBER: Understood.

THE CHAIRMAN: And usually what the Board does is make a site visit. And actually after the site visit at 4 Sutton, we did come and visit your property.

So I think the question that all

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WEBER

of us would have and we'd like to ask you -- and correct me if I'm wrong -- is would you consider moving it?

MR. WEBER: I would -- you know, of course I'd consider doing anything to do the right thing. I totally believe in doing the right thing, you know. I don't want to be unreasonable, you know.

But I have seen other houses -- like, on the corner of Oxford and Berkley is it? There's a house there that has a fence right up even closer than mine on the corner.

I actually took pictures -- I went around today -- and there's other ones. So I would --

THE CHAIRMAN: We're aware of that because other residents have been bringing the same pictures or some similar pictures. But that doesn't mean necessarily that --

MR. WEBER: No, I understand.

THE CHAIRMAN: You know how that

1 WEBER

2 works.

3 MR. WEBER: I kind of feel that if
4 they were, you know, allowed to have it
5 then, you know --

6 THE CHAIRMAN: That's the point.
7 No one on this board allowed them to
8 have it.

9 There are occasions for a corner
10 property, as a matter of fact, where
11 allowances have been made and variances
12 have been granted. Absolutely.

13 MR. WEBER: Okay.

14 THE CHAIRMAN: But I think as
15 memory would have it, no 30-foot
16 variance has ever been granted for a
17 fence --

18 MR. WEBER: Okay.

19 THE CHAIRMAN: -- as long as I've
20 been on this board or served as
21 chairman. And I could be wrong, but I
22 could check into that.

23 MR. WEBER: Based on the pictures
24 I took -- I'm not trying to --

25 THE CHAIRMAN: Let's distinguish

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WEBER

between what the Board grants and what somebody does their own like you did.

MR. WEBER: Okay. I see.

THE CHAIRMAN: That's what I'm trying to bring out.

MR. WEBER: Okay.

I certainly would have done it the correct way. I didn't realize. I only thought I needed the corner clearance. I had no idea about the -- the variance that, you know, the other piece.

THE CHAIRMAN: Dennis, do you have any questions for Mr. or Mrs. Weber or comments?

MR. BADER: Well, my -- my question to you would be your side access.

You have a side door?

MR. WEBER: Yes.

MR. BADER: The side door which counts as a front door because technically you have two front yards being on the corner where you are.

MR. WEBER: Understood, yeah.

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WEBER

MR. BADER: How many feet would you consider reasonable to have access to your backyard from your front door?

I mean, right now you've got an enormous amount of footage going out towards the fence, so that would be my first question to you.

MR. WEBER: How many feet do I think is reasonable? I don't know that I have, you know, the knowledge to say that. I don't want to sound arrogant, you know. I want to be reasonable.

It's a 4-foot fence. I talked to my neighbors. And I even asked them -- she said, "It's a beautiful fence. It's only 4-feet tall. Why does the town have a problem with it?"

I said, "It's a house that has two front yards and -- two front yards, you know. Many houses -- corner houses have to go through this."

She said, "Okay. Good luck. I hope they don't give you a hard time, you know. They really" -- I've gotten

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WEBER

so many compliments on the fence, you know. I -- I talked to all my neighbors beforehand.

I think what I did is reasonable. But then again, I'm not a town person. I don't know what you consider reasonable. So I think what I have is reasonable.

THE CHAIRMAN: Jean, anything from you?

MS. ESSER: Well, if you looked at the other properties that were granted variances, there were several corner properties. Not just the one that you cited. There's one on Mount Pleasant, on Cambridge, and the one you cited. And I think that's it in that particular area.

And all of those places, those two places, there is -- if you look carefully, it comes out and then returns in. That's what you should consider.

MR. WEBER: Yeah, I saw that one.

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WEBER

It does return in, and then they go up
a higher level. Yeah. Yeah, I know.

You mean on the corner of Oxford;
right?

MS. ESSER: That would be going --

MR. WEBER: With all the trees in
front, yeah.

MS. ESSER: -- Mount Pleasant and
Cambridge also.

MR. WEBER: Okay.

MS. ESSER: So those are
properties that are similar to yours.

MR. WEBER: Okay.

THE CHAIRMAN: Charlie? Anything?

MR. ROBELEN: I'm just trying to
get the numbers correct.

So when we say the foundation of
the house, it would be up to this line;
correct?

THE CHAIRMAN: Yeah. The engineer
says roughly 40 feet.

MR. ROBELEN: Right. So we're
asking for a 30-foot variance.

THE CHAIRMAN: Yes. I mean,

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WEBER

they're showing 10 feet, but the request for a variance is not standing.

MR. ROBELEN: So in order to -- you wouldn't need a variance if you moved the fence to the foundation of the house.

Would you be willing to --

THE CHAIRMAN: That's true. That's exactly right. If he moved it -- exactly.

I mean, I think that that's the key ingredient.

Evan, do you have anything? Or Charlie, anything else?

MR. ROBELEN: I mean, I guess it's just -- if you're willing to move it to the foundation or line of the house, then we wouldn't be here.

So if that's reasonable, say, are you willing to move it to the foundation?

MR. WEBER: I really would be resistant to that.

MRS. WEBER: Well, first question

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WEBER

I have is why does it have to be
40 feet? Like, why -- like, what is --
I know that that's the rule, but where
does that come from? And, you know, I
just want to know how it's really
affected, you know, with our property.

Because if we did move that fence
in, that's a significant amount of our
property that we're no longer
utilizing. And we do utilize our whole
yard daily, you know.

So I'd like to know, like, why is
the rule 40 feet?

THE CHAIRMAN: That's the code.
It's --

MRS. WEBER: No, I understand
that's the code.

But why --

THE CHAIRMAN: To keep it within
the architecture and nature of the
neighborhood or the area we live in, I
mean ultimately.

Look at the reverse. If we just
let anybody build fences anywhere they

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WEBER

want, could you imagine ultimately what you would have? I mean, style, shape.

MR. WEBER: But being a corner house, it's different.

THE CHAIRMAN: I live in a corner house. My fence is at the foundation. But that doesn't play into the -- I understand because I do live in a corner house. And a lot of my property, unfortunately, is not usable in that sense.

However, if you would consider -- well, let me just finish.

Evan?

MR. DICK: Mr. and Mrs. Weber, fences have been a very hot topic lately for the Board. And I feel like what I do for one family, I would have to do the same thing for another family.

I appreciate that all your neighbors are here and that they support it. We've had some instances where neighbors were for it and others

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WEBER

where they were opposed by it.

And what Dennis and Joe said, you know, about how much space you would need for the side access, that's something that makes it a little bit easier for us to approve a variance.

Right now, the fact that you're 40 feet out, you're asking for a 30-foot variance. It's very significant. So, you know, everybody's been asking more or less if you would be willing to bring that in to make it a little bit more reasonable.

THE CHAIRMAN: This is what we can do and this is the point.

Last meeting that we ruled denied a variance, and the fence came down. I mean, just the entire fence came down.

So you need to understand that. We're protecting all the citizens, and we appreciate the comments by your neighbors. However, who they sell the house to, they may feel that it's an eyesore, you know. I can't judge that.

Deborah Kniesser - Court Reporter

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WEBER

I think it's great to have those plantings. But at this point, what I can tell you and the easiest path forward, is that if you consider moving it, what we could do, again, is probably table this conversation and then maybe come out for a scheduled site visit and discuss it with you.

Because if we rule tonight, I think there's only one way we could rule but I would leave that up to you.

MR. ROBELEN: I don't think anybody -- I can only speak for myself. We're not questioning and it seems your neighbors are not questioning the beauty of the fence. It's a nice fence. It's not a 10-foot high fence. It's a nice 4-foot fence I don't think where anybody is questioning that. It's just the location.

THE CHAIRMAN: And you're precedent setting.

I mean, it's okay. You could point out all the violations. It's --

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WEBER

the analogy is when you get pulled over for speeding, I guarantee the next 20 cars that go past while the police officer writes the ticket is speeding as well. So that doesn't -- you can't point to them and say, "They're speeding. Therefore, there's no sense in giving me a ticket."

So when you come before this court and ask for a variance, what we need to do is consider the entire village.

MR. WEBER: Understood.

Can I ask a question?

THE CHAIRMAN: Yes, sir.

MR. WEBER: So you're saying my variance is for 30 feet?

THE CHAIRMAN: I don't know. It wasn't our responsibility. We're just thumb nailing it thinking it's pretty close to that.

MR. WEBER: So the distance from my foundation to my fence you're saying is 30 feet?

THE CHAIRMAN: I think so, yes. I

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WEBER

don't know. I mean, here you have your plan. You'd have to take a look and use a scale. I don't think it's --

MR. WEBER: I don't --

THE CHAIRMAN: It's not there, so I'm not sure. But that doesn't necessarily mean -- Dennis raises the case --

MR. WEBER: It sounds bad, 30 feet. It sounds very high. I think it's a lot less than that.

THE CHAIRMAN: It may very well be. That's why I'm giving you the opportunity as a fellow village resident rather than ruling tonight.

MR. WEBER: And I appreciate that.

I just want to speak to -- when we do things, we have codes and we have laws.

And those are there to establish the rules; right?

THE CHAIRMAN: You were here for the last one; right?

MR. WEBER: Yeah. No, I

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WEBER

understand that.

And then there's also -- you had a hearing. We're all here tonight and this is a variance and all that stuff. So you're thinking. We're all thinking people. These are all things to consider.

Now, when we moved in and we had the house and these huge trees and you see it in all places -- you have these huge trees. And what I was going to do is just plant Lelands and let them grow to this huge green wall and -- which, you know, in my opinion, is not that nice.

Having a four -- I could have done a larger, 6-foot fence. I wanted to do something nice for my neighbors. I talked to everybody. I think in the spirit of it I'm doing the right thing by my neighbors. And nobody objects. It's at the dead-end street.

I think, you know, if there was ever to be a consideration to say,

Deborah Kniesser - Court Reporter

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WEBER

"Hey, we understand, you know, Scott Weber is out this many feet. He's asking for this. We don't normally do it," that maybe you would consider doing it because of what I'm saying, you know.

MR. ROBELEN: What is the exact foot variance that you're requesting right now?

MR. WEBER: I didn't measure it. I should have measured it. I -- if I was to pace it out, I have two sections of fence. Each fence is probably about 8 to 10 feet. So I'm thinking it's about 20 feet off the foundation.

THE CHAIRMAN: There's a point -- what's going to happen is it becomes part of a file in the record. Not for today, but when whoever is the court clerk in 20 or 30 years from now digs out the file after you potentially could have been down the road, it has to be well documented which is why, if you notice, mentioned the previous set

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WEBER

of plans needed to be amended.

So my point is there's really nothing here that -- well, we could vote, but I think --

MR. WEBER: We could leave it open and I'll measure it and we'll think about it. I think that would be good.

THE CHAIRMAN: Fair enough.

In the event that you would consider moving the fence, I think what we'll do is, again, we'll again maybe have a motion to table this discussion for another time.

MR. DICK: Motion to table.

THE CHAIRMAN: Second?

MR. BADER: Second.

THE CHAIRMAN: All in favor of tabling this?

(Unanimous vote by the Board.)

THE CHAIRMAN: So let's close the public meeting then.

(Whereupon, at 8:24 P.M., this hearing was concluded.)

Deborah Kniesser - Court Reporter

