

**Copley Township-Board of Zoning Appeals  
June 27, 2007**

Chairman Joe Weinstein convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Bob Juve, Russ Hose, Paul Wilkerson, Dave Robinson and Joe Weinstein. Bill Daniel and Lee Kleinbeck, (alternates) were also in attendance. Kim Ferencz, Zoning Inspector, and Irv Sugerman Township Legal Counsel were also present.

NEW BUSINESS:

PUBLIC HEARING – 6:00 PM

APPLICANT: **DOUGLAS JACKSON**

LANDOWNER: **WINDSONG AT CHAMBREL LLC**

LOCATION: **120 BROOKMONT ROAD**

ZONING DISTRICT: **C-3 COMMERCIAL**

CONDITIONAL: **ADDITION TO A THE APPLICANT'S PREVIOUSLY  
CONDITIONALLY APPROVED USE-LIFE CARE FACILITY**

Mr. Weinstein opened the public hearing. There was no one in attendance to represent the request.

**Chair Weinstein made a motion to table the request due to non-representation. It was second by Mr. Russ Hose. A roll call was taken: Hose-aye, Robinson-aye, Juve-aye, Wilkerson-aye, Weinstein-aye.**

PUBLIC HEARING – 6:05 PM

APPELLANT'S NAME: **DAVIS WATER TREATMENT, INC.**

APPELLANT'S AGENT: **STEVEN HOBSON, II**

PROPERTY OWNER: **PATRICIA A. DAVIS, TRUSTEE**

LOCATION: **1753 S. CLEVE-MASS. ROAD**

ZONING DISTRICT: **C-4 COMMERCIAL**

ACTION TAKEN: **LETTER ORDERING REMOVAL OF STORAGE TRAILERS ERROR OF ADMINISTRATIVE OFFICIAL APPEALED: STORAGE TRAILERS ARE PROHIBITED BY SECTION 302 (Y) AND SECTION 302 (HH). INTERPRETATION OF ABOVE SECTION(S) CLAIMED: 302 (Y) ONLY APPLIES TO TRAILERS AND MOBILE HOMES USED AS LIVING QUARTERS. ALSO, 302 (HH) DOES NOT APPLY BECAUSE THESE STORAGE TRAILERS ARE NOT STRUCTURES AS DEFINED BY SECTION 202.**

Attorney Steve Hobson represented the applicant, Mr. Davis on behalf of Davis Water Treatment, Inc. He stated his client received a letter from the Zoning Inspector dated April 13, 2007 (see file) stating that the storage containers that are located on the property where Davis Water Treatment is operating are in violation of the Zoning Resolution. Mr. Hobson stated the containers are used for the storage of salt. The nature of Davis Water Treatment is a water softener operation, which sells salt to the public. The letter stated that these trailers or containers or whatever they are qualified as are in violation of Section 302 Y. of the Zoning Resolution.

Mr. Hobson stated that it is his client's opinion; this is an incorrect interpretation of the Zoning Resolution because Section 302 Y only applies to trailers and mobile homes that are used for living quarters. He added that the letter goes on to mention Section 302 H.H. which applied to Temporary Outside Sales, Activities and Accessory Structures; that there was the potential to seek a variance but that people have sought

variances and have been denied in the past.

Mr. Hobson stated he did not feel that section of the code was applicable either as that section to apply to structures. The definition of Structure it states, "Anything constructed or erected, the use of which requires permanent location on the ground. The storage containers Mr. Davis has on his property are 8 ft. wide by 40 ft. long. An axle can be put under these units, hooked up and driven away or transported.

Mr. Robinson asked if the containers/trailers were fitted right now to accommodate an axle and wheels? Mr. Hobson stated the way they were designed is that they could easily have an axle placed underneath them.

Chair Weinstein asked if these are standard storage containers that are used for shipping. Mr. Hobson responded, he believed so. Chair Weinstein asked how these containers were brought onto the property. Mr. Davis was sworn in. He stated they were brought onto his property by a flatbed trailer.

Mr. Hose asked if there were taillights on the containers. Mr. Davis stated no.

Mr. Wilkerson asked how long the trailers have been on the property? Mr. Davis replied, about 6-8 months. He then asked, is the plan to have these containers on the property indefinitely? Mr. Davis stated eventually as cash flow and the economy picks up, it would be nice to have a big warehouse. He continued he could put 2 semi-loads of salt in these containers for \$1800.00 a piece and it makes for real good storage at this moment. If and when money comes in then he will build a nice big warehouse.

Chair Weinstein then asked Mr. Davis, "It is not your intention for these containers to be permanent but rather temporary." Mr. Davis stated that is correct, and added that he has people purchasing them as well. Chair Weinstein asked if Mr. Davis owned these containers and how many were there on the property? Mr. Davis stated yes he owned them and that there are 2 there right now as well as a semi-trailer but the semi-trailer was not at the location at the moment as they were having the lot paved. Chair Weinstein asked if Mr. Davis was using the semi-trailer for the same purpose as these "containers". Mr. Davis stated yes but it was very cumbersome to have to get in and out of the semi-trailer to get to the salt.

Mr. Davis asked if these containers were meant to be towed on the highway. Mr. Davis stated yes. When they are moved they are moved on a flatbed.

Mr. Hobson interjected that whether these are trailers or something else was really not the issue, they were before the Board this evening appealing the decision of the Zoning Inspector. Section 302 Y states, "No trailers or mobile home shall be used for living quarters...No mobile home or trailer parks are permitted in the Township. Mr. Hobson added that they were doing neither. It is their contention that there is a misinterpretation of the code.

Chair Weinstein asked Mr. Hobson for clarification, in that was his interpretation of the code to mean, no mobile home parks or trailer parks are permitted in the Township. Mr. Hobson stated that was

correct, and did not believe that no trailers meant that a trailer could not travel through Copley Township.

Mr. Wilkerson asked if Mr. Davis has sold any of these trailers/containers. Mr. Davis stated yes, for salt storage.

Mr. Hobson stated that Mr. Davis' business is in a C-4 District. One of the permitted uses in this District is, "trailer/trucks sales and service and storage of both new and used. Mr. Weinstein asked if it is Mr. Hobson's contention that the frequent sales of such containers Mr. Davis does constitutes sales of trailers and trucks. Mr. Hobson responded his contention would be if Mr. Davis did not have a water business at this location, he could have 50 trailers on his property for sale as it was a permitted use in this district.

Mr. Davis interjected, if you don't want semi-trailers or containers/trailers then make a resolution prohibiting them in the Township.

Chair Weinstein sworn in Zoning Inspector Ferencz.

Zoning Inspector Ferencz stated she had the following summary that has led up to the events this evening and subsequent comments regarding the appeal.

The zoning office received a complaint about the containers/trailers at Davis Water Treatment located at 1753 S. Cleveland-Massillon Rd. I went out and spoke with Mr. Davis on March 28, 2007. Ass't ZI Sue Schultz informed me that the Township historically has not permitted such storage containers. After doing some research I found this to be true with variances that were applied for by Cracker Barrel and Toys R Us. I asked Mr. Davis to explain exactly what the storage containers/trailers were used or going to be used for in writing, which he did. (See letter dated April 17, 2007) I responded to Mr. Davis via a letter to him dated 5/4/07.

I also explained to Mr. Davis the fact that such trailer requests by other businesses have been denied by the BZA but that he had the right to appeal my decision and the procedure to do so.

I do not agree with Mr. Davis' letter that the trailers are not used to conduct business or that they are not used as a selling device. Mr. Davis also cited Section 423-2, which permits trailer sales and service and storage of both new and used. However, this is not what Davis Water Treatment business is.

Definition of Truck and Trailer Sales and Service and Storage of Both New and Used: A retail business which sells or leases new or used trucks or trailers and may also include an area which offers minor repair services of such vehicles.

On May 10, 2007, an application was filed for an administrative appeal as well as a variance by Mr. Davis's attorney-Mr. Steven Hobson, II. on behalf of Davis Water Treatment.

I would like to offer the following comments:

Definition of Trailer or Mobile Home-Any vehicles or structure

constructed in such a manner as to permit occupancy thereof a sleeping quarter or used as a selling or advertising device, or use for storage or conveyance for tools, equipment, or machinery and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor powers.

This property is surrounded by residential. The complaint came from a resident. I have received 2 inquiries from business owners in the Township wanting to know if and when they could put in trailers and stated they would do so pending a positive decision for Davis Water Treatment to have the storage trailers.

I know the BZA is not precedent setting, but to permit these trailers will open up the Township to many more such requests.

Chair Weinstein asked Zoning Inspector Ferencz, in her opinion, what Sections of the code was Mr. Davis in violation of? Zoning Inspector Ferencz stated both Section 302 Y and 302 H.H. The definition in the Zoning Resolution for Trailer or Mobile Home states, "Any vehicles or structure constructed in such a manner as to permit occupancy thereof a sleeping quarter or used as a selling or advertising device, or use for storage or conveyance for tools, equipment, or machinery and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor powers." This is the definition in the Resolution and that is what I had to go by.

Chair Weinstein then asked for comments by Township legal counsel, Irv Sugerman. Mr. Sugerman reiterated support for the comments made by Zoning Inspector Ferencz. He added he did discuss the events when they first occurred with the Zoning Inspector and concurred with her analysis. Mr. Sugerman stated that because it is an administrative appeal the decision will rest with this Board. Under Section 302 H.H., it specifically mentions accessory structures in terms of temporary sales. Mr. Sugerman added that whatever term the Board wanted to refer these items as i.e. containers, trailers, storage, he believed they were accessory structures and therefore are limited in nature to the time frame and activity involved. Based on the testimony that he has heard this evening that some of these containers have been on the property as long as 6-8 months; that is not within the intent or spirit of the Zoning Resolution.

Mr. Sugerman also added that the definition of trailer does state, "Any vehicles or structure constructed in such a manner as to permit occupancy thereof a sleeping quarter or used as a selling or advertising device, or use for storage or conveyance for tools, equipment, or machinery and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor powers."

Mr. Sugerman stated he did feel that these containers fit this definition as Mr. Davis is conducting a business, trade or occupancy, but again because this is an appeal, it is the decision of the Board to uphold or deny the decision of the Zoning Inspector. As a practical matter, the sections need to be read in conjunction as it relates to this issue.

Mr. Hobson stated he felt that apples and oranges were being talked about. In one section of the code it mentions trailers and in another accessory structures. He added that he is not arguing these containers

do not meet the definition of a trailer but the only section of the code that they were told they were in violation of was Section 302 Y. which states that no trailers or mobile homes shall be used for living quarters and no trailers or mobile home parks are permitted within the Township. Now it appeared the definition of trailer was being massaged to fit an accessory structure. If it is a trailer, nowhere in the definition of structure does it mention that. The code does not define accessory structure but only structure. The definition of structure reads, "Anything constructed or erected, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground, including advertising signs, billboards, pergolas...."

Chair Weinstein asked if these trailer/containers constitute display items. Mr. Hobson stated he did not believe that they do. If you read Section 302 H.H. it is talking about billboards and displays. They are talking about things permanently attached to the ground, which these containers definitely are not. Chair Weinstein interjected that he did not read anything about display items having to be attached or permanently attached to the ground.

Mr. Hobson stated that if there are ambiguities in the law, then generally regulations against the free use of the property are strictly construed against the party trying to restrict the use of the property. If the code does not define it then the property owner should receive the benefit of the doubt.

Mr. Hose asked what would be the constraints if Mr. Davis wanted to put a building up to house these trailers/containers? Zoning Inspector Ferencz stated he could do so provided he met any size or setback requirements. She added she did discuss that with Mr. Davis as well. Mr. Hose then asked if the storage units had a pitched roof would they be considered a storage building. If it is put on a slab or on the ground is it different.

Again Mr. Hobson stated what he and his client are here for tonight is the letter of violation they received of Section 302 Y. -Trailers and Trailer Parks are not permitted in the Township. The letter does go on to mention Section 302 H.H. but he believed the letter meant that his client was in violation of Section 302 Y. This is the decision that they are appealing. It seems like now another way being created to keep these trailers out.

Mr. Sugerman stated that under Section 202 there is a definition of accessory building or use which reads, a subordinate building or use customarily incidental to and located upon the same lot occupied by the main building and use. Garages are not accessory buildings. See also Article III. Section 302 Q., which lists a definition of an accessory building. Under this Section it states, one accessory building per lot," which may answer Mr. Hose's question as well as Chair Weinstein about if there could be 50 or more of these containers on a lot.

Mr. Sugerman concluded that the violation letter did reference Section 302 H.H. as well and not simply 302 Y.

Mr. Robinson asked if the definition of an accessory building included trailers. Mr. Sugerman stated one could use an accessory trailer for storage incidental to the main building in a C-4. Mr. Robinson stated he found nowhere in the code that a trailer was an accessory building. Mr.

Sugerman rebutted, if it is being used as a structure that conclusion could be inferred.

Mr. Wilkerson stated that in the C-4 District it permits trailers sales service and storage both new and used. Storage of both new and used gives no limitations on size, what they might say or be used for while sitting on the property or the time-frame involved. He added he could not see the limitations that the Township was trying to impose. Mr. Sugerman stated his reading of that Section is that it deals with the sale of trailers not the sale of merchandise from a trailer. Mr. Wilkerson then asked what does the storage of trailers mean. Mr. Sugerman responded, storing them for sale. Mr. Wilkerson stated that was what Mr. Davis was doing. Mr. Sugerman stated that was a factual determination to be made by the Board.

Mr. Hobson concluded that the C-4 District permits the sales of trailers and trucks and to tell someone in the District they cannot have trailers on their lot seems to be in opposition of the purpose of this district. Mr. Davis bought the property in a C-4 District in order to use it for a commercial purpose. Chair Weinstein interjected, that if these were accessory buildings only one would be permitted. He added that it appears that Mr. Hobson's view is that what Mr. Davis has is temporary buildings, which are not structures, and they may be trailers but they are permissible so they fall within a gap within the ordinance. Mr. Hobson stated he did not agree that only one building would be permitted. He added that Mr. Davis could build a 40'x40' building in which he could put four of these trailers inside. Chair Weinstein commented that Mr. Hobson and his client have made a persuasive point as to how the code ought to be construed.

Mr. Hobson continued, that the way the topography is on this property, it is bounded and banked around this 40x40 ft. area and it is his client's intention to only have the trailers in this specific portion of the property. It is also his client's intent to put trees around it for landscaping/screening purposes.

**Mr. Robinson made a motion to close the public portion of the hearing. Mr. Hose second. ROLL CALL-Robinson-aye, Hose-aye, Juve-aye, Wilkerson-aye, Weinstein-aye.**

The Board then entered into discussion amongst themselves.

Chair Weinstein stated the appellants point is that even if it is a trailer, it is not an impermissible trailer because Section 302 Y. doesn't say you can't have a trailer just that you can't live in one. Also, a parked trailer does not constitute a trailer park. Mr. Robinson agreed.

Chair Weinstein commented that he did feel it was a matter of interpretation and that the ordinance is less than crystal clear. Mr. Robinson interjected that no matter how the Board decides it is not a reflection on the Zoning Inspector. She acted very reasonably. However with that said, he did not believe the code gave authority for her to make a clear ruling. Chair Weinstein stated this might be an issue for the Zoning Commission to work on if they feel fit to do so.

Mr. Wilkerson stated he felt there was plenty of ambiguity in the Zoning Resolution that lead to this whole issue before the Board this evening. However, looking at other permitted uses in the district, would we rather have a few trailers in the back or having the whole property

covered with used cars for sale. He added he did not believe this was an objectionable permitted use.

Chair Weinstein stated that what the Board needed to decide was if the decision of the zoning inspector should be upheld or overturned.

Mr. Hose stated he could see how the Zoning Inspector interpreted the code, however the C-4 District seems wide open to such uses.

Chair Weinstein stated that if the Zoning Inspector's decision is upheld then the Board will hear a variance appeal by the applicant immediately following the Board's decision. If the Zoning Inspector's decision is overturned then there will be no variance needed.

**Mr. Wilkerson made a motion to overturn the Zoning Inspector's interpretation. It was second by Mr. Juve. ROLL CALL-Wilkerson-aye, Juve-aye, Robinson-aye, Hose-aye, Weinstein-aye.**

PUBLIC HEARING – 6:10 PM

APPLICANT: **DAVIS WATER TREATMENT INC.**

LANDOWNER: **PATRICIA ANN DAVIS, TRUSTEE**

LOCATION: **1753 S. CLEVE-MASS. ROAD**

ZONING DISTRICT: **C-4 COMMERCIAL**

VARIANCE: **IF APPLICANT IS UNSUCCESSFUL WITH APPEAL OVER WHETHER STORAGE TRAILERS ARE PROHIBITED BY 302 (Y) OR 302 HH. APPLICANT SEEKS A VARIANCE TO BE ABLE TO KEEP THE STORAGE TRAILERS ON PREMISES.**

**Mr. Hobson, attorney for Mr. Davis withdrew the variance request. Chair Weinstein noted the withdrawal for the record.**

PUBLIC HEARING – 6:15 P.M.

APPLICANT: **KEVIN SAMARIGAN**

LANDOWNER: **KEVIN SAMARIGAN**

LOCATION: **2198 COPLEY ROAD**

ZONING: **R-3 RESIDENTIAL & O-C OPEN SPACE**

VARIANCE: **ART. III, SEC. 302 CC. PRIVATE GARAGE**

Chair Weinstein opened the public hearing.

Chair Weinstein swore in the applicant, Mr. Kevin Samarigan.

Zoning Inspector Ferencz presented the application. The property is split zoned. The house and the attached garage are on the portion of the property zoned R-3 and the rear of the property is zoned O-C. The applicant wants to increase the size of the unattached garage from 900 sq. ft. to 1800 sq. ft. The applicant also cannot meet the minimum side yard setback requirement of 15 ft. The variance request is to have a 13 ft. side yard setback. The total acreage is 4.960 acres.

The application also stated that the new building is in the exact setback from the road as the old building that is currently there that will be demolished. The old building is approximately 11' from the line at this time. New building will be moved west 2 ft. from the old building location.

Question #12 from the Variance application: Please explain the practical difficulties or unnecessary hardship which justify this application for a variance: "Currently have one vehicle that is too large for the current

buildings, currently no space for bee keeping supplies and bee workshop.”

Mr. Samarigan stated that currently there is a building on the property that is 30' x 22' as well as an attached garage. He added he had an extended cab truck and two antique vehicles that he would like to house in the proposed building. The existing building is 57 years old and rather than put an addition on a building that old, the building would be demolished and a new building erected which would be 30'x60'.

Chair Weinstein asked if the existing building could be demolished and a new building, exactly the same size as the old be put in its place. Mr. Samarigan stated, then he could not house the vehicles he has as the size of the existing building is too small.

Mr. Robinson asked why the building could not be placed within the required setback. Mr. Samarigan stated that he did not do any measurements but it would be encroaching on the septic system. The reason he moved it to 2 ft. was that in 1999, he put an addition on his home, and the electric service fed to that detached garage which is not code today. So to change it, they put a stub pole on the property line and that reduced his access to the back yard so the building was moved over 2 ft. to open that access up a bit. The distance between the electric pole and the building was only about 9 ft.

**Mr. Robinson made a motion to close the public portion of the hearing. Mr. Hose second. ROLL CALL-Robinson-aye, Hose-aye, Juve-aye, Wilkerson-aye, Weinstein-aye.**

The Board then entered into discussion amongst themselves.

Mr. Robinson stated that this property was just shy of being 5 acres and the code for 5 acres allows for an 1800 sq. ft. unattached garage. It seemed to him a very minor variance request.

Chair Weinstein stated that the code allows for an 1800 sq. ft. unattached garage for those lots exceeding 5 acres. The Zoning Commission worked tediously on changing the code last year to reflect these new size requirements. Chair Weinstein added that he felt the BZA would be called upon constantly to change what the Zoning Commission has written regarding unattached garage sizes. The question for the Board to ask is this a self-created practical difficulty by the applicant.

Mr. Robinson stated that just because the Township made a set of rules does not mean they cannot be modified. If the applicant only had 2 acres he could see the variance being substantial but in this case it is not since the property owner has 4.960 acres.

Mr. Wilkerson stated he could agree with Mr. Robinson's comments if the lot was not so narrow. The lot is only 133 ft. wide especially in regards to the second variance for the side yard setback. He added he understood Mr. Robinson's statements about the amount of acreage but questioned where the Board drew the line.

Chair Weinstein stated he did not believe the mere size of the lot is the test for whether or not you have practical difficulties. He also did not believe the size of the variance or whether the variance is substantial or not, is the deciding factor. Chair Weinstein added he remained committed to the view that self-created practical difficulties are not the

legal definition of what practical difficulties are. With that said, this a decision for the Board to make.

**Chair Weinstein made a motion to reopen the public portion of the hearing for additional testimony by the applicant. It was second by Mr. Robinson. ROLL CALL-Weinstein-aye, Robinson-aye, Hose-aye, Juve-aye, Wilkerson-aye.**

Mr. Samarigan stated that the existing building that is going to be demolished is closer to the property line than the proposed building will be. From the view from the road they are the same size.

Mr. Juve asked the applicant if he would be satisfied with a slightly smaller building. Mr. Samarigan stated when he applied for the variance he applied for the largest building permitted. He felt that this would be his one time opportunity to get a building.

Mr. Robinson stated he felt there should be a sliding scale for the size of unattached garages based on the size of the property. The Commission needs to look at it. Chair Weinstein responded the Commission did look at it. Mr. Robinson stated that the code was unreasonable. Mr. Hose stated he agreed with Mr. Robinson. Mr. Robinson added the Commission did not communicate with the BZA. There is a 3x the size variation between lots under and including 5 acres and lots exceeding 5 acres and no variation in between and that is unreasonable.

Mr. Wilkerson asked the size of Mr. Samarigan's attached garage. Mr. Samarigan responded 400 sq. ft. Mr. Wilkerson stated now Mr. Samarigan was requesting an additional 1800 sq. ft.

Chair Wilkerson asked the size of Mr. Samarigan's house? He responded, just under 2,000 sq. ft. Chair Wilkerson stated so there would be a garage and an accessory building that will be larger than the residence. Mr. Samarigan stated if he had 5 acres it would not be an issue.

Mr. Wilkerson stated that if the Board permitted only the 900 sq. ft. unattached garage, Mr. Samarigan would still be permitted a 450 sq. ft. accessory building.

Chair Weinstein stated the applicant may be grandfathered so he could salvage a portion of the building and reconstruct the rest of it because the building was built in 1957 before zoning was established.

**Mr. Robinson moved that the public portion of the hearing be closed. It was second by Mr. Hose. ROLL CALL-Robinson-aye, Hose-aye, Juve-aye, Wilkerson-aye, Weinstein.**

Mr. Robinson reiterated his comments about the size of the property being so close to five acres and that there is no variation in the size of unattached garages between the 900 sq. ft. to 1800 sq. ft. permitted.

Mr. Wilkerson stated he did not see a practical difficulty as the applicant could still build a 900 sq. ft. unattached garage as well as a 450 sq. ft. accessory building. Also, if the Board granted the 1800 sq. ft building, the applicant could still build a 450 sq. ft. accessory building.

Mr. Hose stated that he would like to put on a condition that if the variance was granted there could be no accessory building and the

Board has done this in the past.

STANDARDS FOR CONSIDERATION OF PRACTICAL DIFFICULTY FOR AN AREA VARIANCE:

- 1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- 2) Whether the Variance is substantial;
- 3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- 4) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- 5) Whether the applicant purchased the property with knowledge of the zoning restriction;
- 6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

**Mr. Robinson moved to approve the variance as requested to build an 1800 sq. ft. unattached garage with the condition that no additional accessory buildings can be built on the property. It was second by Mr. Juve. ROLL CALL-Robinson-aye, Juve-aye, Hose-aye, Wilkerson-aye, Weinstein.**

Regarding the setback variance, Mr. Hose questioned why the building could not be moved over another 2 ft. Mr. Samarigan testified that it may encroach on the septic system but did not know that for sure, so that is his practical difficulty.

Chair Weinstein stated for the record, that he was not in total agreement with the first vote but the Board just approved an 1800 sq. ft. building and questioned the debate over 2 ft.

**Mr. Hose made a motion to approve the side yard setback variance as requested. It was second by Mr. Robinson. ROLL CALL-Hose-aye, Robinson-aye, Juve-aye, Wilkerson-nay, Weinstein-aye.**

Review of Minutes:

**Mr. Hose made a motion to approve the minutes from the May 23, 2007 meeting as written. It was second by Mr. Juve. ROLL CALL-Hose-aye, Juve-aye, Robinson-aye, Weinstein-aye, Wilkerson-abstain.**

FUTURE MEETING DATE: July 25, 2007 at 6:00 p.m.

With no further business to come before the Board, the meeting was adjourned at 7:30 p.m.

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Joe Weinstein, Chairman

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Sue Schultz, Secretary