

# Zoning Board of Appeals November 17, 2021 Minutes

Chair Douglas Purcell opened the public hearing at 6:30pm.

Members of the public in attendance: Code Officer Jennifer DeRocker-Blowers, Timothy Burton, Linda Gilbert, Jack Glenn, Mike Voght.

Chair Douglas Purcell announced that for the ease in publishing the minutes for tonight's meeting, this session is being recorded. He then asked for a roll call.

Chair Douglas Purcell: Present.

Frank Malagisi: Present.

Kathleen Ellerby: Present.

John Byrnes: Present.

Kenneth Coirin: Present.

Quorum was established.

Chair Douglas Purcell said the meeting minutes of October 19, 2021 were published to the web previously. He asked if there were any changes or correction to the minutes from that meeting.

There were none.

**Motion:** Chair Douglas Purcell said hearing none, he moved to waive the reading of those minutes and approve the minutes as published. He asked for a second.

Kathleen Ellerby seconded the motion.

All were in favor and none were opposed.

Chair Douglas Purcell said the Board had one application for tonight. He said this meeting will be a two-part hearing; a public session followed by a closed session. He said during the open session, the Board will hear first from the applicant. He said the Board would then entertain comments from the public and hear any correspondence. He reminded those speaking to address all comments to the Board. He said during the open session, the Board will refrain from questions or comments as these will be addressed in closed session. He said once all parties have had an opportunity to speak concerning the application, the Board would go into closed session.

Chair Douglas Purcell said that at this time, the Board would hear [Application Z2021-09](#), by Tim Burton, for the property located at 120 County Highway 111 and identified as parcel [SBL#68.-1-3.2](#). He said the property owner proposes to build a 432 square foot [Hunting and Fishing Cabin](#). The proposed location for this structure is in a portion of the property zoned as [Hamlet](#). He said a [Hunting and Fishing Cabin](#) is not a [use by right in the Hamlet Zone](#). He asked the applicant to present the case for the granting of a [Use Variance](#).

Timothy Burton said this parcel has been in his family since the 1960's. He said he's been going there since he was 12 years old. He said his father had a trailer, 12 by 30 where the access road comes in. He said it was used as a hunting and fishing cabin. He said his father planted pine trees. He said these pine trees kept the access road from washing out from runoff from Sheeley Mountain. He said the trailer dated from the 1950's and had deteriorated. He said he took out the trailer in May 2021. He said he wants to put a log cabin, built by Mohawk Sheds. He said he would put down six inches of gravel. He said there would be no

running water, no electricity, to use as a hunting/fishing cabin. He said there is an outhouse that has been there since the 1960's. He said the trailer got used for 4 times during the summer and 4 or 5 overnights during hunting season. He proposes propane lights and a propane stove. He said he proposes to build in the same footprint and same site as before. He said he does not want to tear down the pine trees and push the cabin farther west. He said the trees are sentimental to him. He said it would, however, have a six-foot porch.

The Clerk said there was no correspondence.

Chair Douglas Purcell said that at this time, he would close the open session for this application and the Board will go into closed session to discuss the application. He said he would like to address why, in his opinion, this needs to come before this Board as a Use Variance. He said that in reading through the [Zoning Ordinance, Article 9 § III](#) which addresses nonconforming uses of land, [Article 9, § III\(E\)](#) states that:

A nonconforming use of land shall be deemed to have been discontinued if the use has been discontinued for a period of 12 consecutive months.

Chair Douglas Purcell continued, saying however, [Article 9, § IV](#) covers nonconforming uses of buildings. [Article 9, § IV\(A\)\(5\)](#) covers the removal of a nonconforming use of a building and states:

If any building in which any nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the

subsequent use of any building erected thereon shall conform to the regulations of the district.

Chair Douglas Purcell said that is why the applicant is here before the ZBA today. He then opened the closed session for Board questions and comments.

Kathleen Ellerby asked the applicant that for the amount of money the applicant is planning on putting the proposed cabin up, why not purchase a used trailer.

Timothy Burton said he wanted to leave something for his daughter where she would not have to deal with the mice down the road.

Kathleen Ellerby said she was thinking that if it was allowed before, it should be allowed again.

Chair Douglas Purcell said to Kathleen Ellerby that the ordinance changed [was created] from the time that the trailer was put there and that is wherein lies the problem. He said that the applicant could have done a continuation of a nonconforming use if the applicant had not taken the other trailer out.

Kathleen Ellerby agreed, saying the applicant had already taken the original trailer out.

Chair Douglas Purcell asked if Kathleen Ellerby had anything else.

Kathleen Ellerby said that was it.

Frank Malagisi said the trailer was gone but that the wooden structure next to the trailer was still there.

Timothy Burton said it was basically a little woodshed that they keep firewood in.

Frank Malagisi pointed to the structure to which he was referring in a legacy photograph.

Several persons simultaneously said the structure to which Frank Malagisi was pointing was gone.

Officer Jennifer DeRocker-Blowers said Frank Malagisi was looking at the wrong photograph.

Timothy Burton said that was not a photograph of his parcel.

Chair Douglas Purcell noted that it was a little confusing but the structure was not there. He said the only things still there are the shed and the outhouse and the steps.

Officer Jennifer DeRocker-Blowers spoke to Frank Malagisi to explain what each photograph was. She said she had told the Assessor that photographs on Fulton County SDG Image Mate Online are of the wrong parcels.

Several persons spoke simultaneously.

Frank Malagisi said, referring to the drawing, there is 68.-1-3.2 and 68.-1-3.1 and a rectangle and a line that is marked "trailer".

Chair Douglas Purcell said on the drawing has the trailer partly on 68.-1-3.2 and partly on 68.-1-3.1 and he reminded the Board that the submission was hand drawn.

Timothy Burton said that as far as he knew, it was on his parcel and the rest of the area being discussed was owned by his cousin.

He said that the trailer had been in the exact same spot for the last forty or fifty years.

Chair Douglas Purcell said that there is a little drawing that says there is a forty foot access road, but when he looks at the documentation of the deed, it says the road goes to property to which he was pointing. He said he was there today and he found the road and walked up it into the applicant's property, from everything he could determine.

Timothy Burton said that is why the road was laid out that way.

Kenneth Coirin said that the question then becomes is the applicant proposing to put the cabin entirely on the applicant's parcel.

Timothy Burton said that to his knowledge, yes.

Frank Malagisi asked if it were to be granted, would the applicant be opposed to having the parcel surveyed so that the cabin definitely is on the property, because right now it is the applicant and the applicant's cousin. He said that if ten years down the road the cousin wants to sell and if the applicant doesn't want to buy it, whatever the applicant is creating could be on the other party's property.

Timothy Burton said OK.

Frank Malagisi asked if the applicant would be willing to have the parcel surveyed so that whatever structure was proposed, would be totally on the applicant's land.

Timothy Burton said yes. He said that his cousin just had the parcel surveyed. He said the Board may have noticed that it had been logged recently.

Chair Douglas Purcell said yes, he had noticed.

Timothy Burton said his cousin had logged his cousin's parcel.

Chair Douglas Purcell said that it may be worth the applicant's while to ask the cousin to make that survey available to the ZBA.

Timothy Burton said this is where he was going. He reiterated that his cousin just had the cousin's parcel surveyed. He said he probably could get that from the cousin. He said he had spoken to the cousin previously about doing so and had been told it would be no problem.

Chair Douglas Purcell queried the Board to see if there were other issues. There were none.

Chair Douglas Purcell said that Kenneth Coirin and Frank Malagisi had taken care of his first concern. He said that when he looked at what was given to the Board, the tax map and the plans, the plans show it as all on one property and the tax map shows it as split. He said the other thing he wanted to talk about was the tax map that the applicant provided, it looked like the line between Caroga Hamlet and Caroga R-8.5 is roughly 51 feet from the back of the applicant's parcel. He said he took the applicant's drawing and measured where that line was hand-drawn in. He said he looked at the [Caroga Zoning District Map](#). He said that on that map, it looks like the Zoning District boundary bisects the property. He said that would make it roughly 115 feet from the back of the applicant's property. He said that in the R-8.5 zoning district, a hunting camp is allowed by [Site Plan Review](#). He said his question to the applicant was, has the applicant given any consideration to moving the proposed structure back on the parcel so that it would be in the R-8.5 zone and then all the applicant would need would be a Site Plan Review to have this done. He

posited that the reason the applicant did not want to do that was because of the trees that were planted and the erosion.

Timothy Burton agreed.

Chair Douglas Purcell said the biggest concern that he has is that so far what has been presented would fail to meet the criteria for granting a Use Variance. He said he wanted to read from the Zoning Ordinance portion on the [Use Variance](#):

- ii. No use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.
- iii. In order to prove such unnecessary hardship, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  1. That applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

Chair Douglas Purcell said that Use Variances are probably the most difficult variances to obtain. He said he is not saying that the applicant could not provide some information that would do that. He said the applicant has other options available. He said that unlike an Area Variance, for a Use Variance, the applicant has to meet all of the criteria. He said with an Area Variance, the ZBA can say they think it is substantial, but grant it anyway. He said that with a Use Variance, if the applicant has not demonstrated the financial aspect of it, and speaking for himself at this point, the ZBA can not grant a Use Variance. He said he just wanted to put



that out there for the applicant. He said there were four other members of the Board and they may disagree with him and he could be out-voted. He said that was where he was with it. He asked John Byrnes if he had any questions or concerns.

John Byrnes asked if there was electricity in the proposal.

Chair Douglas Purcell said the applicant had said no.

Timothy Burton said there never had been any there and he had no intention of putting any in there.

Chair Douglas Purcell said for the board, his first question is does the Board consider the application complete.

John Byrnes said yes.

Kenneth Coirin said yes.

Frank Malagisi said he did not think it was complete.

Kathleen Ellerby said no.

Chair Douglas Purcell said that from what he has just said, it should be obvious that he has concerns that the application is not complete. He said that the ZBA needs a complete application and because this application is for a Use Variance and the property is located within 500 feet of a county highway, and the parcel is 300 feet from County Highway 111, the application needs to go to the Fulton County Planning Board before the ZBA can even take any action. He said he can not submit to the county an incomplete application. He reiterated that he needed to have a complete application. He asked Kathleen Ellerby was she felt was missing.

Kathleen Ellerby said the survey.

Frank Malagisi said the applicant could take other options.

Chair Douglas Purcell asked Frank Malagisi what was preventing it from being a complete application.

Frank Malagisi said those concerns.

Chair Douglas Purcell said to the applicant that if the applicant could get the survey and some sort of financial justification to bring back to this Board, then the Board could consider the application complete and then forward it to Fulton County Planning Board for their review. He said the next meeting of the Fulton County Planning Board is December 21. He asked the Clerk to confirm the deadline for submission was a week prior.

Clerk said yes, Tuesday at 5:00pm a week prior.

Chair Douglas Purcell asked if that was December 14.

Clerk said yes, December 14 at 5:00pm.

Chair Douglas Purcell said that the Clerk would need some time to prepare the application to go to Fulton County Planning, which would mean minutes from another meeting and this meeting ready as well as the application itself. He then asked the applicant if the applicant could have by December 7 the cousin's survey and some financial justification as to why that doesn't really work for the applicant.

Timothy Burton asked what financial justification the ZBA was looking for.

Chair Douglas Purcell said the applicant has another option available. He said the applicant could petition the Caroga Town Board to change the Zoning Map for that part of the parcel. He

said that was one of the other options available to the applicant. He reviewed the possible uses of the land from the Use Table. He mentioned that the applicant could put a house there. He noted that the Zoning Board of Appeals has historically had to reject Use Variances because there has been no financial justification. He said he could think of the candle folks around Pine Lake. He said the Frasier's wanted to put up livestock under the old zoning ordinance and had to be denied. He said the Frasier's presented information as to what it cost them to board animals. He said that somebody had lakefront property that was not allowed to have a dock and that applicant did not really have an economic justification. He said the ZBA went to the Planning Board and said they thought the Planning Board had made a mistake and recommended to the Planning Board that the Use Table should allow docks in all zoning districts and the Planning Board is in the process of doing that.

Clerk mentioned the Nathan Littauer Caroga Primary Care Clinic.

Chair Douglas Purcell thanked the Clerk and said that applicant wanted to put a clinic where it ended up, but that land was not permitted to have a clinic. He said that applicant did not present financial information to justify a Use Variance. He said the Caroga Town Board made a resolution to change the zone for the Town Hall parcel from Conservation to Hamlet, which allowed them to put the clinic in. He said that in the Zoning Ordinance there is a description of the process by which an applicant can petition the Town Board to have the zoning changed. He said that when he looks at the Zoning Map, he does not understand why that district starts probably around 500 feet from the road when there are a whole string of properties that are basically 330 feet deep. He asked why the R-8.5 start where those property lines end, which would put the applicant's property completely within R-8.5 and all

the applicant would need would be a Site Plan Review to put up the cabin. He said those were what he saw to be the applicant's two options, or relocated it further back.

Timothy Burton said that would destroy his whole [he stopped speaking at this point].

Chair Douglas Purcell suggested that maybe that was what the applicant should use for the financial justification.

Timothy Burton asked about what Kathleen Ellerby had said about just putting another trailer there.

Chair Douglas Purcell said that is why he wanted to point out to Kathleen Ellerby that did not solve the applicant's problem: the applicant has removed the trailer. He said that is why he, at the beginning before opening it up to the Board, explained that by taking the trailer off, the applicant put himself in the position of having the parcel revert to the current Use Table. He said that if the applicant had come to Code Enforcement and said to Code Enforcement that he wanted to replace the existing trailer with a new trailer, Code Enforcement should have been able to approve it. He said that as soon as the applicant took the trailer off the property, something else happened.

Code Officer Jennifer DeRocker-Blowers noted that the applicant had not spoken to her first. She asked the applicant who did the applicant speak to and what did they say.

Timothy Burton said that before he moved the trailer off of the property, he checked in with Code Office several times.

Chair Douglas Purcell expressed his displeasure upon hearing this news.

Applicant was asked if it was a male [the only other Code Enforcement Officer being Anthony Fancher].

Timothy Burton confirmed.

Chair Douglas Purcell his exasperation upon hearing this news.

John Byrnes asked what the applicant was told.

Chair Douglas Purcell said Code Enforcement Officer Anthony Fancher was not present for the Chair Douglas Purcell to ask.

Timothy Burton said that at one point he described to the Code Enforcement Officer what he wanted to do and was told that he could pull the trailer out of there without a permit. He said he was told that if he wanted to destroy the trailer or take it apart he would need...

Chair Douglas Purcell said a demolition permit.

Timothy Burton said a demolition permit. He said he then hired a salvage guy to take it out of there, thinking he was in the clear.

Code Enforcement Officer Jennifer DeRocker-Blowers asked if the applicant obtained a demolition permit.

Chair Douglas Purcell said the applicant had it pulled out.

Timothy Burton said he was told if he pulled it out of there, he was good to go. He said that was exactly what he did. He said he had no idea he was going to have [problems].

Chair Douglas Purcell said that from the standpoint of what the applicant is proposing to do, if he did not look at the Use Table, the project is fantastic. He said that's why he thinks the applicant's best options are first of all, getting the ZBA a survey — the ZBA

needs the survey. He said second, put together some economic justification for why putting on the R-8.5 portion of the parcel is not an option, and what it would cost the applicant to do so, so that the ZBA has some sort of economic justification to review the Use Variance, or petition the Town Board for a change to the Zoning Map.

Timothy Burton asked again if he had an option to replace the trailer.

Chair Douglas Purcell said not at this time.

Timothy Burton asked that even though it was within twelve months. He said he was just going by what he was told [by Code Enforcement Officer Anthony Fancher].

Chair Douglas Purcell said he was going by what is in the Zoning Ordinance and what is in [Zoning Ordinance Article 9, § IV\(A\)\(5\)](#), which covers the removal of a nonconforming use of a building. He quoted:

If any building in which any nonconforming use is conducted is hereafter removed

Chair Douglas Purcell said it was not permitted, but the applicant was grandfathered because the structure was there before.

Timothy Burton said over forty years.

Chair Douglas Purcell said right. He continued the quote:

is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of

any building erected thereon shall conform to the regulations of the district.

Chair Douglas Purcell said the Board's hands are tied and that is why the applicant is here for a Use Variance.

Timothy Burton asked what would he need to take a trailer in there and take it out when he was done with it. He asked if there was a permit available for that.

Chair Douglas Purcell said those were questions he tries not to answer of the top of his head. He said he would not go on the record for anything until he has a chance to look at this. He said the first thought that came to him when he received the application was the twelve month issue, but he knew he had to look at the Zoning Ordinance, because if one does not take the time to look at the Zoning Ordinance... He said to Code Enforcement Officer Jennifer DeRocker-Blowers that the Zoning Ordinance was his "bible". He said that if somebody has a question about zoning, he goes to the Zoning Ordinance first, only he really goes on the computer [online HTML version of the Zoning Ordinance] because it is easier to scan things. He said he want to look at all of the instances where that appears because one can be surprised by what one finds in one sentence or two sentences that one didn't even know about.

Frank Malagisi asked if the ZBA was getting hung up on terminology. He said the applicant is calling the proposed structure a hunting camp and he himself is calling it a shed.

Chair Douglas Purcell said that the applicant has to define a use for the structure that the applicant is putting in there and the applicant is definitely putting it in there as a hunting camp.

Frank Malagisi spoke of purchasing a double-wide in another town and calling it a “camp”, but it was someone’s house. He said he’s not saying that the applicant is building a house here. He said the proposed structure was 12 foot by 30 foot with a six foot porch and that could be a glorified shed. He said he did not want to get hung up on the fact that the applicant is calling it a hunting camp but to him it is a shed. He reiterated the earlier question about whether there would be electricity.

Timothy Burton answered no.

Kenneth Coirin said no power, no water.

Frank Malagisi reiterated the question about water.

Timothy Burton said no water.

Chair Douglas Purcell reminded his fellow ZBA members that the Denial Notice included the definition of [Hunting and Fishing Cabin](#). He thanked Code Enforcement Officer for copying it out of the Zoning Ordinance for the benefit of his fellow ZBA members. He read:

Is a one-story structure but may include a sleeping loft;

Chair Douglas Purcell asked the applicant about sleeping in the proposed structure.

Timothy Burton answered yes.

Chair Douglas Purcell said therein lies part of the problem: the applicant can not be sleeping in a shed. He continued:



Is built on posts or piers and does not have a permanent foundation;

Chair Douglas Purcell reminded the Board that the applicant is proposing to put it on stone. He continued reading:

Is served by a sanitary pit privy or chemical toilet and does not have a conventional, onsite wastewater treatment system;

Chair Douglas Purcell said the applicant is using an outhouse. He continued reading:

Does not have pressurized or indoor plumbing

Chair Douglas Purcell reminded the Board that the applicant said he was bringing water in.

Timothy Burton agreed.

Chair Douglas Purcell continued:

Is not connected to any public utilities (such as electric, phone, cable, water or sewer systems).

Chair Douglas Purcell reminded the Board that the applicant would have no electricity, phone, cable or water.

Timothy Burton agreed.

Chair Douglas Purcell spoke to Frank Malagisi, saying the proposal would seem to meet the definition of a [Hunting and Fishing Cabin](#).

Frank Malagisi said OK.

Chair Douglas Purcell asked the applicant if he could get the information requested so that the ZBA could call the application complete.

Timothy Burton said he would try.

Chair Douglas Purcell asked the applicant to contact Code Enforcement Officer Jennifer DeRocker-Blowers when the applicant thought he could have the information available so that the ZBA could schedule another meeting.

Timothy Burton answered sure.

Chair Douglas Purcell said he did not want to put a deadline and then have the applicant not make that deadline, but he did want the applicant to keep in mind that the ZBA needs to submit an application for § 239-m review before the ZBA can take any action.

Timothy Burton said OK.

Chair Douglas Purcell asked for a motion to table until the additional materials requested are available.

**Motion:** Frank Malagisi moved to table the application until such time as the additional materials requested are available. Kathleen Ellerby seconded the motion. All were in favor. None were opposed.

Chair Douglas Purcell apologized to the applicant that the ZBA could not proceed without the requested materials.

Timothy Burton said no problem.

Chair Douglas Purcell said it would also give the ZBA something more to present to the Fulton County Planning Board.

Timothy Burton said OK.

Town Clerk Linda Gilbert could not understand why a Public Hearing was scheduled when the application was incomplete — whether or not his fellow Board members thought they had enough information.

Chair Douglas Purcell explained to the Town Clerk that the ZBA has to begin the Public Hearing to see whether the application is complete — whether or not his fellow board members thought they had enough information.

Town Clerk Linda Gilbert said um, yeah, I have to figure that out a little better.

Chair Douglas Purcell said well, you work on that for me.

[laughter]

Chair Douglas Purcell then asked what other business the Board had.

Frank Malagisi asked for clarification on the motion.

Chair Douglas Purcell said the Board had voted all in favor to table.

Chair Douglas Purcell then asked again what other business the Board had. He asked Code Enforcement Officer Jennifer DeRocker-Blowers if she had another set of application materials for the Board.

Code Enforcement Officer Jennifer DeRocker-Blowers said yes and she also had a draft worksheet.

Chair Douglas Purcell said sure.

Code Enforcement Officer Jennifer DeRocker-Blowers distributed application materials for another ZBA application. She then spoke about a chart.

Clerk said the APA Hotaling Table.

Code Enforcement Officer Jennifer DeRocker-Blowers said this was the chart that Robyn Burgess [APA Principal Adirondack Park Local Planning Assistance Specialist] refers to when explaining why a project is Class A or Class B. She said it was on the APA website.

Clerk said it was also on the [ZBA's website](#) [link to APA source [here](#)].

Code Enforcement Officer Jennifer DeRocker-Blowers said the Hotaling Table heading was in the last email she circulated. She described some of the information in the Hotaling Table.

Chair Douglas Purcell said that after looking at the flowchart and other information being presented, realistically he thought Code Enforcement would have addressed that well in advance of it coming before the ZBA. He said it looked like something Planning Board needed to know and Code Enforcement needed to know. He said it was important to point out some minor differences, e.g.,

what the Town of Caroga calls “Hamlet” zoning district is not the same as APA “Hamlet” land use classification area where the APA Hamlet land use classification area is a little broader than Town of Caroga Hamlet zoning district.

Chair Douglas Purcell spoke to the recently arrived Mike Voght, asking him if he had received the email from Planning Board Chair Al Kozakiewicz earlier today indicating the portion of the meeting where the ZBA was going to have the Planning Board talk to the ZBA was canceled. He said Mike Voght was welcome to stay.

Mike Voght said he would stay — that all the education was important.

Code Enforcement Officer Jennifer DeRocker-Blowers then presented a document. She said she took the document to try to see if it would work. She said she was correcting the sequence in a prior version. She spoke about a hunting/fishing cabin not being allowed to have electricity. She said if applicant was going to have electricity or septic, it wouldn't be a hunting/fishing cabin.

Chair Douglas Purcell described the document and said he found it very helpful.

Code Enforcement Officer Jennifer DeRocker-Blowers spoke about the worksheet. She said that once the ZBA members get that worksheet, if any member has any questions, they should contact the Code Office because they don't mind doing that.

Chair Douglas Purcell said “which is a good lead-in to answer Linda's [Town Clerk Linda Gilbert] question from earlier: why it is we're here at a Public Hearing and finding out that we don't have a complete application”. He recalled that one of the first

things he said when Code Enforcement Officer Jennifer DeRocker-Blowers showed him that the application was “it was a little weak in financial information in terms of what was being presented”. He continued by saying “however, I am only one of the five people”. He said, “I had no idea what the applicant might bring to the meeting in terms of financial information, when I asked him to talk about his justification for this application; I think that when we check the record, that that’s going to be a quote”. He said “during that discussion, it came to the conclusion of the rest of this Board that perhaps there was some stuff missing, so as we went through the discussion, we determined: do we have a complete application that we can send to the [Fulton County] Planning Board or not and we determined that we didn’t and at that point determined to table the meeting. I hope that answers your question, Linda.”

Town Clerk Linda Gilbert said, no in trying to cycle through this real quick... She then realized she was not reading from the section she was looking for.

Code Enforcement Officer Jennifer DeRocker-Blowers spoke about how the Planning Board met monthly back years ago and then it stopped meeting monthly and stopped determining completeness before referral.

Clerk said that what he thought happened [since he was on the Planning Board] was that Jim Selmsler was Chair and he followed the correct procedures, but Jim Selmsler had to resign when he became Supervisor, Clerk had to resign from Planning Board when Clerk became Councilman, and that’s when things changed.

Town Clerk Linda Gilbert said that the Zoning Ordinance says the Code Officer shall determine if the application is complete. She

asserted, incorrectly, that the Code Department was the final authority as to completeness.

Clerk explained to Town Clerk Linda Gilbert that “completeness gets established at various steps along the way”.

Chair Douglas Purcell said right.

Clerk continued explaining to Town Clerk Linda Gilbert that “this ZBA can grant a variance and then I do an ALLUP referral to the Park Agency and they do a Stop Clock because they say it is not complete — at every step of the way, it can be deemed not complete, whether it is a § 239-m to Fulton County Planning, whether it is an ALLUP referral to the Park Agency, or whether it is Code referring the applicant to the ZBA or to the Planning Board — at every step of the way, it can be determined not to be complete for various reasons.”

Chair Douglas Purcell said “I saw no purpose in sending this to the County Planning Board without it being complete with, certainly, no survey, which was requested”.

Frank Malagisi said that were he thought it was incomplete is that it looked like the structure seemed like it was on two separate lots.

Chair Douglas Purcell agreed, saying that was another too.

Frank Malagisi said that in order to determine that, a survey his cousin already had, so why not table it instead of having to deny it. He said it gives the applicant another opportunity to straighten what the applicant needs to and bring it back in front of the ZBA.

Chair Douglas Purcell said he was being given copies of another application for the ZBA to consider. He said it was obviously not something the ZBA would look at tonight, but it gives him an

opportunity to deliver the application packets and find out the Board's availability for another meeting. He said he was considering November 30, 2021 or December 2, 2021.

Kathleen Ellerby said Tuesdays were better for her.

Chair Douglas Purcell asked how Tuesday November 30, 2021 at 7:00pm worked for the Board.

The Board agreed.

Chair Douglas Purcell asked if there was any other business before the Board.

There was none.

Chair Douglas Purcell said that he wanted to let the ZBA know that a letter is going in the mail tomorrow to the Town Board that is going to say: "As a reminder, my term on the Zoning Board of Appeals expires on December 31, 2021. I am taking this opportunity to inform the Town Board that I am not interested in serving an additional term on the Zoning Board of Appeals. It is hoped that this notice will provide the Town Board with sufficient time to explore other candidates to fill this position." He continued, saying he enjoyed working with his fellow ZBA members and he will finish out his term, but he really doesn't want to spend another five years. He said it is taking him away from doing the things that he enjoys doing. He said he has found himself having to turn down assignments to officiate high school sports that he enjoys very much doing. He ended by saying he would welcome a motion to adjourn.

**Motion:** Kenneth Coirin moved to adjourn. Frank Malagisi seconded the motion. All were in favor of adjourning. None were opposed.



Chair Douglas Purcell thanked the ZBA members for their time.

The meeting adjourned at 7:26 pm.

Respectfully submitted  
James McMartin Long  
Town of Caroga Town Board Member,  
Zoning Board of Appeals Clerk/Secretary