

WILTON ZONING BOARD OF APPEALS
THURSDAY April 23, 2015

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, April 23, 2015 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Christopher Ramsdill, James Deloria, Dean Kolligian, Robert Barrett, Gerard Zabala and Scott Kingsley. Also present were Ryan Riper, Town Engineer, Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Attorney Grassi

ABSENT: Tony McCracken and Mark Mykins, Zoning Officer

Dean Kolligian arrived at 7:03 pm

MINUTES: The minutes of the last meeting, held on March 26, 2015 were approved, as submitted, on a motion made by Mr. Deloria seconded by Mr. Mr. Zabala. All board members were in favor.

CORRESPONDENCE: None other than those relating to current applications before the board.

OLD BUSINESS:

RENEWALS:

APPEAL NO. 11-13 Charles A. Gerber, 40 Bullard Lane, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit pursuant to Section 129-176 (V) of the Zoning Ordinance for agricultural use with animals. Permit was originally granted on April 25, 2011 for a period of two years and has been renewed once; property located on 40 Bullard Lane, Tax Map No. 141.-2-6.1 and No. 141.-2-7, zoned R-2, in the Town of Wilton.

Mr. Gerber approached the Board. Chairman O' Brien asked Mr. Gerber if he wanted his permit renewed he said yes. Mr. Gerber submitted a letter from the county planner to Chairman O'Brien. Mr. Gerber explained they had recently

applied to be in the County Agricultural District and he anticipated that by the end of the month they would be included in the district.

Mr. Ramsdill made a motion to approve Appeal No. 2011-13 for Charles A. Gerber, 40 Bullard Lane Saratoga Springs, New York 12866 request for renewal of a Special Permit pursuant to Section 129-176 (V) of the Zoning Ordinance for an agricultural use with animals for a period of two years; property located at 40 Bullard Lane, Tax Map Nos. 141.-2-6.1 and 141.-2-7, in the Town of Wilton, zoned R-2. This special permit is subject to all requirements listed in Section 129-176 (V) of the Zoning Ordinance and the board has considered all factors of Section 129-175 (D). This permit will be due for review and renewal on or before April 28, 2017.

Mr. Barrett seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

APPEAL NO. 13-09 Timothy Reed, 136 Parkhurst Road, Gansevoort, New York 12831. Request for the renewal of a Special Permit pursuant to Section 129 Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agricultural use with animals. The permit was originally granted on April 25, 2013 for a period of two years; property located at 136 Parkhurst Road Tax Map No. 127.-1-34, zoned R-2, in the Town of Wilton. Special Permit is due for review and renewal.

Mr. Reed approached the Board. Chairman O'Brien asked Mr. Reed if he wanted to renew his Special Permit. Mr. Reed said yes.

Chairman O'Brien asked if there were any questions of concerns. There were none.

Mr. Ramsdill made a motion to approve Appeal No. 2013-09 for Timothy Reed 136 Parkhurst Road, Gansevoort, New York 12831. Request for the renewal of a Special Permit pursuant to Section 129 Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agricultural use with animals for a period of two years; property located at 136 Parkhurst Road Tax Map No. 127.-1-34, zoned R-2, in the Town of Wilton. This special permit is subject to all requirements listed in Section 129-176 (V) of the Zoning Ordinance and the board has considered all factors of Section 129-175 (D). This permit will be due for review and renewal on or before April 25, 2017.

Mr. Kolligian seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 15-09 Allen Packard, 57 Ventura Court, Malta, New York 12020. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157 Projections into required yards, for a side yard setback for a proposed addition; property located at 9 Fairmont Drive, Gansevoort, New York 12831 Tax Map No. 127.12-3-8 zoned R-1 in the town of Wilton.

Chairman O'Brien asked if we had all the proofs. Ms. DiLeone said yes.

Mr. Packard approached the Board. Mr. Kolligian addressed Chairman O'Brien and he said he was missing the first appeal packets and wanted to know if any of the Board members were also missing it. Several Board members said the appeal was under the applicants name that was representing, Mr. Allen Packard. Mr. Packard explained he was representing the client. Mr. Packard explained his clients would like to put an addition on the end of the house. Mr. Packard explained the setback was 20 ft. and they had 15.7 ft. and would need 4.3 ft. of relief. Mr. Ramsdill stated the determination from the zoning officer said a proposed deck. Mr. Packard said he thought that was a clerical error. Mr. Packard said it was an actual addition.

Chairman O'Brien asked if anyone had any questions. Mr. Barrett asked if there were neighbors on either side. Mr. Packard said there were neighbors on both sides. Mr. Barrett asked how the neighbors felt about the addition. Mr. Packard said he didn't know and he noted he had sent out the required notifications. Chairman O'Brien asked if the return receipts came back. Mr. Packard said yes they did.

Mr. Kolligian made a positive motion to approve Appeal No. 15-09 for Allen Packard 57 Ventura Court, Malta, New York 12020. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157 Projections into required yards, side yard setback relief of 4.3 ft. for a 9 ft. X 24 ft. addition; property located at 9 Fairmont Drive, Gansevoort, New York 12831 Tax Map No. 127.12-3-8 zoned R-1 in the town of Wilton was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the relief of 4.30 ft. is minor, it blends in with the character of the existing residential neighborhood and it will obtain a look that is consistent with the area architecturally. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because the addition of a large room to be used as a master bedroom with, new bath and walk-in closet

there was no other option can accomplish this. 3. The applicant has demonstrated that the requested Area Variance is not substantial because as mentioned the 4.30 ft. added to the end of the house would blend into the neighborhood and the back part of the house. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the addition is on the end of the house and it does not affect the grade or environmental issues and will not create drainage issues. 5. The applicant has demonstrated that the alleged difficulty is self-created with no conditions.

Mr. Deloria seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

APPEAL NO. 2015-10 David & Nicole Eddy, 137 Cobble Hill Drive Wilton, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157 B, projection into required yards, for a rear yard setback for a proposed pool; property located at 137 Cobble Hill Drive, Wilton, New York 12831 Tax Map No. 140.11-3-11 zoned R-1 in the town of Wilton.

Chairman O'Brien asked if we had all the proofs. Ms. DiLeone said yes.

Mrs. Eddy approached the Board. Chairman O'Brien asked Mrs. Eddy if she was looking for 10 ft. of relief. Mrs. Eddy said yes. Mr. Barrett stated it looked like it was just the one corner of the pool that needed the relief. Mrs. Eddy explained that the pool company tried all different directions and shapes to make the pool fit into the setbacks. Mrs. Eddy further stated the yard was so irregularly shaped they couldn't meet the 20 ft. setback from the back. Mrs. Eddy stated the land behind them was the HOA land. Mr. Zabala asked if other than a fence would there be any plantings or trees. Mr. Eddy said no, there were already some arborvitaes and there would be no trees taken down. Mr. Kolligian asked attorney Schachner what the minimum requirement of distance from the back portion of the home to the pool on the map it showed 12 ft. Mrs. Eddie stated it was 10 ft. Mr. Kolligian said even if they moved the pool forward it would only be 8 ft. vs 10 ft. it would still need a variance. Mrs. Eddy stated the way the house was angled limits the space to put a pool. Attorney Schachner stated that the other Mark knows all the setback requirements he did not. Mrs. Eddy stated her pool guy said they needed to be 10 ft. from the house.

Mr. Ramsdill made a positive motion to approve Appeal 2015-10 for David and Nicole Eddy 137 Cobble Hill Drive Wilton, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157 B, projection into

required yards, for a rear yard setback for 10 ft. of relief for a proposed pool; property located at 137 Cobble Hill Drive, Wilton, New York 12831 Tax Map No. 140.11-3-11 zoned R-1 in the town of Wilton was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and the granting of the Area Variance because it is consistent with other properties in the area and it's located in the only place they could use on their property. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because of the unusual shape of their property and they don't have many options other than to use the back corner. 3. The applicant has demonstrated that the requested Area Variance is not substantial because they can't really move the pool forward because the house would encroach, it's the minimum amount that they would require. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it's consistent with the neighborhood. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Zabala seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

APPEAL NO. 2015-11 Patrick and Susan Baldwin, 944 Route 9, Gansevoort, New York 12831 Request for a Special Permit for a two family dwelling, pursuant to Schedule B, R-2 District, Section 129 Attachment 8; property located at 944 Route 9, Gansevoort, New York 12831, zoned R-2 in the town of Wilton.

Chairman O'Brien read a referral from the **Saratoga County Planning Board.**
Decision: No significant County Wide or Inter Community Impact

Comment: application meets all required yard dimensions, lot frontage, and the minimum lot size requirement for a 2-family residence. It is our understanding from discussion with town staff and a review of the submitted plot plan that there is no new driveway proposed for the new residences. An existing driveway now servicing the property will be used in conjunction with an easement for shared access to and from Rt. 9.

Mrs. Baldwin approached the Board and explained they were requesting a Special Permit for a two-family dwelling. Mrs. Baldwin further explained that it met all the setbacks, frontage and lot size. She said there was a cross access agreement that was filed April 8, 2015 at the county, which was approved by the Town Attorney. Mr. Ramsdill asked Mrs. Baldwin if that was why there were two maps,

was it originally going to be a separate driveway. Mrs. Baldwin explained there was an old map in the file that she had submitted along with the new survey and the new survey actually depicted lot #2. Mrs. Baldwin said if the Special Permit was granted the duplex would be behind the existing one back towards their residence. Mr. Kolligian made a statement to Attorney Schachner regarding not having to put a time limit on the Special Permit. Attorney Schachner said that was correct the Board dose that frequently with Special Use Permits with a particular use that could easily be ceased if there was a problem. Attorney Schachner continued by saying A- the Board was not required to do so and B- the Board typically doesn't when they have something like this being physical construction off a substantial building, not required.

Chairman asked if there were any questions. There were none.

Mr. Kolligian made a positive motion to approve Appeal No. 2015-11 for Patrick and Susan Baldwin, 944 Route 9, Gansevoort, New York 12831 request for a Special Permit for a two family dwelling, pursuant to Schedule B, R-2 District, Section 129 Attachment 8; property located at 944 Route 9, Gansevoort, New York 12831, zoned R-2 in the town of Wilton.

Mr. Kingsley seconded the motion. Mr. Kingsley, Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

APPEAL NO. 2015-13 Steve Harness, 53 Gailor Road, Gansevoort, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 District Section 129-157 projections into required yards, for rear and side yard setbacks for a proposed shed; property located at 53 Gailor Road, Gansevoort, New York 12831, Tax Map No. 128.5-1-44 zoned R-1 in the town of Wilton.

Ms. DiLeone began to note a return receipt had not been received and Mr. Harness handed the receipt to her.

Mr. Ramsdill stated he was recusing himself. Chairman O'Brien noted Mr. Ramsdill was recusing himself.

Mr. Harness approached the Board and introduced himself as Steve Harness he thank the Board for allowing him to address the Board. Mr. Harness explained he would like an Area Variance to install a shed from Garden Time in the back right corner of his property. Mr. Harness explained why the back right corner was the most ideal place for the shed because of the placement of play land, a tree house and a trampoline and they wanted to keep the yard space for the kids to run around in. Mr. Harness explained the shed was 10' x 20' from Garden Time placed on 4-6 inches of crushed stone and they were asking for a variance for 5 ft.

to the edges of the back corner of the property. Mr. Kolligian said the applicant had said he was looking for a variance of 5 ft. and what was documented was that he had 5 ft. and needed 45 ft. in the rear and 15 ft. on the side. Mr. Harness said he had said that the wrong way he would like it to be 5 ft. from the edges of the property. Attorney Schachner stated Mr. Harness was referring to the relief needed. Mr. Harness said that was correct. Mr. Zabala asked if any of the abutting properties have sheds near that location. Mr. Harness said he wasn't sure where the neighboring property lines were and his had a fence. Mr. Deloria asked why Mr. Harness couldn't put the shed on the other side of the property and not require any setback. Mr. Harness explained the space to the left of the driveway was too narrow from the garage to the fence for the truck to drop the shed off. Chairman O'Brien asked Mr. Deloria if he meant the left-hand side. Mr. Deloria said yes. Mr. Deloria said he heard two different things he was putting it on that side because there is enough room to get the truck to deliver it in the back and why couldn't the truck drive around the back of the house and put it on the other side of the lot. Mr. Harness said they have a trampoline in the middle as well as a tree house and a swing set.

Chairman O'Brien asked if there were any other concerns. Chairman O'Brien recognized a woman in the audience and asked her to identify herself. She stated her name was Linette Robinson, her husband Jim and that they were neighbors. Mrs. Robinson said they were concerned about the placement of 5 ft. from the line and the reason why was they had their septic system and leach fields in that area. Mrs. Robinson further stated Mr. Harness's property was approximately 3 ft. higher than their property in that area and they were concerned that if he puts that large of a building there that the water coming off the building might cause further erosion. Mrs. Robinson said they had one instance where Mr. Harness was digging a ditch out by the fence and put a pipe in the ditch she went out to see what was going on and he told her that he was going to connect it to his down spout because he had problems with water and drain it on her land. Mrs. Robinson said Mr. Harness removed the pipe. She further explained that they were not against the shed itself just the placement of it and they wouldn't object if he would turn it, behind his is a no cut zone its woods and if he would turn it and put it 10 ft. off the line she didn't think it would the impact on them. Mrs. Robinson said she would like a provision added into the motion that Mr. Harness can't steer or redirect the down spout or any of the water onto their land. Chairman O'Brien wanted to know what down spout and from where. Mrs. Robinson said the downspout would actually come out in front of where Mr. Harness is placing the shed. Chairman O'Brien asked where the downspout originated. Mrs. Robinson said the downspout was off the back of Mr. Harness's house. Mr. Kolligian said the board would not be able to put a provision in the motion that the board would make or deny based upon the placement for a downspout off Mr. Harness's home. Mrs. Robinson said she was very concerned about the placement and she always thought that 20 ft. would protect them. Mr.

Harness asked if he could suggest he was not going to do anything with the downspout, he was very flexible. He further stated that with the shed they could put a gutter on it and direct the water into his yard. Mr. Harness addressed the water situation Mrs. Robinson had mention previously and said they had worked that out and he thought everything was good. Mr. Kingsley asked why they couldn't turn the shed. Mr. Harness answered by saying the shed they were looking at had two doors on it and if they turned it the doors would open towards the fence. Mr. Barrett asked if the shed could be turned so the doors opened into the yard. Mr. Harness said one side could the other side could not. Mr. Barrett asked if there was a set of doors on either end. Mr. Harness said yes. Mr. Kingsley said the trampoline could be moved and he wanted to know if the tree house and the swing set could be moved. Mr. Harness said yes they could all be moved. Mr. Deloria asked what the shed would be placed on. Mr. Harness said it would be on 4-6 inches of crushed stone. Mr. Deloria said in reality the elevation would be minimally increased. Mr. Harness said possibly. Mr. Deloria asked the Robinsons how close their leach fields were to the property line. Mr. Robinson stated they were put in before zoning in the town of Wilton, Mr. Harness's property was on their deed, and it was probably 8-10 ft. to the property line. Chairman O'Brien asked if the trampoline and the tree house could be moved, why it couldn't be put on the left hand side looking from Gailor road in and a variance might not even be needed. Mr. Harness said they could do that but they really wanted to maximize their yard space because it was such a small space to begin with. Mr. Harness asked what if he put it in the back left corner. The board members said that was what Chairman O'Brien was talking about. Chairman O'Brien said if he set it right, he might not need any variances. Mr. Kolligian said he didn't want to speak for the Board but he thought even if he did the Board would be more acceptable to a variance in the left corner as long as there was no opposition from the neighbor on that side. Mr. Kolligian bought up the possible problem with the Robinsons leach fields and there location he would be hard pressed to provide the variance especially because of the addition of the weight of the crushed stone at 4-6 inches also the physical structure itself that could potential impact the top of the leach field that might have to get dug up someday down the road. Mr. Harness asked if he could put the shed in the back left hand corner closer to the fence. Mr. Kolligian said he would be more inclined to agree with that provided the variances would be requested at that point in time. Mr. Kolligian further stated the Board could not give Mr. Harness that tonight because he would have to find out what the setbacks would be and whether or not you would need relief in that area of the yard. Attorney Schachner said right based on the exact location that Mr. Harness would propose. Mr. Harness stated the exact location would still be 5 ft. from the fence. Attorney Schachner said in all likely hood he was going to need a variance and the Board would have to see a revised plan. Mr. Kolligian said the Board would need to see the same plan just with the shed on the other side. Mr. Harness asked if the Board could write it in that night. Mr. Kolligian said unfortunately not and there was another reason because he was

looking for a variance you notified the adjacent landowners as to specific variance that was also provided to the Board now he would have to provide the neighbors with another request for information based upon the variance being on the other side of the yard and hopefully there won't be any limitations on that side but the Board does not know that. He further explained the neighbor on that side of the property could also have a limitation that they eventually would come and say they agree with it and like it but... Mr. Kolligian said they would not know that tonight because you haven't offered the neighbors an opportunity to speak about it. Chairman O'Brien said if Mr. Harness was to go with what the setbacks allowed he would no need a variance. Mr. Harness said that would take up too much space. Chairman O'Brien asked Mr. Harness if he would like to be on the agenda for the next meeting. Mr. Harness said to put him down for now. Mr. Kolligian said he would like to table the applicants request for an Area Variances pending his reapplication with the proposed shed on the opposite side of the property. Mr. Kingsley asked from a procedure stand point would the Board be tabling this particular proposal or because the location of the project was going to change should there be a new application. Mr. Kolligian asked if the appeal number would stay the same. Attorney Schachner said he didn't know how Ms. DiLeone would process it, he could keep the same appeal number and Mr. Kingsley's point is exactly correct that it was essentially a new application that was subject to a new public notice and that was the most important thing for exactly the reasons that were stated. Attorney Schachner said it would have to have a new public notice. Ms. DiLeone said if it was a new application it would have a new appeal number. Mr. Kolligian asked if the Board was denying the appeal. Attorney Schachner said the Board had three choices one was the applicant could withdraw the application, two was it could be tabled as a pending application and then when a new application was received presumably the applicant would withdraw the current application or if the Board wanted to take the vote on a motion to deny the they could certainly do that. Mr. Kolligian said he would suggest that the Board table this appeal pending the applicant's reapplication and at that point the applicant would request to withdraw Appeal No. 2015-13 and provide a new application. Mr. Deloria said that was Mr. Harness decision to make. Mr. Harness said he had to start over so he would just withdraw.

Chairman O'Brien stated the next Meeting would be the fourth Thursday in May. Chairman O'Brien thanked Mr. Harness.

APPEAL NO. 2015-14 KMDA, LLC/Wilton II, LLC, 7700 Eastern Avenue-Unit 304, Dallas, TX 75209. Request for Area Variances pursuant to Schedule H, C-1 District, Section 129-157 projections into yards and 129-attachment 14; property located on Lowes Drive, Saratoga Springs, New York 12866, zoned C-1 in the town of Wilton.

Mr. Kingsley addressed Chairman O'Brien saying he was going to recuse himself from this appeal due to the fact that Aldi's was an announced tenant and he had a conflict of interest due to his employment and financial stake in Price Chopper/Golub Corporation.

Ms. DiLeone noted for the record they had not received two of the return receipts from Lucille Kilbara, 42 Old Gick Road, Saratoga Springs NY and William Little, 40 Old Gick Road, Saratoga Springs NY. Ms. DiLeone noted they had received an email. Chairman O'Brien read the email.

Frank,

As per our conversation today I am writing to confirm our prior discussion on your Wilton Marketplace project. As I stated when we last talked on April 9th 2015 I am in Florida until the middle of May and we were unable to be there to sign for the certified letter that was mailed to our home address. You graciously emailed me all the information on the project and I am aware of what is being presented to the Town. If you need anything further please let me know. It was great talking to you.

William & Marjorie Little
40 Old Gick Rd
Saratoga Springs NY 12866
Parcel ID#-415660 153.-3-82

Chairman O'Brien asked Mr. Palumbo if he had the other return receipt. Mr. Palumbo stated the other had not been returned to them. He explained they had the slip showing they had mailed the letter and said Ms. DiLeone had been talking with his administrative assistant Shirley Gawlak about how they had continued to contact the Post Master but they had not received the receipt.

Chairman O'Brien read a positive recommendation to the ZBA from the **Wilton Planning Board**.

Comments: Chairman Dobis commented that it is due to the nature of the project being on a service road, which lay a significant distance back from the Route 50 commercial corridor that the Planning Board made the positive recommendation. With regard to the applicants' proposal of seven detached signs in a commercial zone, the Board feels they will not negatively impact the view from Route 50.

Chairman O'Brien read a referral from the **Saratoga County Planning Board**.

Decision: No Significant County Wide or Inter Community Impact

Comment: The Saratoga County Planning Board recognizes the 32 acres of vacant commercially-zoned land on both sides of Lowe's Drive (parallel to and

north of NYS Rt. 50) as being proposed for retail development that is in keeping with the appearance and character of the existing surrounding development.

Proposed are five Development Areas:

- | | | |
|----|-------------|--------------------------|
| 1A | 2.10 acres | 18,539 s.f. bldg. |
| 1B | 11.59 acres | 94,000 s.f. bldg. |
| 2 | 0.89 acres | 4,000 s.f. bldg. |
| 3 | 3.28 acres | 28,500 s.f. bldg. |
| 4 | 4.65 acres | 45,000 s.f. bldg. |
| 5 | 10.59 acres | undeveloped at this time |

We are also aware that these lands proposed for retail development are like the last piece of a jigsaw puzzle that can just drop in neatly because of the ways in which its appendages fit or connect to what surrounds them. That does not, however, mean that the variances now before the town zoning board are subject to a quick glance-over: they are many, yet they are redundant by the nature of the imposed “fit”, by the use of defined Development Areas, and by the inherent setback variances of shared party walls, drives and travel lanes.

More important to the design of the future site plan(s) are the impacts resulting from (needing mitigation from) 1) the variances for pavement setbacks, rear and side yard setbacks (buildings and pavement from property lines), and 2) the green space variances associated with the overall site and the individual Development Areas. At this point in project review the variances push the site design. That the town planning board has rendered a favorable recommendation to the zoning board on the variances points to its desire to see a profitable development of the property and its willingness to work with and within the parameters established for site plan review.

While observing that the variances present no significant countywide or intermunicipal impacts, this board has discussed issues arising from the variances and site design that may warrant consideration by the town zoning board and a broader discussion at the town level (related to other future development in a commercial area/corridor):

1. We recommend that any approval of the rear yard setback variance (from 150' to 50') for Development Area 1B be conditioned upon the developer's agreement to construct an extension of the wall and landscaping between its current retail development to the east and the Pyramid Pines mobile home park.
2. As part of any approval associated with the marked greenspace variances (from 35% to 20 %) of the individual development areas and for the overall site, we encourage a recommendation by the zoning board that the planning board call for enhanced landscaping in the green/common areas (in each

Development Area and in the common areas, particularly in the street corridor).

3. As there continues to be retail/commercial development in the Rt. 50/Exit 15 corridor (where called for and directed to by infrastructure, comprehensive planning and zoning) that the town recognizes the need and opportunity for multimodal inter connections between various uses, neighborhoods, and the roads they are serviced by.

Mr. Palumbo introduced himself as Frank Palumbo from CT Male Associates he was representing KMDA and Aldi's, with him was Mike Decker from Maly Development. Mr. Palumbo stated he had met with Mike Valentine, Ryan Riper, and Mark Mykins after their Planning Board discussion at the county. Mr. Palumbo asked Mr. Riper before the meeting if this map would be helpful. Mr. Palumbo said the Board had seen the map when they had come before them for the Interpretation and he wanted to give them a quick overview. He explained where Aldi's was going in development area 1A. Mr. Palumbo continued to explain the development areas 1B-4 using the map. Mr. Decker pointed out a clerical error listed in development area 3 they had the building area as 28,500 and it is 18,800 on the other plan they had upsized to 28,500 all the statistics listed in the chart related to that building size. Mr. Palumbo stated that the Saratoga County Planning Boards impression was very favorable about the project. He said they saw it as a natural connection and a fit with the overall area. Mr. Palumbo said one of the reactions the Board may have had was there are a lot of variances. Mr. Palumbo said he would like to focus on the Area Variances first then the signs. Mr. Palumbo addressed Chairman O'Brien saying he would go as far he would like with the presentation and if anyone had questions along the way or if they felt comfortable with some and wanted him to focus on others you could tell him that as well. Chairman O'Brien said alright. Mr. Riper noted to the Board that the one return receipt that was missing the location of their parcel Mr. Palumbo ask if it was Kilbara. Mr. Riper said yes. Mr. Palumbo explained that it was off of development area #5 which presently is not being developed. Mr. Palumbo explained he spoke to Mrs. Little who he knew from all her years at Town Hall and she said that wasn't even adjacent to you and Mr. Palumbo said you are within a distance that the town decided when we sent all those and Mrs. Little had highlighted that Lucille Kilbara was the one that was really adjacent to the project. Mr. Palumbo said they had tried to follow with Lucille Kilbara but they were unable to get a hold of her. Mr. Palumbo explained that when they talked about the number of variances it really was very much part of the parcel to the fact that they had labeled five or six areas depending upon the 1 and the 1A a total of six parcels. He explained that there was a specific reason that Mr. Mykins had asked them to approach it that way was that the rear setbacks were very different on each parcel and if they had been seen as a whole the Board might have given an approval on one part that wasn't as relative on some of the other areas. Mr. Palumbo said they had made that decision together and came up with

the way that they had divided up the parcels and the variances. Mr. Palumbo explained

The variances were very similar only on each one of the lots. He further explained that between 1A the Aldi's and 1B there was a zero lot line setback for the rear yard on this piece and for the side yard on the other. Mr. Palumbo said its two variances but was really the same issue, the lot line going down between the two lots. He further explains the same thing happens with the pavement setbacks they have a zero pavement for the rear line for Aldi's because it will be off of the proposed town road they are putting into the project it's a rear pavement setback that they were asking for zero and this was probably a better example if this had gotten approved for all of them you would have a zero setback for a rear line throughout so that was why they had divided them up. Mr. Palumbo further explained that many of them were the same. He said quickly going through them because he wanted to get to the Boards questions and any from the public. Mr. Palumbo started with 1A front yard setback required 50 ft. asking for 17 ft. it's a 33 ft. relief which sounds large but the reason for it is because they were putting the road there and early on working with the Planning Board in terms of the concept of this it was the benefit of this road was one things it was more like it's almost like a side but it is the front setback and they all the land and so Aldi's was asking if they would be able to try and go for a variance and that was the best approach to take. Mr. Palumbo said it's a 33 ft. setback but they did think it was as part of the project was the benefit was out weighing that aspect of the setback. He explained the front yard pavement setback 30 ft. to 15 ft. they were asking for a 15 ft. setback where it should be 30 ft. for the pavement setback consistent throughout they needed it badly and the hardship was there in certain positions. He further explains the two bays of parking were very consistent in what you see in other areas of the route 50 corridor it's the standard type of commercial development that happens to have the parking in front and with that to have that parking there they needed the 15 ft. because that was the narrowest part of the lot this happens in different places as well where the narrow lots are forcing them towards this in order to get the type of development that they were seeking. Mr. Palumbo said rear yard building setback again all of these are zero proposed because the lot line is going right down through the drive lane between the two pieces that was the intent of the request being zero because it makes sense with the whole development. Mr. Palumbo explained they were asking for the 20% down from 35% for green space and it was consistent with the variances that have been given in the past in the Route 50 corridor. He said in this case they were actually asking for the parking to be reduced to 4.5 down from 6 so shrinking the parking they would still need some green space relief there and they lost a lot of green space on the site when they went with the proposed road. Mr. Palumbo stated that they knew there was a benefit to them, with the proposed road and a benefit to the town and where it could connect in the future. Mr. Palumbo stated that was a lot of "green" that they lost. Mr. Palumbo moved on to 1B saying the same thing front yard setback for the pavement he compared their building of

32,000 sq. ft. as being very similar to Best Buy and you could see that that parking lot could fill up very easily on a Saturday and that distance is very consistent with the distance of their proposed lot. He continues to state that the type of user they are hoping to attract into this space was going to want that type of a parking lot in front of its space. Mr. Palumbo said as they move to the spaces on the end they would be able to get away with a little less parking in the front at the narrowest part of the lot. He said they were not looking to get a whole bunch of parking here it's really relative to the type and size of tenants that they were looking to attract into the site. Mr. Palumbo said he would go back to the rear yard site back because he thought that was the biggest one. He said the rear yard setback they were asking for 10 ft. this has the two zero lot line items of the side yard building setback, the side yard pavement setback of 5 ft. on the back side of Five Below. Mr. Palumbo said the big one they had talked about before was the setback from the residential district which is the Pyramid Pines trailer park. He said they mentioned before they were going to come back for this its 150 ft. required abutting a residential zone they were asking for 50 ft. that was mainly due for this distance, they had put the narrowest building type that they could there but the distance here is what is really driving that. Mr. Palumbo said that this setback that they were asking for was less than the setback that was granted over there. He explained that they went out and took a picture of the screen wall that Mike Valentine references and there developer has every intent to work with the Planning Board when they do the final design that screening will be done in much the same manner and if you back there he thought you would think this is a very effective screen and what was done at the time was the wall was the immediate screening that was put closer to the buildings, the landscaping was put on the residences side and those had grown up very nicely and provided a very good screen and the intent was that along there when they get into final design and they know exactly the topography of the area the intent is they will do screening of the same manner or manner that is equally effective if they have the right topography. Mr. Palumbo says they need to find out exactly where the sheds are and what they were going to be doing. He said it really is this distance here if they moved this forward it would almost here if they respected the full 150 ft. setback. Mr. Palumbo said they do think there was a hardship and they do think they have the ability to make it much in the same manner that the adjacent property had done previously with the variances that were granted there. Mr. Kolligian asked about the sheds on the property of Pyramid Pines Mobil Home Park do they have any documentation on file that any variances have been given for those sheds that are in the mobile home park, his sense was they did not. Chairman O'Brien stated that they were probably grandfathered. Mr. Kolligian said when it comes to public comment that it's too close to my property and too close to my shed. Mr. Riper said if the sheds not on their property Mr. Palumbo said it's not even an issue whether they got a variance for the shed on their property in some cases it looks like the shed is on their property. Mr. Palumbo said that he thought Mr. Decker and his firm had shown the developments that

they have done in the past, commitment and working with the owners to get the best possible solution, they won't be able to leave sheds on their property but they will work with them to get the best possible solution. Mr. Palumbo said if you go back there, there is one shed that is right up against the back of the fence and the only place you don't see a tree is where a shed is. Mr. Ramsdill asked if the site was one piece of property currently. Mr. Palumbo said it was actually two the Aldi's has a present parcel here and what they are doing as a joint partnership was to get a lot line adjustment and Aldi's will have their own parcel everything else is KMDA's parcel. Mr. Ramsdill said if they grant a variance between two proposed areas they were granting the variances based on a theoretical line that could exist in the future. Attorney Schachner said he was a little confused about how Mark Mykins went about this with the applicant kind of along those same lines. Attorney Schachner said maybe Mr. Riper knew more about it. Mr. Riper said the zero lot lines between the buildings was planned to have the buildings zero lot line between them. Mr. Ramsdill said let's take that as an example there is a theoretical line there that really doesn't exist as a property line it's really a planning area line, so if they were going to place any kind of variance on that would they have to make it conditional that if the property was ever subdivided it would have to be subdivided along that line. Attorney Schachner said presumably the subdivision can't occur without the variance and the short answer to your question is yes. Mr. Ramsdill said he wouldn't want to grant the variance now for that line and in five years have the project change and have the line be shifted somewhere with the floating variances. Mr. Barrett asked if the buildings were connected or will they be connected or do they just butt up against each other. Mr. Barrett said he was looking at the line and it looked like one large building were the Aldi's was going too built in stages. Mr. Kolligian said it's very hard to see on the print but there was a darker line between the buildings. Mr. Palumbo said it would have a full fire wall everything that's rated necessary for it. Mr. Palumbo said it's really not much different than the way that these buildings were done here in terms of how they are divided lease wise. Mr. Decker said Aldi's will be its own separate building. Mr. Deloria said just for further clarification this application involves two ownerships of two separate parcels, Aldi's owns one parcel and the development company owns the other parcel, so the application actually is on behalf of two separate distinct owners at this time. Mr. Palumbo said they are both listed on the application, they had formed the application together. Mr. Deloria asked about the road and if it was going to be a Town of Wilton Road. Mr. Palumbo said it would be dedicated to the town after it was constructed by the developer. Attorney Schachner said just so it's clear the applicant can say it will be a town road dedicated to the town but that is up to the Town Board, neither the applicant nor this Board can bind the Town Board to accepting it as a town road but that is what is intended. Mr. Palumbo said the proposal was for it to be a town road. Attorney Schachner said correct. Mr. Deloria ask if they would maintain the road. Mr. Palumbo said ultimately they will maintain the road if it was accepted. Attorney Schachner said they meaning

the town. Mr. Palumbo said right. Attorney Schachner explained that if it became a town road then Mr. Woodcock adds it to the road inventory and it's maintained by the town. Mr. Deloria said it would be a dead-end. Mr. Palumbo explained it would dead-end here, now details for that would be worked out during the Planning Board process and they would work with Kirk Woodcock on it should be either a "T" or a temporary circle. Mr. Palumbo said the reason they had stopped it here was they didn't have control of the other properties of where it would go, they had talked with the Planning Board and there were multiple ways in which this could happen, it's wasn't something they could lock in yet. Mr. Ramsdill said he didn't want to say anything maybe Mr. Riper knows, he believed there was a hope to have an access road that dumps out onto the backside eventually in the plan for the town. Mr. Riper said it was the town's intent to have this road extend back to Old Gick Road parallel along the Pyramid Pines property line and exit out on Old Gick near the church and have a sidewalk connector for the mobile home park and the Paddocks so people can walk to this area. Mr. Palumbo said there was a history of this right here within the town, he knew because he did the subdivision that was the Lowes when they did the Lowes and this road stopped here and it was listed that there would be a future connection and as you can see when the next developments came in there was the ability to make that connection so it was planned that way and it happened that way. Mr. Palumbo said they were hopping the same here was that this will be planned to be a town road and ultimately that connection through over to the church to Gick Road. He said these were just concepts because they don't control the land and so that was something that will have to be brought forward to the other landowners. Mr. Deloria asked if there was a calculation for setback off of the proposed road to your proposed buildings. Mr. Palumbo said yes that was the first one he was talking about he should the Board which one was the front yard setback so this lot, the Lowes lot he explained which sides of the lot they were calling front side and rear. Mr. Zabala asked about the connector road to the medical buildings and he asked Mr. Riper about it. Mr. Riper explained that when Saratoga Hospital came for their approvals it was required to have a connection and it was approved and the plan is to have a connector between it was not intended to be a town road section only a connector. Mr. Palumbo explained that they talked about this last week with the Planning Board was that yes A it was a condition of this site plan approval that they allow for the connection to be made in the future but they did not want to propose it as a road. Mr. Zabala asked Mr. Riper about the proposed connector road across the medical building property connects to the parking lot so you're going to have people trying to cross a proposed road if its approved basically it's a street and you're going to have people maybe ill or handicapped trying to get across the road into the medical building. Mr. Barrett said he thought it was staff parking on that end. Mr. Riper said yes, that was something they did look at was the staff parking on that end and we have been discussing as well is this connector road maybe not a straight connection through was to maybe off set the connector road on this proposed parcel so that it's not a straight shot in

you would have to drive through the parking lot to make it come around or something to that effect. He continued to say that they didn't want it to be a direct shot across through the parking lot. Mr. Palumbo said there would be further discussion as they move through preliminary final when each of the tenants as they are locked in. Mr. Palumbo said not only is it staff parking it is also empty on most Saturdays, so the busiest times of one development will most likely be the lightest times of the other development. Mr. Kolligian said that was the surgery center not the urgent care which is a Monday thru Friday based upon surgeon's schedules. Mr. Barrett said there is no one there on a Saturday. Mr. Riper said but still it was not intended to be a thorough fare of traffic. Mr. Ramsdill asked Attorney Schachner if the variance was granted for planning area 1B and planning area 2 and in the future people wanted to carve things out differently would those variances be dissolved. Attorney Schachner said they would have to be amended. Mr. Ramsdill said prior to altering this plan we could set it that they would have to come back before the Zoning Board if they wanted to alter it. Attorney Schachner said if they want to alter the setbacks, assuming they are not in compliance, which under this scenario presumably they wouldn't be they would need to amend it. Mr. Palumbo said that they had tried to do the best they can and they were at concept, Mr. Decker knows the tenants he's trying to get, the 4,000 sq. ft. building they know they want to get it's a goal. Mr. Palumbo stated it was just as conceivable that they could come up with a plan that they have asked for variances that they may not need. Attorney Schachner stated that what Mr. Palumbo was saying that in theory not needing to avail themselves a variance or variances that are granted if any are granted. Attorney Schachner said that would be fine there is no obligation for somebody to avail themselves of a variance if granted but I think Mr. Ramsdill point if they change the lot lines they still go forward wanting different lot ownerships but not in accordance with this plan as the variances are granted then any changes that don't meet code or setback requirements would require new or amended variances from this Board. Mr. Riper said just to give an overview the intent is to get the site to a shovel ready site get some approvals, get the building envelope established so they can have tenants come in and see what is available. Mr. Palumbo said it puts Mr. Decker and his partners in the best position to lure the tenants who are currently out on the market looking for places and those that would want to be at Exit 15. Mr. Ramsdill asked a question about the property subdivision for planning area #4, with #4 and #3 you are requesting a lot of reduction in parking and that's something that can become an issue for that entire area. With the other site he felt like you were capturing with what you're not receiving in 1A your capturing in 1 B but here it looks like you're coming up with almost 90 spots short of the minimum requirement on #3 and #4. Mr. Ramsdill asked Mr. Riper if the town has any concerns about a high volume of parking and people be jumping into the surgical lot and are trying to walk over, is that going to be intrusive to the other planning areas. Mr. Riper said if you look at the usage and the use will be. Mr. Ramsdill said we don't know what it is going to

be. Mr. Riper said right we don't know yet but the Planning Board does have some ability to wave parking requirements based on usage and site constraints and things like that. Mr. Kolligian stated that was what he was going to ask is ultimately this isn't a speck development at all this is a development that is going to be built based on the client when the client is found and the building is built for the tenant. Mr. Palumbo said yes. Mr. Kolligian said at that point in time things have to go back to the Planning Board for their design anyway and he said to Mr. Ramsdill that is when your question about parking is going to come back up not only is the parking issue going to come back up but the access road connection road comes into play as well and at that point they will know who the tenants are. So they will now what the traffic flow will be like, how much volume they are going to have and when peak times will be verses off peak times and he thought that was something better established down the road in Planning. Mr. Palumbo said all of these things will continue to be discussed with the Planning Board. Mr. Palumbo explained planning area #4 and that they have a suspect tenant and compared the parking other areas as being comparable because of the narrowness of the lots was their hardship. Mr. Palumbo explained they would continue to work with the Planning Board and showed used a picture of a parking lot that wasn't full, he was not sure what time of day the picture was taken, to say that when they saw all the empty spaces one of the Planning Board members said we require too much parking. Mr. Palumbo said they were asking for four per thousand which was under the six per thousand some people saying they have way too much parking and pavement and the others are saying what if it spills over. Mr. Palumbo said they were going based on the best concepts that they had now with the tenants that they know what they are looking for. Mr. Riper explained one of the trends was not to have open seas of parking areas was that with developer and retailer ultimately loose out because they don't have the adequate parking, they are going to want the parking and make sure they have adequate for what their use is. Mr. Ramsdill asked about the green space and if permeable pavement was an option to get the number back up. Mr. Riper said that was an option. Mr. Palumbo said they knew they had design to do. Mr. Plaumbo explained at surface storm water was the cheapest, underground was more expensive and underground with porous pavement is more expensive but the town has seemed to give credit for green space with that. He further explained all of those things had to be factored into the final designs. Mr. Kolligian asked if the variances that were given on the adjacent property The Shops of Wilton had green spaces concessions as well. Mr. Riper said and did not know the exact number. Mr. Kolligian said his guess was they were more than what they were asking for right now. Mr. Decker said it was 18% on the T.J.Maxx side and the Best Buy side was 25.4 %. Mr. Riper said Price Chopper was 18% as well. Mr. Palumbo stated he thought exit 15 had been done very well for the amount of square footage of retail at exit 15 they do not have the type of traffic congestion that you see at Exit 9, Route 146 and many other places in the state. He further states what the Board has done throughout the years has been good. Mr.

Palumbo said they were asking for many of the same things here and it functions very well. Mr. Kolligian said just so he was not misunderstood he was certain that the green space requirements were severely limited on those adjacent properties. Mr. Palumbo said he understood his point and it was working very well. He said Price Chopper was converting to Market 34, the Aldi's rep said you know this is a good market when they roll out a new brand and they do it in your market, that's because they know it's going to be successful. Mr. Palumbo said the variances that they were asking for were very consistent with what has been done in the area and has worked very well. Mr. Palumbo said they had identified their hardship with the narrow lots and a lot of that was what was driving this, having a zero lot line instead of trying to space the buildings out and he didn't think that would solve anything for the town. Mr. Palumbo said he thought the hardships had been proven and he would go over any questions the Board had. Mr. Zabala asked what percent of the property for the proposed road was being used. Mr. Palumbo said he did the calculations and if all that were green space they would be at 25% over all. Mr. Zabala asked Ryan if there was a tradeoff for that. Mr. Riper said it had been discussed at the Comprehensive update in the commercial one zone it was being suggested that there would be a reduction in the green space to 25% with a quality green space. He said quality would have to be defined, the intent was to have a green space with some trees, shrubs, and grass. Mr. Riper said it was also mentioned in Mike Valentine's letter as to providing landscaping rather than just grass for the green space. Mr. Zabala asked if there was an elevation where the proposed building abuts the mobile home park and is the mobile home park higher. Mr. Palumbo said with the information they had now Paul Tummel's Group had done a survey at a time when a lot of this was done but one of the first steps they were going to get hard topo they didn't want to go to that level before they knew if they were going to be able to get the variances. Mr. Palumbo said from the information they had they thought it was pretty close. Mr. Palumbo said there was going to be detail that would have to be done and the Planning Board would hold them to task on that. Mr. Deloria asked if the mobile home park had individual lot owners. Mr. Palumbo said no, it was one ownership group with a residential use. Mr. Palumbo said he thought they covered the Area Variances, unless there were any other questions he would move onto the signs. Chairman O'Brien asked if the Board would like to take care of the Area Variances first. Mr. Ramsdill and Mr. Kolligian agreed to take care of this first. Chairman O'Brien addressed Mr. Palumbo and said let's take care of this first. Attorney Schachner said that meant they were closing the public hearing as to the Area Variances other than the signs. Chairman O'Brien said yes.

Mr. Ramsdill made a positive motion in the matter of Appeal 2015-14 KMDA LLC/Wilton II LLC (General Partner) Aldi, Inc. South Windsor Division. For parcels 153.-3-37.1 and 153.-3-37.2 located on Lowes Drive in the Town of Wilton New York. Based on an appeal from a decision of the Building Inspector and application for relief under the zoning ordinance. Mr. Ramsdill made a motion to approve the following variances based on the map dated April 2, 2015 provided by CT Male.

Area 1 A all variances identified in the zoning officers notice of determination for this area with exception of Sign Variances be approved.

Area 1 B all variances identified in the zoning officers notice of determination for this area with exception of Sign Variances be approved.

***Conditioned upon an appropriate wall and landscape barrier, similar in structure and character to the wall that exists behind The Shops of Wilton; be extended along the rear area that abuts the mobile home park.**

Area 2 all variances identified in the zoning officers notice of determination for this area with exception of Sign Variances be approved.

Area 3 all variances identified in the zoning officers notice of determination for this area with exception of Sign Variances be approved.

Area 4 all variances identified in the zoning officers notice of determination for this area with exception of Sign Variances be approved.

These variances are granted for the following reasons.

1. An undesirable change will not be produced in the character of the neighborhood or detriment to nearby properties will not be created by the granting of the Area Variances, because the development of this property is consistent with adjacent parcels located in the C-1 Zone. The granting will not be a detriment if the appropriate buffering measures are taken for the mobile home park.
2. The benefit sought cannot be achieved by some other method feasible to pursue, other than an Area Variance because of the property constraints and the ability to fit retail uses on these lots.
3. The requested Area Variances are not substantial because they are consistent with the variances granted for development of other adjacent parcels.
4. The requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because adequate protective measures and mitigation will be employed to minimize any impacts.

The alleged difficulty is self-created because this is the type and configuration of development that the applicant has chosen and it is typical of the type of development that has succeeded in this area.

***Conditioned upon the incorporation of quality green space considered by the Planning Board in lieu of the lower green space requirement for the project.**

Mr. Kolligian seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

Mr. Palumbo if the public hearing was open for the signs. Chairman O'Brien said yes.

Attorney Schachner explained he was saying that mostly for Ms. DiLeones benefit so that before their vote on the non-sign variances that portion of the public hearing was closed and now it was open as to the sign variances.

Mr. Palumbo asked Ms. DiLeone if she had pictures that they had provided for the signs. Ms. DiLeone said she did not. Mr. Palumbo explained that they had them at the Planning Board meeting. Mr. Decker had pictures on his phone that were passed around to the Board members. Mr. Zabala asked if the illumination was behind the sign. Mr. Palumbo said to first set the table sign one was an attached large monument sign the height was 23.4 ft. allowed is 20 ft. they were asking for a variance of 3.4 ft. that panel area that is proposed was 106.5 sq. ft. on one side which is 213 sq. ft. two sides, the panel area allowed 75 sq. ft., 150 sq. ft. two sides, variance requested is 31.5 sq. ft. one side, 63 sq. ft. two sided. Mr. Palumbo showed the location of the sign and stated it was like the one in the picture. Mr. Palumbo showed Mr. Deloria the sign was located in the back of the parking lot and that was the best place to get some visibility from Route 50. Mr. Palumbo explained that was the best place to get some visibility from Route 50. He said they felt that was one of their hardships. Mr. Ramsdill said that had been a concern for the development of the property was the lack of visibility from Route 50 and that was why they wanted that sign in that location. Mr. Palumbo said exactly and even the number of signs. Mr. Palumbo explained that the signage throughout the entire corridor had been done very well and they would like to do the same. Mr. Palumbo said the signs were the masonry signs and the height of that has an arch at the top so that it got the panel up as high as they could get it and that was the 3 ft. or so they were asking for there. He further explained the goal of that sign was for when people were going by they would know what was in there. Mr. Palumbo explained the second sign was very important to Aldi's because had moved their lot from the corner to the back and their agreement and what they were working out with Maly and KMDA as a whole was that they would be able to get a sign detached from their property to be out along the road so people would know where they were. Mr. Palumbo said the second sign was slightly smaller and so was the third sign they were asking for 1.5 sq. ft. one side, 3sq. ft. on two sides. Mr. Palumbo said there was no height request on those signs. Mr. Palumbo explained the other signs numbers 4-7 are smaller detached monument signs no variance was needed for the size of the panels but a variance was needed for the number of detached signs. Mr. Palumbo explained the importance of all the signs and why some needed to be taller and why some panels needed to be larger. He explained why the placement of the signs was importance and the significance of the placement of the signs. Mr. Palumbo said they had tenants that would be coming in and they will have specific requirements and the tenants requirements would be greater than anything that the town would want to allow. He further stated that he thought they had stayed consistent with what the town has seen as a model for this. Mr. Palumbo made reference to the Planning Board and Mr. Dobis's comments that

were read into the record was that this is the back service road to get to those lots and that's why they want to have something that will draw people to the site. Mr. Zabala asked Mr. Riper about sign placement has the Planning Board done studies to ensure the signs are not going to visually impact drivers. Mr. Riper said no traffic study had been done. Attorney Schachner said none of that would have been yet. Mr. Plaumbo said the pinpoint placement of these signs has not been determined. Mr. Deloria said the Boards jurisdiction is not to decide the placement of the signs it for relief. Mr. Barrett said how many signs, typically they were allowed one and they want seven. Attorney Schachner said it's not just the number it was size also. Mr. Deloria said he was in favor of the whole concept and development he thought it was great and he goes back to the strip mall next to Price Chopper and he said everyone that was local comes out of Price Chopper and they exit route 50 through that mall exit and they compete with the people in the strip mall. Mr. Deloria said there was no way to know that was going to happen that way, he said it was poorly designed the way that it is. Mr. Deloria said the New York State Police hang out behind the surgical center because people in the winter if there is no snow actually drive across the vacant land and cut across. Mr. Deloria said the where they are proposing the large sign is problematic and as well as the potential for kind of a cut through to go back into what is being developed. He further stated he didn't have a problem with any of the other signs, but that one. Mr. Palumbo explained that sign was to indicate where Aldi's was located and you would make the left at the next light. He further explained what they were trying to do from all different directions. Mr. Palumbo said that was not just their decision it was a Planning Board decision to make that as a connection the sign there is the best place to get some visibility. He said signs are there for the people that don't the area that well. Mr. Deloria said coming from the Northway or the west there's very minimal visibility because of the existing buildings. Mr. Palumbo said there was a good and bad with this the buildings in most place would not be there because of the main strip and it was being used for hospitals that have much lower ingress and egress rates than a retail store. He further says what is unusual about this is it puts buildings that don't give the congestion out on the road but they do block your view into the last of the real C-1 area as Mike Valentine had said it fits in like a jig saw puzzle because it is the last part of the Lowes Drive connection. Mr. Deloria said we consider Lowes Drive primary and Mr. Palumbo's argument was Lowes Drive was secondary and Route 50 was primary. Mr. Palumbo said yes and for someone that was coming from outside the region and there are a lot of people that come a great distance to Exit 15 which is good for us. Mr. Palumbo said those people need the signage and their tenants are going to look for the signage. Mr. Kolligian asked if they were better served looking at the variance for the number of signs but not looking for the specific signage you're requesting at each location. Mr. Kolligian continued by saying right now we only know that Aldi's is going in should you be looking at the number potential as one request and then looking at signs 2 and 3 which you affect your number one tenant that you have right now.

He said as you start to develop and work with the Planning Board suggests about the pass through, the Board may be better served to know what that information is at that given time to know that that is the best placement for that sign and that it won't be a direct pass through. Mr. Palumbo said that was a great question. Attorney Schachner said his question to the Board would be would you be comfortable trying to decide a variance application for the number of signs only without having the information, He was not sure he was convinced the Board would be able to make the findings based only on the number of signs without knowing their sizes and placement. Mr. Kolligian said he didn't think it would be fair to the applicant to tell them right now that we would or wouldn't give them the seven signs but is it OK for the Board to potentially allow them the variance of signage that is immediate verses potentially signage down the road. Attorney Schachner said sure. Mr. Kolligian addressed Mr. Palumbo and said he just didn't want to limit you. Mr. Palumbo said he appreciated that. Mr. Palumbo said that was why everybody always dose that thing in grade school witch comes first the chicken or the egg. Mr. Palumbo said what Mr. Decker was looking for was trying to attract tenants and if they know that they have a sign that's the best starting point he can get them there and have the conversation with them and look if you're going to go for that's going to mean you are going to have to go back to the Board and ask for something more and they have already ruled on it but he has made the decision that it is better in his interest to try and get the sign to lure those tenants here. Mr. Palumbo explained that Mr. Decker preferred to have the signage to offer the tenant and if they insisted on larger signage or more signage and they really wanted to go for it they would be back in front of the Board looking for a larger sign. Attorney Schachner said that has happened in the past, sign variances had been granted then a particular tenant has shown up at a particular retail facility and said they really want it to be X % bigger and they have come back before the Board. Mr. Palumbo said that was a great question. Mr. Decker said he was trying to avoid is going through a lease with somebody and the expense of doing that and having a contingency in the lease stating they have to get this sign and we go through the Board and they don't get it. He said this way they have this and there won't be a contingency in the lease but if they want to go to the Board and asked them for a variance and if they get it great. Mr. Decker asked Mr. Kolligian if that made sense. Mr. Kolligian said absolutely.

Chairman O'Brien asked if there were any questions. Mr. Zabala asked what the identification number of the sign that was going behind the medical center. Mr. Palumbo said it was sign number one. Mr. Deloria asked if that sign was going to be parallel to Lowes Drive. Mr. Palumbo said yes. Mr. Kolligian stated there were sign variances on adjacent properties as well right. Mr. Riper said yes he didn't know exact numbers. Mr. Kolligian said in size and number. Mr. Riper said yes and looking forward and planning ahead sign location number 2 is actually going to become a little more important sign for future development of phase 5 down the road because that parcel is hidden in the back and he understood the and

developers need to attract business in that area. Mr. Ramsdill asked who owned sign number 2. Mr. Decker said they would own it and Aldi's would have a panel on the sign. Mr. Ramsdill stated there would be other panels underneath for things that could potentially occur down the road. Mr. Decker said yes. Mr. Palumbo brought up Mr. Riper's point about the back parcel. Mr. Kolligian addressed Attorney Schachner and Mr. Riper and said due to the fact that the little connection or pass through would have to go back to the Planning Board at some point to find out the direction and the path that we would allow that connection to happen would this Board be able to provide a recommendation to that Board of the sign location at that point in time. Mr. Kolligian said it could be dependent upon how that road ultimately gets connected. Attorney Schachner said it's only a recommendation they're not bound by it but you absolutely have the right to do that. Mr. Kolligian said OK. Mr. Riper said that particular location behind the medical building. Mr. Kolligian said he was talking about sign number 1. Mr. Riper said that connection was depicted when Saratoga received their Planning Board approval it was located on the plan. Attorney Schachner said for medical. Mr. Riper said yes, so that location was set but it would be nice to work with them, they had not reached out and he had not heard any comments or anything from the Saratoga Hospital. Mr. Riper said it would be nice to maybe move that but that is on their plans that have already been approved. Mr. Deloria asked if it was a contingency of their site plan approval of that building. Mr. Riper said correct. Mr. Ramsdill said they knew would be a potential cut thru from the beginning it just hadn't materialized. Mr. Palumbo said the minutes they had foiled had gotten cut off but there was a discussion about them coming in with some options of the locations of where those would be and this was the one that they jointly settled on with the Planning Board. Mr. Deloria asked if anyone knew where the lot line was that is between their parking lot and TGI Fridays. Mr. Palumbo showed Mr. Deloria on the map where the line was. Mr. Zabala said there was an outlet from the corner of the parking lot there it's not prominent but you can scoot out that corner onto Route 50. Mr. Riper said south bound only. Mr. Deloria said if that road exists in his opinion sign number 1 doesn't become as critical as it does now, in other words if the road was there people would be used to going through and then sign number 2 gets the job done for Aldi's. Mr. Barrett said he thought you needed sign number 1 for all the buildings to point the direction to everything back there when you're driving down Route 50 that's the sign people are going to see driving down Route 50 you can see Lowes because it is a huge building and you know it's Lowes. Mr. Barrett said those buildings back there are far enough back from Lowes Drive you wouldn't be able to see that there was anything back there and that sign points the way from Route 50, he thought that was the most important sign in the bunch. Mr. Kolligian said he would agree as well and he said he couldn't imagine that all of the tenants would be on sign number 1. Mr. Palumbo said no. Mr. Ramsdill said the number of signs was substantial in his opinion compared to what the Board has approved on other projects and he wondered if they were to wipe out one of the three signs

on the southern piece of the property in his opinion he thought if you had two signs on the front road keep the three on the other and the one marque he would be more comfortable with that being more consistent with other people that had come in. Mr. Barrett agreed with Mr. Ramsdill. Mr. Palumbo asked if that could be amended without having to do another meeting. Attorney Schachner said yes because they are agreeing less relief than you are seeking. Mr. Palumbo said OK just wanted to make sure. Mr. Kolligian asked Mr. Palumbo to point out what number sign that was. Mr. Palumbo said it was sign number 7. Mr. Ramsdill said that did not require any Area Variance. Mr. Palumbo said that was correct. Chairman O'Brien asked Mr. Palumbo if he was going to move the other sign. Mr. Decker asked if they could have flexibility to slide that down. Mr. Palumbo said that will probably get into the factor of exactly how the Planning Board is going to deal, they had thrown a couple entrances on here and it's very likely that all the discussion about the cut thru. Mr. Kolligian asked if all that was conceptual as well. Mr. Palumbo said yes. Attorney Schachner said that for the Board to grant the variance they need some kind of identification of location, you could create a zone of location. Mr. Palumbo said sign number 6 would be in the area of development area 4 along take front. Chairman O'Brien asked what side. Mr. Riper said Lowes Drive. Mr., Ramsdill wanted to know if the Board was to say that they would prefer to have two signs on the southern portion of Lowes Drive and three signs on Lowes Drive on the northern portion would that be specific enough. Attorney Schachner said it didn't sound like it because you're not saying where, it could be anywhere. Attorney Schachner said he was not saying fix a point but you have to at least fix an area, unless it's you view that it doesn't matter where and your thinking that the Area Variance criteria are met no matter where in those general locations the sign is placed. Attorney Schachner said he wasn't saying you couldn't do that but then you are giving them cart Blanche as to where specifically the sign is located. Mr. Deloria said if they eliminate sign number 7 and they take one of the other two and put it right back where number 7 was before. Mr. Decker asked what if the signs had to be a minimum of so many feet apart so two signs would not be on top of one another. Mr. Kolligian said to Mr. Palumbo based upon that's conceptual and the parking lot layout is conceptual he would be more comfortable saying that in the middle third section of the property on Lowes Drive is where that sign should be. Mr. Ramsdill said the Board would say sign 6 would be moved to the middle third. Mr. Barrett asked why you couldn't one sign is allowed for development area 4 and they can put it where ever they want. Mr. Kolligian said he thought that went back to what Mr. Deloria said about eliminating sign number 7 but they take sign number 6 and put it where number 7 was. Mr. Decker was unaware location was the problem he thought it was the number. Mr. Ramsdill said he was more concerned with the number and not the location. Mr. Zabala said he still had concerns with sign number 1 he thought local people coming from that direction around the holidays will see traffic at the lights and use it as a short cut and it will be used as a secondary feeder. Mr. Zabala asked Attorney Schachner if there was a way to

put in the approval that a directional be put into place. Attorney Schachner said there was a whole different thing for directionals. Mr. Kolligian said that had to go through DOT. Mr. Palumbo said he Mr. Riper were thinking the same way if someone was looking at that and trying to get into their head where they are going to go and the next thing you know they are driving into the other lane. Mr. Ramsdill said the intension of the town originally was to have the local people sneak through there. Chairman O'Brien addressed the Board and asked if they wanted to let them know where to put the sign. Mr. Ramsdill said he was comfortable saying in the Lowes area in the center third of the Lowes Drive area of area 4. Mr. Decker said his preference would be anywhere along Lowes Drive on parcel 4 if there was some specific objection. Mr. Kolligian said going back to Mr. Ramsdill original objection to it which you clarified it was the number not the location correct. Mr. Ramsdill said that's correct. Mr. Kolligian said he felt comfortable saying the sign can be anywhere on that development are 4. Mr. Palumbo said the only other thing he was going to say was if said the middle block at the deaccession of the Planning Board during design review. Mr. Palumbo said he thought Mr. Kolligians was the best. Mr. Barrett said you could end up putting the building on the other end of the parking lot. Mr. Palumbo said exactly. Mr. Kolligian said some of the concern about sign number 1 has to be noted in the minutes that it's going to be at the recommendation of the Planning Board. Attorney Schachner said the actual specific locations are still subject to Planning Board Site Plan Review when the individual projects go forward. Mr. Ramsdill said that they could designate one at the discretion of the Planning Board site plan approval. Mr. Kolligian said ultimately they all are. Attorney Schachner said correct but stating the area is what Mr. Ramsdill talked about and he thought that was appropriate.

Mr. Ramsdill made a positive motion to in the matter of appeal 2015-14 KMDA LLC/Wilton II LLC (General Partner) Aldi, Inc. South Windsor Division. For parcels 153.-3-37.1 and 153.-3-37.2 located on Lowes Drive in the Town of Wilton, New York. Based on an appeal from a decision of the Building Inspector and application for relief under the zoning ordinance. Mr. Ramsdill made a motion to approve the following variances based on the map dated April 2, 2015 provided by CT Male.

Sign Variances as follows:

- Extend the amount from the current allowed of 1 sign to a maximum of 6 signs.
- Eliminating sign number 7 from the plan as submitted based on the map dated April 2, 2015 provided by CT Male.

- Sign number 1 height variance relief of 3.40 ft. and square footage relief of 63 sq. ft. for two sides.
- Sign numbers 2 & 3 detached relief of 3 sq. ft. for two sides.
- Placement of sign number 6 along the corridor of development area 4.

Chairman O'Brien asked Attorney Schachner if that was OK. Attorney Schachner said yes. Chairman O'Brien asked Attorney Schachner if there were any questions. Mr. Schachner said no.

Mr. Kolligian seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Kolligian, Mr. Barrett, Mr. Zabala and Chairman O'Brien. Were all in favor. The motion passed.

ADJOURNMENT:

Mr. Kolligian made a motion to adjourn the meeting at 9:00 p.m. Mr. Kingsley seconded the motion. All board members were in favor. The motion passed.

Dated: _____

Amy DiLeone
Zoning Clerk