

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, May 20, 2009*. The meeting was called to order, and began with the Pledge of Allegiance.

John Mattis, Chairman presided and other members of the Board were in attendance as follows:

Charles P. Heady, Jr.
James Seirmarco
David S. Douglas
Adrian C. Hunte
Raymond Reber

Also Present

Wai Man Chin, Vice Chairman
James Flandreau, Clerk of the Zoning Board
John J. Klarl, Deputy Town attorney

ADOPTION OF MEETING MINUTES: 04/15/09

Mr. John Mattis made a motion to approve, seconded with all in favor saying “aye.”

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CLOSED AND RESERVED DECISIONS

- A. CASE No. 23-07** **Congregation Yeshiva Ohr Hameir** for an Interpretation/reversal of Code Enforcement Officer’s determination that the dormitory housing its students is a pre-existing, non-conforming use that a Special Use Permit is or may be required for the Yeshiva’s operation or expansion on the property located at **141 Furnace Woods Road, Cortlandt.**

Mr. John Mattis stated we have a letter from Mr. David Steimets of the Law Firm of Zarin and Steimets requesting that we adjourn this to August. Do we have a motion please? Seconded with all in favor saying “aye.” So that is adjourned until August.

- B. CASE No. 51-08** **John Nolan dba Cortlandt Organics** for an Interpretation if leaf composting and wood waste processing facility is a permitted use in the M-1 district on the property located at **33 Victoria Avenue, Montrose.**

C. CASE No. 06-09 Department of Technical Services for an Interpretation as to what constitutes demolition/distribution of concrete aggregate as it was used in Zoning Board of Appeals **Case No. 33-08** Decision and Order.

Mr. John Mattis stated they have to be adjourned based on the Moratorium that the Town imposed last month, so we're going to adjourn those for six months. Do we have a motion to adjourn each of those please until November? Motion made and seconded with all in favor saying "aye."

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ADJOURNED PUBLIC HEARINGS

A. CASE No. 08-09 **Jorge B. Hernandez, RA for M & S Iron Works** for an Interpretation if a structural steel & iron erector is a Special Trade Contractor on the property located at **439 Yorktown Road, Croton-on-Hudson.**

Mr. John Mattis stated could we have a comment on that from our attorney please?

Mr. John Klarl stated as you indicated in the previous applications on the agenda. Certain applications have been affected by the enactment of the Moratorium by the Town Board at their April meeting and we believe that this comes within the ambit of the Moratorium as established and therefore, I think that we should also consider adjourning this. I did understand at the workshop, that the work session we had on Monday night that this applicant may be seeking relief from the Moratorium and therefore, Mr. Chairman I think we discussed it doing this for one month versus six months as we've done in the Nolan application and the application by the Department of Technical Services.

Mr. John Mattis asked do we have a motion to adjourn that for only one month until June? Motion made and seconded with all in favor saying "aye." That's adjourned until June.

B. CASE No. 09-09 **Anthony Cesarini, contract vendee,** for an Area Variance for the lot width on the property located at **0 Barger Street, Cortlandt Manor.**

Mr. James Flandreau stated I received a letter from the applicant's engineer asking for an adjournment until the next meeting.

Mr. John Mattis stated and they state "the current property owner may have sufficient time to fully appreciate the issues at hand and at which point may decide to withdraw the application." It says "the property owner," but the property owner is not the applicant. Mr. Cesarini is the contract vendee.

Mr. James Flandreau responded yes he is.

Mr. John Mattis asked did they mean Mr. Cesarini I assume?

Mr. James Flandreau responded yes, I believe so. It may just be a typo of the owner to a contract vendee.

Mr. John Mattis asked do we have any comments on that?

Mr. Raymond Reber stated I have a concern here, a concern that they don't show up. What are the issues? What are we chicken liver here? We just serve at their pleasure. I think they owe us at least the decency to show up and explain what the issues are because we had a public hearing a month ago. We agreed at that time that we would refer it for research or evaluation by both the applicant and the Town for clarification. That was done. We were given a memorandum at the work session on Monday, which they did not show up at, we discussed it extensively going over all of the issues. I think we understand them. I don't understand why we have to sit by and wait just because whatever they want to do. They have issues which they don't even have the decency to come and discuss with us, so why are we adjourning, unless someone on this Board feels that they're not comfortable with it, but I think based on all the information I see, it's pretty clear what we should do.

Mr. John Mattis stated I agree. It's rare that we do something like that but on the other hand, I don't know what they'll know next month because we had our work session, we had a memo, we had extensive discussion and if they're not here to discuss it tonight, I don't know what they're going to know differently next month. They're certainly not going to know what our issues were.

Mr. Raymond Reber responded so what are they going to do? They're going to come back and raise new issues that we didn't have a chance to discuss and what we have to adjourn it for a month to review their issues. I think the purpose is they should be interacting with us and if they can't do it at the work session then they should definitely be here tonight.

Mr. James Flandreau responded there was a discussion with myself, the Director of Technical Services Ed Vergano, and the Engineer for the project and I did relay what the Board said at the work session and this was yesterday that we had this discussion so maybe he's taking all that information in and looking at it.

Mr. Raymond Reber stated I'm not quite sure that's proper to be quite honest. If they don't have the decency to come to work session. They hear it firsthand, they shouldn't hear it secondhand from somebody else.

Mr. James Flandreau stated I'm just saying the Engineer does know what some of the issues are.

Mr. Charles Heady stated I felt that they should have been at our work session being that's it's so complicated with this case we have now and that we spent 45 minutes on this case amongst ourselves talking about it and I think that the applicant should have been there to go along and see what we're bringing out.

Mr. Raymond Reber stated and for them now, based on supposedly the secondhand information from Town employees on what was discussed at the Monday meeting I think is inappropriate to say based on that they're not going to show up tonight.

Mr. James Seirmarco stated I agree with Mr. Reber and Mr. Heady. The only thing is we have been known to be a benevolent kind of Board and I would agree to postpone this or adjourn it to one month and one month only with the stipulation that the decision will be made not two months or three months from now but in just one month from now.

Mr. John Mattis stated it was pretty clear what our decision was at the work session, I believe it was unanimous and this isn't an area variance where we have leeway and people have different opinions. This is an interpretation and I think we were unanimous on this interpretation and I don't know what information would change that.

Mr. David Douglas stated it's for a variance.

Mr. Raymond Reber stated it says area variance for a lot.

Mr. John Mattis stated well we had to interpret whether or not this was a lot of record from 1908.

Mr. James Seirmarco stated that first, there are two issues.

Mr. John Mattis responded right, there are two issues and I think we were unanimous on both issues. The variance for a 50-foot lot I would have voted on it last month. A 50-foot lot is not going to get wider by next month. It was 50 feet-wide last month, it's 50 feet-wide this month, it's going to be 50 feet-wide next month, we were unanimous last month that that was too narrow, it was totally inappropriate in the neighborhood and it's not going to change.

Mr. Raymond Reber stated yes but that becomes the secondary issue to the issue of whether it's a lot of record and the fact that if it officially was an independent lot of record throughout the history then you can't deprive a property owner from not utilizing his property somehow and that was the issue that we raised, we've researched, we discussed it extensively, we concluded that this does not qualify to get that benefit so therefore this 50-foot is almost a moved point.

Mrs. Adrian Hunte stated procedurally, the applicant was not at our work session and granted it probably should have been that it would have helped us. They are asking for the adjournment so that they can mull this over with the eye towards possibly withdrawing the application. So, procedurally what does that do if it's on the calendar for next month and they don't come in and request the withdrawal?

Mr. John Klarl responded what the Board has done when someone doesn't show up, here they haven't shown up but they've sent us a letter as other applicants have done before, what the Board has done is they've directed the Clerk of the Board to write indicating that something has been adjourned, but the Board firmly requests the presence of someone at the next meeting. And sometimes when they don't show up at that meeting, the Board has made a motion to deem the application abandoned. In this case, just on two things, it's been on one time, so this is the second time on requesting a first adjournment and I think the applicant would have benefited by showing at the work session, but it's not a requirement to show up at the work session.

Mr. Raymond Reber stated no but they should be here.

Mr. John Klarl stated and I agree, but at the work session we haven't made requirement for people showing up.

Mr. David Douglas stated I agree with Mr. Klarl. Our traditional approach has been if somebody doesn't show up we often have them directed to show up at the next meeting and if they don't it'll be deemed withdrawn.

Mr. John Mattis stated well I wouldn't withdraw this. If they don't show up next month, I would vote on it because there is a legal precedence that we want to establish so that this doesn't happen again. We have the right to either, deem it abandoned, adjourn it, or vote on it whether they show up or not.

Mr. James Seirmarco stated I would be in favor to voting for it.

Mr. David Douglas stated but I think we should definitely allow them a chance to come back next month. Let's be consistent with what we've done over the years.

Mr. Wai Man Chin stated I wasn't at the work session this past Monday, but at last month's meeting I said that if it was a lot of record from way back when and this and that, I think that I probably would have given that variance, but this was subdivided back in 1980 and because it was done in 1980 and it was done by Dorothy Young, I think at that time things like this should not have happened. She should have had this lot in one 50 foot and she had plenty of opportunity to do it with the lots next door because she owned them all. So, there's no reason why this lot should be a lot of record or anything like that.

Mr. James Seirmarco stated the issue here is when was lot 6.2, and that's the one we're talking about, when was that born? And, you're correct, it was born when they subdivided those three lots. It might have been part of some other number of lots in the 1900's or the 1800's or the 1700's but this particular lot, lot 6.2 was born in 1984.

Mr. Wai Man Chin stated correct.

Mr. James Seirmarco stated at that particular time it was not an illegal lot because it didn't need the requirements of that date. So, that's what we discussed for almost an hour at our work session.

Mr. Wai Man Chin stated that's what I'm saying also. In 1980 this could have been made a legal lot easily.

Mr. Charles Heady stated I agree with Mr. Seirmarco. We talked about that lot from 16 to change it to 6.1 which changes the Code completely. Am I right?

Mr. John Mattis stated they took the entire parcel and there were 9 different lots and they made three lots out of it. The fact that one of them came out dimensionally the same as it was in 1908 it was designated as a new lot and then it lost its standing as a lot of record. I don't know what can change that.

Mr. David Douglas stated I agree with all that but I still think that we should adjourn it to give the applicant the chance to come in and have their day here.

Mr. Wai Man Chin stated usually we send a letter so I would say that yes let's adjourn it for one month and if they don't show up, then we'll vote on it.

Mr. John Mattis stated we'll act on the case whether they show up or not. Is there anyone in the audience who would like to speak regarding this case?

Mr. Charles Heady made a motion for **case no. 09-09** to adjourn it to the next meeting in June, seconded with all in favor saying "aye."

Mr. John Klarl asked Mr. Chairman do you want to direct a letter also?

Mr. John Mattis responded yes please that we will be prepared to vote on that and not adjourn it any longer.

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NEW PUBLIC HEARINGS

- A. **CASE No. 10-09** **Estate of Bertha T. Bell** for an Area Variance for the side yard for an existing accessory structure (garage) on the property located at **252 Lafayette Avenue, Cortlandt Manor.**

I'm Marilyn Poleski I'm one of the executors of my mother Bertha Bell's estate. I'm here to ask for a variance for the garage that we discovered in the process of closing the estate, there was an open garage permit in 1972, so we're looking to close that permit. In the process of doing that we noticed that it was not by Code. *(Continued after turning microphone on)* We are looking to

close the estate and in the process we discovered there's an open garage permit from 1972 and in the process of looking through that we discovered that it is too close by Zoning to the line to the house next to the property next to us. I'll take this time to apologize in advance for my father doing this. I have no clue how this happened. My father, for those of you who have been in Peekskill, he was the plan accountant at Fleishman's so he was a number's guy. I even have the invoices from Creed Lumber where he bought everything. So, the only thing we can surmise is that he – believe me Winslow Travis who was our neighbor at the time, they were friends and they must have surmised that either that they didn't know the Code or that their line was at a different place than where they thought it was. So, I'm looking for a variance so that we can close the building permit.

Mr. Charles Heady stated I was talking to you on the phone, I was talking to your son.

Ms. Marilyn Poleski stated thank you, I'm glad I was able to speak to you.

Mr. Charles Heady asked we're you able to get the letter from you neighbors I had asked you to.

Ms. Marilyn Poleski responded I didn't find the letter.

Mr. Charles Heady stated from your neighbor next door.

Ms. Marilyn Poleski responded no I did not get a letter. He is going to be here tonight.

Mr. Charles Heady stated he was, he's not here now?

Ms. Marilyn Poleski I don't believe so, I don't know if he is. We spoke on the phone, Lance and I did, and he mentioned that we could probably come up with something that would resolve the issue.

Mr. David Douglas asked is there a sale going on here right now?

Ms. Marilyn Poleski responded no, not yet. There will be. I felt it was best to get everything lined up. I'm a major novice at this.

Mr. David Douglas asked but you're not under contract right now?

Ms. Marilyn Poleski responded I'm not under contract.

Mr. John Mattis stated thank you for doing that. We get cases where people come in and say "I need a decision tonight, we're closing tomorrow" and it really puts us on the spot sometimes.

Ms. Marilyn Poleski stated I'm on the School Board in Garrison and I totally understand how things need to be done in an appropriate manner to make it run smoothly and it's just fair for everybody.

Mr. John Mattis asked we're you up for re-election yesterday?

Ms. Marilyn Poleski responded actually I've just ended – I've had three terms, nine years. Time for somebody new to come on, but all the budget's passed this time.

Mr. Charles Heady asked in July 1972 your father got a permit to put the garage there and in the meantime, which you didn't know, and the files are lost in the Town Center, but as a rule we don't give a variance that close to the line. Under the circumstances of what happened because it's no fault of yours, we will give you the variance you need but we're just want to let you know it's the circumstances that's why you'll be getting that variance.

Ms. Marilyn Poleski stated I did bring copies of the building permit and the receipt from the assessors office. I have those from '72 and '74.

Mr. David Douglas asked and your father is deceased also?

Ms. Marilyn Poleski responded yes he died in 1995, and my mother passed away this past summer. I didn't know if you wanted to see those.

Mr. John Mattis stated that's okay. That's been assessed and taxes were paid on those?

Ms. Marilyn Poleski the Depression Generation saved everything.

Mr. Charles Heady stated we have the permit number on here anyhow.

Mr. Wai Man Chin stated we don't know what was granted back – this was in 1972, there could have been things that were granted that we don't know about, and basically from six feet down to 2.34 feet is a 3 ½ foot variance basically. I don't see a problem with this right now because this is close 40 years ago when this was built, so again I would not have a problem with granting the variance.

Ms. Marilyn Poleski stated I also have a copy of the application for the building permit but I didn't see anything on it where it specified the location where he would place it on the lot and just as an aside note, the plans he got were from, the original ones, Popular Mechanic for anybody who's interested. He's got all the papers paper-clipped, if you have that there in your packets. I don't know if they gave you that with it. Oh, you did, but they're in the folder though.

Mr. John Mattis stated you mentioned that there's a letter from the assessor, so this has been on the tax roll all these years?

Ms. Marilyn Poleski responded yes. Do you want to see a copy of that?

Mr. John Mattis responded no, that's fine. Any other comments? I do know you said there was

a neighbor and I'm going to open it right now. Is there anyone in the audience that would like to speak? Do we have a neighbor here?

Ms. Marilyn Poleski stated he spoke to me on the phone and said he was going to come here. We talked about planting some trees on the side and we're fine with that.

Mr. John Mattis stated I'm sure if he had an objection he would be here.

Ms. Marilyn Poleski responded he would.

Mr. John Mattis asked anyone else?

Mr. Charles Heady made a motion on **case 10-09** to close the public hearing, seconded with all in favor saying "aye." I make a motion on **case 10-09** to grant an area variance for the side yard setback for the existing accessory structure (garage) for a required 6 foot down to 2.3 foot on the above-referenced property SEQRA type II, no further compliance required, seconded with all in favor saying "aye."

Mr. John Mattis stated your variance is granted.

Ms. Marilyn Poleski asked so what's the next step?

Mr. James Flandreau responded you'll get something in the mail sent to you, probably next week or so, but you can always give a call to the office and find out when it's ready.

B. CASE No. 11-09 King Marine for an Interpretation that the previous non-conforming use obtained by Briar Electric can be changed to a non-conforming use for marine storage, sales and services on the property located at **285 8th Street, Verplanck.**

Mr. Randy King presented himself to the Board from King Marine. I'm here for an interpretation for a piece of property that was formerly used by Briar Electric. I would like to use it for my marine business.

Mr. David Douglas stated your property is a little bit complicated in the sense that it's a split-zone property. Part of it is in the MD zone and part of it is in the RG zone and the use that you're seeking is permitted in the MD zone but it's not permitted in the RG zone. That creates a problem for you. The other problem is the issue of if you had a non-conforming use and if it's not maintained for more than a year than the property loses its right to do that non-conforming use and it's my understanding that the prior non-conforming use as an electrical and party rental store ceased for more then a year. My gut reaction is it's going to be difficult for you to be able to do what it is that you're seeking to do given the zoning on that property. Stepping back from what the zoning is the way what it is right now, I personally don't see a problem with you doing what you want to do if this was zoned the way I personally think it should be zoned. I don't see any reason given the nature of the neighborhood and the nature of the area that it should not – it

should be an MD zone, and you should be allowed to do what you're seeking to do, but this Board doesn't have the power to do that, that's a matter for the Town Board to change the zoning. I can't speak for everybody else here, but my personal view is that I don't think you're allowed to do what you're seeking to do, but I would recommend that you seek from the Town Board that they re-zone it so that you can be allowed to do what you want to do because it seems like an appropriate use for the property. I don't know if that's going to do you any good or not.

Mr. John Mattis stated what Mr. Douglas is saying is in the MD zone, this is permitted. In the RG it isn't. Unfortunately, that zone cuts right through the property. If the Town Board, and they are the only one that has the power to do that, if they would change that MD/RG zone line to the end of your property so that you are completely MD, it doesn't affect any of the neighbors or anything like that, it doesn't change their zone, but we feel that this is an appropriate use. The building is already there. It's been used for something a little different which was also allowed in the MD and then you would have an MD zone you could do this. I don't believe there'd be any variance that would even be necessary.

Mr. James Seirmarco stated it's a much cleaner way of doing this. In the past the zoning lines have gone through separate lines of property and people have approached the Town Board and they have rearranged the zoning line to make sense to line up with property lines. It makes sense.

Mr. Randy King stated I think years ago when they had rezoning at a certain area, I think somebody –

Mr. Wai Man Chin stated forgot.

Mr. John Mattis stated I don't know how a zone went through an existing building.

Mr. Randy King stated they drew a line right through the building. If I stay to the right side I can sleep, if I go to the left side I can work. How do you address it now coming before this Board?

Mr. James Seirmarco stated you petition the Town Board.

Mr. Raymond Reber stated I would go one step further and recommend that this Board send a memorandum to the Town Board stating that we're referring Mr. King to the Town Board to encourage them to seriously consider moving the line differentiating these two zones over to the edge of his property so that an existing building will not be split in half and that the entire building fall within the MD zone which is logical and which also is fair and reasonable without impacting negatively on the neighborhood. I think we can take that step as an encouragement to the Town Board rather than just say "Mr. King go on his own."

Mr. John Mattis stated as a Board sometimes we feel in favor of something or against something but we can't vote that way because we have to go by the Code and unfortunately, you can have a special permit for this Marine Storage in the RG zone but none of the other uses are allowed. So,

we can't even permit that because they are not allowed. Sometimes they are allowed by variance but they are not allowed by variance here. It almost necessitates that you get this zoning changed. And, we can write a letter...

Mr. Randy King responded have the line re-drawn. What was prior to that – this building has a history that goes all the way back to when it was an oil company and that was back in the '50s. I think at that time, the line went around it.

Mr. John Mattis stated it probably did.

Mr. David Douglas asked that was Hudson Valley Petroleum?

Mr. Randy King responded yes.

Mr. Wai Man Chin stated I remember when it was Briar Electric way back.

Mr. Randy King stated a tent company was in there.

Mr. David Douglas stated Cartwright Party Rentals.

Mr. John Mattis stated so we feel this is an appropriate use, but we're kind of stymies, we can write a letter on your behalf to the Town Board.

Mr. Randy King writing to the Town Board would certainly mean a lot to me.

Mr. John Mattis stated we would certainly support that and write a letter to the Town Board. That's probably the easiest way to clear this up.

Mr. Randy King stated I guess my next step would be to approach the Town Board.

Mr. Wai Man Chin asked Jim, who would they speak to for what they're saying?

Mr. James Flandreau stated you can go to Supervisor Puglisi's office and you could speak to their staff there and they'll direct you to what you would need to send over to the Board.

Mr. John Klarl stated I would request that you go to a work session of the Town Board but the Supervisor's office will direct you on how to proceed.

Mr. Raymond Reber stated hopefully we can get the memo from our Board so they could bring that with them as support for his case.

Mr. John Mattis responded yes we'll do everything we can to get that memo there quickly so that you're not running ahead of us.

Ms. Regina Keith stated may I ask that you specify in the letter that this is for that building, just that building.

Mr. John Mattis stated yes it would be just for that property. Procedurally, I think we should just adjourn it because actually they need a special permit for the storage. They would have to come back for a special permit, so we can leave that open until the Town Board makes a decision one way or another. Is there anyone else in the audience that would like to speak? Any other members of the Board?

Mr. Wai Man Chin stated we should adjourn it for maybe at least two months.

Mr. David Douglas stated if we adjourn it for two months that may be optimistic.

Mr. John Mattis stated by then we'll have a good idea of how much longer it will take if it's not finished by then.

Mr. Wai Man Chin stated Mr. King we're going to adjourn your case until July to give you some time to get to the Town Board. We want to leave it active. It will be adjourned to July.

Mr. John Mattis stated you're still going to require a special permit from us so that we're going to leave this as an open case but we will continue to adjourn it until the Town Board makes their decision in which case you can just come back to us if they change that.

Mr. Randy King asked July 13?

Mr. John Mattis responded no it wouldn't be the 13th, it's the third Wednesday in July. I'd have to look at my schedule.

Mr. James Flandreau stated Mr. King you could just call my office we could tell you the date.

Mr. Raymond Reber stated the 15th.

Mr. John Mattis stated and if the Town Board hasn't reached a decision by then, we'll continue to adjourn it and it probably won't even be necessary for you to be here.

Mr. David Douglas moved to adjourn **case no. 11-09** to the July meeting and also that a letter be sent to the Town Board recommending that the zoning be changed so the entirety of this parcel be zoned in the MD zone so that the zoning line doesn't cut through the middle of the existing building, seconded with all in favor saying "aye."

- C. **CASE No. 12-09** **Jo Ann Finocchi** for an Area Variance for the side yard setback for a proposed addition on the property located at **23 MacArthur Blvd, Cortlandt Manor.**

Ms. Jo Ann Finocchi introduced herself to the Board and stated this is my husband Jesse and we're applying for a permit to enclose our deck, porch whatever, make it enclosed and they told us we needed a variance.

Mrs. Adrian Hunte stated good evening Mrs. Finocchi, Mr. Finocchi, could you please explain exactly where on the property this porch will be. Because, there's a deck already.

Ms. Jo Ann Finocchi responded we're a corner lot. It's really on the side.

Mr. Jesse Finocchi stated it's on the side of the house off our little kitchen area.

Mrs. Adrian Hunte asked it's the existing?

Mr. Jesse Finocchi responded it's existing already. We're just looking to screen it in.

Mrs. Adrian Hunte asked and the property is even though the address is MacArthur Boulevard, it's actually facing the front of the house...

Ms. Jo Ann Finocchi responded yes we're MacArthur and Hampton Place, so we're on the corner.

Mrs. Adrian Hunte asked and the side of the deck, that's what you're looking to screen in?

Ms. Jo Ann Finocchi responded yes.

Mrs. Adrian Hunte asked is that where the hedges...

Ms. Jesse Finocchi responded there's a line of trees.

Mrs. Adrian Hunte asked what are you planning to do when you say "enclose it?"

Ms. Jo Ann and Jesse Finocchi responded just screen it and a roof.

Mrs. Adrian Hunte asked no plumbing or heating?

Mr. Jesse Finocchi stated there's some steps going outside, because right now you can only enter it through the house, so we're going to put some steps going into the backyard.

Mrs. Adrian Hunte asked is there any other alternative for you to put it anywhere else on the – attaching to the house.

Mr. Jesse Finocchi responded no it's already there, it's existing.

Mr. James Seirmarco stated we have to ask these questions. Sometimes they sound ridiculous.

Mrs. Adrian Hunte asked is there anyone in the audience who would like to speak? Now, this is an R40 zone. The lot is about 10,000 square feet, but I noticed that most of the lots in the area are the same size, is that correct? So, they're much smaller.

Mr. Jesse Finocchi stated our neighbor has the same house that we have, the same size.

Mr. James Seirmarco asked so there's an existing sliding door that comes off your kitchen off to the deck?

Ms. Jo Ann and Jesse Finocchi responded yes.

Mr. James Seirmarco asked so it would be inappropriate to come off of the bedroom or the living room.

Ms. Jo Ann Finocchi responded yes. We're not making it any bigger either. It's going to be the same size.

Mr. John Mattis asked what size is the deck right now?

Mr. Jesse Finocchi responded 9' x 15'.

Mr. John Mattis asked so it comes out 9 feet from the house?

Mr. Jesse Finocchi responded yes.

Mr. John Mattis asked so you only have like 11 feet 8 inches from the property line to the house itself?

Mr. Jesse Finocchi responded yes just about. Yes, left to right is 15 feet.

Mr. Wai Man Chin asked so basically the house is already within the setback requirements?

Mr. John Mattis stated yes.

Mrs. Adrian Hunte asked any other comments?

Mr. Wai Man Chin stated no I don't see any problem.

Mr. John Mattis stated I do see a problem. An open deck is open. It's not really visible to the neighbors even if they're screening with trees and stuff. Once you put a roof on something and close it in as a porch, it becomes a structure and a structure where you need a 24 foot variance, the house is already only a little less than 12 feet and now you're coming to less than 2 feet from the property line with a roof. That's a major change from a deck. That's a substantial variance.

Mrs. Adrian Hunte asked how high is it to the roof part?

Ms. Jo Ann Finocchi responded not very high.

Mr. Jesse Finocchi responded I'm not sure, whatever the Code is. I don't know if the architect put it in the drawing that you have how high the roof is. If I had to make a guess, 7 feet.

Mrs. Adrian Hunte asked no higher than the existing roof line out of the picture?

Mr. Jesse Finocchi responded no.

Mr. Wai Man Chin stated the roof shows approximately –

Mr. James Flandreau stated if you look at the side elevation on A4 it might be 3, 3 ½ feet from the existing eave to the new ridge.

Mr. Wai Man Chin stated maybe about 3 feet down from the existing ridge.

Mr. John Mattis stated it shows 7 feet 6 inches on the last page of the – to the roof line. But, that's not 7 feet 6 inches from the ground level. That's raised.

Mr. James Flandreau responded that 7.6 is from the top of the decking to the top plate of that, and then you would have the roof constructed above that.

Mrs. Adrian Hunte stated but it's no higher than the side roof.

Mr. John Mattis responded no, it's a little lower, as a matter of fact.

Mr. Wai Man Chin stated from the first floor it's approximately 10 feet, maybe 10 ½ feet.

Mr. Raymond Reber stated I had a serious problem as indicated. It's one thing for a deck, it's open, it's a platform, but what they're going to do here is basically close it in and the only difference between this and a full-fledge room is screening which could easily be replaced with windows and we know the history. Once you get that far, ultimately they end up being full-fledge rooms from a neighbor or what have you it's the equivalent of a full-fledge room because it's going to be structurally closed with a permanent roof and 2 feet away – this house, it's in the back of the house even though it's side yard off of MacArthur, the house faces Hampton, so we're looking at the back of the house. They're looking to go to 2 feet with a full structure and it just happens to back up right against the side of the neighbors house and to me as much as I understand their problem, there's some things in life that are difficult. If they had their neighbor's yard which were traditional rectangular yards, there's plenty of room to put decks and added rooms in the backyards. There house is a corner lot, it's not laid out or designed for that, it's an unfortunate restriction but that doesn't mean we should say "fine, go into your backyard,

technical backyard, side yard or whatever, and build right to within 2 feet of the property line” and start a precedence in this neighborhood when there’s no absolute necessity that they have to do this.

Mr. John Mattis stated that’s one of the things that we have to deal with. If we grant a variance for this there has to be an unusual circumstance or we set a legal precedence that the next person comes in and asks for something 2.8 feet from the property line, where they’re required close to 17 feet. You’re asking for a variance of 14 feet on a 16.8 foot variance our setback that’s required. That’s over 80% and generally we don’t give variances that large and again, once you put a roof on it now it’s really visible. With a deck, a deck to me is not much different than having a party on your backyard on the grass and you’re there and if you’re on a deck it’s not much different, but once you put a roof, that roof line is visible close to the property line at all times, whether it’s permanently closed in and it’s a room, or whether it’s just what you’re making, that’s just screened in, it’s still a permanent roof, it’s a permanent structure, and that’s inappropriate to be that close to the property line.

Mr. Jesse Finocchi stated my neighbor has no problem with it.

Mr. Raymond Reber stated it’s not the issue.

Mr. John Mattis stated the issue is not whether your neighbor – because you may move and your neighbor may move. The issue more is us setting a precedence. So, the next fellow comes in next month and says “I want 2 feet 8 inches from the property line,” and his neighbor says “no” well what’s the difference, once we’ve granted it we’ve set a legal precedence because we’re going to have to give them all over the Town, unless there’s an unusual circumstance or something specific that is different from everybody else and I don’t see that in this case other than the fact that you want it.

Mr. Raymond Reber stated we have a very difficult time taking to heart positive recommendations. We take very seriously negative recommendations because they raise issues. Positive recommendations have some concerns to it and we’ve been faced with this in the past. We had one case where the neighbors were very adamant to support a significant variance. A little research found out that the neighbors intended to do some similar expansions and if they knew if we’d approve the one that was before us, then they would be grandfathered. We also know that the neighbors don’t like to make enemies of their neighbors so they tend not to make a big issue when their neighbor is trying to do something if they figure “well, I can live with it.” So, to say that your neighbor is in favor of it doesn’t mean we have to throw the rules out for the neighborhood and change the neighborhood and that’s basically what we would be doing here.

Mr. James Seirmarco stated just for the record, zoning goes with the land, not with the owner. When we grant this and it goes on the land, it’s supported by the land it’s not supported by the owner. It’s supposed to be forever and ever and you’re only for a certain length of time and then somebody else will own it. Granting variances with a particular owner who are nice people and have a good reason to be that way that never computes. It always goes with the land, not with

the owner.

Mr. Jesse Finocchi responded so what you're saying is you're not going to grant the variance?

Mr. John Mattis stated we're still discussing it. We have to look at various things and two of the things we have to look at is; is the variance significant? And a 14 foot variance on a 16 foot 8 inch setback is significant. It's very significant. I can't remember when we've ever granted one. The other thing is: does it change the character of the neighborhood? When you have a roof line that's less than 3 feet away from the property line that does change in the character of the neighborhood. You won't find any others like that out there.

Mr. Raymond Reber stated the third one is: if it's self-created and this one is self-created.

Ms. Jo Ann Finocchi stated out of character for the whole neighborhood. They made a Floridian type.

Mr. John Mattis stated if they were within the zoning whether it's out of character, we can't stop that.

Ms. Jo Ann Finocchi stated we're told about what's standing out. Everybody comes around our neighborhood and looks at that house and says "where did this house come from?" It's totally different from the entire neighborhood.

Mr. David Douglas stated we can't say anything about the esthetics.

Mr. John Mattis stated we can't anything about the other houses and obviously it didn't need a variance or it would have been here in front of us. So, they built it within – they probably built it within the footprint of they were allowed without a variance. That's the difference.

Mr. David Douglas stated for better or for worse, zoning has to do things like how far from the end line it is, but it has nothing to do with "is it an ugly house."

Ms. Jo Ann Finocchi stated we're not doing anything that's going to make the house look ugly.

Mr. David Douglas responded that's not what we – we don't have control over the esthetic part.

Mrs. Adrian Hunte stated I will say this, that the neighboring homes are on small lots and they appear to be somewhat crowded with what people have done, they've done on very small pieces of land. You already have a variance for the existing deck which is also very close to the property line so at this point it's enclosing it and it can be enclosed with certain conditions that there will not be any windows or any heating, plumbing or anything else.

Mr. Raymond Reber stated that never works.

Ms. Jo Ann Finocchi stated we just want a place where we can sit at night and not be bothered by the raccoons and all the others things that are outside, but it would only be screened in, it's out there, we have a patio in the back, you can't sit out there because of the animals and such. This would be screened in so we could sit.

Mr. John Mattis stated unfortunately, small lots have problems. And the problem is you're already within the setback variance for your house.

Mr. Wai Man Chin stated the house is actually almost close to 5 feet within the setback requirement.

Ms. Jo Ann Finocchi stated and it's been there for a long time.

Mr. John Mattis stated we're not questioning the house. We're questioning an addition to a house that's already within the setback.

Ms. Jo Ann Finocchi responded it's not an addition. It's an existing area that's just going to have a screen and a roof put on it.

Mr. John Mattis continued the roof is the key point. Now it's something that's visible from the neighborhood.

Mr. Raymond Reber stated it's becoming an integral part of the house. It's no longer just a platform.

Mr. John Mattis stated and it's a 14 foot variance on 16.8 feet. I can do the math on that but it's 80% or so. That's substantial.

Ms. Jo Ann Finocchi stated and nobody's going to see it. It's not that substantial. It doesn't stand out. Except for the next door neighbors who are going to see it, it's not like it's out where people can see it. You pass by there – it's the side, it's a tree, nobody's even going to see it.

Mr. John Mattis stated but it also sets a precedence for the next two or five, or ten people that come in and ask for the same thing and once we've done that we've basically changed the Code because we have to give it to everybody.

Mrs. Adrian Hunte asked any other comments?

Mr. Wai Man Chin responded yes, in 1993, I was part of the Board who gave a variance to Harry and Rosemary Fosay and at that time we had given a variance for the deck based on the area, the neighborhood and everything else and we didn't find anything that really made a detriment to the neighborhood. I still don't believe that a screened-in porch and the height of the roof that they're putting on there is really a detriment to the neighborhood.

Mr. John Klarl stated the only thing on the '93 application was to reconstruct an open wood deck.

Mr. Wai Man Chin stated it went from 24 foot down to 2 foot. I guess the zoning must have changed because the 24 foot to 2 foot since then before it was R40.

Mr. John Mattis stated it's still R40.

Mr. James Flandreau stated the only thing I can think of is that they classified that as a rear yard and not as a side yard for the deck, the way we would do it is off of the street address, is the way the architectural front...

Mr. Wai Man Chin responded back in '93 we still had two front yards also.

Mr. James Flandreau stated one has to be a side then one has to be a rear so it might just be that they classified it as a rear and we looked at it classified as a side yard.

Mr. John Mattis stated they rebuilt the deck in '93 and if they had to rebuild it again or wanted a deck, I'd approve it, but once you put a roof on it and make it a room whether it's a room you can use all year or not, or just kind of a breeze way room, it has a roof on it and it changes the whole character. No one in the audience?

Mrs. Adrian Hunte asked anyone in the audience who wishes to say something?

Mr. Jo Ann Finocchi stated we have no intent of making a room that's an all-year room.

Mr. John Mattis stated that is not an issue with me. The issue with me is it is now a structure as opposed to an open deck. It's a structure with a roof and when you look at that, as you've said people probably don't even see your deck today, and that's fine, but people will be able to see the roof, that's a big difference.

Ms. Jo Ann Finocchi responded it's a roof, there's roofs all around.

Mr. John Mattis stated within the parameter of what the zoning allows but not 2.8 feet from property lines.

Mr. James Flandreau stated the Town Board actually makes an exception for a structure which this porch would be and for a deck, a deck's allowed to encroach farther into the setback line, so that if you had a 30 foot setback for a structure, you're allowed if let's say it's a front yard, you're allowed to encroach an additional 6 feet closer to the property line, so it would be 24 feet. So the Town Board has made a difference of what a structure is compared to what a deck is.

Mrs. Adrian Hunte stated on Zoning Board of Appeals **case no. 12-09** for an area variance for the side of a setback for a proposed screened porch at 23 MacArthur Blvd. in Cortlandt Manor, I

make a motion to close the public hearing, seconded with all in favor saying “aye.” On Zoning Board of Appeals **case no. 12-09** area variance for the side yard setback for a proposed screened porch I make a motion that the variance not be granted.

Mr. John Mattis stated generally they applied for the variance so we make a motion to grant it. We can do it either way but it’s a little cleaner if you make a motion to grant it.

Mrs. Adrian Hunte stated I make a motion to grant the variance for the side yard setback for a proposed screened porch from a required 16.8 feet down to 2.8 feet on the above-referenced property, this is a SEQRA type II matter, no further compliance required, seconded with all in favor saying “aye.”

Mr. David Douglas stated I think there might be some confusion as to what...

Mr. John Mattis stated we’re voting to give them the variance. The motion was to give them, to grant. Can we re-poll the Board? Procedurally, do you want to do it to deny or to grant?

Mr. Raymond Reber stated it was right as a grant.

Mr. John Mattis stated we’re voting to give the variance.

Mr. James Flandreau polled the Board: Mr. Raymond Reber; no, Mrs. Adrian Hunte; no, Mr. David Douglas; no, Mr. James Seirmarco; yes, Mr. John Mattis; no, Mr. Wai Man Chin; yes, Mr. Charles Heady; yes.

Mr. John Mattis stated the motion is denied by a four to three vote. So, your variance is denied.

D. CASE No. 13-09 Robert Ebersole for an Area Variance for the front yard setback for a proposed front yard open deck on the property located at **3 Pond Meadow Road, Croton-on-Hudson.**

Mr. Robert Ebersole presented himself to the Board and stated I’m here to request a variance for an open deck that I’d like to build on the side of my house. My house is situated in between two roads.

Mr. John Mattis stated you’re at the apex of a triangle there.

Mr. Robert Ebersole responded yes. Those two sides of my property are considered the front yard. One of those sides of the house is where I want to build the deck. There’s an existing sliding glass door on that side of the house and there’s an almost two-foot drop-off. It appears as though a deck was intended to be put on the side of the house but never was, but I would like to put one on so I’m requesting a variance for that front yard setback.

Mr. Wai Man Chin stated actually I know the property very well. I met Mr. Ebersole the other

day for the first time actually. Basically, that deck is on-grade or almost, partially below-grade if you want to put it. Actually he has it there a part of it, clear out the earth to actually put the beams across and the footings and everything else, and of course, I think a deck is a lot cheaper than trying to put a patio with concrete and everything else there.

Mr. John Mattis stated or a screened-in porch.

Mr. Wai Man Chin stated I would not have a problem with this because it's basically on grade. You're stepping down from the sliding door onto the deck which is about a few inches from there you're stepping down to maybe about four or five inches onto grade. Again, yes it's on a triangle of the two roads; one is Meadow Pond Road, the other one's Pond Meadow Lane and that house has been there for a very long time and I just think that a deck over there would not bother anybody on the adjoining properties.

Mr. John Mattis stated I was also out there, and thank you for staking that out so we could see exactly – you put those little red flags so we could see exactly where it would be and one of the things we look at is there an alternative. For you to come out the sliding glass doors and to put it on the side let's say, as we're looking at it on the right side, that goes way down you'd have to build all kinds of footers and everything else and it would be a raised deck and that doesn't make any sense and this is also 27 ½ feet from the property line. It's a 16 ½ foot variance where 40 foot is required so the percentage is a lot less than, for example, our previous case. 27 ½ feet is still substantially back from the road, and again, this is just a deck so I think that this is fine.

Mr. Wai Man Chin stated I'd like to say one more thing. There's a stream that runs through there and it comes from Dream Lake, when we have some heavy torrential rains, that thing actually rises pretty high where the road; Pond Meadow Road floods over by maybe a foot, so where he's building it is going to be just above that water line. If he built that anywhere below that, he'd be under water during the heavy rain.

Mr. John Mattis asked anyone else?

Mr. Raymond Reber stated yes, we're normally reluctant to allow even decks in the front yard other than, as Mr. Flandreau had indicated, that they'll allow a six-foot platform or something for an entranceway, but I agree that this is appropriate for a number of reasons. Partially, I have also heard that the rain out there and the fact that there are water drainage issues and so a patio, aside from being a structural problem, also there's a problem in terms that this could be under water at times. The deck, as Mr. Chin described, is more of a platform actually than a deck, it's just above grade to me it's very appropriate there. It is significantly back from the road. The road itself, the property line, is setback from the road and there's no immediate neighbor. No one can see this, so it doesn't impact on neighbors. It'll hardly be visible. Anybody driving by passed would basically think it's a patio or something. I think there's enough extenuating circumstances here to justify doing something we almost never do which is grant a deck of any substance in a front yard.

Mr. John Mattis asked anyone else? Anyone in the audience would like to speak? Mr. Chin.

Mr. James Flandreau stated at the meeting the Board was discussing to put a condition of not to cover or enclose it. I don't know if we still would like to put...

Mr. John Mattis stated we would approve this with a condition that it would not be expanded to be a covered porch or room at a later date.

Mr. Robert Ebersole responded that's no problem with me.

Mr. Wai Man Chin stated I make a motion on **case 13-09** to close the public hearing, seconded with all in favor saying "aye." I make a motion on **case 13-09** to grant the area variance for a front yard setback for the proposed front yard open deck from a required 44 foot down to 27.5 feet on the above-referenced property, this is type II under SEQRA, no further compliance required, and also there's a stipulation that no covered porch, the porch would never be covered or enclosed, seconded with all in favor saying "aye."

Mr. John Mattis stated your variance is granted unanimously

E. **CASE No. 14-09** **Linda O'Buck** for an Area Variance for the front yard setback for a proposed front porch on the property located at **95 14th Street, Verplanck.**

Ms. Linda O'Buck presented herself to the Board and stated I'm applying for a variance for a front deck, now I'm a little worried, but I wanted to put a roof on it. I do have a picture of my house. I don't know if anybody has seen my house. I've had a deck on the front of my house for a long time. I live in Verplanck, and I wanted to put a cover over it, there is a little cover on it and I have a wrap-around deck to the other side. The reason is for safety issues. You'll see when I show you pictures if anybody has not seen my house. The front deck, if you want to open my front door, you have to actually step down the stairs, because it's too short. When someone comes to my door, I open the door and they have to step down the stairs. I wanted to extend the deck out evenly. Right now it goes in and I just want to make an extension evenly, that's one thing, and the other thing is I did want to put a roof over it because it's a wrap-around deck and I thought it would look nice. I didn't think it would be a problem. My house sits rather close to the road but many of the houses in Verplanck do none of them are to Code as they're asking. Nowadays, if you want to build a brand new house, you have to put it close, but the deck has been here for as long as I can remember and I bought the house maybe 30 years ago. I was replacing the deck no matter what because it's in bad shape. But, I wanted to put a roof, a wrap-around roof with nice pillars and really make the house look fancy. I thought it would be an upgrade. Do you want to see the pictures?

Mr. John Mattis responded sure.

Mr. James Seirmarco responded yes.

Ms. Linda O'Buck approached the Board with the pictures. I wanted a roof there. I just wanted the deck to wrap around. It's a safety issue in a sense, I slip and fall on that deck with the ice every time and I wanted to put a Trex decking there. I didn't know if there's feelings about that. Regardless, I need to replace the deck, but I would like for that to happen and then also put a cover around it for safety, so were not slipping on our face and to keep the house clear, and also to have to not shovel the deck.

Mr. Wai Man Chin asked how wide is the deck?

Ms. Linda O'Buck responded it's only 3 feet on one side and 6 feet, I have a drawing.

Mr. John Klarl asked is it the same width on the front and the side of the house or is it different widths?

Ms. Linda O'Buck responded no they're different. Like the front, if one side wanted to put that deck with PVC railings, I wanted to put white rocking chairs in front, it would look nice on the house, it's an upgrade to Verplanck, I think. I think I'm making an upgrade to the neighborhood. I have been all along. The house has been renovated many times if you look at my past we've always gone through the Town to make sure we're doing things legally. But, now it's just me. I've done some work recently on my house and I actually appreciate the Town and their help they had because I really do appreciate that they're checking things and that we are doing things right because sometimes they prevent me from being taken advantage of from builders and things that I don't know. I really wanted to put a roof around and really it was so I don't have to shovel, it's all for convenience and safety and esthetics. On the existing deck that I already have.

Mr. Raymond Reber stated I still haven't heard the answer to the question of how wide is the front deck now?

Mr. Wai Man Chin stated I just found it. On one side it's 5 foot 6 inches wide, and on the front 7 foot 6 inches wide. Not very large wide porch. It's a very narrow porch.

Mr. Raymond Reber stated well 7 foot 6 inches is wider than my daughter's porch on her house and she's got chairs and tables and everything on it. How wide is it by the front door where you claim you can't open the door?

Ms. Linda O'Buck responded the front door goes in if you notice the stairs go in a little bit. If I open that door, someone would have to step down on the stairs in order for me to let them in. That's the problem with that. I would like to be able to open the front door and allow someone to come in. On the side, you see the wrap-around, there's a door there too. It's just a plain door, it's not a sliding door and it's just a plain door to get in on that side. I use that side door mainly than to go in my main room. I use the side door to not have mud and everything in my main door. I use the side door, but any visitor is using my front door.

Mr. Wai Man Chin stated the existing over there is maybe 3 feet from the front door to the steps.

Ms. Linda O'Buck responded if you open the front door you can't get in without stepping down the stairs so that's why I wanted to extend it out a little bit, so which would make the stairs come out a little bit further. I think it's a safety issue. I can't open my door without somebody falling down the stairs.

Mr. Raymond Reber asked I have a question for Code Enforcement; our sheet here – I'm looking at the other sheet, never mind.

Mr. James Seirmarco stated it's there, it's confusing but it's there.

Mr. James Flandreau stated the drawings provided by their engineer are not the greatest drawings to try and decipher.

Mr. James Seirmarco stated they also say "new addition by owner," that's already there and there's an additional addition to the right of that, so all this stuff is there. So, the only perfect drawings are these.

Mr. Raymond Reber stated I would have no problem helping the applicant out with respect to the stairs if they wanted to come out, move the stairs forward and maybe square off that deck in the front so that the stairs then came out beyond that and that way they'd have room by the front door, but I would be opposed to expanding the deck because they're well within the overlapping the setback, they'd be 11 feet in a 35 foot setback. It's true in Verplanck we have a lot of cases where there's very limited setbacks, but actually on this street, if you go up and down this street, most of the houses are at least as far back off the road as this house is, apparently. It would be an intrusion, particularly if they put a roof over it that would stand out from the neighborhood. I would be opposed to closing in or putting a roof or anything on it, but I would not be opposed to giving them the ability to redesign that staircase and bring it forward as long as they stay within the existing footprint of the existing deck.

Mr. James Flandreau asked so you're saying you would allow them to take that platform where she has where people come all the way out to the 7 foot 6 part of the existing deck part of the stairs down from that point.

Mr. John Mattis stated that would solve the problem with people getting in and out.

Mr. Wai Man Chin stated right now based on the picture you showed there's a shed above the doorway, I wouldn't mind having a little shed roof where you're coming in at the entry, more than a whole roof all the way around the L-shape.

Ms. Linda O'Buck responded so I could make a bigger roof on there. So, if somebody's standing there, they're not standing in the rain.

Mr. John Mattis responded right.

Mr. James Flandreau asked how far would the Board feel comfortable about extending out it from the house? Right now it's probably 3 feet. Would that be the 7 foot 6 dimension all the way to the deck?

Mr. James Seirmarco responded coming to the edge of the deck.

Ms. Linda O'Buck responded yes, that's what I wanted to do.

Mr. Raymond Reber stated it's not the roof. I don't think you bring the roof out 7 feet 6, I think that would look very awkward.

Mr. James Flandreau stated I was just asking for that dimension of what the Board would feel comfortable with.

Mr. Raymond Reber asked what do we think the width of that from an architectural point-of-view? What do we think the width of that is?

Mr. Wai Man Chin responded the plans aren't too –

Mr. Raymond Reber stated based on the picture, what do we think the width of that overhead is now? Maybe, 5 feet.

Mr. Wai Man Chin stated maybe 5 feet from side to side. Maybe a foot on each side of the door.

Mr. Raymond Reber stated if they came out 5 feet with that roof, it might look reasonable.

Mr. Wai Man Chin stated 5' x 5' or something like that, but I don't know how they would support that.

Mr. Raymond Reber responded well they would have to bring in posts.

Mr. James Flandreau stated you could either do it by posts or structural brackets.

Mr. James Seirmarco stated I really don't think we should do the design here.

Mr. Raymond Reber stated we're talking about what size variance.

Mr. James Seirmarco responded I think conceptually, the moving of the steps makes sense to move them out to the same platform length from the house as the deck.

Mr. John Mattis continued and putting a roof there that's appropriate.

Mr. James Seirmarco stated put an appropriate, dimensionally, architecturally correct roof over

that and extending it. These drawings need to be thought about, drawn and then presented to us. We should not be doing the design. Conceptually, as you should cover the steps. Conceptually, you should move the steps out. Conceptually, you could make the roof architecturally pleasing but your architect has to come up with those drawings. You should not be coming up with the dimensions.

Ms. Linda O'Buck stated I thought they did. I gave to what I thought was a reputable company, unfortunately they haven't done a very good job.

Mr. Wai Man Chin stated he's an engineer.

Ms. Linda O'Buck stated originally he thought he was putting a roof over the entire thing. So, now that changes if that's not what you want me to do, they'll have to redo a roof just over the front.

Mr. John Mattis stated my concern about putting a roof over the whole thing, and I'm familiar with that street and I know several people there, and I travel up and down that street probably once a week, and I've looked at that several times. Down the street further, there are some houses that are probably as close to the road as yours, but all the adjacent ones and the ones across the street sit back further and to put a full roof there would make it look out of character for the other houses adjacent to that.

Ms. Linda O'Buck responded yes, mine would look better.

Mr. John Mattis stated it's closer already to the road than any of those other houses so putting a roof that's appropriate and adjusting that and making it come out so that you don't have to have people back down the stairs when you open the door, yes for a safety issue, and everything else I think that's perfectly appropriate. But, running the roof line all around I think is a little much.

Mr. Wai Man Chin stated I think that roof should be no more than 5 or 6 feet wide overall.

Mr. Raymond Reber stated even 5 feet is good.

Mr. Wai Man Chin stated the door is a 3 foot, you've got at least a foot on each side, give or take, 5 or 6 feet is okay with me.

Mr. Raymond Reber stated I don't think you want to give them 7 ½ feet of variance. I think 5 feet is enough for the roof.

Mr. John Mattis stated we have a separate issue here, apparently your sign only went up this week or last week.

Ms. Linda O'Buck stated it went up the very day I was told I had to have it.

Mr. James Flandreau stated you picked it up the Monday and it needed to be out on Friday. I think there was some miscommunication between the person who was handling her application.

Mr. John Mattis stated but technically we have to adjourn it for a month, because we have to have proper time that the sign is out.

Ms. Linda O'Buck stated actually it was out one day later than it should have been, because when I got it, I didn't know, I forgot the day I got it to put it out.

Mr. John Mattis stated by doing this it gives you an opportunity to get back with your design person to come back with something that we've discussed.

Mr. John Klarl stated you've heard the Board's comments.

Mr. John Mattis stated because if you're going to ask for the whole thing tonight, that's not what we're going to approve. So, based on what we've said, we would probably adjourn it anyway whether the sign was up or not, but technically we can't vote on it tonight. So, this gives you time to go back to your engineer or architect and...

Ms. Linda O'Buck stated I actually fired these people. They took my money and it's been since last August that I hadn't heard from them until now and I said "I can't use you anymore." I was going to use their plans and have someone else do the work and I have already started working on that but they took \$2,000 of my money and I've got nothing in return.

Mr. John Mattis stated that's a shame.

Ms. Linda O'Buck stated they gave me these plans and I thought they were okay and I never saw them before they handed them in. The reason I chose them was because they used one of the best roofs that were available. The roof already had a built-in gutters and everything else, where most builders you couldn't get that kind of a roof because they were actually going to use a roof, had I not known I couldn't have a roof, I wouldn't had even bothered with them, that would have be the same kind of roof you would have on one of those new sun porches that people have, they close them all in. It was going to be that kind of a roof and esthetically it was beautiful and I thought that would look best on my house. They promised me that roof, that's why I used these people because I couldn't find that roof with anyone else. Now, they actually were happy and they said they didn't want to go with the Town of Cortlandt at all and they were happy to go. I had an argument over the phone the same day I came to get the variance papers and they said "I don't want to deal with that Town," and I said "well, I want my money back," and I haven't seen a dime, and I have plans that were not great.

Mr. John Mattis asked were they or you aware at the time that you needed a variance to do this?

Ms. Linda O'Buck responded yes absolutely, I knew I needed a variance to build the deck squared. I did not know I would need a variance for the roof or that would be a problem at all. I

never even considered that be a problem, the roof. Because, I thought that would be so pretty to have the pillars in the front and really upgrade my house.

Mr. John Mattis stated so you had that unpleasant surprise when you came in for your building permit.

Ms. Linda O'Buck responded well today I did. I didn't know that it would be a problem.

Mr. James Flandreau stated it also took a month and a half for her engineer to get me a front yard dimension so I can deny it to send it to the Board.

Ms. Linda O'Buck stated I'm not blaming anybody here. I've had a difficult time with them and this has been since August of last year.

Mr. David Douglas stated there's a number of good professionals in the area.

Mr. James Flandreau stated if you contact me in the office I could discuss some of the professionals in the area.

Mr. John Mattis stated now you can narrow it only to that front entranceway and you won't need a diagram.

Ms. Linda O'Buck responded I thought it was upgrading the neighborhood even, not realizing that was an issue for the Town. So, now I need a little roof over the other part and you may allow me to extend the stairs out to square it out.

Mr. John Mattis stated and you can work with Mr. Flandreau on that.

Mr. Charles Heady stated he can give you some names and you can pick from there what you want.

Ms. Linda O'Buck stated there's plenty of builders in the area. I was really after this spectacular roof that I didn't get anybody else. I felt it was upgrading the neighborhood by redoing my deck with all the white around and changing all my shutters to white shutters to really upgrade the neighborhood. I was painting my door red. I had a whole plan. I didn't know that a roof would be an issue at all. I thought it was a phenomenal upgrade to the area.

Mr. Raymond Reber stated one of the things that the Town has been very concerned about and they've actually made their zoning and requirements more and more restrictive, you may have heard the expression McMansions, but they're very concerned, even though things are very attractive and they look beautiful and some people say if you have a bigger more expensive house, it raises the value of the neighborhood, but they're concerned that in general as people keep expanding and expanding you end up with structures that cover too much of the lot and you change the character of the neighborhood and that sets certain restrictions on us and that's why

things like this become an issue. Not that we disagree with you, it would probably look beautiful it's just that it sets a precedence and next thing you know everybody's coming closer and closer to the street and before we know it we end up looking like downtown Yonkers or something.

Mr. John Mattis asked is there anyone in the audience who would like to speak?

Mr. James Seirmarco stated Mr. Chairman I make a motion for **case no. 14-09** to adjourn this to the June meeting for the purpose of redesigning the front entrance and minimizing the roof line, seconded with all in favor saying "aye."

Mr. John Mattis stated so that's adjourned and our next meeting is June 17th.

F. CASE No. 15-09 Appian Way Ventures, LLC for an Area Variance for the front yard setback of the existing building and the lot coverage on the property located at **260 6th Street, Verplanck.**

Mr. Ed Gemmola presented himself to the Board and stated I'm one of the architects for Apian Ventures, LLC. The property is located on the northwest corner of Madeline and 6th Street. This was before the Planning Board, as a matter of fact we got a memo at the staff meeting which was dated December 10th '04, and in that memo they stated that we would have to apply for some variances which we did and the property is around 3.2 acres. It's in a 5-acre zone as the memo reads the site is pre-existing non-conforming. The front yard, we have two front yards because it faces 6th and Madeline. The 75 foot requirement, we actually have the one spot that's 31.7 feet. In terms of building coverage, we are very close even though it is a substandard lot, the requirements for building coverage was 25%, we're at 27.08%. Also, in that memo they stated that there is a landscape buffer required in section 307 which all commercial/industrial zones where you're front of the street and neighboring properties, we are not in total conformance with that, we have a partial area about 100 feet at the Madeline area right in here where there's a gravel apron, there is some existing parking and a retaining wall and there was previously a trash area would go down as close in this area as 10 feet you also have your second in and out here. We're at about, I calculated the total frontage on Madeline and 6th, you have around 770 feet of frontage and we're at about 100 feet frontage along here which is about plus or minus 13% where we don't comply with the buffer. We're also requesting a variance for a number of cars. What we've done, on the bottom drawing we broke out the darker gray is a common area, the stairs, corridors, interior, the beige represents what's not vacant right now and that's about 18% to 20% there's also a small portion of second story space here in terms of height, we're well under the height requirement and I think the height requirement is allowed 40 feet, we're under 25 feet at the highest point I believe 23 feet, but we base the cars on predominantly turned out three different uses in your parking table. Most of it is what they have here as other personal or business service or a path facility which allows 1 space per 300 square feet habitable space. We have a small amount of area to manufacturing which is 1 per 400 square feet and one space where you have some whole sale which is 1 per a 1,000 square feet of gross, and what we've done is on each space there's a space number and we show what the parking rate for that space

is. Based on what we have now occupied space, we came out with a 73.2 spaces. The actual vacant space we need approximately 31.6 spaces so a total required by the Code is 104.8 spaces. What we figured predominantly for the vacant spaces, the 1 per 300 and even though the parts of the Code which we don't have here, I don't think you're going to get retail but that's also 1 per 300, they have office, finance, insurance, a real estate, that's 1 per 300 and basically they claim offices other than above is 1 per 400. What's there now is really no use similar to that, but it seems like the 1 per 300 to base the vacant space was I believe relevant to what we're doing. We're proposing 84 spaces plus 15 boat spaces and what the owner has done and I don't have enough to distribute to the whole Board, but the owner did a car count based on days of the week and came up with spaces and I believe it was 35 or 36 spaces, you have some weekend Saturday's where it was down to 9 or 10 spaces which is the actual parking that you have. You have a lot of drop-off here. You have a K-9 Kindergarten where people just drop off even though it's relatively for your spacing here.

Mr. David Douglas asked the doggie daycare?

Mr. Ed Gemmola continued it's a doggie daycare. You really don't have a lot of cars generated.

Mr. John Mattis asked they drop them off in the morning and they pick them up in the evening?

Mr. Ed Gemmola responded yes, there might be some overnight, I don't know if there's long term. The owner's rep is here for any of the existing spaces, he could probably explain for the usage. What we feel is that we're more than adequate with what we're proposing at 84 spaces and the boat storage along the west end part of the property line is shown, we have some varying depths, and the spaces that we're providing would be more than enough spaces to really cover the uses that are here and I would imagine any kind of contemplation of approval would be based on – I doubt there's going to be a restaurant. There's a lot of uses in here. We show some outside storage right here which is existing, the in-use existing is outside storage and at the staff meeting there was absolutely no construction yards storage or an open equipment and we're not proposing any of that. What we do is entertain any questions you have and I have an existing survey here. This is was one of the requests of the memo, this is a recent survey that was done by Aristotle Bournazos and we are going to try to – we would like to make an application Friday to the Planning Board because we still have that hurdle and it would be pretty much what we're submitting to your Board, so we have that ready to go in and would appreciate your comments.

Mr. Raymond Reber stated this is an existing building? You're not changing the footprint of the building or anything of that nature, really you're trying to get approval for physically what's there and the way it's set up.

Mr. Ed Gemmola responded no expansion.

Mr. Raymond Reber continued also, I believe, the issue of parking that comes under the domain of the Planning Board, is that correct Mr. Klarl?

Mr. John Mattis stated if it's less we have to grant the variance.

Mr. Raymond Reber stated but it's not on the sheet here.

Mr. James Flandreau stated it was an existing condition since the building was prior to zoning, the existing condition that I believe from my interpretation that they didn't need to get a variance because the building was prior to zoning, so it's always been like that.

Mr. John Mattis stated it's not a bad idea to clear it up and do it though.

Mr. James Flandreau stated if you want to clean it up we can do that.

Mr. Raymond Reber stated I have no problem with it. I do have to admit, I'm very familiar with this property because the previous owners were working with Mr. Cronin who was trying to develop a site plan and working with the Planning Board, it was probably 5 years ago Mr. Klarl that this was an issue they were going through and I was directly involved in that in helping both Mr. Cronin and the owner, so I'm familiar with the issues. The applicant is correct as far as the parking there absolutely is no problem granting the number spaces they have for the kind of uses that building has had, does have, or will have in the future. I don't see that as a problem of granting to continue to operate with the 84 parking spaces even though the Code would ask for 104.8. I think the applicant has explained why that number is a little too conservative for the type of uses that this building would entertain. As far as the specific variances; the setbacks which are normally 75 feet from the road frontage and again, as the applicant has indicated by this chart, he has two road frontages, Madeline and 6th Street, he's only 31 feet back on one side, 32 off of 6th Street, again, those setbacks actually are quite acceptable when you're in that neighborhood and you look at the building relative to the houses in the area it's not a problem. It's existing. They have made good effort on most of the frontage, certainly on 6th Street as well as the initial part of Madeline again, as the applicant has indicated, down to where they have the gravel entrance to the second floor they've planted trees, the previous owners put those in. They've grown nicely, so there's good screening there. It's also worthwhile noting that across the street on Madeline there is no house. The homes that do look on this from that direction are up on 5th Street and 4th Street and they're way elevated, they look over this and you can put all the shrubbery you want, they'll still look down on the roof on this building, and those homes are set way back, so it's not really an issue in terms of affecting the neighbors across the way. To the back, or I guess to the side, further down on 6th Street, you have King Marina which the applicant is before us. Again, it's a marina, it's not adversely affected by this and I know in the past, when I was involved with this, there was concerns about drainage and the impact because this property is a little more elevated than Mr. King's property but I believe there's been efforts to take care of that. I assume that's not a major issue. The setbacks for the front side yards, even though it looks like they're significant going from 75 to 32, really those numbers – 75 is ridiculous for this property to begin with and as the applicant said he's only got 3 acres here, he doesn't have 5 acres. That gets us to the lot coverage. Again, the Code says that you should not be more than 25% assuming you had 5 acres, he has a little over 3 ½ acres and he's at 26.3%. That 1.3% difference is obviously not something that the normal eye could even perceive. If this

building was 25% instead of 26.3, it would look the same as it looks now. Again, an impact point-of-view that slight difference doesn't make a difference and I think consideration can be given to the fact that it's much smaller lot than normally they would be zoning for in this area. I don't have a problem with any of these requests in terms of the setbacks in the front yard, side yard, lot coverage, or the parking.

Mr. John Mattis stated with respect to the front yard, the side yard, and the lot coverage **case no.11-85** in 1985 granted variances for this and apparently they were off by a few inches on the variances 31.6 feet rather than 32 as it was actually built and the lot coverage, the building was done according to whatever was approved and somehow the lot coverage was apparently miscalculated a little bit but it's 27, versus 26.3. So, we're really not changing anything, we're just cleaning up a previous decision. The only thing we're adding is the parking and there's no way – I know that property also and I've done some business with one of the businesses there – you don't require 105 parking spaces, the fact that you're proposing 84 and 15 boat spaces is certainly adequate and what you've provided for us, the sample you took was from April 1st to May 14th, so it's a month and a half and there were never more than 32 vehicles, so I think that the parking that's proposed is certainly adequate and I have no problem with that variance.

Mr. James Flandreau stated one of the other things that Mr. Gemmola mentioned was the landscape buffer which is the existing lot, again I interpreted it that it wasn't necessary to get a variance, but if we're going to clean up the parking variance, we might clean up the landscape buffer portion of that variance also.

Mr. John Mattis asked do you know what those numbers are?

Mr. James Flandreau responded I don't have the numbers in front of me. I can do a calculation and put them into the Decision and Order as per what the survey shows here, if you would like to do that.

Mr. John Mattis stated we could do that and note it as per the survey. I don't know that I would carry this. You want to get moving on this for the Planning Board, correct?

Mr. Ed Gemmola responded yes.

Mr. John Mattis stated I don't know that I'd want to carry this over if we know that we're going to approve what's there we can just approve it as per survey and let him go with that.

Mr. James Flandreau stated if you look at the survey, the closest point, actually the road where the corner of Madeline and 6th Street actually is on part of the property, it's a negative number of 8.9 feet and that's where the buffer should be, so you could use that negative 8.9 as per shown on survey for Madeline and 6th Street and then the other part is where there's a little one story building that comes out for where some outdoor storage is, there's a little parking lot area there and that's the other dimension that's a close part of it and that could be measured off of pretty easy.

Mr. John Mattis asked does the Board feel comfortable with that?

Mr. Raymond Reber asked again, I only have a question for Mr. Klarl; our decision would be a little vague sort of saying it's a landscape coverage as it exists with the acceptable to this Board since we don't have the exact, would that create a problem for the Planning Board in the sense that they feel that they still need...?

Mr. John Klarl responded what we ought to do is we ought to confirm it and do the calculation and supply that information to the Planning Board.

Mr. John Mattis stated we could get that into the Decision and Order couldn't we? We have 5 days to decide this.

Mr. John Klarl responded sometimes what we've done before is when someone has a variance of subject to a certification post public hearing and if we can take that and the certification doesn't make it, that's a different story.

Mr. Raymond Reber stated because I don't want to get in trouble with the Planning Board.

Mr. James Flandreau stated I can work with Mr. Gemmola to get those numbers exact.

Mr. John Mattis stated we can say per the survey and then we can put the numbers into the Decision and Order.

Mr. Ed Gemmola stated actually landscape coverage is 40% we're just a hair over that.

Mr. James Flandreau stated the landscape buffer. Below your zoning chart the landscape buffer.

Mr. John Mattis stated you have enough it's just there's some places where the buffer isn't quite what's required.

Mr. John Klarl asked you haven't looked at the landscape buffer yourself? You haven't calculated it?

Mr. Ed Gemmola responded roughly, when I was here, you mean the square footage? No, I just calculated the linear feet.

Mr. John Klarl stated maybe you can get together with Mr. Flandreau.

Mr. John Mattis asked anyone from the audience? Any comments from the Board?

Mr. James Seirmarco asked this is a curiosity; there's two sections in the building called Kimono Reptiles. What is that?

Mr. James Flandreau responded it's snakes, reptiles.

Mrs. Adrian Hunte asked Mr. Gemmola do you know the actual spelling of Madeline? I see three different spellings on Madeline Avenue.

Mr. Ed Gemmola responded we did a renovation for Conklin down the street and it was spelled another way when I looked at a zoning map and book it was spelled this way. I thought it was M-A-D-E-L-I-N-E, but I took what was on the...

Mr. John Mattis stated that's something I've noticed several years ago. You can look on different maps and see it differently.

Mr. James Seirmarco stated this isn't on the street sign though.

Mr. Ed Gemmola responded no the previous application had it. The site plan has it this way and the zoning map I believe.

Mr. John Mattis stated we'll accept it the way you presented it.

Mr. Ed Gemmola stated I didn't want to bring it up but...

Mr. Wai Man Chin asked it's indicated in Verplanck, right?

Mr. Bill Schunk presented himself to the Board and stated I'm the manager of the building.

Mr. John Klarl asked so you're with Appian Way Ventures?

Mr. Bill Schunk responded yes I'm not one of the owners, I'm employed by them. The gentleman at the end just made a comment about the drainage and there has been a history of drainage issues onto Randy King's property and one of the things we intend to do once we get this approval is put a berm right along here which would direct the water off and not go down to Randy's property and put down over here which is...

Mr. John Mattis stated what you're doing is putting a berm where there had been problems to make sure that will alleviate anything.

Mr. Bill Schunk stated correct.

Mr. John Mattis asked anyone else.

Mr. Raymond Reber stated on **case 15-09** I make a motion to close the public hearing, seconded with all in favor saying "aye." **On case 15-09** Appian Way Ventures, LLC I move that we grant a front yard variance from 75 down to 31.6 feet on 6th Street, a side yard variance from 75 feet

down to 33.5 feet, which is less of a variance and had been previously granted with just 31, a lot coverage variance from a required 25% to apparently now it's listed as 27.08% also grant that we accept the landscaping coverage per the existing architectural plans conditional on review and acceptance by the Planning Board, and also to grant a parking of 84 auto spots plus 15 for boat storage versus a requirement of 104.8 spaces for autos, none of this is a change in structure of the building so it's not a SEQRA issue, seconded with all in favor saying "aye."

Mr. John Mattis stated your variances are granted. There are no new cases but we have one issue here under **case no. 48-05 Singular Wireless Services on Yorktown Road in Croton**. Can we have a motion to re-open that case? Moved and seconded with all in favor saying "aye." I don't know who had that case but Mr. Flandreau you can tell us what let up to this and why are re-opening it.

Mr. James Flandreau responded during the process of working on getting to the building permit, part of their application was to run the utility to an existing pole on a neighbor's property. They're having problems with getting an agreement with that neighbor to run their utilities to there. So, they would like to put a utility pole on their own property. One of the parts of the Code for the telecommunication 277-6N requires that all utilities be underground. The Board may grant a waiver for that to allow them to install this overhead wire to the pole at a corner of the property and then the rest of it would be run underground through the facility itself.

Mr. Wai Man Chin stated I don't see a problem with that based on where the pole was he would have to go on the adjoining neighbor's property to try and pull the wires across, and I don't think if I was the neighbor that I would want to do that either. I don't see why not put another pole and then from there he'd come down and go underground the way he needs it.

Mr. John Mattis stated and it makes sense to have it on his own property rather than on the neighbor's property, but the reason for this is they can't go underground there, and what is there?

Mr. James Flandreau responded underground in that area it's a parking area but within that parking area there's the existing septic tank and field, so they wouldn't be able to trench underground there.

Mr. John Mattis stated so there's a reason why they have to go from pole to pole and it makes sense to have the pole on their property and it's not a major change anyway. Since there's no one in the audience, can we have a motion to close the public hearing, moved, seconded with all in favor saying "aye." Would someone like to make a motion to approve this?

Mr. James Flandreau stated the Board will grant them a waiver to install the overhead wires as shown on the plan.

Mr. John Mattis stated and on the new pole that they will be putting on their property, as shown on the diagram, seconded with all in favor saying "aye." Is there any additional business? Do we have a motion to adjourn, moved, seconded with all in favor saying "aye."

End of meeting -- 8:43 p.m.

**NEXT MEETING DATE:
June 17, 2009**