

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, April 18, 2007. The meeting was called to order at 7:00 p.m., and began with the Pledge of Allegiance.

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

Raymond A. Reber
Richard Becker
David Douglas
James Seirmarco
Wai Man Chin, Vice Chairman
Charles P. Heady, Jr.

Also Present: John J. Klarl, Deputy Town Attorney
James Flandreau, Code Enforcement

ADOPTION OF MINUTES: 1/17/07 and 2/21/07.

Mr. Mattis stated we received the minutes for March too late so can we have a motion to adopt the minutes for January and February.

Mr. Heady made a motion to adopt the minutes for January and February 2007 seconded by Mr. Chin with all voting "aye."

ADJOURNED PUBLIC HEARINGS

CASE NO. 66-06 JAMES M. FLANDREAU DEPUTY DIRECTOR OF CODE ENFORCEMENT for an Interpretation if a lot line which separates a lot from the Bear Mountain Parkway is a front lot line.

CASE NO. 03-07 ACE SPORT REALTY HOLDING CORP. for an Area Variance, if required per ZBA Case No. 66-06 for front yard for a proposed structure and Area Variance for the required landscape buffer requirement on the property located at 2054 E. Main St., Cortlandt Manor.

Mr. William Zutt, Esq. appeared before the Board. He stated I am appearing as an interested party in the first case, and on behalf of the applicant in the second case. We previously addressed our position on the first case that mainly in our opinion the Bear Mtn. Parkway frontage of this property does not constitute a front yard pursuant to the terms of the Zoning Ordinance, and the relevant case law. I won't belabor that any further. I think we've made our point. I'll move on to the second case, and in presenting the second case without prejudice to our position in the first case. The second case involves an application for two types of variances.

One of them is a side yard set back variance for the lower two proposed buildings in a commercial CD zoning district. Both buildings would have approximately 15,000 square feet for combined retail offices. At last month's meeting I provided you with several alternate site plans, and I believe the favorable plan was for Alternate A, and during the course of the discussion I think there was general consensus without meaning to quote anybody, but the Board might be willing to entertain a landscape buffer variance from 25 feet down 12.5 feet along the Bear Mountain Parkway, and along the Rte. 6 side, and a reduction from 25 feet down to 20 feet along the Jacobs Hill Rd. side. I was asked to provide another drawing showing the set backs, and I assure you the next day I ask Mastramonaco to provide me with that drawing, and I received it just this afternoon, and I apologize for that. I didn't have time to color your copies, but I took a shot at coloring my own. So for what it's worth, I will hold it up for you. If you had a full scale copy, this is pretty much what it would like. It just shows the landscape buffer along the Bear Mountain Parkway, and along Rte. 6 as 12.5 feet, and 20 feet buffer along the westerly side of Jacobs Hill Rd. The other point was that the lower building has been further reduced in size, down to 7,605 square feet, which I believe is a couple hundred square feet below what was originally submitted as Alternate A, and I think that became necessary because of the increased landscape buffers. So the plans which I submitted this afternoon represent the current site plan, and on the basis of that plan we would respectfully request that you grant the landscape buffer variance as shown. Also, the southerly building, the one closest to Rte. 6 now shows a set back of 61.6 feet as opposed to I think it was 57.5 feet on the original plan. Since this is still before the Planning Board we would hope perhaps you could indulge us with a reduction from 75 feet to 60 feet as opposed to 61.6 feet, which would give us a small leeway should the building have to be adjusted in the site planning stage.

Mr. Mattis stated so you were requesting a set back of 57.5, and now you are saying 67.5.

Mr. Zutt stated yes as result of the redesign of the lower building, which has been reduced in size, and on the plans you have now it shows an offset of 61.6, and I think that would be cutting it kind of thin, because we at the minimum on the other side. So that would give us a foot, and a half if we needed it. I don't believe I have anything else to add. I would be happy to answer any questions.

Mr. Becker asked to you have a print out of all four dimensional requirements, and the variances that are required?

Mr. Zutt replied actually Dr. Becker, there should be a zoning compliance table on the site plan itself. There is, on the right hand side there of the site plan. It turns out also that our landscape buffer turns out to be larger than the code requirement on that side.

Mr. Becker stated what I was looking for is exactly what the reduced buffer is, and the requirements.

Mr. Zutt stated I suspected that in the haste at which these plans were prepared Mr. Mastramonaco failed to make necessary modifications to the chart, and I'll apologize on his

behalf for that. The dimensions are as I indicated the requirement for the landscape buffer is 25 feet in this zone, and where showing 20 feet on the west side, and 12.5 on the east, 12.5 on the south, probably about 51 on the north. Those dimensions will be shown on the site plan assuming that the Board grants the requested variance.

Mr. Becker stated on a personal note, if I'm understanding correcting I have no issue as long as 50 percent of the required buffer is maintained, and I think you've done that, but I would like to see it all written, and printed out.

Mr. Mattis stated well we can vote on it subject to that.

Mr. Zutt stated it is actually scaled on the plan Dr. Becker.

Mr. Reber stated let me just try one, and see if this is what we're looking at. If I understand correctly, it's an Area Variance for the front yard set back for the proposed front building from the allowed 75 feet down to 60 feet.

Mr. Zutt stated correct.

Mr. Becker asked that is along Rte. 6 that you are talking about.

Mr. Zutt stated no that is the Bear Mountain Parkway.

Mr. Becker stated this is why I want to clarify it, because there are two front yards.

Mr. Zutt stated we are not asking for an variances along Rte. 6.

Mr. Becker stated okay, that was one of the issues.

Mr. Zutt stated no we are showing a 79.5 foot offset from Rte. 6, which exceeds the 75 foot requirement.

Mr. Becker stated so the main front yard set back is the one along the Bear Mountain Parkway.

Mr. Zutt stated yes, and we're requesting variances on that from 75 feet down to 60 feet for the southerly hill.

Mr. Reber stated then an Area Variance for the buffer zone from 25 feet down to 12.5 feet on the east boundary, and to 20 feet on the west boundary. That is all you are asking for?

Mr. Zutt replied also there is a 12.5 feet variance on the southerly boundary. If you look at the southeast corner, you'll see it right there.

Mr. Reber stated oh, okay.

Mr. Zutt stated they are all scaled on these plans.

Mr. Flandreau asked do you have the name of the access road there to the Jacobs Hill complex?

Mr. Zutt replied I believe it is Jacobs Hill Rd. It is labeled here on the plan. I think it was accepted for public dedication when they were before the Planning Board for the senior complex.

Mr. Klarl stated I believe that is correct.

Mr. Mattis stated the dimensions are shown here on the drawing. Are there any other comments from the Board? Is there anyone in the audience?

Mr. Becker made a motion in Case No. 03-07 to close the public hearing seconded by Mr. Reber with all voting "aye."

Mr. Becker made a motion in Case No. 03-07 to grant the Area Variance for the front yard set back along the Bear Mtn. Parkway from 75 feet down to 60 feet, and an Area Variance for the landscape buffer along the Bear Mtn. Parkway, and the East Main St. side corner from 25 feet down to 12.5 feet, and an Area Variance for the landscape buffer along the Jacobs Hill Rd. from 25 feet down to 20 feet this is as shown on the plans dated April 18, 2007. This is a Type II Sequa with no further compliance required seconded by Mr. Chin with all voting "aye."

Mr. Mattis stated I guess we have to do something with Case No. 66-06. Mr. Flandreau would you like to withdraw that case?

Mr. Flandreau replied yes, I will withdraw that case.

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CASE NO. 06-07 PATRICK & HILDA SCELZA for an Interpretation on the merger of two parcels or Area Variance to subdivide the two parcels on the property located at 2010 Crompond Rd., Cortlandt Manor.

Mr. William Zutt, Esq. and Mrs. Scelza appeared before the Board.

Mr. Zutt stated before the meeting Mr. Klarl provided me with a copy of the memorandum to the Board from him regarding the issue of the lot merger. Just to refresh your memory it is an L shaped configuration of 4 lots on an old map. They tie into the rear yard of each, and Mr. and Mrs. Scelza are requesting either an Interpretation that a merger has not occurred, or the alternative requesting variances allowing them to divide these properties, and allow the construction of an additional house on the back lot, which I believe is tax lot 22. I did have a moment to read over Mr. Klarl's memo, which in substance includes that there has indeed been a merger of these lots. I would just respectfully note that at least in my view that in the Zoning

Code while it contains a definition of the term merger by deed it contains little more than that. It doesn't tell us what the consequence is, or how you go about doing it. Furthermore, the definition, if applied as written, would have none intended consequence of merging all lots made under the same deed even though they might be code compliant. So all by itself I would respectfully suggest that the code definition is one which doesn't permit a practical application in all circumstances, and for that reason I don't believe the Board can find that a merger has occurred because of that. Just to use an extreme case, one might welcome to subdivide a piece of property while it is completely code compliant, and convey both of them to Dr. Becker, and a merger would result. Certainly that was not the Board's intent in doing that, yet that would be the consequences if you apply the law in definition as written. I think there needs to be something more than that definition. The other point I would like to make, and incidentally I made these points in a memo to your Board. The other point in Mr. Klarl's memo is that since these 4 filed map lots don't individually meet the Zoning Code under the Zoning Code they must merge. However, the relevant section of the Zoning Code states that merger shall occur only to the extent that the minimum lot width requirement, but not necessarily the minimum lot area requirements, and we all know that is an impossibility here, because of the odd integration of these lots the minimum lot width requirement can't be satisfied. So for those reasons I respectfully take issue with council's memorandum. The part of which I don't take issue is of course the good part, which says that if a merger hasn't happened, or a variance is granted that a subdivision plat approval from the Planning Board is not required. I certainly subscribe to that. So having said all that, and with respect to the variance application as previously shown by reference to the tax map there is an abundance of substandard lots in this area. This is an isolated parcel, which is sandwiched between lots that has Leo's Deli on one side, and a single family residence on the other, and a single family residence across the street, and the Scelza residence at the back. As you've seen from the map we provided the proposed single family residence, which is otherwise the front. So it forces the existing Scelza residence in the front lot on Crompond Rd. is an existing residence with existing set backs, and no nonconformity would be infused if the variances were granted. I don't think there would be any detriment to the neighborhood. Right now the vacant parcel is a dumping ground for debris, and leaves from other properties, and is somewhat unsightly with all due respect to the Scelza's. For that reason we are requesting a reduction in the required lot area, and lot width as well.

Mr. Douglas stated I think this is my case. I didn't have a chance to really go over this memo. I propose, if it is okay with the rest of the Board I don't know if you want to close the public hearing tonight, but at least we can consider this again at our Work Session next month.

Mr. Klarl stated well let me just summarize some things. After our meeting on March 21st you asked me to take a look into this, and I went to the relevant departments in the Town, and tried to look at as much background information as I could. We had a meeting with the assessor, and Mr. Flandreau from Code Enforcement, and I looked at the deeds that the assessor had. He has some copies of deeds in his file, and Mr. Flandreau had received some deeds also. We are trying to look at the deeds from 1988 or so, and I saw that some were missing so I called the Title Co., and we had the Title Co. produce some more deeds. I indicate in the third paragraph of the memo that there had been some talk in the previous meeting where the two lots, and I then

showed factually that there was deed from 1988 from Cook to Akjar where all four lots were conveyed in one deed. Then in 1992 to 1994 there were deeds that conveyed all four lots in one deed including the 1994 deed from Pawling Savings Bank to Mr. Scelza with one deed and four lots, but that then there something more. So there is something more in the next paragraph, and that says that the four lots were all substandard because they are deficient as to area lot width, but what the driving point there is our section of the Code, 307-8C, and I attached the copies so the Board could take a look at it, and that says simply, "Any lot with an area width less than that described for lot district", and that is the case here it's a lot with an area width less than what is described, "in which such lot is situated when the owner owned the joint land on, or after the effective date of this chapter, which increases the required lot area width shall be deemed to have merged." Other people that I have reviewed this with such as the assessor, Mr. Flandreau, and Mr. Verschoor, who has different historical knowledge about different pieces in the Town, and he recalled 20 years ago this property coming in before the Scelza's, and the department at the time had made a determination that it had been a merger. Then apparently last year as Mr. Zutt's memo from January indicated that someone made a determination that it had merged. It was exclusively merged based upon not just the deeds, but Section 307-8C of the code. On page 2 of my memorandum I indicate how the what we call tax lot 22, and 25, how lot 22 needs a variance of 10,000 square feet down 61.96 square feet, and how lot 25 needs a variance of 10,000 square feet down to 755 square feet for lot area, and then 22, and 25 both need a variance of 75 down to 50 feet for lot width. That having been said, I took a look at the rest of the code. I looked at the definition of subdivision, and subdivision tells us that the term subdivision should not included the re-subdivision of lots complied of two, or more lots described on a map filed in the Westchester County Clerk's Office, that is the case here, provided such re-subdivision shall result in lots which meet the minimum dimensional requirements for the lot of record in which district such lot is located. Here that is the case. It would meet the minimum dimensional if they have both sides, or they had a variance from this Board. So it would meet the minimum, and then the last line, which Mr. Zutt enjoyed, they'd meet the minimum by a variance granted by this Board, but they wouldn't have to go back to the Planning Board, because they're going to use the exact same established lot lines that were established on the filed map in 1927. So in short, we've indicated I think for the third time that there has been a merger. Number two, we indicate the variances are needed as to area, and lot width, and number three we say no further Planning Board application is needed should this Board be of the mind to grant the variances that are requested. That is my memorandum, and it has been sent to the various departments, and I gave the applicant a copy tonight also.

Mr. Douglas stated well I think we need to consider this further both to look in depth at Mr. Klarl's memo, and also to look at the variance aspects, because most of the discussion to this point has been about the merger. So I would like to adjourn this case until next month.
Mr. Mattis stated okay. Are there any other comments from the Board?

Mr. Zutt replied I want to make just one more point. I want to read the last sentence if I may. A sentence read by Mr. Klarl a moment ago regarding Section 307-8C. He read, "Further, if the adjoining land had been divided into several substandard lots, merger shall occur only to the extent that the minimum lot width requirements, but not necessarily the minimum lot area

requirements.” I know I made that point earlier, and since Mr. Klarl quoted that section I just wanted to point that out.

Mr. Klarl stated we’ve applied that in the past all the time.

Mr. Zutt stated right, and I think the other thing is the prior determinations with respect to merger I think the first one that John referred to probably occurred when Mr. McCormack was representing Mr. and Mrs. Scelza when they first went into the planning, and the concept was that he was very unfamiliar with the context in the Town of Cortlandt, and then he referred Mr. and Mrs. Scelza to me, and then it was that determination of record that was the basis for our present application.

Mr. Klarl stated and according to Mr. Verschoor that was the second time around. There was a prior application in 1986 to his recollection.

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

Mr. Douglas made a motion in Case No. 06-07 to adjourn the case to the May meeting seconded by Mr. Seirmarco with all voting “aye.”

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CASE NO. 09-07 ROSENTHAL JCC for an Interpretation if the proposed improvements constitute an expansion of a nonconforming use or a Use Variance to allow the expansion of a nonconforming use on the property located at 500 Yorktown Rd., Croton-on-Hudson, NY.

Mr. John Kirkpatrick, Esq. and Mr. John Iannacito, architect appeared before the Board.

Mr. Kirkpatrick stated I am here tonight with Mr. Iannacito, and some other individuals who are the operators of the camp. Based on the field trip on Saturday John prepared a new plan. The play field, that is the large field with no surface has been reduced from 120' x 240' down to 100' x 200'. The sports court that is the one that will be a basketball court is reduced from 50' x 80' down to 40' x 70'. Also, showing alternative locations for the sports court as we discussed, and also the labeling of all of the existing structures. The deteriorating buildings that are unoccupied I think there was discussion that they be removed. So I would be happy to answer any questions.

Mr. Douglas stated I haven’t had a chance to look at it yet, but the reduction of the play field does that include taking down those trees that we saw?

Mr. Kirkpatrick stated this plan does not change the impact on the trees. The field is within all of the existing trees itself. In the back corner where we are taking down the buildings and those few trees over there.

Mr. Douglas stated okay. I thank Mr. Kirkpatrick for his effort, because at the last meeting I had

asked for a legal hook for certain things, and he did provide us with that, and I think the Board wants to digest some of what you provided. I don't have anything personally further to add from what I said at the last meeting.

Mr. Reber stated I have a question. You show on this plan five unoccupied buildings, and I understood at the Work Session that they were being removed, is that true?

Mr. Kirkpatrick replied yes. We assumed that would be a condition of any approval that you gave us.

Mr. Reber stated okay, I was just asking, because they are still showing on these plans.

Mr. Seirmarco stated just for the record the inspection was informative, and we looked at the entrance, and the new gate. It is certainly an improvement over the earlier gate. Overall, everything is certainly an improvement over what exists. The area they have chose to put a ground level deck doesn't seem to be a problem. The movement of one building from one spot to the other seems to be pretty straightforward, and doesn't increase the nonconformity. The only bone of contention for me is the creation of the basketball court. It is a very large 15 acre site as the applicant has stated for the public that there will be no increases for the number of campers, there will be no additional students there. These improvements that are being made is not going to impact on an increased number of students. We looked at the recreation playground equipment, and that is not up to code, and you are moving it. So again, the only concern for me is the creation of the basketball court, and I am still thinking about that.

Mr. Douglas stated I think somebody on the Board also had some questions about the new field, and whether it an expansion of the new field or not.

Mr. Mattis stated right the removal of trees, and the existing building, and the created that as part of the new field. That is a question mark in my mind. I would like to say that when you had given us a document at our Work Session on Monday it stated probably seven or eight different cases in New York State that allowed this, and we just received the document here this week, four pages long, that has all those cases, and I'm uncomfortable relying on these without having time to review it further. If it is as you said, which I don't doubt, then it gives us a reason as to why we could grant these. So I think we need some time to review this. I don't think it is a case where we don't want to do this, but we have to be very careful when we interpret what is an expansion of nonconformity. That is why I'd rather take the time to look at this.

Mr. Chin stated I was at the site visit also, and I agree with Mr. Seirmarco on the gate in the front, and the relocation of the shed, relocating the playground equipment, and even the wood deck at grade level is not a problem with me. The basketball court I feel as though since it is really just going to be on grade. So myself I don't feel as though it is really an expansion, because it is at grade level. Again, I think some of those buildings in the back area that are unoccupied they are in pretty bad shape, and with all the kids there I think it might be advantageous to take them down, because you would not want anybody to get hurt. I went over what Mr. Mattis had said about the items that you had indicated since the Work Session, and I

will probably be able to make a decision on this by next month.

Mr. Mattis asked are there other comments from the Board?

Mr. Becker stated yes, I agree with Mr. Chin. I consider the other changes almost necessary upkeep. I have no personal issues with not granting them, but I would like some more time to go over this also.

Mr. Heady stated you mentioned at the Work Session that you were going to be taking those buildings down, is that for sure?

Mr. Kirkpatrick replied yes, I assumed that we would simply be a condition or approval, but certainly we will amend the plan to show this buildings as marked to be taken down.

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

Mr. Kirkpatrick asked when is the next meeting?

Mr. Mattis replied the 16th of May. It is always the third Wednesday of the month.

Mr. Douglas made a motion in Case No. 09-07 to the May meeting seconded by Mr. Seirmarco with all voting “aye.”

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CASE NO. 10-07 CROMPOND RD. LLC for an Interpretation and/or Area Variance for a freestanding sign on the property located at 2293 Crompond Rd., Cortlandt Manor.

Mr. Mattis stated it appears they are not here. So we will recall this case at the end of the meeting.

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CASE NO. 11-07 PETER & MARILYN BAGINSKI for a Special Permit for an Accessory Apartment on the property located at 15 Arthur St., Cortlandt Manor.

Mr. Flandreau stated after the Work Session they asked that the case be withdrawn.

Mr. Mattis stated okay so that case is withdrawn.

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CASE NO. 12-07 CHRISTINA MCGUIRE for a Special Permit for an Accessory Apartment on the property located at 33 No. 4th St., Cortlandt Manor.

Mr. Phil Hersh, Esq. appeared before the Board.

Mr. Hersh stated I represent the applicant with regard to her application regarding an Accessory Apartment. I was present when you made your inspection last Saturday. I think it was quite informative. We were able to show members of the Board a four bedroom home. We had an opportunity to view the Accessory Apartment that was built without a permit by the applicant's former husband. I also believe that when you viewed the inside of the structure that one of the bedrooms was opened up. So what we have now are four bedrooms, three in home, and one over the garage in the Accessory Apartment. There was some concern, rightful concern about an area used for storage in the basement. We had an opportunity to view that. There is an exit from the basement area. We had indicated to the Board that we will not be using that bedroom. It is more of a day room. The applicant's mother painted down there. She napped down there. She does have a bedroom upstairs. So to relay any concerns about the use of that room, we had suggested to the Board that what we were going to do is open up the doorway. So it would be more of an open room. We would take out the whole frame. So it could not be used as an enclosed bedroom.

Mr. Chin stated that is on drawing A-2 of 5, which is actually indicated as a recreation room.

Mr. Hersh stated that is correct.

Mr. Mattis stated it is really more of a storage room.

Mr. Chin stated yes we went out to the site visit on Saturday, and Ms. McGuire was nice enough to show us the basement, the first floor, the second floor including the Accessory Apartment that is over the garage. I find that the basement is not really an apartment. It could have been an apartment, but it is not as far as I can see right now. As far as the bedroom upstairs in the main house. The door was taken out. It is a big wide open area right now. So that bedroom is now an open area. The Accessory Apartment looks like it has been there for quite a long time.

Mr. Hersh stated I checked the assessment card, and I believe it was in 1985. It is a four bedroom house.

Mr. Chin stated I can see where there used to be an opening, or some kind of doorway from the existing part of the house to that accessory at one point, and it is kind of blocked up right now. I also believe that you are paying taxes right now as a three family home.

Mr. Hersh stated yes as a three family home, and that is with the STAR program. It would be \$18,000 without the set off. I know that is really not your concern, but it is not a three family home. The applicant right now pays most of her salary towards taxes.

Mr. Chin stated I guess at one point it was assessed as a three family house, but really right now from what I see it is a one family house with an Accessory Apartment.

Mr. Flandreau stated actually the Assessor's house found out about a year or so ago.

Mr. Chin stated well it has been there for so long. We usually permit certain Accessory Apartments when they meet the criteria. She has been paying taxes on it, and everything else, and it has been there for 20 something years, and I would not have a problem with this being an Accessory Apartment.

Mr. Seirmarco stated I did attend the site inspection, and I concur with Mr. Chin. This is a one family house with an Accessory Apartment. I believe that there may have been something downstairs at one time, but it does not appear that way now. It has been there in excess of 10 years for sure.

Mr. Mattis asked are there other comments from the Board.

Mr. Reber stated just for the record it would be worthwhile noting that the house with the Accessory Apartment does not impose any odd visual result from this, and that all of the dimensional requirements are met. There is plenty of total space of 3900 square feet in the house, and the Accessory Apartment is 585 square feet, which represents 15 percent of the total habitable. So it full meets all the requirements of an Accessory Apartment. My only question I would raise is that I think with issuing the Special Permit we should require that Code Enforcement has the right to make periodic inspections without notice at reasonable times, because there is the potential that the downstairs could very easily be converted back into another accessory, and I think the Town should have the right to at least monitor it to make sure that doesn't happen. That would be my only condition.

Mr. Seirmarco stated one other thing is that there also seems to be sufficient parking for the vehicles on the property.

Mr. Mattis asked are there any other comments? Is there anyone in the audience?

Mr. Chin made a motion in Case No. 12-07 to close the public hearing seconded by Mr. Heady with all voting "aye."

Mr. Chin made a motion in Case No. 12-07 to grant a Special Use Permit for an Accessory Apartment on the property. This is a Sequa Type I Unlisted Action. There is also the condition that Code Enforcement can inspect the premises at any reasonable unannounced seconded by Mr. Seirmarco with all voting "aye."

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NEW PUBLIC HEARINGS

CASE NO. 14-07 GREGORY HEIRES for an Area Variance for a rear yard set back for a proposed addition on the property located at 1 Chester Harrison Dr., Montrose, NY.

Mr. Gordon Ebert, architect representing Gregory Heires, and Rose Monrique the homeowners. The action we are requesting is an Area Variance for a rear yard set back in order to construct an addition to the existing kitchen, and dining area towards the rear of the house. If you look at the drawings I submitted you'll see that they're well within limits of minimum landscape coverage, maximum building coverage and of course the side yards as well. It is only a rear yard set back that is in question here. I have submitted several copies of an aerial photograph, which gives you some sense of somewhat realistic fashion where this is located, and what is around it. Also, the drawing here just below me shows, it is identical to the drawing you have in the packet, however, I added the two houses that are adjacent. Those are not from a survey, they are taken from an aerial photograph, and are as accurate as I could reasonably make them. They may be off by a foot, or two one way or another but it will give you a sense of the nature of the immediate environment, and the direction of what is around. The reason we're asking for a variance is that the standards of kitchens, and dining have changed drastically since the house has been built. I am sure you have seen houses, and other residences built in this area where the kitchens are much larger than they were when this house was built. So this is really a fairly modest addition. It's just a 12 foot addition by 23 feet for a larger kitchen, and then the existing kitchen will be combined, and used as dining room to make a decent size dining room.

Mr. Reber stated I have a number of comments. First, in response to your question about the kitchen not being typical. All of those houses were built about the same time with a similar lay out so for that neighborhood that is the appropriate kitchen, but aside from that people do add on, and expand. So that is not an issue. More pertinent here is the question of what justifies needing a variance, and I think some explanation of this is necessary for the record. It is a corner lot, on the corner of Bonnie Hollow Lane, and Chester Harrison Drive. The developer at the time could have oriented this house facing Bonnie Hollow Lane which would have permitted to be within 10 feet what is now considered the back line lot, and the house next door on Bonnie Hollow Lane is oriented toward Bonnie Hollow Lane, and is 11.7 feet from that property line. This variance would still leave the structure would be 14.2 feet from the line. So it would actually be farther from that line than the neighbor's structure. So it is a quirk of the definitions of back lot, because this house was not oriented toward Bonnie Hollow, because if it was it is a longer, narrower lot, had they built it that way they would have had to come before us for a front yard variance. We tend to be more restrictive on a front yard variance than a backyard. So the developer decided to turn the house, and orient it on Chester Harrison Dr. as best he could line it up with the other houses on Chester Harrison, and do so without needing any variance, and that's what he did. He met the front yard set back. He met the back yard set back, and he met the left of the house side set back, and most of the yard to the right. That is where the septic system is. They did put an expansion to the right, and did not need a variance for that. They cannot go further in that direction without interfering with the septic, and it wouldn't be appropriate, because that's the bedroom of the house anyway. So from an architectural lay out they couldn't do it. So to me granting this variance is not a major issue in that as I said if the house had been oriented the other way they could have built within 10 feet of their neighbor. The neighbor is only 11.7 feet away, and this would be 14 feet. However, we do have two questions, because the house is relatively close to the neighbor's house on Chester Harrison Dr. Question one is your

proposing on the lower level an additional window, do you need another window facing the neighbor? If you do would it be no higher, or any larger than the other windows on that floor on that wall?

Mr. Ebert replied it would no higher than the larger of the windows on that wall. Also, I should point out that the existing residence is offset from where that window would be.

Mr. Reber stated to some extent, but you're getting closer. Now you are going to be moving backward, and we're talking about the residence to the other side. You weren't overlapping before, and now by putting an addition you'll be overlapping. So we're questioning whether you could avoid putting the window on that wall.

Mr. Klarl stated and just have the windows facing the rear yard.

Mr. Reber stated we have no problem with what is facing the rear. We're questioning the side.

Mr. Ebert stated there is no window added on the second floor.

Mr. Reber stated I understand, on the first level.

Mr. Ebert stated that window would be the same size as the two windows that are there. They're low, but I would refer that question to the owners, if they would like to think about that.

Mr. Heires stated I have no problem without the window.

Ms. Monrique stated I don't mind either.

Mr. Reber stated okay so if you would delete that window. The only question then that we would ask is we would like to sort of make a trade. In other words we're going to ignore back yard set backs, and then we don't want them later to come back to Code Enforcement and say okay now we're going to expand on that side of the house without a variance. All of a sudden now we would be getting into something the Town is concerned about which is McMansions, just pushing in every direction. So we would like to put a restriction that if we grant this variance so you can kind of consider the back yard a side yard that there will be no ability to expand further to that side on the left hand of the house.

Mr. Ebert stated again I will refer that to the owners.

Ms. Monrique stated I don't know what they mean.

Mr. Ebert stated what they are saying is to restrict any further expansion to the south side.

Mr. Mattis stated the left side as you look at the front of the house.

Mr. Heires stated that would be no problem.

Mr. Reber stated okay, I think on those conditions then I think this would be a reasonable variance to grant.

Mr. Ebert stated I just want to comment. I just want to mention one other thing. I am not an archeologist or a forensic architect, but if we look at the aerial photographs there is only one other residence with absolutely no additions. There have been additions on many, many of the houses in the area. I can't for sure say that it is a kitchens, or dining areas, but I am certain that you would find that the pressure to expand kitchens in these houses is widespread.

Mr. Reber stated you're correct. There have been a number of additions. I don't know necessarily that they were kitchens, and that's normal as long as it's without a variance it is really not an issue.

Mr. Mattis stated this is about the first one in this area that has required a variance, I believe. At least in the 13, or 14 years that I have been on the Board.

Mr. Chin stated it is a weird shaped lot, and especially with the two front yards, and the way it curves, it's not rectangular. I would not have a problem with this.

Mr. Mattis stated I think this is a reasonable request, and Mr. Reber stated very well the two things that we requested that we're concerned with windows upstairs, and the neighbor on the left, and also the fact that if there within 25 feet set back they could still expand to that side. So we put a restriction on that they should only have the one window in the basement, and they can't expand further on that side. So that would be a good trade off, and I think that protects your neighbor, and allows you to accomplish what you want to do.

Mr. Ebert stated okay, thank you.

Mr. Mattis asked is there anyone in the audience?

Mr. Bill Lajudice appeared before the Board. I have the property at 16 Bonnie Hollow Lane, which is on the other side of their property. I'm not really here to say I didn't want it. I just got the information the other day about what was being proposed, and I just wanted to make sure that both of our families still have some privacy between us.

Mr. Klarl asked did you see the drawings?

Mr. Lajudice stated I am seeing it now for the first time.

Mr. Mattis stated it's basically replacing the deck, and there are trees there in the back.

Mr. Lajudice stated yes I know. My other concern is that after this is built that we don't come, and see a deck built on to the back of that.

Mr. Reber stated no that would not be happening there.

Mr. Lajudice stated because the restriction you talked about is on the other side.

Mr. Reber stated even in the back they cannot on the back of this addition then put another deck on, because they've already encroached now, and asked for a variance for the kitchen wall. So that is as far as they can go.

Mr. Mattis stated they could ask for a variance, but I don't see this Board granting that.

Mr. Lajudice stated just so I can get a visual of this, how far is this coming out?

Mr. Heires replied it would be the same. The other issue of the windows we can discuss with you as far as the size, and everything like that. We got a variance so we could just make the kitchen a little bigger, and where the deck is now it would just be enclosed, and not evasive at all. We would be happy to discuss it with you. We purchased the trees together so we are willing to work together.

Mr. Mattis stated actually it will probably be better for you as far as the noise level is concerned.

Mr. Reber stated now they will be indoors.

Mr. Lajudice stated that is what I was thinking, and I just wanted to be clear that there will be nothing coming after that.

Mr. Reber stated no, and even their exit from that room is going to along the side of the house.

Mr. Lajudice stated okay, thank you.

Mr. Mattis asked is there anyone else who would like to speak?

Mr. Reber made a motion in Case No. 14-07 to close the public hearing seconded by Mr. Becker with all voting "aye."

Mr. Reber made a motion in Case No. 14-07 to grant a rear yard Area Variance for a proposed addition from 25 feet down to 14.2 feet with the understanding that there will be no windows placed on the south side, and that it is understood by the applicant that they would not be able to expand the house in the southerly direction even though there is room to expand without a required variance, and that is a trade off for this variance. This is a Type II Sequa with no further compliance required seconded by Mr. Becker with all voting "aye."

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CASE NO. 15-07 LOUIS RINALDI to modify/clarify Decision & Order of the Zoning Board of Appeals Case No. 41-06 on the property located at 445 Yorktown Rd., Croton-on-Hudson.

Mr. William Zutt, Esq. appeared before the Board. He stated I have a couple of hand outs. This is a new application stemming from a previous Case No. 41-06. We're here requesting modification regarding a Resolution adopted by your Board for Case No. 41-06. The materials I handed you are copies of correspondence that I had previously sent to your Board following an adoption of that Resolution explaining the request. The request in substance is that you either clarify or modify conditions regarding the loading and unloading of equipment on and off Mr. Rinaldi's tagalong trailer in the parking area outside the buildings shown on proposed site plan. We are requesting literally a condition in your Resolution otherwise it would probably require the activity to take place indoors, and because of the geometry of the truck, the trailer, and the equipment to be loaded we need a straight line linear distance of about 130 feet requiring a building of a very larger dimension, far larger than would normally needed. I think the last document in your packet is a schematic drawing of what that building might look like. It would occupy a major portion of the site, and the parking area would intrude on the approved septic area, and would probably require all of the existing equipment to be moved out of the building simply to facilitate the loading and unloading of the trailer. So for practical reasons we're requesting that you modify your prior Decision & Order to allow that activity to occur in the parking area. Also, included in your packet, and I think previously submitted with my correspondence was a profile, a sketch done by Mr. Cronin's office showing the visual site distance from the neighbor's property, the Buchanan property across the proposed building, and in substance the building that's proposed would mass over the entire parking area, and would shield at least loading, and unloading from that location. I'd be happy to answer any questions.

Mr. Seirmarco stated we understand your concern, and I think that the main issue is the building will at least screen the noise.

Mr. Mattis stated which building, let's make that clear?

Mr. Seirmarco stated the one that is on the elevation.

Mr. Mattis stated there's two of them, the long one, or the more square one?

Mr. Seirmarco stated the square one.

Mr. Mattis stated I just wanted to make it clear for the record.

Mr. Zutt stated the profile is based upon the first of the two buildings shown in your packet.

Mr. Seirmarco stated the square one is the one I was referring to. The hours of operation, and with the equipment being inside the building we may have gone too far. So I wouldn't really have any problem with this.

Mr. Reber stated I think that adding the term here to load equipment was certainly not my intent. So I agree that we can take it out. I don't think it is an unreasonable request, and it creates problems on the site that we are trying to achieve for the benefit of the neighbors.

Mr. Becker stated I have some questions. When the trailer backs up during the loading, and unloading is the trailer giving that beeping noise that commercial vehicles have when backing up?

Mr. Zutt replied I think that is required.

Mr. Becker stated so that means when we talked about screening at every one of these meetings. We talked about the noise screening as much as we did the visual. Is it possible to load, and unload the trailer off site? In other words, why can't the backhoe be loaded onto the trailer, and be brought back into the storage overnight in the building?

Mr. Zutt replied because when you return to the site the equipment then has to be backed up, and backed off the trailer, and put into the storage building. It's impossible to avoid backing up on that site even without the trailer. You still have to back equipment into the storage garage.

Mr. Becker asked is it possible that the equipment can be stored on top of the trailer overnight?

Mr. Zutt replied well then the trailer would then have to be backed into the building.

Mr. Mattis asked how often does this equipment go in, and out?

Mr. Zutt replied actually it is not very often, because it is on the work site typically until the job is finished. However, we certainly can't rule out the fact that the equipment, not all the equipment is at the job site all the time.

Mr. Becker stated I just want to know about how much, is it once daily, or even twice daily?

Mr. Rinaldi appeared before the Board. He stated the equipment is usually at the site, and does not leave the job until it is done. So it wouldn't be everyday at this site.

Mr. Becker stated well that is what I was trying to determine. I'm trying to help you here as well as help the neighbors. So I am just trying to get it on record here this is not going to be twice a day, or very frequently.

Mr. Rinaldi stated well one of the things I am trying to do is to make everyone happy there. As far as the beeping goes, you're going to hear beeping no matter what kind of commercial truck is backing up. You have to have it by law. I am trying to make as less noise as I can.

Mr. Chin stated we do have hours of restriction. He won't be coming in there at 4:00 o'clock in

the morning. We do have certain hours of operation. As for construction vehicles, anytime a contractor like yourself has a paver going out they usually are at the site for 2, 3, 4 days. It depends on how long a job takes, and sometimes if you have another job right after you bring it right to the next site rather than bring it back to the yard.

Mr. Mattis stated so it would be rare that it is even twice a week, would you say?

Mr. Rinaldi replied probably not. Usually the time the equipment is inside, and it would be stored for winter.

Mr. Chin stated living around the corner from here basically I'd rather see the building set back rather than a narrow building, and this whole area is open then the noise would even travel further up than if the building was right there, and kind of absorbed some of the noise.

Mr. Mattis stated I think this request makes sense for a number of reasons. Most of which have been stated. It's a wider, and more square building, and width tends to buffer the sound somewhat. It's sits back farther. It's going to look a lot better. Additionally, Mr. Visweswariah, and Ms. Buchanan had been here to almost all the meetings, and they were concerned with the rocks and that type of equipment. They never mentioned the trucks. This has been advertised now. They didn't come out for this, and believe me if that were a problem with them they would have been here. We accommodated everything they wanted, and we went further on this than we have on many cases. In fact, having them load inside the building is much more than we've ever done, and we accommodated them. They never mentioned this as a problem. They've been apprised of this application. They were notified as a neighbor, and they chose not to come out. So I assume that is not a problem with them either.

Mr. Reber stated if the vehicles are going to be backing up, and no matter what building you use you're going to hear some beeping. So whether it be 10 beeps, or 12 beeps there probably will be less juggling of vehicles than the alternative. So I think we're moving in the right direction.

Mr. Becker stated I am not sure I have an issue with any of this. I just wanted to get some of this on the record that we were asking the right questions.

Mr. Chin stated I know that the big building that is kind of on the lot next door to you. There are some big trucks backing up over there, and they are there really in the morning. I know it is before 6:00 o'clock in the morning.

Mr. Mattis stated I don't think they even have restrictions as to their hours of operation. We can't eliminate all noise, and remember they bought a house next to an HC area. We've done a lot for the neighbors in this case.

Mr. Zutt stated I want to just mention that the two letters that I sent were also both sent to Ms. Buchanan and Mr. Visweswariah.

Mr. Mattis stated I am sure if they had any concern about it one or the other, or both would probably be here tonight. Are there any other comments from the Board?

Mr. Douglas stated I am not going to belabor the point, but I am going to vote no on this for the reasons I stated at the last two meetings.

Mr. Mattis stated okay. Is there anyone in the audience that would like to speak?

Mr. Seirmarco made a motion in Case No. 15-07 to close the public hearing seconded by Mr. Chin with all voting "aye."

Mr. Seirmarco made a motion in Case No. 15-07 that we approve the amendments to Section 3-B of the memo as the Planning Board waits Decision & Order of this Board to remove the section that mentions the loading and unloading of trucks of the equipment only. It was original intent to do this seconded by Mr. Chin. The Board was polled as follows:

Raymond A. Reber	Yes
Richard Becker	Yes
David Douglas	No
James Seirmarco	Yes
John Mattis	Yes
Wai Man Chin	Yes
Charles P. Heady, Jr.	Yes

The motion was carried by a 6-1 vote.

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CASE NO. 16-07 OUR LADY OF MT. CARMEL SOCIETY HALL for an Area Variance for front yard set backs for proposed addition and deck on the property at 155 Highland Ave.

Mr. Seirmarco recused himself from the case.

Mr. Vincent Tropiano appeared before the Board. He stated I am representing Our Lady of Mt. Carmel Society this evening. We are just asking for a variance on the decking for our porch.

Mr. Douglas asked can you just briefly explain what exactly you are asking for?

Mr. Tropiano stated we are putting an extension on our clubhouse. We already have a porch there, and in order to put the decking on we need to get a variance to extend the porch.

Mr. Douglas stated the addition is not any closer to the road than the current porch. Do you have a Special Permit for operation in that location.

Mr. Tropiano asked a Special Permit, what is that?

Mr. Douglas stated it is my understanding in this zone a membership club is not ordinarily allowed. It is also my understanding that the site does have a permit to operate.

Mr. Tropiano asked do you mean for the Feast?

Mr. Mattis replied no for the structure, and for the club, and everything. It is just a Special Permit through the Town.

Mr. Tropiano replied yes.

Mr. Douglas stated okay so the Town has granted that permit?

Mr. Tropiano replied yes.

Mr. Douglas stated okay, I just wanted to make sure that was clear on the record. He stated I have been out at the site and I am familiar with it, and it seems to be a noncontroversial application. It is not increasing, or being any closer to the road than it is now. This is a unique site in the Verplanck area. It is a one of kind parcel, and I don't have any objection to this whatsoever.

Mr. Mattis asked are there any other comments?

Mr. Reber stated I have a question for counsel. I don't have a problem with what they're asking for, but I just want clarification. Since this is nonconforming meaning it's not supposed to be here, but the Town always granted a Special Permit are we free to expand the conditions under that Special Permit without having to go back to review the Special Permit?

Mr. Klarl asked expand the conditions?

Mr. Reber stated well it is an expansion.

Mr. Klarl stated what happens is we have a section of the code that says that if you have a nonconforming use under a Special Permit you can do so by making a Site Plan Application, and amending that Special Permit, and that goes before the Planning Board.

Mr. Reber stated so it will go to the Planning Board as long as we grant the variance.

Mr. Klarl stated right. So the Planning Board has to do two things. It has to amend the Special Permit, and it has to also obtain site plan approval.

Mr. Reber stated because normally Special Permits are issued by the Town Board, or the Zoning

Board correct?

Mr. Klarl stated right, but this is an application in front of the Planning Board right now. So they need to amend the Special Permit, and then have a Site Plan Application.

Mr. Douglas stated in this instance with Our Lady of Mt. Carmel there is an application before the Planning Board.

Mr. Mattis stated I'd like to note something. I often say this about cases in Verplanck, this is over 12 feet back from the property line, which is rare in Verplanck. You find some cases where the house is actually legally in the road. So this is farther back than most of the cases we see in Verplanck. Are there any other comments? Is there anyone in the audience who would like to speak?

Mr. Douglas made a motion in Case No. 16-07 to close the public hearing seconded by Mr. Becker with all voting "aye."

Mr. Douglas made a motion in Case No. 16-07 to grant a front yard Area Variance for a proposed addition, and deck from 30 feet down to 12.26 feet. This is a Type II Sequa with no further compliance required seconded by Mr. Becker with all voting "aye."

CASE NO. 10-07 CROMPOND RD. LLC for an Interpretation and/or Area Variance for a freestanding sign on the property located at 2293 Crompond Rd., Cortlandt Manor.

This case was recalled.

Mr. Mattis stated Mr. Becker that is your case. I am going to request that you ask for an adjournment, but that we have an accompanying letter from Code Enforcement stating that if the applicant does not contact us for an adjournment, or appear next month that we will deem the case abandoned.

Mr. Becker made a motion in Case No. 10-07 to adjourn the case to the May meeting with a letter to the applicant from Code Enforcement as Mr. Mattis stated seconded by Mr. Chin with all voting "aye."

ADJOURNED PUBLIC HEARINGS FOR TELECOMMUNICATIONS TOWER TO JUNE 2007.

CASE NO. 48-06 CINGULAR WIRELESS SERVICES INC. For a Special Permit for a wireless telecommunications facility on property located at 451 Yorktown Rd., Croton-on-Hudson, NY.

Mr. Mattis stated before we adjourn the meeting I would like to have a moment of silence for the victims at the Virginia Tech that was quite a tragedy, and I think we should remember them.

Mr. Reber made a motion to adjourn the meeting seconded by Mr. Chin with all voting "aye."

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Christine B. Cothren