

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, August 15<sup>th</sup>, 2012*. The meeting was called to order, and began with the Pledge of Allegiance.

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

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

Also Present

Ken Hoch, Clerk of the Zoning Board  
John Klarl, Deputy Town attorney

Absent

David Douglas, Chairman  
Wai Man Chin, Vice Chairman

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Mr. John Mattis stated before we begin the cases, we only have **5** members here. Normally there are **7** members but only **5** are present. But, to win your case, to have it approved you need **4** favorable votes. If anyone here, during the course of your case, if you're not sure if you're going to get **4** or **5** favorable votes, or even if you think you are if you'd prefer to carry it over until next month, that would be fine. A **3** to **2** majority does not win. You need **4** votes to carry on the Zoning Board.

Mr. John Klarl stated it's vacation season and we're down **2** members.

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**ADOPTION OF MEETING MINUTES FOR JULY 18, 2012**

Mr. Raymond Reber stated I so move with the minor corrections that I had handed to Mr. Hoch.

Seconded with all in favor saying "aye."

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**ADJOURNED PUBLIC HEARING:**

- A. CASE No. 18-09**                      **Post Road Holding Corp.** for an Area Variance for the dwelling count for a proposed mixed use building on the properties located at **0, 2083 and 2085 Albany Post Road, Montrose.**

Mr. Raymond Reber stated this one also, I believe, had requested an adjournment to November.

Mr. John Mattis stated yes, that's still in front of the Planning Board and we're waiting for the Planning Board to finish their work on this.

Seconded with all in favor saying "aye."

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**NEW PUBLIC HEARINGS:**

- A. CASE No. 2012-31**                      **Louis Schmidt** for an Area Variance for the front yard setback for a second floor addition on property located at **2 Putnam Park Rd., Cortlandt Manor.**

Mr. John Mattis asked could you just briefly state what your case is and why you're here.

Mr. Louis Schmidt stated I'm sorry I just got off an airplane about a half hour ago. I was on vacation so I'm trying to get myself – is this the minutes of the meeting...

Mr. John Mattis responded that's the agenda.

Mr. Louis Schmidt stated that's what I'm saying. Is my case on here?

Mr. John Mattis responded yes, it's the top one of the back side of there.

Mr. Louis Schmidt stated so I'm asking for a Variance because I'm trying to put an addition, a second floor onto the existing dwelling which is under the current Code okay since the house is closer than 30 feet to the road and I guess the Code says it has to be **30** feet. I'd like to put an addition and I'm asking for a Variance for the addition please.

Mr. John Mattis asked and you're going straight up?

Mr. Louis Schmidt responded going straight up yes.

Mr. Raymond Reber stated even though the setback requirement is **30** feet, your house existing is

**19.8.** It's consistent with the neighborhood. This is another case where as we up-zone we get some of the older neighborhoods into this kind of a bind. Putting a second story on this does not cause any complications. There's no real negative impact to the neighborhood so I see no problem in granting this Variance so that he can put the second story on the first story.

Ms. Adrian Hunte stated I agree.

Mr. James Seirmarco stated I concur.

Mr. Charles Heady stated I agree.

Mr. John Mattis stated I agree also. Anyone in the audience who would like to speak?

Mr. Raymond Reber stated I make a motion that we close the public hearing on **case #2012-31**.

Seconded with all in favor saying "aye."

Mr. Raymond Reber stated I make a motion on **case 2012-31**, 2 Putnam Park Road for a Variance from **30** feet down to **19.2** feet add a second story to an existing residential property that will create a Variance of **10.8** feet. This is a SEQRA type II no further compliance required.

Seconded with all in favor saying "aye."

Mr. John Mattis stated your Variance is granted.

Mr. Louis Schmidt stated thank you very much.

**B. CASE No. 2012-32                      Alice and Thor Mann** for an Area Variance for the height of an accessory structure and an Area Variance for the total square footage of all accessory structures on property located at **31 College Hill Rd., Montrose.**

Mr. Thor Mann stated I live in Montrose. I'm looking to build a home office on property located in Montrose. I have about **7** acres. I'm looking to add another **320** square foot office building. My house was built about **105** years ago. It has a very steep pitch on the roof so I'm looking for a Variance to match the pitch of my roof for aesthetic purposes to go from **16** to **17** feet. I'm looking for **2** Variances; the other Variance is around the total number of square footage and accessory buildings relative to the main structure. Currently we have – it had a pool and a deck. I think in the last few years you've added a pool and a deck as part of the total you can have for accessory square footage. I'm looking for a Variance to add the small office building. If you want a reason; I have **3** small children and I work from home a lot and I need to be out of the house. Todd Springer is the architect working with me and he can answer any technical questions.

Mr. Raymond Reber stated this case has multiple problems. To start with, it's indicated that you've got over **3,000** square feet currently of what is identified as accessory structure property. You're only allowed **1,338** by the formula. The Town Code is written that way for a number of reasons of which we can't necessarily argue over. Things that are attached to the house like a deck and all doesn't count but once you start separating things off – that's the first problem, you're already well beyond and I know you also have a three-car garage down by the entrance which contributes I think **800** or **900** square feet. I couldn't get an exact figure. The second problem is the Town has put some very tight restrictions on detached buildings in that they're very concerned about people having something that could be rented out or used as an apartment so we do not ever approve any detached buildings that have any kind of plumbing or heating. The only thing that's allowed is a light bulb, like in a garage. You're proposing a separate structure that technically has some heat and plumbing in it, that's a no-no so right there we can't approve it. The argument being that maybe you'll use it as an office. If for some reason you sell it, somebody else comes in, they could rent it out as a studio; put a little hot plate in there or whatever. On that basis, there's absolutely no way we can approve that kind of detached structure on your property, we just don't have the ability to do that. Sorry.

Mr. James Seirmarco stated you are not the first one who has come before us and asked for things like this, artists or people who have business activities at home. We have recommended or at least downgraded the space to unheated space, no water, no facilities just electric. An artist comes to mind and she...

Mr. Raymond Reber stated obviously if you wanted to put an attachment to the house, add a room or something that's totally a different picture but once it's detached then our hands are tied. Light bulb, that's all that's allowed in that structure.

Mr. Todd Springer stated we looked favorably on this because it was – I don't know if you've seen the photographs, the existing accessory...

Mr. Raymond Reber stated oh yes, I visited the property. I have an idea of what you have up there that's how I know about the garage, the house and the little house that you're going to take down. I'm familiar with it.

Mr. Todd Springer asked can I ask what would your opinion be if the existing structure was kept and added to...

Mr. Raymond Reber stated no, because you're already over **3,000** square feet we can't even approve extending beyond that. I don't know of any case where we've ever gone to that type of square footage of accessory structure and to approve an expansion of an existing accessory structure wouldn't happen.

Mr. John Mattis stated not **162%**. We've never gone anywhere close to that.

Mr. Thor Mann stated I don't know if you saw but I have a letter from my neighbors that people

are supportive.

Mr. Raymond Reber stated I understand but that doesn't help us.

Ms. Adrian Hunte stated with the Code we don't have that much discretion unfortunately.

Mr. John Mattis stated we have a number of criteria we have to look at and one of the first things we look at is; can this be accomplished by other means? And the answer is yes, you can either do it somehow in your existing house or add a room onto the house and once we look at something like that this would set a precedent that we'd have to live with, with any other case that comes in because of the magnitude of the Variance. We've never granted a roof **18 1/2** feet high. We've never gone beyond **15 1/2**. I think once we did **16** feet.

Mr. Raymond Reber stated we've had the same argument. We have people that have Tudor homes with the nice – and the architects have come to us and we agree it would look nice but again the Code doesn't give us enough flexibility to agree with it. It's not what we personally think is the right thing to do or what makes sense it's how much flexibility the Code gives and in these cases the Town Codes are very stringent.

Mr. Thor Mann stated so the main second point is the square footage for an accessory building it's not the height of the roof.

Mr. Raymond Reber stated well it would be.

Mr. John Mattis stated we would never go that high.

Mr. Raymond Reber stated you wouldn't get the height either if we approved it but...

Mr. John Mattis stated for an addition you could go as high as you want because it would be part of the house and you wouldn't need a Variance either.

Mr. Thor Mann stated okay.

Mr. Raymond Reber stated the fact that we can't approve the accessory structure means we don't have to address the pitch on the accessory structure.

Mr. Thor Mann stated okay, well have a good day, thank you.

Mr. John Mattis stated before you leave we have to close the case. You could either withdraw it or we could vote on it. That would be your choice. It probably would be better to just withdraw it so we wouldn't have to vote.

Mr. Raymond Reber stated okay, withdrawn. For the record, **case #2012-32** has been withdrawn by the applicant.

**C. CASE No. 2012-33                      Lori Cerbone** for an Area Variance for the front yard setback for a second floor addition on property located at **115 Westchester Ave., Verplanck.**

Ms. Lori Cerbone stated I'm asking for an Area Variance for a front yard setback for my house so I can put on a second story addition.

Mr. James Seirmarco stated I did visit the site and I'm familiar with the area. You're going straight up. It doesn't encroach any more than the existing first floor. The lots ultimately would be contained -- your garage would be merged with the property of the main property. I don't have any problem with this.

Mr. John Mattis stated I was out there and looked at this. I'm familiar with that neighborhood. I live in that area. On the right side, the adjacent property owner has one little window in the back that would face you so it really has little impact there and on the left side you have your garage. There's really very little impacts on the neighbors. It's already semi two-stories. It's like a story and a half so it's not like we're taking a low one-story and all of a sudden it's going way up. I think this is appropriate.

Mr. Raymond Reber stated also, I would like to make note of the fact, for the record it says there's a **30** foot required setback and if there's only **3** feet and a  $\frac{1}{4}$  which is asking for an **89%** Variance and people might say "well we never do that," but in fact, the house is more than **3  $\frac{1}{4}$**  feet setback because the Town Road property actually goes back from the pavement and also your house lines up with the other two houses on that street. There's only the three of you so it's all quite appropriate. That's the way it is on that street so again, it's not like we're doing something weird here that allows you to approach within **3** feet of the road. Also, I have no problem with it.

Mr. John Mattis stated the appearance is it's back by **15** or **20** feet or something and it's one of the few places in Verplanck where they're not right out near the road.

Mr. Raymond Reber stated or on the road.

Mr. John Mattis stated and as Mr. Reber said, it lines up perfectly with the other houses. Anyone else? Anyone in the audience?

Mr. James Seirmarco stated I make a motion to close the public hearing on **case #2012-33.**

Seconded with all in favor saying "aye."

So moved.

Mr. James Seirmarco stated I make a motion to grant the proposed Variance from **30** feet down to **3.27** feet. This is an Area Variance for the front yard setback and this is a type II SEQRA no further compliance is required.

Seconded with all in favor saying "aye."

So moved.

Ms. Lori Cerbone stated thank you very much.

**D. CASE No. 2012-34                      Arnold Schonberg** for an Area Variance for a business wall sign on property located at **1 Jerome Dr., Cortlandt Manor**.

Mr. Arnold Schonberg stated I'm Dr. Schonberg and I'm trying to get a Variance for a sign on my building to show my new website. I've been at my building for about **35** years now and I have a high quality dental practice. Since **2008**, as you know the economy's been suffering a little bit and so has my dental practice. In the last year I had to let go **2** people which killed me to do that. I went from a **5**-day practice down to a **3**-day practice, hired a consultant and they told me "get this webpage and we'll bring in more people, they'll know you're there and they'll know what type of dentistry you do." But, when I did the webpage it was a **\$3,000** webpage, unfortunately nobody knew the webpage was there so that's why I'm trying to get a Variance for the sign on my building. If you know the area, it's very commercial in that area. I brought pictures.

Mr. Raymond Reber stated we have them.

Mr. James Seirmarco stated we have all the pictures.

Mr. Arnold Schonberg stated I guess that's what I'm trying to do.

Ms. Adrian Hunte stated Dr. Schonberg, this is – I'm familiar with the building and the area and I have a question. First of all the issue is we have allowed **20** square feet, you're at **21.8**. You indicated that you may be willing to remove the dental assistant school sign.

Mr. Arnold Schonberg responded right, which I'm removing. That's a hanging sign that's...

Mr. John Klarl asked you're removing that lower portion?

Mr. Arnold Schonberg responded just he hanging signage. It's a very small sign.

Mr. John Klarl stated it says "New York Dental Assisting School."

Mr. Arnold Schonberg responded exactly.

Ms. Adrian Hunte stated your plan is to put the proposed sign on the front of the building? Because the building is catty-cornered on Jerome and 6.

Mr. Arnold Schonberg responded as you're facing the building on the left part of the building there's an area where the sign would fit very well. I have a picture of that too.

Mr. John Mattis stated we have that.

Ms. Adrian Hunte stated we have that.

Mr. John Mattis stated we're just getting all this in the record.

Ms. Adrian Hunte stated and it's your feeling that that sign would be better placed there as opposed to on the other side of your building which sort of faces 6 as people are coming from the east.

Mr. Arnold Schonberg responded my feeling is that in that location cars going east or west on the highway would be able to see it.

Ms. Adrian Hunte stated this is almost a **100%** Variance and that's part of the issue that concerns us. We have to see whether you have any alternatives.

Mr. John Mattis stated let me offer a suggestion. We weren't sure the purpose of this and if your purpose is only to get the identification of the website we can approve a small Variance where you have New York Dental Assisting School. You don't really need a second sign and you've said that. You really want the identity. I would approve a small Variance to replace New York Dental Assisting School with the website.

Mr. Arnold Schonberg responded if you see the New York Dental Assisting School, the only way anybody would see that from the road – they really wouldn't see it from the road. They would really have to walk up the path...

Mr. John Klarl asked because of the hedges?

Ms. Adrian Hunte asked where that sign is, can you put it above your existing sign?

Mr. Arnold Schonberg responded the present sign is a cardboard sign and if you go above it there's like a little hump in it with a tooth carved into the hump so you really couldn't alter the existing wooden sign.

Mr. James Seirmarco stated I have a problem. You might have to get a new sign and have it constructed so that you could have the website on there in a smaller way somehow because this is almost **100%** Variance for – your goal is just to add the .com kind of website. There's got to

be a better way to do this.

Mr. John Mattis stated and it sets a precedent of giving a second sign too.

Mr. Arnold Schonberg stated if you have the signs adjacent to my office, it's crazy. I mean my sign – there's a Wendy's next door. There's a Kohl's across the street. There's the bank. There's a gas station. There's so many other signs that that sign...

Mr. John Mattis stated and they're all in conformance. They're commercial and it's a little bit different with them.

Mr. Arnold Schonberg stated but that's the purpose of the Variance so I will be in conformance.

Mr. James Seirmarco stated we would grant some percentage of Variance but **100%** when your goal is just to get your website advertised seems to me excessive.

Mr. Arnold Schonberg stated that just is my practice whether that practice continues to be a successful practice or not, it's a big 'just'. It's not something minimum. I'm talking about losing staff members.

Mr. James Seirmarco stated I asked, or someone asked, what was the purpose of the sign? And you said it's to advertise your website, going by that, giving a Variance of **100%** just to advertise the website seems excessive to me. I think there should be a more creative way to do the advertisement of your dental practice plus the sign and not go so high a Variance. I'm not going to design it here but I'm sure there's a way of doing it.

Mr. Raymond Reber stated there's a more fundamental problem here and one that bothers me. Signs, whether it's Wendy's or what have you, anything that's on a street is supposed to be for identification purposes not for information purposes other than where the law requires such as a gas station where the law requires that they post pricing, that has to be posted. To be honest, people driving by – one of the things we always have to be careful of with signs is, particularly on Route 6 because of the traffic, you don't want people straining to read signs and trying to figure out what they're reading. You don't want them slowing down, looking, checking and to be honest with you, most people will not – even if you put this sign up I'm afraid showing that you have Schonbergdental.com is something most people will not pick up on, they're not going to be looking for. If they go by and they see your sign "Dentist," okay then the next important thing is; who is it? Dr. Schonberg. Once they get past that the rest of it is meaningless. You've got the phone number, which again they may pick up on. I don't think you're going to get much out of Schonberg.com. To be honest with you, it goes against the grain of 1) advertising on a sign which is not supposed to be what these signs are for and 2) from my own experience working with firms and coming up with signs the simpler the sign the better chance you have of people recognizing it. You make signs with too many words on them it confuses them, they don't register and they keep going or you end up where they almost have to stop the car to read the dumb thing which is not acceptable.

Mr. Arnold Schonberg stated I just don't see how you can possibly think that a little sign on the side of my building is going to change the environment of that neighborhood.

Mr. Raymond Reber stated did I say one word about the environment. I didn't mention the environment. I said the practicality of the sign, whether it in fact will help your business I question. I said the only negative, other than I don't see why we should have plastered signs up, it's a precedent. You're advertising in a way – it's not just identifying who you are which is normally all a sign is supposed to do and second of all yes, there is a concern about traffic. If you have sign that confuses people and they're trying to read it and figure out "well what's that sign say?" You've got cars slowing down. You're on Route 6. It's not healthy. Signs are supposed to be simple. They're supposed to be something that people can recognize in a matter of seconds.

Mr. Arnold Schonberg stated I mean if you just look at these pictures [inaudible.]

Mr. John Mattis stated we're not judging the other cases. Every case stands on its own. You're a Transitional Zone, they are a Commercial Zone. It's a different part of the Code.

Mr. Raymond Reber stated the whole sign can be big but it's something that's recognized within seconds.

Mr. Arnold Schonberg stated I can see I'm not getting anywhere so I'll withdraw.

Ms. Adrian Hunte stated hold on, we're not done yet.

Mr. Raymond Reber stated I'm just expressing my opinions. It's not the Board's. It's so you understand where I'm coming from.

Ms. Adrian Hunte stated one of the things is to try to explore whether there are alternatives that you might have. I still think that based on your sign here that you might be able to put something on the top of this which would replace what you have for the Assistant School and I think that's more visible from Route 6 than on your building there.

Mr. Arnold Schonberg stated you'd really have to destroy that whole sign to do that.

Mr. John Mattis stated maybe that's what you have to do. Maybe you could come back with a new design. Instead of a second sign, a new first sign.

Mr. Arnold Schonberg responded okay. I'll withdraw it.

Mr. John Mattis asked why don't you adjourn it? We're going to have **2** more members next month and maybe you could come back with an alternative.

Mr. John Klarl stated you've just heard the thoughts of the Board tonight and now you can react to those thoughts.

Mr. John Mattis stated we've offered some suggestions with one side. It would be a precedence setting to give a second sign like that. If there's a way of doing it with one sign we would give a slight Variance. I can only speak for myself.

Mr. Arnold Schonberg stated I understand it's precedence setting but I feel that we're all in the same boat. We're trying to conduct our businesses. Do the best we can for the Town of Cortlandt and ourselves. I'm an asset to the Town of Cortlandt.

Mr. John Mattis stated as is every business.

Mr. Arnold Schonberg stated not every business but a lot of businesses. I treat my patients like family and I'm just asking for your help by the members of this Board. I don't think I'm asking for anything unreasonable and if you look at everything else, I know you say has nothing to do with me, but that's part of the environment and there's no reason not to give me a Variance to do something like that which is not going to hurt anything in the environment and is going to help my practice and my patients.

Mr. John Mattis stated but that isn't one of the criteria. We have 5 criteria that we have to look at in order to approve a Variance and what you just stated to us is not one of the 5 and that's the law.

Mr. Raymond Reber stated the other option may be, if what you're concerned about is your website, maybe that's all you ask for to have on the house – a much smaller sign that lists your website. Don't repeat the rest of the information that's on the main sign that way the Variance is a lot smaller.

Mr. James Seirmarco stated that's what I was trying to say too. I would agree.

Mr. John Mattis stated that would be a minimal Variance.

Mr. James Seirmarco stated you might just want to have a conversation with a sign expert, or your designer – I know what you're trying to do, you're trying to save as much money as you can using existing signs or whatever but in this particular case there may be alternatives. I think you want to talk to a sign expert. They're usually very familiar with the Code and they can accomplish something that beneficial to you and acceptable to us. I know it's difficult sometimes – you think we're just turning you down flatly but again, as the Chairman has said, the 5 criteria is: is it self-created – there's a whole list of things and this is self-created and so I would personally suggest that you do that.

Mr. Arnold Schonberg responded okay, I will.

Mr. John Mattis stated if you want to adjourn we can adjourn that and the meeting in September would be the 19<sup>th</sup>, the third Wednesday.

Mr. Arnold Schonberg stated let's do that.

Mr. John Mattis stated and there's no one in the audience.

Ms. Adrian Hunte stated on **case #2012-34**, applicant Dr. Arnold Schonberg I make a motion that we adjourn the case to the September **2012** meeting.

Seconded with all in favor saying "aye."

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### **ADJOURNMENT**

Mr. Raymond Reber stated I move that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. John Mattis stated the meeting's adjourned.

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**NEXT MEETING DATE:  
WEDNESDAY SEPTEMBER 19, 2012**