

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at Town Hall, 1 Heady St., Cortlandt Manor, NY on Wednesday, July 16, 2008. 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
Adrian C. Hunte
David Douglas
James Seirmarco

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

Absent: Charles P. Heady, Jr.
Wai Man Chin, Vice Chairman

ADOPTION OF MINUTES: 4/23/08 AND 5/21/08

Mr. Mattis stated Mr. Reber did you have some comments.

Mr. Reber stated yes, I submitted some corrections of both meetings with some minor grammatical mistakes.

Mr. Mattis stated as amended by those comments can we have a motion to adopt the minutes?

Mr. Reber made a motion to adopt the minutes for 4/23/08 and 5/21/08 as corrected seconded by Mr. Seirmarco with all voting "aye."

CLOSE AND RESERVED DECISIONS

CASE NO. 23-07 CONCRETATION YESHIVA OHR HAMEIR for an Interpretation/reversal of Code Enforcement Officer's determination that the dormitory housing its' students is a pre-existing, nonconforming use and 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 Rd., Cortlandt Manor.

Mr. Mattis stated I will turn this over to our attorney.

Mr. Klarl stated this case has already been reviewed and deliberated by this Board. We have a Reserve Decision that we have been holding in abeyance until the Planning Board finishes their review in terms of the site plan, and Special Permit. So I suggest that this be adjourned awaiting the determination of the Planning Board. I see counsel here for the Yeshiva tonight.

Mr. Brad Schwartz stated this is correct. We are just waiting for the Planning Board approvals at this point.

Mr. Seirmarco made a motion in Case No. 23-07 to adjourn the case to the August meeting seconded by Ms. Hunte with all voting "aye."

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CASE NO. 31-07 BEST RENT PROPERTIES, LLC for an Interpretation that the Town Attorney's determination that the property at the southwest corner of Westbrook Drive and Oregon Rd. cannot be developed as a retail shopping center is incorrect.

Mr. Douglas stated we have a draft of the Decision & Order of this case, which I'll summarize, and read part of it. The draft Decision & Order notes, "This is an application for an Interpretation that the Town Attorney's determination that the applicant's property located at Westbrook Drive and Oregon Rd. cannot be developed as a retail shopping center." The draft D&O goes through some of the history noting that the property was created as part of a subdivision in 1960, and it designated lot 40 in such subdivision noting that applicable to the subdivision at that time including lot 40 permitted residential uses, but not commercial uses. However, the subdivision map as approved by the Planning Board at that time filed with the Town and County Clerk noted various commercial uses with respect to lot 40. As part of the determination dated April 3, 2007, the Town Attorney concluded that notwithstanding that the Planning Board did not have the right to change the permitted uses for lot 40, and moreover as lot 40 was part of a cluster subdivision that use other than a single residential unit could not be sustained. We now have the applicant challenging that determination by an application to this Board. This Board finds the applicant's challenge to the determination does have a variable. Most significantly, on November 15, 2007 after the Town Attorney's determination there was a decision by the Court of Appeals, the highest court in the NY State Court system, handed down a decision in the case of O'Mara vs. the Town of Wappinger. In the O'Mara case, much like the situation here, the Planning Board had imposed conditions with respected uses of a particular parcel of land in connection with an approval of a subdivision in 1963. Those conditions, mainly the parcel in question were reserved as open space, and noted on the plat where that plat was filed both in the Town and County Clerk's office. Nearly 40 years later a subsequent purchaser sought to develop the parcel as contrary to the notes on the plat, and the O'Mara court case held that the conditions noted on the filed plat in accordance with the Planning Board's approval were binding. Therefore, the logic of the O'Mara decision, which I want to note that this decision must be adhered as a matter of law, so the Town Attorney's determination cannot stand. As in O'Mara, the Planning Board expressly decided what uses were, or were not appropriate with respect to a given parcel as part of its' approval of the subdivision. Here as in O'Mara, the Planning Board's decision altered the uses of which the parcel might have otherwise been subject under the prevailing Zoning Ordinance, here as in O'Mara, the use of the land was expressly set forth on the plat itself. Here, as in O'Mara, the plat was filed with the necessary authorities including the County Clerk's office. Accordingly, noted here with the respect of uses for lot 40 placed on the filed map pursuant to the Planning Board's approval is binding. The Board also find persuasive that the fact that for 47 years the Town itself apparently viewed lot 40 as designated commercial use, from 1961 to 1980 the Town's official zoning maps designated the parcel as a business use approved, in 1980 it was designated at C1, and since 1983 it has been designated as CC, which is also a commercial provision. Also, in the 1991, and 2000 Master Plan the lot was described as commercial, and in the 2004 Master Plan was described as a community commercial use. Additionally, lot 41, which is also a subject of this case was described the same. The applicant additionally asserted that the original subdivision should not be considered a cluster subdivision, but rather a conventional subdivision, the Board does not find the applicant's position on that point to be convincing, then referring to Town Law, Section 281, which at the time was a cluster subdivision. Furthermore, the Planning Board's approval of condition of specific lots in the subdivision. Nonetheless, the Board has continued that it need not resolve this issue given the Court of Appeals decision in the O'Mara case, which again sets a precedent for all cases of this type. Therefore, it is this Board's Interpretation that the Town Attorney's determination of the applicant's property located at Westbrook Drive, and Oregon Road cannot be developed as a retail shopping center must be reversed under the course of the O'Mara decision. Any commercial development on such site, however, is of course subject to such approvals, disapprovals, terms or conditions that the Planning Board may impose as part of the applicant's site development application, and nothing in this Board's conclusion should be read to in any way, or endorse it, or for that matter criticize it. The specifics of any commercial development proposed by the applicant will need to be pursued through the Planning Board.

Mr. Reber made a motion in Case No. 31-07 that the Decision & Order be approved seconded by Mr. Seirmarco with all voting "aye."

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CASE NO. 48-05 CINGULAR WIRELESS SERVICES, INC. for a Special Use Permit for a wireless telecommunications facility on property located at 451 Yorktown Rd., Croton-on-Hudson.

Mr. Seirmarco stated I think that we had spoke at the previous meeting as to some alternative plan, and we have not heard anything since then.

Mr. Seirmarco made a motion to adjourn the Reserve Decision to the August meeting seconded by Mr. Douglas with all voting "aye."

ADJOURNED PUBLIC HEARINGS

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CASE NO. 45-07 MARK AND ELIZABETH HITTMAN for an Interpretation that granting a Special Permit for a Medical Office Building does not require abandonment of the residential use in the building on the property located at 1989 Crompond Rd., Cortlandt Manor.

Mr. Flandreau stated I called the office of the attorney for this to see if they were going to withdraw the case since the Resolution was adopted by the Town Board, and the Planning Board, and the attorney was on vacation.

Mr. Klarl stated I would like to note that there is a concurrent application involving this applicant and this property that terminated this month with an approval by the Planning Board. So really there is no real reason to keep this going. If you recall, the attorney for the applicant wrote to us last month, and said he was awaiting the Planning Board's Resolution, and then he would send a letter withdrawing it. So he has not successfully completed his application before the Planning Board.

Mr. Mattis stated the Town Board has already passed legislation on this, the Planning Board has given their approval so this is really a mute point. I think we should just deem this abandoned so that we don't have to carry it forward. All we are waiting for is a document from the attorney saying they are withdrawing the case. He was supposed to submit a letter before this meeting so I don't see any reason to carry it forward.

Mr. Douglas made a motion in Case No. 45-07 to deem the case abandoned seconded by Mr. Reber with all voting "aye."

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CASE NO. 09-08 JAMES M. FLANDREAU, DEPUTY DIRECTOR OF CODE ENFORCEMENT for an Interpretation if the screening for a pre-existing contractor's yard was installed per Zoning Board of Appeals Case No. 05-03 and an Interpretation if the property known as 0 Van Cortlandt Place is part of the pre-existing contractor's yard and an Interpretation if the vehicles on 14 Van Cortlandt Place which have not been moved, can stay as part of the contractor's yard on the property located at 14 Van Cortlandt Place, Cortlandt Manor.

Mr. David Wright, Esq., and Mr. Sheldon Gardner appeared before the Board.

Mr. Flandreau stated last month the Board requested that the owner get in contact with myself to go out to the site to witness that the vehicles were removed, and how they were brought off of the site, and I did not receive a phone call to do that.

Mr. Wright stated that is correct.

Mr. Mattis stated can we ask why?

Mr. Wright stated to Mr. Gardner, what he is asking is Code Enforcement wanted to come out to your property, and look at whether the bulldozer would go on the trailer, and to turn over the engines of the other vehicles, and things like that, and they are wondering why that wasn't scheduled.

Mr. Gardner replied I moved the dump truck, and I used the machine there.

Mr. Seirmarco stated that is not the issue. The issue was that you had a commitment to this Board that said during the next 30 days you would call, and schedule an appointment with Mr. Flandreau to come and visit your place to demonstrate the vehicles registrations, and to align the registrations with the vehicles, and to make sure that every one of the vehicles that has a registration that is supposed to be considered for a contractor's yard is in fact operational, and has a registration, and you did not do that. We are trying to find out why you didn't do that.

Mr. Gardner stated because I am only one mechanic, and operator, and I can't do everything myself.

Mr. Seirmarco stated well I see a cell phone hanging off your belt there, and I believe that would have taken you about 5 minutes to call the Town, and say I can't make it this month, and schedule, or postpone it, or do something than rather just wait for a meeting after 30 days, and avoid us completely.

Mr. Wright stated to Mr. Gardner, they want to know why you wouldn't let the Town come out?

Mr. Gardner replied because I am on different jobs. I can't be every place at one time.

Mr. Seirmarco stated but you didn't say that last time. You knew that the request was formal. You knew that within the first 2 weeks of this month you were supposed to call, and have a visit by the Town, and you didn't say I'm too busy to do that.

Mr. Gardner stated well if you let someone come there on a Sunday.

Mr. Seirmarco stated you're not listening to me.

Mr. Mattis stated we requested that, and you didn't say that you had a problem. You indicated that you would do it, but you didn't.

Mr. Seirmarco stated now we're forced to make a decision based on no input from you. This becomes a problem for you.

Mr. Wright stated I think you had actually given us 10 days not 30.

Mr. Reber stated there is no issue here of not having enough time, or laborer, because really all that is being asked is the code says this has to be an operating contractor's yard, operating means equipment is moving in, and out on a regular basis. So sometime within the month something should have moved. It simply required him taking his cell phone, and calling the Town, and saying on Tuesday I'm taking such and such a vehicle on, if you come here then, you will witness it being brought off of the property. I really don't think that there has been any honorable effort by the applicant here to answer any of our questions as we have proposed them month after month after month, and I know I have become totally frustrated with the whole situation here. Also, I believe Mr. Chairman that you indicated you have gone, and have checked the site a number of times..

Mr. Mattis stated yes, I've gone by that property several times. I have gone by in the daytime. I have gone by in the evening, and I have gone by on the weekends, and it looks the same every time. Those vehicles that do not have plates are sitting there. They're not moved out during the day, which is it's a contractor's yard, they should be, nor are any of the vehicles when we asked for the registrations that match up, and all the documents you gave us were supposed to be for the vehicles that are used on that property, and go out during the day. They're not there at night, they're not there on weekends, they're not being stored there. They are not even used on that property at all. So I would have to conclude, based on the fact that you won't cooperate with us, that I see these vehicles that are supposed to be the ones that are being stored in the contractor's yard, and the fact that the vehicles in the contractor's yard aren't properly licensed, and I don't think it would take a rocket scientist to figure out that there not even moving, or have been moved in years, that this is not a contractor's yard. It is nothing but a junk yard. It is not being used as a contractor's yard at all. That is my conclusion.

Mr. Gardner stated I repair stuff there in the garage.

Mr. Mattis stated that is not what a contractor's yard is. A contractor's yard is a location where vehicles for jobs go in at night, and stay there, and go out on jobs the next day, that doesn't happen at all. That doesn't happen at all.

Mr. Gardner stated well I don't bring them back every night.

Mr. Mattis stated there are vehicles there that have not moved, and the 78 Ford, the 85 Ford, the 91 Ford, etc. etc. , and you gave us copies of where they go out on septic jobs, where are these stored at night? They're not stored on that property. I have gone by, and have not seen them.

Mr. Gardner stated they are on jobs.

Mr. Mattis stated at night, on weekends?

Mr. Gardner stated yes.

Mr. Mattis stated so you never store them there?

Mr. Gardner stated I work on them there.

Mr. Mattis stated okay, that is not a contractor's yard.

Mr. Gardner stated it is a repair shop.

Mr. Mattis stated thank you very much, it's a repair shop, it's not a contractor's yard.

Mr. Reber stated the issue is everything that's in that yard has to come out to a job, and come back. The issue from the beginning as to whether the equipment on that property is actively used, and you have done nothing to reinforce that the equipment in that yard is actively being used in your business, and you have pretty much reinforced that now by saying the equipment you do use really spends no time in the yard, it's out somewhere on a project.

Mr. Mattis stated we have extended this case for 3 months to give you time to prove that. Sir, (referring to a gentleman in the audience) you are going to get a chance to speak.

The gentleman said he doesn't even understand what you are saying.

Mr. Mattis stated his lawyer can explain.

The gentleman said he is not explaining anything to him. I have worked with him for 50 years. You are

making a bad decision here.

Mr. Mattis stated we are not making a decision yet. I will give you a chance to speak. You will be heard as long as you have something to say, but we're talking to the applicant now. You will get a chance, but you're interrupting right now. You have brought up a good point. Mr. Wright, I am not even sure that you've represented your client, and talked to him. You come here, and you parrot the questions that we ask you like you've never discussed it with him, and I find that a waste of our time.

Mr. Wright stated well it is not true, Mr. Chairman.

Mr. Mattis stated well that is the way it appears to us.

Mr. Wright stated well it's wrong. If you want to see my correspondence to my client, you're not entitled to it, but after every single meeting, Mr. Chairman, excuse me I would appreciate it if you would stop insulting me personally, I am just here trying to represent this gentleman. After every single meeting, I've communicated the substance of that meeting in writing to him so he understands exactly what the obligations are, and I don't understand how that is grounds for you to impugn me as you did the last meeting, and as you are doing again tonight.

Mr. Mattis stated I'll tell you why. He comes in here, he doesn't seem to understand what we've asked, you've taken notes on it, you know what it is, apparently you have communicated that with him, and then you ask him the questions that you don't even have the answers yourself. We've asked you before, and you haven't had the answers.

Mr. Wright stated I repeat the questions, because he can barely hear, and sometimes he can't hear at all what we're saying. That is why I repeat the questions.

Mr. Reber stated you have said yourself you have sent him in writing what is required so assuming he can read, or he has somebody that can read it to him, he knows what we've asked for.

Mr. Wright stated there is no dispute about that, yes.

Mr. Reber stated so you're confirming he has been informed.

Mr. Wright stated of course he has.

Mr. Reber stated okay.

Mr. Wright stated now there is one issue, which he did ask me to raise in regard to the bulldozer. Apparently, that is something that is not taken to job sites. Is that true Mr. Gardner?

Mr. Gardner replied I can on the trailer, yes. I have a trailer.

Mr. Wright asked Mr. Gardner is it actually a bulldozer?

Mr. Gardner replied no, it's a front end loader.

Mr. Wright asked Mr. Gardner how is that used by you in your business?

Mr. Gardner replied by excavating.

Mr. Wright stated can I can Mr. Mann, Bob Mann, who is here, who works with the applicant? He apparently has a few words that he would like to say.

Mr. Mattis stated sure.

Mr. Wright stated and I'd like to ask Mr. Mann, if you would, to describe to the Zoning Board what he has observed on the property, and how it is used as a contractor's yard.

Mr. Bob Mann appeared before the Board. He stated I have worked for him for many, many years. He has paid taxes for many, many years. He has used that yard as a contractor's yard for many, many years. I am excited, because what you're doing to him is wrong. If you decide that this is not a contractor's yard, you're all wrong. If I was him, and you do decide it's not a contractor's yard, I'd take you to Supreme Court.

Mr. Seirmarco asked Mr. Mann, do you understand the requirements for a contractor's yard?

Mr. Wright stated let me just ask Mr. Mann instead what do you observe in regard to how the property is used on a regular basis?

Mr. Mann replied he takes his bulldozers to other jobs, raises your houses, digs your foundations, he works around your houses, brings the bulldozer back out, and finishes the job.

Mr. Seirmarco asked can you tell us the last time that bulldozer was at a job?

Mr. Mann replied yeah, about 3 weeks ago. It looks old and rusty like we do, but I am telling you the guy is a contractor, has been a contractor all of his life. He is 83 years old. I am trying to defend the guy. He works hard.

Mr. Reber stated all I am saying is, if that is fact, 3 weeks ago he moved that vehicle, if in fact he took that bulldozer off of the property 3 weeks ago, that is when he should have called Code Enforcement, and said tomorrow that tractor is going to a job site, be there, and witness it, and this would be over.

Mr. Mann stated he does take the bulldozer out, he does use it. He uses his trucks. I drove them trucks, every truck that he has. I know they've been registered, every one of them. I've run his equipment for years until I became rich and famous. I am just trying to defend the guy. He's paid taxes for all these years.

Mr. Seirmarco stated there is no question about that.

Mr. Mann stated I know this is a contractor's yard. He built all the houses on that road, nobody complained, but one guy.

Mr. Mattis stated Mr. Mann I have a question. You drive all the trucks for him, where does he keep them?

Mr. Mann asked keep what?

Mr. Mattis replied the trucks.

Mr. Mann stated well he's got one in his garage, one he had on the outside.

Mr. Gardner stated there are two of them in the garage.

Mr. Mattis asked but they are kept in the contractor's yard.

Mr. Mann stated he leaves them on the job a lot of times.

Mr. Seirmarco stated see there are a number of vehicles on the property that don't appear to have

registration and license plates. We asked him to bring us the registrations, and the licenses for those vehicles. It is 3 months, and we still do not have the registrations for those vehicles.

Mr. Mann stated I understand that.

Mr. Seirmarco stated but you see, we have to make decisions based upon that request.

Mr. Mann stated you should make the decisions based on he's out everyday working.

Mr. Seirmarco stated we are not questioning his hard work, his works ethic, his tasks, his work quality. It's got nothing to do with that.

Mr. Mann stated you are making a decision about a man, and he's been in business all these years on that property. His telephone is in that building, he does repairs there with his equipment and stuff. He leaves equipment on jobs, once in awhile he brings them back. It's not a storage house, it's the man's livelihood. I know because I've been there with him all these years. Do you understand what I'm saying?

Mr. Seirmarco asked do you understand what we're saying? I guess that is the question.

Mr. Mattis stated we're making a decision on the code, and his adherence to the code. Does he adhere to the code or not? That is what we are questioning. We understand he has a business, but there is code, and it appears that he is in violation of the code, and for 3 months we've been bending over backwards to allow him to prove that he's adhering to that code, and we do not have one shred of evidence that he is.

Mr. Mann stated alright so give him a chance, and I'll help him get together the other registrations, and stuff that he needs.

Mr. Reber stated you have to understand where we are coming from.

Mr. Mann stated well you have to give him another chance, because he has the money now to take this to Supreme Court, and fight this in Supreme Court that is what I would do. I wouldn't stand for it. The man fought in the second World War.

Mr. Mattis stated we make decisions based on facts, and they get appealed, they get appealed. I think you're trying to intimidate us by telling us you are going to take us to court, and if you want to file an Article 78, based on our decision, we haven't made it yet, and I can't say how the other people are going to vote, but you're welcome to do that, but if you're trying to intimidate us with that, it's not going to work.

Mr. Reber stated this all goes back to the original issue, the original complaint that started with the fencing, and the tanker truck sitting on that property. Further studies, as indicated by aerial photos in the past, statements from neighbors, observations by Town officials that that truck doesn't look like it has been moved from that spot, or if it has been, it is very seldom. That is the reason why we had asked to see registrations specifically for that vehicle, and all we got was some sort of a temporary, and we've been told by the Department of Motor Vehicles that temporaries are not given once the vehicle is registered. So our question was, was it registered prior to that, so that started the concern that in fact, maybe some of these vehicles has not been regularly used, and they are sitting there, and they are not functioning. If that is the case, then we have a problem, because you can't do that in a contractor's yard. When you leave vehicles sitting in the yard for a reasonable period of time, particularly when they are unregistered, and there are two or more, by the Town Code that is defined as junk yard, and that is the problem we have. We are trying to get enough evidence to prove that is not a junk yard, and the way you do that is to show that every vehicle, and machine on that property functions, and is used. That is all we are trying to do here for the last 3 months, and we haven't gotten that assurance, which leads us to say we have to declare it a junk yard, and if that's the case the gentleman loses his right to operate on that property the way he has been operating for

umpteen number of years. We are not trying to make life difficult, but we are stuck with that dilemma.

Mr. Mattis stated let me ask a specific question here. We've got a temporary registration, which was

issued on March 14, 2008. It expired June 30th. Has that been inspected? Does it now have permanent registration?

Mr. Gardner stated I have it right here.

Mr. Wright asked Mr. Gardner for the Ford tanker?

Mr. Wright stated I had also promised the Board that after last month's meeting I would go to the DMV, and attempt to obtain vehicle history, which the other gentleman had said was easy to do at the DMV. After two separate trips by my paralegals, we filed an MV-15 with the Department of Motor Vehicles, and they required us to send it to Albany, which I did by letter dated June 23rd. May I hand up a copy of that?

Mr. Mattis stated sure, I would like to see it.

Mr. Wright stated so for the record, we filled out the form that they requested. We also specifically requested all history of all the registrations that we attached photocopies of the ones that Mr. Gardner had given us, and filled out the DMV form, and provided his driver's license, as they requested. I did get a response in the mail yesterday, which was not acceptable to me, and I am sure would not be acceptable to you. There was one registration of a passenger vehicle registered to Mr. Gardner. So whether they didn't read the letter, or something got gargled in the communication, but we did make an effort on that.

Mr. Mattis stated and you have no history for the tanker at all?

Mr. Wright stated no, not for the registrations that we submitted, no, they didn't submit anything.

Mr. Klarl asked it only came back for one passenger vehicle?

Mr. Wright stated yes, which had nothing to do with any of the property in question.

Mr. Gardner handed Mr. Wright a registration card.

Mr. Wright asked Mr. Gardner what is this for?

Mr. Gardner stated it is for the 85 tanker.

Mr. Wright asked Mr. Gardner that is the large one?

Mr. Gardner replied no.

Mr. Seirmarco stated that is the problem. We are looking for the 85 Ford.

Mr. Wright stated this is not for the large tanker truck.

Mr. Gardner stated no.

Mr. Mattis stated then we have nothing for the large tanker truck. We were told that was the large tanker truck. Apparently there is no registration for the large tanker truck.

Mr. Wright stated not that we have been able to obtain.

Mr. Mattis stated so obviously that has not been moved from the property, because there is no registration whatsoever, whether it be permanent, or temporary registration, and I think it is evident that when you go and look at it that it has not been moved. It is even questionable whether it is capable of being moved. Are there any other questions from the Board? Are there any comments from the audience?

Mr. Mann appeared before the Board. He stated I am sorry if I got a little excited, but I have know this man for 100 years, and I know he is an honest, hard working man. He is 83 right now, and he is still out working, and that is a contractor's yard, and I'll be a witness, and I have a ton of other people that know that. They have worked for him over the years, and in all of these developments around here that he was involved with. I know it's a contractor's yard, and I don't think you should vote the other way. That is my own opinion. All the people on that street are relatives of his, and one guy moves in, and he is the guy that complained, and caused all the problems.

Mr. Mattis asked Mr. Wright do you have anything to add?

Mr. Wright replied no.

Mr. Mattis asked is there anyone else in the audience?

Mr. Reber stated I think we have had plenty of discussion on this, and we have to make some decision as to what direction this property will go in, and certain vehicles being removed, and that is going to require us to do some serious review on this.

Mr. Reber made a motion in Case No. 09-08 to close the public hearing and Reserve Decision seconded by Mr. Douglas with all voting "aye."

Mr. Klarl stated I am sure Mr. Wright knows, and he can tell his applicant that the Board has 62 days to render a decision.

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CASE NO. 62-08 EDWARD AND SONIA ABOUD for an Area Variance for the side yard set back for a proposed addition on the property located at 31 Furnace Brook Drive.

Mr. Mattis stated we will hold this for a second call since there is no one here right now.

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CASE NO. 19-08 DENNIS SHERWOOD for an Area Variance for a side yard set back for a proposed two story addition on the property located at 70 Paulding Lane, Crompond.

Mr. Dennis Sherwood appeared before the Board.

Mr. Mattis stated you were here requesting a two car garage.

Mr. Sherwood stated yes, correct.

Mr. Mattis stated and I think it was the opinion of the Board that it was a little excessive, and we asked you to go back, and possibly come up with an alternative plan.

Mr. Sherwood stated yes. My architect has been away, and I have not had a chance to get a hold of him, and I missed the last meeting, because I was sick. He was supposed to draw up some additional plans for something a little bit different that maybe we could work with. I haven't received the plans yet, and I didn't

want to miss this meeting.

Mr. Mattis stated okay. I think the best thing for you to do is to request an adjournment, and hopefully you'll have something for the next meeting, and if you can't have it by the next meeting, you can call Mr.

Flandreau, and ask for an adjournment, or send a letter. You don't have to appear in person.

Mr. Sherwood stated okay, and just to refresh my memory, what was the max that you said I may be allowed to go so I can have something to go back to the architect, and tell him what I am looking to do.

Mr. Mattis stated I don't recall exactly what it was, I think it was several feet for a one car garage, I think that is what we were looking for.

Mr. Klarl stated if I recall I know the Board members were willing to accept a two car garage, if the variance were very small.

Mr. Mattis stated I don't think a two car garage could result in a small variance on this property. Maybe your architect can come up with something.

Mr. Sherwood stated we were looking to have it 25' x 25', and I was going to drop it down to 20' x 25', and that would result in I think an 8 foot variance from the end of the garage to the property line.

Mr. Mattis stated I think that is still excessive.

Mr. Sherwood stated is there any way, because the house that was next to me was now sold, is there any way if I got a letter from them, or is it totally out of the question. If I get a letter from them saying that they're fine with it.

Mr. Reber stated we normally don't look the other way on excessive variances simply because of a neighbor's letter, because we have found a number of problems with that. One, is that they may not want to create trouble, and the other is the neighbor may have an ulterior motive where they may want to put an addition on so that if we approve yours, then the whole neighborhood could apply. We generally do not look the other way if a neighbor is writing in favor of an application. A small variance with a one car garage may work out more in your favor.

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

Mr. Seirmarco made a motion in Case No. 19-08 to adjourn the case to the August meeting seconded by Mr. Douglas with all voting "aye."

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CASE NO. 22-08 WALTER HAASS for an Interpretation that the dwelling is a pre-existing, nonconforming two family dwelling, and if required, and Area Variance for the expansion of a pre-existing, nonconforming two family dwelling for a proposed second story addition and for the side yard set back for an existing one story sunroom on the property located at 3 Elm St., Cortlandt Manor.

Mr. Walter Haass and Mr. John Lentini, architect appeared before the Board.

Mr. Lentini stated we were here a month ago, and we provided material after the initial submission, and we gave the Board another month to review the material. We are looking for your feedback.

Mr. Douglas stated yes, I believe the last time you had give us some information, and we wanted to look over it regarding the issue of whether it was a one family house, or a two family house, and the history of that. I think that in looking over that, and I don't want to speak for everybody, but I think that we are leaning toward concluding that it does qualify as a two family dwelling. That doesn't necessarily get you out of the woods. As we had talked about last time, it is a nonconforming use, and you cannot expand a

nonconforming use. So there is an issue about what you are requesting to do.

Mr. Lentini stated I would appreciate it, if you would consider it. It is a very minor expansion.

Mr. Douglas stated part of the problem is when you are saying it is a minor expansion. We are not allowed to grant any expansion to a nonconforming use. Over the years we have been very strict about that.

Mr. Seirmarco stated over the years we have had people come in, and we cannot even let them raise the roof. To change the pitch on the roof will increase the volume of the room. It is not necessarily an area increase, it's a volume increase.

Mr. Lentini stated we are trying to get insulation into the attic.

Mr. Klarl stated your applicant should feel very good that based upon your efforts, and your investigation, and your time put in that the Board is looking at this as a two family house.

Mr. Lentini stated we are very happy about that, we accept that, and anything we could do, if we can talk to the Code Enforcement Department about changing a window, not adding one, but upgrading the windows.

Mr. Seirmarco stated anything done for maintenance like the replacement of a door, or a window, that is okay, as long as you don't change the size of it. If you have no window there, and you put one, that is a problem.

Mr. Lentini stated well actually there is a window that is boarded up, it's there, but the siding is over it in the front.

Mr. Seirmarco stated if the window was there, that is okay.

Mr. Haass stated well the window is actually still there, but the vinyl siding is covering it.

Mr. Mattis stated if the windows are there, and you want to improve that, that is fine. I would think that Mr. Flandreau could help you with that.

Mr. Reber stated we have had cases in the past where people have said they want to fix something, and as long as it does not make it bigger, that is okay.

Mr. Douglas stated no one is trying to punish anybody for living in a nonconforming use. The philosophy is the idea is that it can continue existing, but the ultimate goal of the Town is to have all conforming sometime in the future.

Mr. Lentini stated well we will formally withdraw that part of the application, if you think that is the right thing to do.

Mr. Flandreau stated I have a question about the expansion, we talked about windows, and not adding windows, or making windows bigger. In the case of a bedroom where you have a very small window, can that be made bigger to make an egress window would the Board still look at that as an expansion?

Mr. Mattis stated for a safety issue based on the state code, no we would not.

Mr. Flandreau stated I would not recommend withdrawing any of the application, because if the Board is going to rule this as a two family, then you would want to have this as part of the record showing that this is a two family dwelling. The only record we have right now states that it is a one family.

Mr. Lentini stated okay, I will do what the Board thinks is best.

Mr. Mattis stated one of the things we weren't able to determine was the sunroom, and how long that has been there.

Mr. Haass stated I bought the house with my late wife in 1985, and it was on the drawings prior to that.

Mr. Klarl asked when you talk about drawings, do you mean the survey?

Mr. Haass stated yes, on the survey.

Mr. Lentini stated it is also on the tax records going back before 1985, they show it as a shed. I don't believe it was in 1951.

Mr. Klarl asked what is your best guess of what decade it is from?

Mr. Lentini stated the 1970's.

Mr. Seirmarco asked the sunroom right now is used year round.

Mr. Haass stated it is really only used 2 seasons.

Mr. Mattis stated but you can't get in the house from it?

Mr. Haass stated no you have to go out the back door to get out to it.

Mr. Mattis stated if we do approve that the condition would be that you can't open it up to be able to get into it from the inside of the house.

Mr. Haass stated I would have no problem with that.

Mr. Mattis asked are there any other comments from the Board? Is there anyone in the audience that would like to speak?

Mr. Douglas made a motion in Case No. 22-08 to close the public hearing and Reserve Decision seconded by Mr. Seirmarco with all voting "aye."

NEW PUBLIC HEARINGS

CASE NO. 25-08 JOSEPH & VALERIE FITZGERALD for an Area Variance for a side yard set back for an accessory apartment and an Area Variance for the total size of all accessory structures on the property located at 11 Peekskill Hollow Turnpike, Cortlandt Manor.

Mr. Ronoldo Garcia, architect appeared before the Board. He state we filed an application for a couple of Area Variances on existing sheds, and a basketball court. The basketball court requires a 6 foot set back we are at 1.3 feet, and then we have total existing coverage of all the existing structure at approximately 1804 square feet, and 1300 is allowed.

Mr. Mattis stated we have 2294 for the coverage.

Mr. Garcia stated yes, and the swimming pool would make it that. Mr. Fitzgerald purchased the house about 5 years ago. All of the sheds were on the property before that, and the basketball court was added on after that.

Ms. Hunte I have a question about the fact that it is 1.37 feet from the property line, and how that effects the neighboring property?

Mr. Garcia stated there is a house, and there is tree buffer between the properties.

Ms. Hunte asked is there another way for you to achieve the result that you want, like maybe having a half court basketball court?

Mr. Garcia stated I don't know how that would work playing basketball, but would additional screening be an option?

Ms. Hunte stated well you've got 3 structures here, and it becomes a substantial variance at this point even though individual they may be small.

Mr. Mattis stated you're asking for a variance of about 74 percent, and that is quite substantial.

Mr. Seirmarco stated if you were to cut the basketball court to a half court that would certainly help.

Mr. Mattis stated I did the math on that and it 1512 square feet with the two sheds, the pool, and the ½ court, if you cut the basketball court in half, and that is a 15 percent variance.

Mr. Seirmarco stated since I have been on the Board, we've never granted a 70 percent variance.

Mr. Fitzgerald stated so what you are recommending is to cut the basketball court in half, and we would meet the requirements?

Mr. Mattis stated you wouldn't need a variance for the set back, because we are assuming you would take the part off that is 1 ½ feet away, and then the variance you would require would only be for a little less than 200 square feet, or about 15 percent.

Ms. Hunte asked is there a way to move the basketball court so it is on the other end?

Mr. Fitzgerald stated well there is not that much space there, and I don't think that would help.

Mr. Mattis stated moving it wouldn't solve the coverage problem.

Mr. Fitzgerald stated okay, then I will cut it in half.

Mr. Mattis stated that will still accommodate you, and it is very hard for us to give expansion variances like that without any reason.

Mr. Fitzgerald stated I was not aware that I needed to anything for the basketball court. I will agree to cut it in half, that will be okay.

Mr. Mattis stated we're showing 1564 feet for the basketball court, so we would cut that in half, and that would reduce about 782 square feet, which would make it 1512, and that is a 14 ½ percent variance.

Mr. Reber stated I would suggest that we make the variance for 15 percent for the accessory coverage so there is no confusion.

Mr. Mattis asked Mr. Fitzgerald is that acceptable to you?

Mr. Fitzgerald replied yes.

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

Ms. Hunte made a motion in Case No. 25-08 to close the public hearing seconded by Mr. Reber with all voting "aye."

Ms. Hunte made a motion in Case No. 25-08 to grant an Area Variance for the accessory structures on the property to approve the variance for 15 percent on the basis that the basketball court will not exceed 782 square feet. This is a Type II Sequa with no further compliance required seconded by Mr. Reber with all voting "aye."

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CASE NO. DANIEL & VALERIE JACKSON for an Area Variance for a front yard set back for an accessory structure on the property located at 7 Amato Drive East, Cortlandt Manor.

Mr. and Mrs. Jackson appeared before the Board.

Mr. Jackson stated I would like to hand in a few pictures to the Board. We are seeking a variance for our shed. Before we begin I would like to discuss why we placed the shed where I did. We are new to NY, and new to placing sheds, though ignorance isn't a defense of a law, I want you to know that it was not done intentionally. Having said that, I want to let you know why we placed the shed where we did. I also wanted to note that it encroaches 8 feet into the front yard. The reason we placed the shed there is because if you look at our property, the back of the property there is an easement, there is a brook there, a waterway, and we really didn't want to cut into any of the woods there. There are a bunch of deer that come through there, and the kids love them.

Mr. Douglas stated you really must be new to the area, because you're excited to see the deer. I am telling you that will wear off quickly.

Mr. Jackson stated I do have 3 daughters that are 6, 4, and 2, and they are very excited about the deer. My wife did plant a few things that were not deer friendly, and they no longer exist. Additionally, we didn't want to put the shed back there, we wanted to keep it away from the waterway. So we did place it on the side/front of the house, and the reason we placed it in that particular area, as you can see by the pictures, is that we have a screen of woods between myself, and my neighbor, and there is a natural kind of cut out there. So we place the shed right in that area so it would be as less seen as possible by the buffer. I also want to mention that we did talk to our neighbor before placing the shed. I know that Mr. Reber had said earlier that doesn't hold much weight, but we did have our neighbor's approval anyway. Really, I just want to make the point that we placed it there in consideration of our neighbors, and in consideration of the easement of the waterway, and we hope that you find that we can keep the shed there.

Mr. Mattis stated I went out, and looked at the property. Has anybody else been out there?

Mr. Reber stated I also was at the site. It is a very nice shed, and it looks nice there, but the things we have to consider is that the Town does have an ordinance that says it doesn't want any kind of structures in the front yard. So it is hard to distinguish what's a nice shed, an ugly shed, and we may, or may not like the way it looks, but we have rules that we must follow. If we allow you to put this structure here, then we are

telling the other neighbors in that neighborhood that they can place structures in their front yard. So if there is any alternative, or is it impossible to place the shed anywhere else. Some people have had no other alternative. Our problem with your property is that the Peekskill Hollow brook is on the back corner of your property, but there is a buffer, and your argument that you are concerned about the waterway does not really hold any weight. So we can't use that as an argument. Then the next thing we have to look out is do you physically have any area that lines up behind the front yard line so on that basis looking at the property, yes you do. You could put it back further on that side of the house, or you could move to the other side behind the driveway. So when we look for other alternatives, you do have other alternatives that

would meet the criteria, and so in that respect we would have to say no.

Mr. Mattis asked how far in front of the line of the house is it?

Mr. Jackson replied 8 feet. I certainly understand your point. I agree if I were cognoscente of the law, I probably would have put it in the back, but because of the natural cut out where it is I thought that was a better choice. I would say that it would be very onerous for me to move it, because I put a lot into it to make it attractive where it is. I know that is not a reason for a variance, but I did a lot of work on it.

Mr. Reber stated it looks like it is very well built.

Mr. Jackson stated it is not the actual fact of moving it, it is the actual wall that we built on the side there.

Mr. Reber stated we can't make our decision based on economics.

Mr. Jackson stated what I do want to say though, is that placing it further back, I have a propane tank there, which is another reason why we placed it further toward the house. Additionally, there is a natural cut out, but there is a propane tank that sits right in that area. If you were to look at the shed, Mr. Reber was suggesting that we move it back about 20 feet, right in that area, that is where my propane tank for the property is, and that is used for heat, it is a substantial tank.

Mr. Reber asked propane, or heating oil?

Mr. Jackson stated it is propane. So that also lead to me placing it a bit more forward, because I wanted to stay away from that tank. As far as placing it back by the plays cape, in that area there is a huge hill that come down into my driveway, and then this area right back here where the plays cape is, I've got maybe 15 feet, 20 feet, so it would be right on top of it. So moving it back a little on that side would bring it too close to the propane tank, and placing it so close to the play scape, I do not think would be desirable looking.

Mr. Reber stated you can come pretty close to the propane tank, and still have enough room.

Mr. Jackson stated I could certainly bring the shed closer, but the idea was to keep it closer to the woods in the cut out. I could stick it in front of there.

Mr. Reber stated the point is there are open spots on your property where you can conform, and that kind of puts a burden on us. It give us no justification in granting a variance.

Mr. Mattis stated let me ask a question, you are at the end of a cul de sac?

Mr. Jackson stated correct.

Mr. Mattis stated this is only visible by the one house across from you correct?

Mr. Jackson replied yes.

Mr. Mattis asked how far back does that house sit?

Mr. Jackson stated from his property line I would say about 50 feet back or so.

Mr. Mattis stated and you are 53 feet back?

Mr. Jackson stated yes, we are about the same distance back.

Mr. Mattis stated I would be inclined to grant this, because it has only one house that sits probably 75 feet away, with screening. If you put some plants that come up high so it will keep hidden. I understand why you put it there, because it is probably the best location. I also understand that we don't generally grant these, but in most cases they are close to the neighbor, there is no screening on the side. This is kind of nestled in there, and I think that if there is screening in the front, it wouldn't be apparent.

Mr. Jackson stated nobody even knew we had a shed there until we put the yellow sign on our property, and then everybody came over to see what the deal was.

Mr. Douglas stated I am still wrestling with this. I suspect that if you drove through the Town there would be a lot of similar situations like this, there are a lot of cul de sacs, there are a lot of other houses that sit back. I understand why you did what you did. It is clearly not an eyesore at all, but one of the problems is under the code there are various criteria that we have to use, and one is if there is a reasonable alternative. It seems to me that there really are alternatives.

Mr. Jackson stated I agree with you on that. I just thought this was the best place for this.

Mr. Douglas stated I think it is hard to say that if only one house could see it, it is okay. I am concerned about this being a precedent for other applicants.

Mr. Reber stated we also have the problem that we don't grant things based on aesthetics. There is a requirement for the height of an accessory building also. What is the height of this?

Mr. Jackson stated once I received the notice that there was a problem, I found out all of the different codes for placing a shed were, and it is within 14 feet.

Mr. Reber stated we have had people come to us where they need for architectural reasons to match the house, and we have never veered away from the 14 feet height variance, and from an aesthetic point of view we have seen where they probably should have put something higher, but we have not granted those.

Ms. Hunte stated this is something that is not permitted that is why you are seeking a variance, but there are a few viable alternatives here.

Mr. Jackson stated I thoroughly understand the Board's position, however, there is a variance process, because there are exceptions to the rule, and I hope I made a compelling case that this might be considered as one of the exceptions.

Mr. Reber stated there is very specific criteria that we have to use, and I don't think you meet the criteria. One of the criteria is that you have no possible alternative, and that is not true. It may not be totally convenient, but you can find space on the property that is not in the front yard.

Mr. Jackson stated I could certainly move the plays cape, I could cut into the woods. I could certainly do things to move it where it could be placed legally. There are certainly options, but even given those options, I don't necessarily see why this is a bad location. By sticking it in the back where you are saying, I don't know that is the best option.

Mr. Reber stated getting close to a propane tank should not be a problem, propane tanks are place right by houses, and close to them. As long as you can get to it to fill it, it should not be a problem.

Mr. Jackson stated I do understand your point, Mr. Reber. I know that you are held to criteria in order to grant the variance, and I understand that we may have not met that criteria, but I think it is reasonable, and I hope the Board will consider it. I don't know if there is anything that you suggest I do at this point to give you better comfort in making this decision. You are welcome to come out to the property, and look at it. I hope the pictures kind of represented it. The fact that while it is in the front, I still think this is the most logical place to have the shed on my property.

Mr. Douglas stated you did an excellent job on your presentation. I want to give you credit for that. For the reasons I had said before are why I can't support it.

Mr. Mattis stated one of the things I might suggest is that you need 4 favorable votes on the Zoning Board. So if all 7 of us here, your odds will be better. You can ask us for an adjournment, and have 2 other Board members here.

Mr. Jackson stated so my informal poll tells me that Mr. Reber, and Mr. Douglas are voting against me, Ms. Hunte is on the fence, Mr. Seirmarco I might be able to convince, so given that right now I am not winning, I think I will ask for the adjournment.

Mr. Mattis stated okay, and I would like to suggest something else from the Board members. I really think there are some extenuating circumstances here based on the fact that you have to be right in front of the house to even see it. It is really kind of nestled in the woods, and I would suggest that you take a look at it before next month. I don't think we need a formal site inspection, but if you can drive by, and stop to see it that would be good.

Mr. Jackson stated I would appreciate that, the pictures don't do it justice. I would appreciate that.

Mr. Mattis asked are there any other comments? Is there anyone in the audience that would like to speak?

Mr. Reber made a motion in Case No. 26-08 to adjourn the case to the August meeting seconded by Ms. Hunte with all voting "aye."

Mr. Jackson stated I just wanted to note something very quickly. When we received notification to move the shed, my wife worked with somebody by the name of Ken in the Code Enforcement office, and I just want to say he was a tremendous help to wife getting her through the process, and with all the documents, and I just wanted to mention that. Thank you.

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CASE NO. 27-08 JANET & KENNY HO for an Area Variance for a front yard set back and floor area ratio on the property located at 14 Harper Ave., Montrose, NY.

Mr. and Mrs. Ho appeared before the Board.

Mrs. Ho stated we have lived at our house for 11 years, and we had one child at that time, and now we have three. So what we really need to do is enlarge the two bedrooms upstairs so we have some more space. We would very much like to stay in the neighborhood. We are not going to extend out any further than the first floor of the house.

Mr. Reber stated I have been to the site, and looked at the situation there. There is a front yard set back from the allowed 30 feet to 21.5 feet, but that is just to the existing front façade. So they are really not

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encroaching any closer than the existing building, and I noticed that a lot of the houses in that area, and even closer to the road. So I don't have a problem with that part of the requirement. The side yard set back, you have the required 9.23, but you would only be 3.25 from the side line on the front corner of the structure only. Now the key here is two things. One, is basically that they can build on basically a foundation, and they can extend to that side.....

Mr. Flandreau stated Mr. Reber I think you are looking at Case 28-08.

Mr. Reber stated I am sorry, you're right. I apologize to the applicant. Okay, so then this is Mr. Douglas' case.

Mr. Douglas stated I understand what you are trying to do. I understand why you are doing it, and I went out to the site. My basic view is that what you are proposing is consistent with the neighborhood. Many of the houses are pushed up to the front of the property. I think it may be closer than some, but further than others. I think it is a change, however, that is consistent with the neighborhood. The only thing that I want to mention, and it has to do with the percentage of the lot coverage. You are allowed 50 percent, and this appears to just over that at 51.3 percent, and you will need a variance for that.

Mr. Mattis stated I think it has to do with the driveway. The driveway was gravel, and now it is blacktop, and blacktop is part of the coverage. You need 50 percent landscape coverage, and you are just under that by 1 percent or so.

Mr. Reber stated that could also be because of measuring off the plans, and not the survey. I would recommend that before we grant a variance that we know exactly what the coverage is, because it may not even be needed.

Mr. Seirmarco stated you might be able to shave off 6 inches across the driveway, and meet the 50 percent coverage.

Mr. Mattis stated we are not going to hold you up because of that.

Mrs. Ho stated okay.

Mr. Flandreau stated would that be something that you would the architect to measure, and certify before the next meeting, or is that something you would let them do after the fact.

Mr. Seirmarco asked when did you pave the driveway recently?

Mr. Ho stated about 2 years ago.

Mr. Seirmarco stated we would just like you to have the exact measurements first.

Mr. Mattis stated I believe it is very close, but we won't hold the project up because of that.

Mrs. Ho asked so what would we have to do?

Mr. Mattis stated I think you can work with Mr. Flandreau, and he can determine that.

Mr. Flandreau stated I can work with you on that.

Mr. Mattis stated I think what you are proposing will fit right in with that neighborhood, and there are other houses that are closer to the side, and other houses that are closer to the front. So it will fit right in. Is there anyone else who would like to comment? Is there anyone in the audience that would like to speak?

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Mr. Douglas made a motion in Case No. 27-08 to adjourn the case to the August meeting seconded by Mr. Reber with all voting "aye."

Mr. Flandreau stated I will contact you in the next couple of days to come out, and measure the driveway so we can get that percentage to the Board, and then they can vote on that in August.

Mr. Seirmarco asked were you in contract to start working?

Mrs. Ho replied I would like to start in September, when the kids are back in school.

Mr. Mattis stated the vote will be on August 20th, and you'll have the document that you need very shortly

after.

Mrs. Ho stated I don't know if I should wait to book the contractor.

Mr. Mattis stated although I am only one vote, I would be inclined to say that you could line up the contractor.

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CASE NO. 28-08 ROBERT & JULIANNE JEMPTY for an Area Variance for front and side yard set back for a proposed addition on the property at 27 Tryon Circle, Cortlandt Manor.

Ms. Julianne Jempty appeared before the Board. She stated I just wanted to enlarge my house, it is very small. I wanted to add a dining room. I want to have a front door, and get rid of one bedroom, and add a dining room.

Mr. Reber stated I did visit this site. The front yard variance is as I said earlier is just for the existing house, and you are not encroaching any further than what is already existing. The side yard set back, which is encroaching 3.25 versus the 9.23 feet requirement, and it has a basement in that area, and the roadside is at grade level, but because the property drops off significantly the back side is where you need this. You are proposing the put a bedroom on top of that, and you want to then extend it away from the road beyond the existing foundation, and that part of the extension would be on top of where the variance is needed. I personally don't have a problem with that since there is a structure that is already there. It is close to the property line, however, note that the adjacent property is undeveloped parcel, and it could be developed in a few years, but there is plenty of screening there also. I also think they would have a problem getting approved for a septic being there, but aside from that, you are really not encroaching any further than the existing structure on ground level. You have no other alternative on the property so I would not have a problem with that part of the application. However, as I go to sites, I see other things that pose questions. You have a storage shed, and the storage shed is not placed properly on the property. I would request that in order to grant a variance for the set back, because the shed does encroach over your property line, I would ask that you move the shed.

Ms. Jempty stated when we bought the property, we needed it for storage, and we really did not know it was over the property line. If that is the only problem, I will move the shed.

Mr. Reber stated we can't look the other way, and say okay, you leave it on somebody else's property.

Ms. Jempty stated if that is the only problem we can take it down, because I don't know where we would move it to. I don't have a problem removing it.

Mr. Mattis stated if you move it, it might obstruct that beautiful view that you have of the lake there. You don't want to ruin that view. Are there any other comments from the Board? I went out there, and

looked at the property, and I agree with what Mr. Reber said. Being that there is no one in the audience I think we can close the public hearing.

Mr. Reber made a motion in Case No. 28-08 to close the public hearing seconded by Mr. Seirmarco with all voting "aye."

Mr. Reber made a motion in Case No. 28-08 to grant the front yard Area Variance for a proposed addition from 30 feet down to 21.5 feet, and a side yard Area Variance for a proposed addition from 9.3 feet down to 3.25 feet on the above reference property with the additional condition that the shed that is existing on the property will be removed, or relocated so that it is within zoning requirements. This is a Type II Sequa with no further compliance required seconded by Mr. Douglas.

Ms. Jempty asked when do I have to remove, but right away?

Mr. Reber stated before you obtain your CO.

Mr. Mattis stated so you can still store everything in there while you are building, and when you are done move everything out, and then take it down, or relocate it so that it fits within the zoning requirements, and then you will get your CO.

Ms. Jempty stated okay fine, thank you.

Mr. Mattis recalled Case No. 16-08. He stated we had sent them a letter last month, and they have not appeared. They have not contacted us. The letter said if they did not contact us this month we would deem the case abandoned.

Mr. Douglas made a motion in Case No. 16-08 to deem the case abandoned seconded by Mr. Reber with all voting "aye."

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

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

Respectfully submitted,

Christine B. Cothren