

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, June 20th, 2012*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

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

Also Present

Wai Man Chin, Vice Chairman
Ken Hoch, Clerk of the Zoning Board
John Klarl, Deputy Town attorney

ADOPTION OF MEETING MINUTES FOR MAY 16, 2012

So moved, seconded with all in favor saying "aye."

Mr. David Douglas stated the May minutes are adopted.

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ADJOURNED PUBLIC HEARINGS TO AUG. 15, 2012:

- 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. David Douglas stated this has been adjourned to August.

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ADJOURNED PUBLIC HEARINGS:

- A. CASE No. 2012-07** **Salvatore Fertucci** for an Area Variance for a side yard setback for an addition on property located at **73 Paulding Lane, Crompond.**

Mr. Salvatore Fertucci stated so, after the long journey, I took into with my architect, made some changes. I believe it was the Board member on the end, Raymond about moving a staircase and figuring it all out if I take away the staircase where the bedroom sits up against one of them I can actually almost gain 5 feet on the staircase end. So, it's either the choice of moving a staircase for the outside wall or moving a bathroom to the outside wall. That's where we came up with 5 foot because if I take the existing bathroom and convert that with my side and make one bedroom larger into the staircase area and either put a staircase or a bathroom on the end of the house, that's where we came up with 5 feet. It would kind of give my mother an oversized bedroom and then her bathroom with a basically – it's 5 feet, that's what I believe is being asked. No garage doors, nothing, an entrance point for the staircase.

Mr. David Douglas asked anybody have any comments?

Mr. Charles Heady stated you're still going to have a two-car garage down there regardless...

Mr. Salvatore Fertucci responded the garage – it's going to be a two-car garage right. No garage doors, nothing. Nothing's changing. The 5 feet obviously can't put it – is for a staircase or a bathroom so if we do a bathtub, the bathtub is – I need at least 5 feet for the tub.

Mr. Charles Heady asked you're going to do away with a two-car garage then? Is that what you're saying?

Mr. Salvatore Fertucci responded my house has an existing two-car garage.

Mr. Charles Heady stated when you said no doors...

Mr. Salvatore Fertucci responded there's no room – when you go over 5 feet obviously you can't put a garage.

Mr. Charles Heady stated another door.

Mr. Salvatore Fertucci responded correct. All I did was for either for access point of a staircase or a bathroom with an oversized walk-in closet for her.

Mr. Charles Heady asked you were trying to get three cars?

Mr. Salvatore Fertucci responded we were trying for three-car, correct. One of the Board members said possibly the staircase – I have an existing staircase and if I close that floor part it gives me almost 6 feet to make that bedroom bigger, the one that's the smallest.

Mr. Raymond Reber stated you're correct, I did say that if for some reason you came to us for access to get to this unit, you wanted to put a staircase and I said that might be considered because staircase is 3 feet plus framing and all, maybe 4 feet – you've gone to 5'11" and a staircase was for a specific purpose; to get access. What you've really done is taken advantage

of the 5'11" to get some space and to add a bathroom and do some other things. As you said, it gives you then a chance to have the second bathroom that was part of this extra unit now will become part of the main unit that you have so you'll have two bathrooms.

Mr. Salvatore Fertucci responded I'll have two bathrooms, correct.

Mr. Raymond Reber stated I think you went beyond what I was thinking, you stretched it a little. I'll let the other Board members chime in and see what they think that's within tolerance.

Mr. Salvatore Fertucci responded I did it according to the exact measurements of a bathtub...

Mr. Raymond Reber stated I know. I saw that.

Mr. Salvatore Fertucci responded it is tight, I've got to give her a tub.

Mr. Raymond Reber stated I understand your logic of how you got there.

Mr. Salvatore Fertucci responded she's in her 60s.

Mr. Raymond Reber stated I'll leave it up to other Board members as to whether they think that's reasonable.

Mr. John Mattis stated as I look at this, all you're doing is making one room larger, you're taking a bathroom out of that apartment, moving it into your apartment and then – so you want to build on to have a bigger room and a bathroom.

Mr. Salvatore Fertucci responded no giving her a bigger bedroom – that side has two units. My side has a bedroom and like a den so I would be taking the bathroom for my kids room. I only have the two bathrooms – I only have the one bathroom...

Mr. John Mattis stated I understand that. That's my point.

Mr. Salvatore Fertucci continued I would be flipping the bathroom over to give her a bathroom.

Mr. John Mattis stated right.

Mr. Salvatore Fertucci responded correct.

Mr. John Mattis stated so we have to look at this, what the first thing we look at; are there alternatives? And the alternative is; don't move that bathroom over and you don't have to – to give her a 5 foot extension and basically all you're doing is giving her 5 feet more on that room.

Mr. Salvatore Fertucci responded that's only if I decide to not move the staircase. Either the bathroom or the staircase so the 5 foot extension allows me to either – depending what costs me more to either move the staircase or to give her a bathroom.

Mr. John Mattis stated I'll just reiterate what I've said probably three meetings now; you chose to build a very large house that goes to the extension of what you're allowed on the left and on the right. The house is this big on a property this size and there are many alternatives and the first thing we look at; are there alternatives? I think it's improper to give any Variance at all.

Mr. Salvatore Fertucci responded and I believe that I've expedited every alternative by either giving her a bathroom or a staircase. I'm not asking for an additional 3 more feet. I'm going in with in where a bathroom can fit or where a staircase can fit. I'm not asking for...

Mr. John Mattis stated you chose to build a two-family house. You built it the maximum width and now you want to go further to accommodate that.

Mr. Salvatore Fertucci responded I just don't have another bathroom.

Mr. John Mattis stated I think it's inappropriate in that neighborhood.

Mr. Salvatore Fertucci responded I don't have one bathroom.

Mr. John Mattis stated you can use the bathroom that you have. That's the alternative. So my vote is 'no.'

Mr. Salvatore Fertucci responded if I can make it clear to the rest of the Board members, my bathroom's in a master bathroom so if you have any children; how would you feel about your kids using your master bathroom all the time with two kids.

Mr. John Mattis stated that's what you're doing now.

Mr. Salvatore Fertucci responded I have one on the way and one little one. She's only two so the second one, it becomes an issue. It's what I'm stuck with. How you feel is your opinion but if anybody has children, do you want your kids...

Mr. John Mattis stated my opinion is also my vote.

Mr. Salvatore Fertucci continued if you have kids you don't want them in your master bathroom. It's not separate from my bedroom, it's in my bedroom.

Mr. John Mattis stated I understand that.

Mr. Salvatore Fertucci stated and there's no access point to it other than coming in so my privacy level with my children is not there so if anybody can understand that I'm asking for enough room to either put a staircase or a bathroom.

Mr. Raymond Reber stated I hope you're successful if you get the second bathroom to keep the kids out of the master because my daughter and her kids as they grew up because her master bathroom had a Jacuzzi tub and a shower which the other bathroom was just a standard tub, they snuck in there all the time, jumped in the Jacuzzi, jumped in the shower – so it was like, that's it, give up...

Mr. Salvatore Fertucci stated I went from originally a **13** foot asking which I made every alternative without making the expense larger than what it is and I don't want kids in my bathroom. I need some privacy.

Ms. Adrian Hunte stated thank you Mr. Fertucci, my vote remains the same. I mean you've done an admirable job here but I'm still of the opinion that there's still encroachment and that this is still that you've maxed out and that I'm not inclined to grant a Variance.

Mr. Wai Man Chin stated I'm going to have to agree.

Mr. David Douglas asked anybody else have any comments? Anything else you want to say because we can now close and have a vote? Anybody else want to be heard on this?

Mr. Charles Heady stated I make a motion on **case 2012-07** to close and reserve decision.

Mr. David Douglas stated we have to close the public hearing first.

Mr. John Klarl stated he said he made a motion to close.

Mr. David Douglas stated we didn't vote on it though.

Mr. John Klarl stated no but he said I make a motion to close and I'll reserve decision. He said both.

Seconded with all in favor saying "aye."

Mr. David Douglas stated so the matter is closed and what that means is the matter is closed, we'll consider it and we've got **62** days to make a decision. We will probably have a decision by the next meeting.

Mr. Salvatore Fertucci stated thank you very much for your time.

Mr. David Douglas stated the next meeting is on July 18th.

Mr. Salvatore Fertucci stated so I have to attend another...

Mr. David Douglas stated you don't have to attend but that's when the vote will be. We'll discuss it further at our work session on the 16th and we'll have a vote on the 18th. You can come or not come. It's up to you.

Mr. Salvatore Fertucci stated thanks for your time.

B. CASE No. 2012-13 George Murphy for an Area Variance for the front yard setbacks to replace an existing deck on property located at **1 Hood Place, Cortlandt Manor.**

Mr. William Bashram stated I represent the Murphy's for this case. I can just briefly go...

Mr. David Douglas stated before you begin, do you have something saying that – do you have a letter authorizing you to speak – oh Mr. Murphy's here, okay it's fine then.

Mr. George Murphy stated I'm actually the son but I do have a letter...

Mr. William Bashram stated but we do have authorization I think we submitted it also to the Town. We did submit that. This house exists with an existing deck right off the existing kitchen and they wanted to rebuild the deck and they found out that somehow it doesn't have a Certificate of Occupancy or it's illegal or however it was built. They decided they still need to rebuild it because that's the only way out of the kitchen and that's the only deck for them, and because of the situation with this lot being a corner lot, the deck will encroach on the setbacks. The existing deck is about 2 feet smaller than this deck and they wanted to make it slightly larger. The deck that they propose is **12' x 12'** where originally it was **10' x 12'**. Just to make it big enough to be able to put an outdoor table and still can walk around it. As it exists right now there's no other place that they can put this deck without needing a Variance for it per se or will be functional what they need it to function for. There is no land available to purchase it and make this Variance go away and we already gone with the minimum amount of Variance that we need to make this work. That's it.

Mr. Charles Heady stated the deck you have there – the old deck is taken down. Am I right?

Mr. William Bashram responded yes, the old deck...

Mr. Charles Heady stated they're getting impatient I guess but you'll have to – well the Code Enforcement will tell you what to do.

Mr. William Bashram stated the existing foundation we did investigate, they're deep enough and strong enough to be reused. If they're not they're going to put new footings for it.

Mr. Charles Heady stated they'll tell you what to do so you'll be all right there. I have no problem with what you want to do myself. Anybody else have any questions?

Mr. Wai Man Chin stated I agree with Mr. Heady. I don't see a problem with this one.

Mr. John Mattis stated it's a very reasonable request.

Ms. Adrian Hunte stated I concur.

Mr. Charles Heady stated I make a motion on **case 2012-13** to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Charles Heady stated I make a motion on **case 2012-13** to grant the area Variance for the front yard setback to Cortlandt Boulevard from an allowed **50** feet down to **40** feet, and a front yard setback from Hood Place from an allowed **50** feet down to **33** feet, no further compliance required.

Mr. Wai Man Chin stated type II.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Ken Hoch stated it will take me a few days to get the Variance and then approve your Permit. I'll call you.

C. CASE No. 2012-14 Earle Ellefsen for an Area Variance for to allow an accessory structure (generator) in the front yard on property located at **2028 Quaker Ridge Rd., Croton-on-Hudson.**

Mr. David Douglas stated I believe that we got a note here dated the 19th. It says: "I Douglas Demarchis, on behalf of Mr. and Mrs. Earle Ellefsen at 2028 Quaker Ridge Road, Croton withdraw the application pending for the generator installation." That matter is withdrawn.

Mr. John Klarl asked how is that person connected to the file?

Mr. Ken Hoch stated he had a proxy to file the generator Permit. He's the electrician.

Mr. John Klarl asked he's got an authorization on file with you?

Mr. Ken Hoch responded yes, it's fine.

D. CASE No. 2012-17 David Vanvoorhis for an Area Variance for an accessory structure (wood shed) in the front yard and for unenclosed storage of material (firewood) occupying more than 100 square feet in the front yard on property located at **27 Susan Lane, Cortlandt Manor.**

Ms. Adrian Hunte stated I understand that we've had a site visit and based upon that site visit by members of the Board it appears to be somewhat reasonable what you're trying to do and that you don't seem to have opposition to your request for a Variance. Does anybody else have any...

Mr. James Seirmarco stated I attended the site inspection. [Inaudible] some wood in disarray had been cleaned up. The fence is accessible. There is one area with area with roof now that stores all the wood, it's roughly maybe 4 foot wide, maybe 5 foot tall. I don't think it was 6 foot tall because it was not taller than me and about I would say 10 foot long...

Mr. David Vanvoorhis responded 14.

Mr. James Seirmarco stated that particular footprint 4' x 14' would be suitable for me. Any other wood that was to be stored, there was plenty of spaces to put small packages of wood in the rear yard somewhere. Other than that I have no problem with it.

Mr. David Douglas stated actually there were two Variances that were being sought; one was the Variance for the accessory structure which was the shed and the other was the unenclosed storage of the firewood.

Mr. David Vanvoorhis stated that was the wood that we moved.

Mr. David Douglas stated the wood has all been moved so I guess we're talking now about the just the enclosure.

Mr. John Mattis asked should we include that in the D&O that we approve one part and not the other?

Mr. James Seirmarco responded right.

Mr. John Mattis stated and I think that we should also reference the size of that shed.

Mr. James Seirmarco stated yes, I think he just says 4' x 14' x 5'.

Mr. John Klarl asked why don't we approve under condition that there be no outdoor storage?

Mr. David Vanvoorhis responded **7' x 14'**.

Mr. James Seirmarco asked is it **7** foot wide?

Mr. David Vanvoorhis responded I measured it.

Mr. John Klarl asked what are the measurements again sir?

Mr. David Vanvoorhis responded **7' x 14'**.

Mr. John Mattis asked **7** foot high.

Mr. David Vanvoorhis responded at peak.

Mr. John Mattis stated I have a problem with that because a fence is only supposed to be **6** feet high in the front yard so I think we should bring that down to **6** feet. It shouldn't be any higher than what we'd approve for a fence.

Mr. James Seirmarco stated if it's the peak John – I could look over the top of the building. I mean there might be one spot that something...

Mr. David Douglas asked is that **7** feet?

Mr. James Seirmarco stated I mean I could see the top of it.

Mr. David Douglas stated Jim seemed taller than that.

Mr. Charles Heady stated we should have measured it but we didn't.

Mr. James Seirmarco stated I'd be surprised if the majority of that shed was more than **6** foot.

Mr. Wai Man Chin stated I was standing next to it also and that was no **7** foot height. Jim was taller than the top of the shed – I mean top of the peak.

Mr. John Mattis asked why don't we make it **14' x 7'** and the height and let Code Enforcement go out and measure the height? Because if it is less than **7** this will allow them to raise it. So, they can verify whatever the height is we'll let it stay.

Mr. James Seirmarco stated it's an average height. It might be one part of it that sticks up in the air but the majority of it was certainly **6** foot or under.

Ms. Adrian Hunte asked are there any comments from the audience?

Mr. David Douglas asked could you state your name again?

Mr. Mike Kaplan stated I'm the neighbor next door.

Mr. David Douglas stated Mr. Kaplan, before you begin, I understand that you sent an e-mail to the Town requesting that I recuse myself – let me finish for the record – requesting that I recuse myself because I serve on another committee with the next door neighbor and also on a different committee with the applicant. If you want me to recuse myself, I'd be happy to.

Mr. Mike Kaplan responded no, I was just asking because where he said he was donating the wood, I think you're actually a member of and there were just too many coincidences but I actually...

Mr. David Douglas stated that's fine, it's not going to affect my opinion but I wanted to give you that option if you wanted.

Mr. Mike Kaplan responded I perfectly understand. I have one question as far as this accessory structure, which I really don't have a problem with. It's been there for a while and it has a nice little appeal. That would prevent them from actually storing wood outside the accessory structure.

Mr. James Seirmarco responded correct.

Mr. Mike Kaplan continued adjacent to it, next to it, standing up next to it.

Mr. James Seirmarco stated that is correct – outside that envelope that we're going to define.

Mr. John Klarl stated what the Board's considering is adding a condition that there be no storage outside the enclosure.

Mr. Mike Kaplan asked and this would also encompass as complete 100 square feet of unenclosed storage in his front yard? Would he be able to still store more firewood in the front yard or this would...

Mr. James Seirmarco responded no.

Mr. Wai Man Chin stated what we saw is that he had plenty of room on the side yard, in the back yard to put any kind of wood. I didn't see why he had to put any kind of wood in the front except for where it's underneath that shed.

Mr. Mike Kaplan stated I agree. And if it is something that you do approve I was just hoping, similar to **case #26-11** you had made certain provisions as concerning the shed; "if the existing shed is taken down by the present or future property owner or by not be deterioration or act of God, the shed or similar structure cannot be replaced in the front yard of this property." So, if that would be something you could also add.

Mr. David Douglas asked what case was that?

Mr. Mike Kaplan responded the applicant was Petak it was **case #26-11**.

Mr. David Douglas stated there were some unique circumstances in that case but I recall that case.

Mr. Mike Kaplan stated I just want to close – actually making a quote from **case 26-11**: “this Board would generally not approve an accessory structure in the front yard of a residence or property unless it was prior to zoning.” As one Zoning Board of Appeals member stated in the October 2011 public hearing; “the question I always ask myself is if this was not there, would we allow it today?” Thank you for your time.

Mr. James Seirmarco asked can I ask you a question while you’re there? How tall is your fence?

Mr. Mike Kaplan responded **6** foot. It’s within Zoning Code.

Mr. James Seirmarco stated well, I’ll tell you what, I couldn’t see over it.

Mr. Mike Kaplan stated it’s **6** foot. It’s Code.

Mr. James Seirmarco stated it looks taller than me.

Mr. Mike Kaplan stated you can take a tape measure all you want. I’m sure the Town’s been there several times. There was complaints when we built. Barbara Miller was very adamant about her job and she came out while we were constructing that fence, it’s **6** foot. When the Town Zoning was out there, I implored them to measure it. Thank you.

Ms. Adrian Hunte asked any other comments?

Mr. Raymond Reber stated just that I concur that wording should be included that for any reason that shed is taken down or removed or whatever, it should not be replaced since it’s really – normally I would have voted against this but obviously the Board’s going to approve it and it’s been there and as long as he confines to using it as is that seems to be tolerated but it’s not according to Zoning. If he can move wood elsewhere he could have moved this wood elsewhere but I’ll concede that since it’s there, leave it, but if it ever gets taken down that’s it, don’t replace it.

Ms. Adrian Hunte stated with that said, on Zoning Board of Appeals **case #2012-17** for the – there are two Variances requested 27 Susan Lane, Cortlandt Manor, I make a motion to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Ms. Adrian Hunte stated on Zoning Board of Appeals case #2012-17, 27 Susan Lane, Cortlandt Manor, NY for an area Variance for an accessory structure (wood shed) in the front yard – I’ll do it as two motions.

Mr. John Klarl stated no, one with a condition.

Ms. Adrian Hunte stated I make a motion that we grant the area Variance, the accessory structure, the wood shed in the front yard with certain conditions such as: 1) if the shed is torn down or deteriorates that it may not be rebuilt, and also for the second portion of this for an unenclosed storage of material (firewood) occupying more than 100 square feet in the front yard that there not be any storage outside of the enclosure and not more than 100 square feet. Any other conditions? So, I make a motion to grant the Variance with those restrictions.

Seconded.

Mr. Wai Man Chin stated type II under SEQRA...

Ms. Adrian Hunte stated and it’s a SEQRA type II action, no further compliance required.

With all in favor saying "aye."

Mr. David Douglas stated that Variance with those conditions is granted.

E. CASE No. 2012-18 Adam Goodrich for an Area Variance for the front yard setback for a garage extension on property located at 18 Meadowsweet Rd., Cortlandt Manor.

Mr. David Douglas stated I’ve got a note here saying that that case is withdrawn. We have an e-mail dated the 19th from Mr. Goodrich to Mr. Hoch saying “please withdraw my application for a front yard Variance and remove us from the Zoning Board’s agenda.” That’s what we’ll do. That case is withdrawn.

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NEW PUBLIC HEARINGS:

A. CASE No. 2012-19 Christine Newcombe for an Area Variance for the front yard setback for a 2nd floor addition on property located at 90 Paulding Lane, Crompond.

Mrs. Christine Newcombe stated I'm requesting an area Variance for a front yard setback for a 2nd floor addition of my home.

Mr. Charles Heady stated I was out there, I was talking to your applicant. I don't know whether he told you or not the other day, I think it was Saturday I was out there. He bought the house a while back and this was before we had Zoning Board for that. I have no problem – he's just going to go straight up right, from what I understand?

Mrs. Christine Newcombe responded that's correct.

Mr. Charles Heady stated that little one foot over he wasn't sure if you were going to take that off or not on the front of the house there's about a foot there where he wants to put the addition going up. Did you recognize that? Over the front door.

Mrs. Christine Newcombe responded over the front door, yes, I did get an e-mail today from an architect too had suggested having an overhang over the front door, yes.

Mr. Charles Heady stated I suggested it to him. We've given a Variance for that before so that when you open the door and the weather is bad it won't be in the house. Can we add that to the Variance there at all? How are we going to do this?

Mr. Wai Man Chin stated you have to take it from Ken over here, on **case 2012-19** from Lois Womanson request a Variance – distance granted for the **40.55** feet as the front yard setback distance. This will allow the **2** foot overhang to be in compliance with the Zoning regulations.

Mr. Ken Hoch stated I don't think the plan shows a canopy extending out – the **2** foot overhang is for the proposed addition.

Mrs. Christine Newcombe responded correct.

Mr. Ken Hoch stated so what that would do would be to increase the variance to **9 1/2** feet because you're adding the **2** foot for the soffit overhang. Lois did not mention to me an entry little porch over the front, canopy over the front entrance so I don't know what the dimension of that would be.

Mrs. Christine Newcombe responded it was the first that I'd heard from it today also. Just to have it just so we wouldn't get wet looking for keys. It wasn't something that we had talked about or requested. It was a suggestion on her part.

Mr. Raymond Reber stated Ken, if you look at **A5** drawing which shows the upper sketch, the right elevation, if you look you'll see he's got an extension now the trouble is he doesn't put dimensions on it but it's drawn there. You can see that little bit of projection at the top of the stairs on the first floor. There's just no dimensions, that's the problem.

Mr. Charles Heady stated but they hadn't planned on it.

Mr. Wai Man Chin stated no, no they have it on the drawing but I guess they never indicated the dimensions.

Mr. Raymond Reber stated so the question is do we assume a typical like a **5** feet and grant him a **5** feet for that and limit him to that. By the sketch, it doesn't look like they're asking for anything significant. What do you think?

Mr. John Klarl stated make it subject to.

Mr. Charles Heady stated subject to or we adjourn it maybe.

Mr. Wai Man Chin stated right now that porch – I don't think he's even coming out **5** feet though.

Mr. Raymond Reber stated it may not. It's hard to tell because the overhang – if you look at the overhang, it's beyond the overhang. I don't know whether he's going for **4**. The problem is from a safety point-of-view...

Mr. Wai Man Chin stated based on the scale it looks like about only **2 ½** feet.

Mr. Raymond Reber stated but if you're opening a door, it's unsafe. You don't want a landing that's only **2 ½** feet. That's why we usually go **5** feet to give them the safety that they can open the door without falling off the stairs.

Mr. John Mattis asked why don't we grant him the **5** feet because that's standard what we've always allowed.

Mr. Wai Man Chin stated we did it recently where we said **4** foot was more than enough.

Mr. Raymond Reber stated okay, if you want to go **4**.

Mr. Wai Man Chin stated I don't have a problem with **4** feet.

Mr. David Douglas stated why don't we go **4** – I think Wai is right, we said **4** feet so to be consistent let's do **4**.

Mr. Raymond Reber stated that works. That's all I've got.

Mr. James Seirmarco stated that's fine.

Mr. John Mattis stated that takes care of the fact that we don't have the dimension on that.

Mr. David Douglas stated I just want to note for the record, this house was built prior to Zoning. Are we clear on what we wanted?

Mr. Charles Heady asked we don't have to re-advertise it right?

Mr. James Seirmarco asked **11** feet, is that what it was going to be, **11** feet? The Variance is going to be **11 ½** rather?

Mr. Raymond Reber responded well it will be the **7.45** plus the 2nd floor and then it'll be a separate Variance for the entrance canopy which like you said if you give **4** feet and then – as James said you add **4** feet to the **7.45** I guess.

Mr. Wai Man Chin stated we did it maybe a few months ago we did something like that. Four feet was more than enough.

Mr. James Seirmarco stated so you just add **4** feet to **7 ½** feet; will that work?

Mr. Raymond Reber responded that should work.

Mr. John Mattis stated **11.45**. That takes care of it.

Mr. David Douglas asked do you have anything further that you would like to say?

Mrs. Christine Newcombe responded no I don't. I'm good.

Mr. David Douglas asked does anybody else want to say anything?

Mr. Wai Man Chin stated well **11.45** is to the overhang of the porch and **7.45** is to actually the building. We should give it two dimensions: **7.45** is actually to the building face and **11.45** is to the deck or the porch and overhang.

Mr. James Seirmarco stated that's fine.

Mr. Charles Heady stated I make a motion on **case 2012-19** to close the public hearing. Anybody in the audience first?

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Charles Heady stated...

Mr. Wai Man Chin stated an area Variance is granted for the front yard setback from an allowed **50** feet down to **40.55** to the soffit and **38.55** to the entry and the porch, type II under SEQRA no

further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that Variance is granted.

Mrs. Christine Newcombe stated thank you so much.

Mr. Wai Man Chin stated I think Mr. Hoch will let your architect know.

Mr. Ken Hoch stated I'll be in touch.

B. CASE No. 2012-20 Department of Technical Services, Code Enforcement
for an Interpretation of how an animal rescue shelter, whether for profit or not-for-profit,
is classified under the Town Zoning Ordinance.

Mr. John Mattis stated Mr. Chairman I'm recusing myself on this case.

Mr. David Douglas asked Mr. Hoch do you want to explain what your application is?

Mr. Ken Hoch responded yes. We had a situation in Town where we've had a kennel in a particular place and this application is not specific to that site. We are looking for an Interpretation of the kennel use as it is defined in the Code whether or not the business is a "for profit" business or a "not-for-profit" business which in our opinion is merely a tax status. It does not relate to the actual activity. The Code defines a kennel, which I've outlined, "a commercial establishment in which dogs, cats, birds or similar animals are kept, boarded or trained. The term shall be deemed to include establishments known as dog kennels, animal schools, aviaries, catteries or similar uses." So, the question at hand is; is there a difference between a for profit, not-for-profit kennel. The Code defines "and there are specifics for kennel. A kennel needs a Special Permit." And, the issue at hand is we do have an outstanding violation for one establishment but again this is an Interpretation that would be Town-wide.

Mr. David Douglas stated I think at our work session we had talked about the fact that we wanted to consider the matter further and to close and reserve so that we could analyze it more. Is that accurate?

Mr. Wai Man Chin responded yes.

Mr. David Douglas stated but first, if you want to be heard. We'll hear what you have to say.

Mr. Lou Spizzirro stated I'm an attorney. I represent the Recycled Paws Rescue. To my left is Ms. Birdsall who is principal of Recycled Paws Rescue. What Mr. Hoch said may be accurate from his interpretation but I'd like to point out a few things to the Board before we go for

reconsideration. First off, he's already classified this business as a kennel and I don't think that's appropriate. Based on your definition of a kennel; a) Recycled Paws Rescue is a not-for-profit so it's not commercial. B) It does not keep, train or board animals. Boarding of animals is where an animal comes in to stay overnight, you pay for boarding. This is a rescue. It's more akin to a dog shop than it is to a kennel. The only difference being that this particular venture instead of getting these dogs from breeders gets his dogs from high-kill shelters in the south and instead of charging a fee to buy a dog they have adoption of dogs. I don't think it really fits there. This is an animal rescue that doesn't seem to be in your Code. And, where there is an ambiguity in your Code, that ambiguity has to go in favor of the applicant. I think that if your Code is lacking a definition that has to be in my client's favor. We're here to help you out to define what we are and if you have any questions we're happy to answer them.

Mr. David Douglas asked anybody have any questions or comments?

Mr. Raymond Reber stated there is an interesting question that was raised here. I agree with what Mr. Hoch said in terms of a kennel but there is this issue of if you have a pet store where you're selling pets and you're keeping these pets overnight, where does that fit into our Code and I think that's something we have to do some research...

Mr. Ken Hoch stated the retail sale of pets is considered a retail use and the retail sale of those pets is governed by the State Agriculture of Markets.

Mr. Raymond Reber stated okay.

Mr. Lou Spizzirro stated I will point out Mr. Reber that, as you say, I've done some research on the dog stores and I see that none of the dog stores in the Town of Cortlandt have shelter licenses. And, I'll further point out that while those retail stores are overseen by the Department of Agriculture, the only reason that the Department of Agriculture does not oversee my client's business is because it's a not-for-profit and once its status is not-for-profit with a **501c3** from the IRS, the Department of Agriculture is not worried about it because it's not interstate commerce, however, both types of businesses; pet store and pet rescue are overseen by the Westchester County Department of Health and they have their own guidelines that we have to follow.

Mr. David Douglas stated okay, I think we need to mull this over. This is a somewhat unique situation. You want to keep it open? That's fine.

Ms. Joan Knapp stated I live in Montrose. Just to speak about the inter-commerce, a lot of these animals by some people's rescue organizations own account is that these animals come from other state so there is interstate travel with the dogs, just to get that out of the way. Really, personally I don't think there's any kind of new definition that's needed for the Town regardless of whether it's for profit or not-for-profit. If you look up dictionary.com, "an animal shelter is an establishment, especially one supported by charitable contributions that provides a temporary home for dogs and they're offered for adoption." Well, if you look at Myriam Webster where a lot of your definitions come from too, "a kennel is a shelter for a dog or a cat. A shelter is an

establishment that houses and feeds stray animals.” And then if you look further to the Town, the Town definition of a kennel is “an establishment in which animals are kept, boarded or trained,” which 2 out of the 3 obviously are done here and maybe they are training in order to adopt these animals out. If you look at the table of permitted uses you clearly see kennel and there is nothing else within the permitted use where this kind of a thing would fall. If you are to make a determination, it should either be a kennel or if you’re trying to make up something completely new, that should really fall to the legislative body of the government. You can’t just make something up so that it might benefit one personal non-profit.

Mr. James Seirmarco stated we know that.

Mr. John Klarl stated this Board doesn’t legislate. This Board interprets.

Ms. Joan Knapp responded right but I don’t even think there’s a need for an Interpretation. It clearly states what a kennel is and all of the functions of what you’re trying to have an animal shelter rescue be, all of the components are there. You know whether they are adopted or whether they are given to the shelter or store, whether they’re purchased or if they’re rescued, it’s all the same operation. There really is no difference between the three. If you are to try to interpret something to try to make it fit into something, if there is no neat category, I think you should really look toward the legislative body and maybe make a new category. Maybe that is warranted.

Mr. James Seirmarco stated you’re talking apples and oranges here. Our job is to interpret the existing Code and to see whether this particular applicant’s activities fall onto the existing Code. We’re not here to write new Code. We’re not here to change the Code. We’re here to interpret the existing Code and that’s...

Ms. Joan Knapp stated but again we’re not talking about this one particular applicant, are we?

Mr. James Seirmarco responded I agree.

Ms. Joan Knapp stated but we’re talking about any applicant and any applicant who brings in dogs whether purchasing them, having them donated, or finding them and then feeding them, keeping them overnight for a few weeks or however long it may take to train the dogs to be outsourced...

Mr. James Seirmarco asked let me ask you a question, where do you think it fits in our Code?

Ms. Joan Knapp responded definitely a kennel.

Mr. James Seirmarco stated kennel, okay.

Ms. Joan Knapp responded definitely a kennel.

Mr. Raymond Reber stated I concur with you, the definition of an animal kennel is pretty clear. My problem is, I got a dog from PetSmart and they have dogs, they don't meet the criteria of a kennel so that's where, before I make a decision I have to really think that through and understand how that fits into the Town Code and that's allowed even though it doesn't meet any of the criteria of this. In PetSmart they board, they train, they do all these features so that's my dilemma is how to sort that out but I don't disagree with you that – if it's a kennel then you're right, it's clearly defined what is required.

Ms. Joan Knapp stated when they made the original application how do you think they fit into the Town Code? How did they get a license to operate there?

Mr. Raymond Reber stated that's what I have to look into and understand.

Mr. James Seirmarco stated under commercial sales.

Ms. Joan Knapp stated so regardless of whether you're selling an animal or if you're giving an animal away, the functions of that business for profit, not-for-profit whatever it may be, is essentially the same.

Mr. Raymond Reber stated that's what we have to make sure of. I agree.

Ms. Joan Knapp stated thank you.

Ms. Adrian Hunte asked current owner, also the former owner of the Urban Tails retail?

Mr. Lou Spizzirro responded it's a little odd. There is a retail aspect to the business which is Urban Tails. Urban Tails is for profit corporation. It sells dogs and accessories; dog food, bowls and such and very nicely said by Mr. Reber, it's a small PetSmart. There is no difference between any of the dog stores in Cortlandt Manor or any of the pet stores in Cortlandt Manor and my client's business, none whatsoever. The only difference is that we are not-for-profit and we don't take our dogs from breeders.

Mr. Wai Man Chin stated are the dogs or animals, are they kept overnight?

Mr. Lou Spizzirro responded yes, just as they are in all the pet stores in Cortlandt Manor.

Ms. Joan Knapp stated I think there's one huge difference between a PetSmart and a rescue shelter, when you go to PetSmart the animals have been seen by a veterinarian. They have their immunizations. You know where the animals have come from. When you go to a rescue, you don't know any of that. So, there's a huge difference.

Mr. Raymond Reber stated there was a rescue dog that we ended up taking through the Northshore Animal League who brings dogs up to PetSmart and leaves them to hopefully get adopted. That's the dog we adopted so we didn't know its origin but you're correct, it was

tested, it was vaccinated, all the medical checks were done ahead of time. I agree with you on that part. I just want to make sure you understood that they didn't have to know their origin.

Ms. Joan Knapp responded right. Obviously you can't know where a stray is from.

Mr. James Seirmarco stated to me that doesn't affect the definition whether you know the history of the dog or you don't. It's got nothing to do with the definition.

Ms. Joan Knapp stated no, not the history of the dog, the accountability...

Mr. James Seirmarco stated or the accountability, I respectfully disagree with you. This is an interpretation on how this fits into our Code and whether the dog or cat has immunization or seen by a vet or hasn't doesn't affect the interpretation to me.

Ms. Joan Knapp stated no but I was trying to distinguish between what a PetSmart is and what a rescue would be. There's a big difference between the way that the animals are brought in, maybe, maybe not, I don't know. If you're travelling down to Louisiana and you're bringing in 15 animals, obviously you don't know when the last time they saw a vet, when their immunizations were.

Mr. Wai Man Chin stated that's why I think the Board has to mull over this thing a little bit more than this time. You just said right now you don't know if it is or not. It's the same thing, we don't know yet. We haven't determined a lot of the things.

Mr. Lou Spizzirro stated if I can that last point. Pursuant to the Westchester County Department of Health regulations all of the dogs in the shelter need to be vetted and they need to be vaccinated just as any other dog in a pet store would be. So, they are seen by a vet and they are vetted.

Ms. Adrian Hunte stated I have a question concerning the donation. It says here that the donation is required. Is there a minimum donation or is it suggested?

Mr. Lou Spizzirro responded it is usually suggested and it varies.

Ms. Adrian Hunte asked but there has to be something?

Mr. Lou Spizzirro responded there is some donation yes. We have given away dogs though.

Mr. Raymond Reber stated when we got our dog it was through the Northshore Animal League, they have a cooperative program they have for dogs that bring them and again they can't charge because the Northshore Animal League is a non-profit, they make a suggestion. We made a suggested contribution but it is a contribution even there.

Ms. Adrian Hunte stated I think we need a bit more time to sort out what we have here and I

guess one of the questions I would like to get an answer to is how commercial establishments is defined vis-à-vis the not-for-profit and profit. I'm not so much concerned about that as I am about how you define commercial and are there any sales taxes involved with this?

Mr. Lou Spizzirro responded yes there are. On the sales of the retail goods, not on the dogs.

Ms. Adrian Hunte stated okay the retail goods.

Mr. David Douglas stated so why don't we keep the matter open and we'll consider it further and make further comments next month.

Mr. Lou Spizzirro stated just a point of interest, this case is on in the Town Court. The violations that Mr. Hoch referenced before so as this case continues I'm going to adjourn those.

Mr. David Douglas stated we understand that and I presume the court will adjourn it but we don't have any control over what the court does.

Mr. Lou Spizzirro stated the court will grant the adjournment I'm quite sure.

Mr. David Douglas stated I'm sure.

Mr. John Klarl stated the court stays that the prosecution pending the result before the Zoning Board of Appeals.

Mr. Lou Spizzirro stated that would be wonderful Mr. Klarl.

Mr. John Klarl stated that's generally what occurs.

Mr. Wai Man Chin asked anybody else in the audience? I make a motion on **case 2012-20** to adjourn to the next meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the case is adjourned to the July meeting.

Mr. Lou Spizzirro stated thank you for your time.

C. CASE No. 2012-21 Department of Technical Services, Code Enforcement
for an Interpretation of how an academic tutoring use in a commercial zone is classified
under the Town Zoning Ordinance.

Mr. David Douglas asked Mr. Hoch, could you explain this?

Mr. Ken Hoch responded yes, this grew out of a request from a business to ask if they could relocate to the Town – it's a tutoring business and would they be a permitted use in one of our commercial zones. When I researched the Code I could not find this kind of tutoring use defined. We allow schools. We allow a dance studio but we don't have anything that specifically covers an academic tutoring program. So, therefore I brought this to the Board to see if we can fit it into an existing use category so that when this person comes back to me and if they do find a commercial spot that we'd be able to tell them "yes, we'd like you to come to Town and tutor our kids."

Mr. David Douglas stated this is interesting. I'm not sure I can say anything more than that. We need to mull this over and figure out where it fits or does it fit in and how it fits in or...

Mr. James Seirmarco stated or what the criteria is...

Mr. John Klarl stated actually Ken added some more matters to discuss with the definition of private school/public school. So there's a number of facets.

Mr. David Douglas asked do we want to handle this the same way we handle the other one and keep it open until July?

Mr. John Klarl stated I think with the information you have you have to have a discussion.

Mr. David Douglas asked does anybody want to be heard on this? I guess not.

Mr. Raymond Reber stated as Mr. Hoch indicated, we're having difficulty finding a slot for this. I think there's probably a general consensus that the Town certainly is not opposed to having tutoring facilities to help educate the children in the Town. Our problem is how do we find a slot for it, based on that we need some time to do more research and thereby I propose that we adjourn until the August meeting, **case #2012-21**.

Mr. David Douglas stated adjourn it to August, how about July?

Mr. Raymond Reber responded July, I'm sorry, next month.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #2012-21** is adjourned until July. By then we'll have it figured out completely.

D. CASE No. 2012-22 **Maria Hardman** for an Area Variance for the side yard setback for a 2nd story addition on property located at **21 Battery Place, Croton-on-Hudson**.

Mr. John Klarl stated Mr. Chairman, I recuse myself.

Ms. Maria Hardman stated I'm here for the application to construct a two-family house on the existing foundation that I think is in violation of the Variance but I think this building had not come to Town for Permits since it was built in '46. It's a one story.

Mr. Wai Man Chin asked and you are Maria Hardman.

Ms. Maria Hardman responded yes I am.

Mr. James Seirmarco asked you meant second story, not a two-family house?

Ms. Maria Hardman responded did I say two-family house, no I meant 2nd story.

Mr. James Seirmarco stated this is mostly existing. She's not asking to come out any further than the first floor is. There's a small **1.8** feet although that turns out to be **64%** of Variance it's still a small distance. Nothing is going to be any more than it exists at the first floor right now. I don't have a problem with this.

Mr. David Douglas stated also, I'm going to point out that that **1.8** feet is just for a certain part where there is a bump out, the rest of it is less than that.

Mr. James Seirmarco stated right.

Mr. John Mattis stated and one of the things that we look at is; does it change the character of the neighborhood and these lots, actually there's some lots there I believe that are even narrower than yours. You have what; **33** feet?

Ms. Maria Hardman responded no I think the original plot plan from **1918** they're all **33' x 300'** so I probably have the only small lot because others have bought up **2** or **3** and you know have made since...

Mr. John Mattis stated but the houses in these are located right near the property line.

Ms. Maria Hardman responded yes.

Mr. John Mattis stated even if they have **2** lots.

Ms. Maria Hardman responded yes, they are. My neighbor is right – is close to me...

Mr. John Mattis stated this is not uncommon.

Ms. Maria Hardman responded no, in that community it's not, that's right.

Mr. Raymond Reber stated just for the record, Mr. Seirmarco said this is a small Variance so it's okay. I stated at previous meetings that when you're that close to a property line inches are critical so I think here the difference is, it's been there, it's prior to zoning. We obviously can't move the house, we can't shrink it. All that's happening here is you're putting a second story so you're not doing any further encroachment that's been there for obviously many, many years and that's the reason why I would vote for this not necessarily...

Ms. Maria Hardman stated I am not saving any of the walls on the first floor although I'm building the replica right on the foundation but even those walls...

Mr. Raymond Reber asked are you saying you're tearing the house down and starting over? Oops, that changes the rules Ken. That changes the rules. You can't do that.

Ms. Maria Hardman responded does it? I'm using the foundation. I'm using the footprint. I'm using the...

Mr. James Seirmarco stated that's a different story. You really want to consider that. You may want to do it wall at a time.

Mr. Raymond Reber stated if you tear it down you can't rebuild it.

Ms. Maria Hardman responded okay.

Mr. Raymond Reber stated you have to keep that first floor. If you tear it down you can't rebuild it.

Ms. Maria Hardman asked I have to keep all four walls?

Mr. Raymond Reber responded the whole first floor.

Mr. James Seirmarco stated you can do maintenance on those walls.

Mr. Raymond Reber stated you can do repair and maintenance and do changes...

Mr. James Seirmarco stated and that might include putting up a whole new wall but don't let a contractor come in and knock the house down and start from scratch because that can't happen.

Ms. Maria Hardman stated okay. I can only take off the roof.

Mr. James Seirmarco responded yes, you can take the roof off but...

Mr. Raymond Reber stated work with Code Enforcement, they'll give you the criteria and the limitations you have in terms of what you can do because if you take a prior to zoning building or structure of any type and remove it, that's it, you can't replace it.

Mr. James Seirmarco stated we've had people come in and say I knocked my garage down and I want a Permit to build it up again and we can't give them.

Ms. Maria Hardman stated it's like that shed.

Mr. James Seirmarco stated that's correct. If that shed goes down, it's down.

Mr. Raymond Reber stated because the Code wants to eliminate those kinds of problems.

Mr. David Douglas stated so make sure you speak with Mr. Hoch because if you do knock the whole house down we don't have the power to allow you to rebuild it. So, it's that you will not be able to get a Variance even if – so speak...

Mr. Wai Man Chin stated we had a situation where somebody tore down a building and that was it.

Mr. John Mattis stated we can grant the Variance but then you can work with Code Enforcement to see how you can carry that out without being in violation of the prior zoning.

Ms. Maria Hardman asked but you have no opinion or jurisdiction on the interior walls? I can take those all out?

Mr. John Mattis responded that you can do, yes.

Ms. Maria Hardman responded and just reframe the inside.

Mr. Raymond Reber stated as long as you meet building Codes.

Mr. Wai Man Chin stated speak to Mr. Hoch before they do any kind of demolition.

Ms. Maria Hardman responded all right Ken.

Mr. Ken Hoch stated the application was for a second story addition. I interpreted it that way.

Ms. Adrian Hunte stated I don't have a problem with the Variance of the addition.

Ms. Maria Hardman stated okay good, thank you.

Mr. John Mattis stated neither do I.

Mr. David Douglas asked anybody else want to be heard?

Mr. James Seirmarco stated I make a motion on **case #2012-22** on 21 Battery Place, Croton-on-

Hudson to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion on the above case to grant an area Variance for the side yard for a second story addition from a required **5** feet down to **1.8** feet. This is a SEQRA type II no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Ms. Maria Hardman stated thank you very much.

Mr. Wai Man Chin stated good thing you said that.

Ms. Maria Hardman stated yes, it is a good thing I said that.

E. CASE No. 2012-23 Curry Properties for an Area Variance for signage on the Toyota building located at 3026 E. Main St., Cortlandt Manor.

Mr. Joel Greenberg stated what we're asking for a on a corner piece of property which this building is located to have all our signs facing Route 6 and no signs facing Westbrook Drive. It's been the interpretation of this Board that we cannot take that **40** square feet and move it to the front so therefore we need a Variance for the signs as we had shown.

Ms. Adrian Hunte stated Mr. Greenberg you've described the sign and the size and that you are allowed extra footage because you are not going on the Westbrook side of the building. I do not see a problem with the application. Does anyone else have any comments?

Mr. John Mattis stated I think these signs fit in with the Hyundai building that was recently opened and it just fits in the same pattern.

Mr. Wai Man Chin stated I agree.

Mr. David Douglas stated it's consistent with the other [?].

Mr. Wai Man Chin stated they'll look fabulous.

Ms. Adrian Hunte stated I want to commend you on your green building.

Mr. Joel Greenberg stated incidentally I had mentioned to you and I'll get you the information but that green energy is actually going to save them by getting the energy not from ConEd but from this green energy organization, it's going to save them approximately **35%** of their electric bill.

Ms. Adrian Hunte stated on Zoning Board of Appeals **case #2012-23**, 3026 E. Main St., Cortlandt Manor, Curry Properties I make a motion to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Ms. Adrian Hunte stated on Zoning Board of Appeals **case #2012-23**, 3026 E. Main St., Cortlandt Manor for Curry Properties for an area Variance to allow increased signage on the building frontage I move that we grant the Variance to the **160** square feet from the **80** square feet for signage on the East Main Street side of the building frontage. This is a SEQRA type II action, no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated Variance is granted.

Mr. Joel Greenberg stated thank you very much. Enjoy the 4th.

F. CASE No. 2012-24 New York SMSA Limited Partnership d/b/a Verizon Wireless for recertification of a Co-Location Permit for an existing wireless telecommunications facility with a like-kind antenna replacement on property located at **51 Scenic Drive, Croton-on-Hudson.**

Mr. Michael Sheridan stated I'm an associate with Snyder and Snyder LLP, **94** White Plains Road, Tarrytown, NY. We're the attorneys for New York SMSA Limited Partnership d/b/a Verizon Wireless in connection with its application for a re-certification of a Special Permit and for antenna work in connection with its existing wireless facility on the existing stealth tree pole at 51 Scenic Drive.

Mr. David Douglas stated before you begin, let me state this personally is the ugliest thing in the entire Town of Cortlandt and I see it every single day and I hate it. Okay, I got that off my chest. I say that every time there's an application involving this.

Mr. Raymond Reber stated I don't think they put that up voluntarily. I'm sure it was somebody in the Town that insisted why don't you put up a tree?

Mr. Wai Man Chin stated it's like going down the Hutch.

Mr. John Mattis stated actually I think it looks better than just having the antennas without – this is nothing more than certifying as we have to do from time to time. We recertify these Permits. Nothing has changed. We understand that you will be replacing the cabinets and various things but that requires a Building Permit but it doesn't require a re-certification of anything.

Mr. Michael Sheridan responded they're looking to replace the antennas and just updated technology.

Mr. John Mattis stated and they'll be like antennas but they'll be stronger, we'll get a better signal and that's a good thing.

Mr. Michael Sheridan stated better data transmission.

Mr. John Mattis stated this is pretty much a perfunctory thing unless anything has changed and it hasn't. Usually when we recertify we ask if anybody has any problems. There's no problems with it. It sits on Town property away from everybody and there's no reason not to approve this.

Mr. Wai Man Chin asked you guys wouldn't want to put a pole on the 129 Old Post Road over there? The tower over there has no trees.

Mr. John Mattis stated there's no one in the audience so we don't have to ask that question. On **case #2012-24**, the re-certification of a co-location Special Use Permit for a wireless telecommunications facility with a like-use antenna replacement, I move that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. John Mattis stated I move that we approve the request for re-certification on this case. It's a type II under SEQRA no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated granted.

Mr. Michael Sheridan stated thank you very much.

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ADJOURNMENT

Mr. John Mattis stated I move that we adjourn the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated meeting's adjourned.

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**NEXT MEETING DATE:
WEDNESDAY JULY 18, 2012**