

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, September 17, 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
- Wai Man Chin, Vice Chairman
- Charles P. Heady, Jr.

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

ADOPTION OF MINUTES: 7/16/08

Mr. Heady made a motion to adopt the minutes for the meeting 7/16/08 seconded by Mr. Chin with all voting "aye."

CLOSED AND RESERVED DECISIONS

CASE NO. 23-07 CONGREGATION YESHIVA OHR HAMEIR for an Interpretation/reversal of Code Enforcement Officer's determination that the dormitory housing its' students is a pre-existing, 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 we received a letter from their attorney asking for an adjournment to November.

Mr. Chin made a motion in Case No. 23-07 to adjourn the case to the November meeting seconded by Mr. Reber with all voting "aye."

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ADJOURNED PUBLIC HEARINGS

CASE NO. 29-08 DOUGLAS MARGREY for an Area Variance for a side yard set back for a proposed addition on the property located at 38 Durrin Ave., Cortlandt Manor.

Mr. Douglas Margrey appeared before the Board. He stated I guess you all had a chance to look at the new plans. We shortened it, and moved it forward 3 feet in front of my house, and in doing so brought the garage off the line. There are two different drawings. The one was supposed to be 20' x 20', and that brought it off by 5.96 feet off the line, and the other drawing was a 20' x 22', and that brought me off 4.2 feet off the line.

Mr. Seirmarco stated one of the drawings says 22' x 26'.

Mr. Margrey stated I just noticed that while I was sitting here. At the last meeting we discussed that if it would be shortened to 22 feet, or 20 feet.

Mr. Seirmarco asked shortened or narrowed?

Mr. Margrey replied both. It was wider, and longer. So the 22' x 26' on that one drawing really should be 20' x 22'.

Mr. Chin stated so we're talking about 20 foot wide by 22 foot long, and the second drawing that indicates 22' x 26' should have been 20' x 20'.

Mr. Margrey stated yes, one was shortened down to 22 feet, and one shortened down to 20 feet. I just noticed that while I was sitting here.

Mr. Mattis asked and the 22 feet you will move forward as well?

Mr. Margrey replied yes, about 3 feet ahead of the house.

Mr. Mattis stated and that is the one that is just under 6 feet, 5.96.

Mr. Flandreau stated so both widths are 20 feet, and one depth would be 22, and one depth would be 20.

Mr. Margrey stated right.

Mr. Reber stated the 20 feet will need about a 4 foot offset, and the 22 foot would be 5.96 offset.

Mr. Margrey stated that is correct. I am sorry about that. I didn't notice it until I sat down here.

Mr. Mattis stated that is okay. Are there any other comments? Is there anyone in the audience who would like to speak?

Mr. Reber stated I will vote for the 20' x 22', 5.96 offset even though my gut says that the 20' x 20' would make a fine two garage. However, the variance is less than 50 percent, and is relatively small variance.

Mr. Flandreau stated I did a measurement when I got the application, and I measured 20 feet back from where it is, and it is about 8 foot off the property line from the corner.

Mr. Reber stated well maybe we have to hold it over to get the measurements for the variances.

Mr. Flandreau stated I don't have the exact number that is something that the architect will have to give us, and we can either back the number into it, or hold it over.

Mr. Chin stated well he is going to move the garage 3 feet in front of the house, and on both garages they are 20 foot wide, and one shows 20 foot in depth, and the other 22 foot in depth. I would have to agree with Mr. Reber that the 20' x 20', which is 5.96 feet, is a lot closer than before, and if you place it 3 feet in front of the house, then 5.96 feet would actually be larger like Code Enforcement had indicated, it would probably be about 8 feet. So I would not have a problem with the 20' x 20' being placed there.

Mr. Mattis stated the variance will really be less than 4 feet, and we can have it so that it starts at the front off set of the property, and you can go back from there.

Mr. Margrey stated I would prefer the 22 feet in depth, if I can get that.

Mr. Chin stated if you can get that, fine. We are going to say that your variance is going to be 4 feet from the line.

Mr. Mattis stated if our staff is telling us this might be 8 feet off the property line instead of the 6 feet shown, and he can achieve 6 feet, or 7 feet with a 22 foot. I would rather him come back with the actual off sets. Would you mind waiting for a month? I could probably vote for the 22 feet, if we had the actual numbers. So would you mind waiting a month for that?

Mr. Margrey asked could I bring it in tomorrow, or something like that?

Mr. Mattis stated we would still have to wait until next month to vote on it.

Mr. Chin stated right now I would have no problem accepting it the way it is now, as long as that variance from the 10 foot set back is 4 foot off that 10 foot, and if it is 21 foot in depth, or 22 feet in depth, I wouldn't mind that. I just want to see a 6 foot set back.

Mr. Mattis stated he would then have to have another drawing, and a survey for that one corner.

Mr. Margrey stated so then I will resubmit the drawing?

Mr. Flandreau stated I think what the Board is saying is they would be willing to grant you a 4 foot variance so you would be 6 feet off the property line, and wherever that depth falls, if it is 20 feet, or a little bit greater, they may be willing to do that.

Mr. Mattis stated it is a little different in how we usually do it, but I think we are confident in what we want to accomplish. So we would state that the garage will begin 3 feet in front of the house, and go back no more than 22 feet, and that the left rear corner would be at least 6 feet off the property line, a 4 foot variance, and then you would have to bring in drawings, and have a spot survey done on that corner. Are there any other comments?

Ms. Hunte made a motion in Case No. 29-08 to close the public hearing seconded by Mr. Chin with all voting "aye."

Ms. Hunte made a motion in Case No. 29-08 to grant a side yard Area Variance for proposed garage on the property from 10 feet down to 6 feet provided that the greater be no more than 4 feet, and that the garage begin at least 3 feet in front of the house, and go back no more than 22 feet, and the left rear corner of the garage be no less than 6 feet off the property line. This is a Type II Sequa with no further compliance required seconded by Mr. Chin with all voting "aye."

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CASE NO. 30-08 RON DECRENZA for an Interpretation to overrule the decision of the Director of Technical Services in which the application for subdivision to the Planning Board was put on hold until the violations on the property are addressed.

Mr. Flandreau stated I have not heard anything from the applicant.

Mr. Seirmarco stated I think that we should sent a letter to the applicant stating that want to withdraw the case he should do so before the next meeting, or the case will be deemed abandoned.

Mr. Seirmarco made a motion to adjourn Case No. 30-08 to the October meeting seconded by Mr. Chin with all voting "aye."

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CASE NO. 32-08 SETH & JEANNE GERCHBERG for an Area Variance for the lot width

of two proposed lot subdivision on the property located at 35 Forest Lane, Crompond.

Mr. Flandreau stated I received a letter from the applicant asking to withdraw the case.

Mr. Mattis stated that case is withdrawn

NEW PUBLIC HEARINGS

CASE NO. 34-08 JOHN AND LEIGH BARBELET for an Area Variance for the front yard set back for a proposed front porch on the property located at 33 Roundtree Lane, Montrose.

Mr. and Mrs. Barbelet appeared before the Board.

Mr. John Barbelet stated we are here tonight to apply for a variance to put a front porch on our house.

Mr. Mattis asked can you please explain what you are looking for?

Mr. Barbelet replied, yes, we have a new home, a two story colonial on a cul de sac, and we would like to put a covered front porch across the front, and for us to do that I believe it is 4 ½ feet that we would come forward. The reason for wanting to do it personally is for architecturally it will fit better in the neighborhood. When you look at the house, it looks like a skyscraper. So I think aesthetically the front porch will make it look more conducive to the area. It will actually look almost identical to our neighbor, who is two houses to the left.

Mr. Reber stated yes, this case was before us at the time the applicant first moved in, and they were trying to resolve this issue of the front entrance. At that time, we spent a lot of time working with him to achieve some sort of landing, and staircase. Part of the problem with this house is that it is on the cul de sac, and the curb to the cul de sac cuts deep into their front yard. So even though their house lines up with the houses next to them, if you strictly measure from where the pavement is, you get the idea that it is much closer, when actually they are not. When they came to us previously, we agreed to a 6 foot deep landing, and a tall staircase. What they are asking for now does not encroach to the front any further. This is still the same 6 feet. All they want to do is replace the landing, and stretch it out across the front of the house, convert it into a porch, and I agree it will look much better, and would fit right in with the neighborhood. It is not changing really any of the encroachment. So I have no problem with this application.

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

Mr. Reber made a motion in Case No. 34-08 to close the public hearing seconded by Mr. Heady with all voting "aye."

Mr. Reber made a motion in Case No. 34-08 to grant a front yard Area Variance from 35 feet down to 35.5 feet for a 6 foot deep front porch. This is a Type II Sequa with no further compliance required seconded by Mr. Heady with all voting "aye."

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CASE NO. 36-08 DANIEL JOHN MEYER for an Area Variance for the front and side yard set back for an existing garage addition on the property located at 17 Armstrong St., Cortlandt Manor.

Mr. Daniel Meyer appeared before the Board. He stated I am here to ask for a variance for a garage. When

I got the house, it was a mess. The garage, the roof above it was a mess. The beams holding up the roof

were rotting, and I had to replace them. I listened to the wrong person. I enclosed it as a porch, there is no heat in it, and I was told that I could do it, and I did it. I am going to sell the house, and I wanted to make sure everything is in order so I went to Code Enforcement, and they were very nice to me. They told me what I had to do, and I went and had everything done, and I thought that was it, and I was told I had to come here for a variance. So here I am. I listened to somebody that I shouldn't of.

Ms. Hunte asked when did you actually purchase the house?

Mr. Meyer replied it was given to me. She is moving, and she gave me the house.

Mr. Mattis asked when was this given to you?

Mr. Meyer replied about 3 years ago.

Mr. Klarl stated it looks like it was given to you in June 2006.

Mr. Meyer stated I can't remember for sure.

Mr. Mattis stated basically you rebuilt the roofing over the garage?

Mr. Meyer stated I replaced the beams, because they were rotted.

Mr. Flandreau stated the support columns were rotted, and a contractor came in, and replaced them for him.

Ms. Hunte asked so this structure was here when you obtained the property?

Mr. Meyer replied everything was there. I just enclosed it, and fixed the support beams.

Mr. Flandreau stated I did do some research, and there was a permit issued for the garage in 1962, and permit issued for the addition in 1978, and from what I can tell that addition was the porch for the garage.

Mr. Meyer stated I just enclosed the porch.

Mr. Mattis stated this is new information from we had at the Work Session.

Ms. Hunte asked were you paying taxes on that structure?

Mr. Meyer stated when Mrs. Harner died I hired somebody to come in, and appraise the house. The gentleman I hired came in, and said the house was worth \$252,000. The Town, and the County had it assessed at \$100,000 more than what they said it was at the time of her death.

Mr. Mattis asked but when you built this two, or three years ago had the taxes changed since that?

Mr. Meyer stated I don't know, it keeps going up every year. At the time of her death it was assessed at \$360,000, I believe, and when I had it assessed it came in at \$252,000. I did come in, and I had mentioned to Pat that the Town had it assessed at \$100,000 more. So she said I could bring it in, and try to fight it, but I didn't bother with it.

Mr. Chin stated so the property card doesn't show whether it is assessed with that or not?

Mr. Flandreau stated the front of the property card has it that the porch was being assessed, but I don't know if they picked that up when they went out to inspect that. I am not sure that they have the enclosure

for the porch. So the structure is being assessed, but not the enclosure.

Mr. Reber stated I would recommend that we do some homework to clarify to those issues. I also recommend that we do a site visit, that way we can see the situation, and understand the structure, and understand how it is situated, what the variance is, and just see the set up. That would be my recommendation.

Mr. Mattis asked how does the rest of the Board feel? I think it is a good idea.

The Board members all agreed.

Mr. Mattis stated we would do that the Saturday before the next meeting. The meeting is the 15th. So that would be Saturday, October 11th at 10:00 a.m.

Mr. Douglas stated that is a holiday weekend, Columbus weekend.

Mr. Mattis stated maybe we should change that then. How about the week before, October 4th at 10:00 a.m. Is that okay with you?

Mr. Meyer stated okay, that will be fine.

Ms. Hunte stated I am not available that day until 12:00 p.m.

Mr. Mattis asked is 12:00 p.m. okay with everyone else?

The Board agreed.

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

Ms. Hunte made a motion in Case No. 36-08 to adjourn the case to the October meeting with a site visit to the property on Saturday, October 4th at 12:00 p.m. seconded by Mr. Reber with all voting "aye."

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CASE NO. 37-08 WAYNE ANDERSON & CLARE STARRS for an Area Variance for the side yard set back for a proposed porch and an Area Variance for the side yard set back for an open side yard deck on the property located at 9 Wm. Puckey Dr., Cortlandt Manor.

Mr. Chris Borchart, and Mr. Wayne Anderson appeared before the Board.

Mr. Borchart stated I am the architect for the applicant. The property consists of an upper level addition that we would be putting on to an existing house along with a garage addition off to the right side, a new front porch addition, a bunch of decks, and terraces at the rear, and modification of an existing front deck. The portions of this project that need variance tonight would be specifically the front entry piece, and the modified front deck piece. I just want to give you a quick history of the house. The house was originally built, and was actually orientated so that the front of the house was actually the rear of the structure, and the front door of the house was actually around the back side of the house. They have a driveway that goes up, and around the back side of the house. So one of the things we are trying to do is to fix some of those issues. We are proposing to re-orientate the entry sequence from the street so that when you come up the existing front driveway there would be a new front porch, and access into the house from here. As part of that work we would end up taking over 50 percent of the existing front deck, and pulling that back, because we are now trying to put some private space in the back yard, and front deck really does not need to be that big. If you had a chance to go up there, and take a look at it the front porch just overwhelms the front of the

house. One of the other things we are trying to do is the two car garage addition over here, which is actually behind all of the set backs. We are trying to stabilize the covet that was made for the original

driveway.

Mr. Mattis stated and that doesn't require any variances correct?

Mr. Borchart stated no, that doesn't require any variances. That is just something we were doing that started this whole process, and once we got into it is when we discovered we needed some variances. The variance being requested is not substantial. We are just asking for 6 feet off of a 30 foot side yard set back, which is about 20 percent. That would actually be less than what is currently existing on the front deck. They had put the deck on the house in 1994, and did receive a variance for the deck at that time. The dimensions there are up to 14 feet on the largest part. We don't feel that there would be any type of adverse change to the character of the neighborhood itself. In our opinion we actually think the change would be a positive one. The neighbor that is probably most directly effected by the work that we are proposing is directly across the street, and he sits down across a common driveway. We are trying to just get the house to look like it has a proper front door so it doesn't look like you are approaching the house from the rear yard. So we feel that we could not achieve this from any other alternative matters. As I mentioned, the condition already exists, it is not a self created hardship. It is a nonconforming, legal structure. The last thing is just in terms of the site itself. One of the things we are going to be doing is putting in drainage along the side here, and have the storm water run along the hillside out to the front yard, and also along the back yard there is fairly substantial piece of rock ledge that is about 20 feet off the back of the house so we are proposing a curtain drain there intercepting the storm water there.

Mr. Chin stated well I was one of the members on the Board back in 1994, when we gave that variance. I know the area, and I looked at the drawings, and I think you are doing a great job. I really don't have a problem with this from my standpoint. It is a minor variance. It is 30 feet down to 25.8 feet, and 27 down to 24 so I really don't have a problem with what you are doing.

Mr. Mattis asked are there any other Board members who would like to comment?

Mr. Reber stated I did visit the site, and I concur with Mr. Chin. It is an odd situation, and I think you are moving in the right direction here.

Mr. Mattis stated I also was out there, and concur. Is there anyone in the audience who would like to speak?

Ms. Rene Weisberg appeared before the Board. She stated I live at 7 Wm. Puckey Drive, which is below Mr. Anderson's property, and I haven't seen the drawings. I have seen the work that has been going on there over the years, and what I am worried about is the backhoe, and he has been digging into this big hill. I live below the where they are digging, and I worry that this house may end up in my back yard. So that is kind of why I am here, and to make sure that whatever work he is going to continue to do wouldn't impact on my property. The drainage runs from there, and down to my property.

Mr. Klarl asked have you seen any change in drainage since he has been working on the property?

Ms. Weisberg stated we have had issues with drainage, because we are so low down.

Mr. Klarl asked have there been any changes in the last year or so?

Ms. Weisberg stated I don't know that it has changed. There have been issues in the past.

Mr. Anderson stated I would just like to say that the way the hillside is, it has always flowed down. It is curved, and it all flows down into the two neighbors' properties, and part of it is to try to take away that

water, and push it down to where there is like a swampy area, and go down to the street.

Mr. Mattis stated so this should actually help that situation.

Mr. Anderson stated this will definitely help a lot of that.

Ms. Weisberg stated that is great, and I am very happy to hear that.

Mr. Reber stated also when you apply for a Building Permit, and other permits this is reviewed by both Code Enforcement, and DOTS. So what I would suggest is that you contact Code Enforcement, and possibly meet with them, and just go over, and make sure your yard will not be negatively impacted. It is really your job to watch over that, and make sure whatever they are doing with drainage is appropriate for you.

Mr. Mattis asked are there any other comments?

Mr. Chin made a motion in Case No. 37-08 to close the public hearing seconded by Mr. Heady with all voting "aye."

Mr. Chin made a motion in Case No. 37-08 to grant a side yard Area Variance for a proposed porch addition from 30 feet down to 25.8 feet, and a side yard Area Variance for an open deck from 27 feet down to 24 feet. This is a Type II Sequa with no further compliance required seconded by Mr. Heady with all voting "aye."

Mr. Mattis stated I would like to say that all the work you are doing there you have to kept these variances to a real minimum.

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EXISTING CLOSED DECISIONS

CASE NO. 53-07 HILLTOP NURSERIES, LLC to re-open the existing case and requests an addition Area Variance for the delivery truck route to encroach into the required landscaping buffer on the property located at 2028 Albany Post Rd., Croton-on-Hudson.

Mr. Brian Panessa appeared before the Board.

Mr. Mattis stated we need to have a unanimous decision to re-open this case.

Mr. Seirmarco stated we have reviewed this, and we spent a lot of time discussing the variances that were required, and went back and forth for a number of meetings, and we decided on those variances that were required. There has been a request from the Architectural Review Board for us to move one of the variances closer to the property line to aesthetically make it better, and we discussed this the other evening, and it is this Board's opinion that moving that to increase the encroachment to the landscaping buffer doesn't really warrant this change, and I would not recommend at this time to reopen this case to allow us to move the variance.

Mr. Mattis asked do any other Board members have any comments?

Mr. Chin stated based on all of what was presented back when we heard the case they did give a lot of facts, and he followed through on a lot of items that we had asked for, and I think that we agreed with everything that was done, and I don't want to open a case that we already visited, and I don't think moving it is really

going to be in the best interest.

Mr. Mattis stated well it is already a 25 feet separation from the existing structure to the new one, no 10 feet, and they are proposing that we give them 100 percent variance right from the property line. There are five things that we have to look at, five criteria whether or not to grant a variance, and moving something for merely aesthetic purposes, and giving a 0 set back, or a 100 percent variance is not one of them. It doesn't meet any of the five things that we look at. So there is really no reason to do this, if it is merely a suggestion by the Architectural Review Board, and it is not binding on us, and quite honestly is sets a terrible precedent to give a set back to 0 just for some architectural considerations. That sits back there, and whether it is 10 feet, or 25 feet, it is really not going to make a difference aesthetically. Based on what the precedent is of giving a variance right to the property line, I don't think we should entertain this. Are there any other comments?

Mr. Panessa stated can I just make a comment? This is not for aesthetic purposes only. This is a significant commercial, highly visible, Cortlandt commercial property. It is again, highly visible, it is right on 9 south land. It is by far the suggestion of the Architectural Review Board the best use of this highly visible property, and I think what the Zoning Board needs to consider is there is going to be a significant structure put up on this property, aesthetically it would be much better to have that built to 30 or 40 feet, as suggested by the Architectural Review Board, away from an 1860 building that is going to frankly shine. It is coming along quite nicely, as it is moving along. This is the building that is going to be restored to its' natural look and feel from 1860. It is going to complimented with a significant, and aesthetically pleasing barn, and as I said earlier, this is something that we need to consider 50 years out from now, why did we put a large structure basically on another structure, when it seems to me, there is absolutely no purpose for a landscape buffer along the 9 south ramp. I appreciate disagreement, and I appreciate your listening to me right now. There is a 35 foot landscape buffer as it is, from the property line to the 9 south land. There is 30 plus feet there.

Mr. Chin stated but that is not your property.

Mr. Panessa stated it is not my property, it is the state's property. It is not a maintained property. It is likely never to be used. So therefore, it already has a buffer. I know you are not going to reopen it, but I figured I would throw my two cents out there. This is a long term decision that you are making here, and I don't think that it is only an aesthetic issue. I think it is much more broad than that. It is a commercial piece of property. It is going to produce significant tax revenue for the Town of Cortlandt, and I think it should be considered that we should as a Town, not necessarily for my purposes only, consider the best use of that piece for property, because it's a long term decision that we are making here.

Mr. Douglas stated I have a question. If this was so important, why was it never raised the many months that you came before this Board?

Mr. Panessa replied it was. I attempted to put the greenhouse on the R-40. First of all, if the greenhouse could of gone on the R-40, which was originally proposed, then the barn would have been put back on the commercial line...

Mr. Mattis stated I appreciate your comments, but we really did not even open this. I don't think this is going to do anything one way, or another to your business. It is not going to cost you a penny one way, or the other. It may look a little bit better. We have buildings that not too long ago for somebody who wanted to move it closer, and our purpose is to look at the code, and we have five things to look at, and this doesn't meet any of them, and the argument about the 35 foot buffer, well the DOT may come in tomorrow, or 20 years from now, and wipe away that buffer, and change the entrance, and then all of a sudden there is no buffer. That is why we have these rules. So I understand what you are saying, it could look a little better that way, but unfortunately we have to weigh the Zoning Code versus the opinions of the Architectural

Review Board, and if it were a slight variance I would be inclined reopen this, but when you put the building right on the property line there is no way that it can meet any of the five criteria.

Mr. Panessa stated well it is not going on the property line.

Mr. Mattis stated well where it is proposed to be going there would be buffer.

Mr. Flandreau stated it looks like it would be right on the set back line.

Mr. Mattis stated as I said before it doesn't meet any of the five criteria. We have to go by that.

Mr. Panessa stated I understand that, but is unique property that is on an entrance ramp, it is what it is. Thank you for your time.

Mr. Mattis stated okay Mr. Seirmarco.

Mr. Seirmarco made a motion in Case No. 53-07 that we do not re-open the case seconded by Mr. Douglas with all voting "aye."

Mr. Mattis stated so that case will not be reopened.

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CASE NO. 26-03 JOYCE FISHER to reopen the existing case and amend the granted Area Variance on the property located at 113 Montrose Point Rd., Montrose.

Mr. Reber recused himself from the case. He stated I am the individual who owns the property that would be impacted by any decision that this Board makes so to avoid any concerns I will recuse myself from this case.

Ms. Joyce Fisher appeared before the Board.

Mr. Seirmarco stated the applicant had applied for a variance that was granted to place an addition on the house. When Code Enforcement went out there to complete the inspection to issue a CO, and measured what was on the as built survey, and found out that in fact the building was built not 28 feet, but 26 feet.

Mr. Mattis stated I think an important note is that it was built to specs that we were shown. It wasn't like they built it bigger than what we approved.

Mr. Seirmarco stated that is correct. So we need to amend the variance.

Mr. Mattis asked do we have a motion to reopen this case?

Mr. Chin made a motion in Case No. 26-03 to reopen the case seconded by Mr. Heady with all voting "aye."

Mr. Mattis asked are there any other comments? I think that Mr. Seirmarco pretty well summed it all up. Is there anyone in the audience that would like to speak?

Mr. Seirmarco made a motion in Case No. 26-03 to close the public hearing seconded by Mr. Chin with all voting "aye."

Mr. Seirmarco made a motion in Case No. 26-03 to grant a front yard Area Variance from 50 feet down to

26 feet. This is Type II Sequa with no further compliance required seconded by Mr. Chin with all voting "aye."

NEW WIRELESS TELECOMMUNICATIONS FACILITY

CASE NO. 35-08 NEW YORK SMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS for a Special Permit for a wireless telecommunication facility on the property located at 1033 Oregon Rd., Cortlandt Manor.

Mr. Keith Potenski, Esq. appeared before the Board.

Mr. Klarl asked Mr. Potenski what does SMSA stand for?

Mr. Potenski replied I am not really sure. I am not sure it stands for anything. I am the attorney on behalf of Verizon Wireless. We are looking to install an unmanned, public utility, wireless telecommunications facility in order to provide wireless services to the town. The facility consists of a 120 foot stelp pole, with an equipment box at the base. The property is located at 1033 Oregon Rd., a cemetery property. The Special Use Permit is required as pursuant to the Town's code, and tonight we're looking to have the Board open the public hearing. We have received substantial comments from the Town Engineer that we received yesterday. So we are requesting the Board hold over the application so that we can respond to those comments.

Mr. Heady stated so you are looking to put a 120 foot pole that is similar to a flag pole, is that right?

Mr. Potenski stated that is correct.

Mr. Heady stated you put a lot of work into this case. I see where you have about 17 different photographs from different sections around the town. It is a unique situation, because this pole would be located in the middle of three cemeteries. So actually it is unique. I know the grounds very well, and I think it is very proper where you are looking to put this. You took pictures from all angles with the balloon up in the air where the pole is proposed to be, and it is 1400 feet. So really you can't even see it. This pictures were also taken when there were no leaves on the trees so that when there are leaves on the trees you really won't be able to see it. So I have no problem with this location. I don't think anyone there will have a problem with it, because they were dying to go there in the first place.

Mr. Chin stated I would like to say that we also got the memorandum from DOTS, and based on what I see on the memorandum, there are kind of minor requests. I have no problem with granting this subject that these items are taken of. I don't see why we would have to hold this over for minor requests. That is how I feel.

Mr. Douglas stated don't we usually wait for the questions to be answered by the applicant first.

Mr. Mattis stated I agree with Mr. Chin, because you are looking at minor requests such as the area of the subject property, the square feet submitted, the site data, lot number should be clarified, they need a NYER level, just things of that nature. None of them really concern us in what we are charged with, which is is that the proper site that should be granted.

Mr. Douglas stated it bothers me that we would voting, when the Engineer states that he needs further information. I don't think we should be voting until they get the information that they are looking for. So that we know it was satisfactory.

Mr. Mattis stated well we would do it subject to them completely meeting every one of these issues to the satisfaction of DOTS before they are allowed to do it. If we wait a month or two, the same thing is going to

happen.

Mr. Potenski stated there was one particular comment that we did want to respond to prior to the Board's vote, which is comment # 19 where the Town Engineer raises the question about the completeness of the

notice list. We do want to make sure that the notice list is complete. I can check that out, like I said we just got these comments yesterday so we hadn't had a chance to really thoroughly go through it. So we would like to do that before this Board gives a vote.

Mr. Mattis stated okay, that is fine with us. We can hold it over.

Mr. Potenski stated I do appreciate the Board's cooperation.

Mr. Mattis stated the only comment that I have is that none of these are anything that would make us disapprove this. These are all these things that you need to satisfy to DOTS, which you would have to do with or without our vote anyway, but it is fine for us to hold it over so that you can make sure all of the proper notices were issued.

Mr. Douglas stated I just want to say that I can't know whether I agree until I see what the Engineering Department has to say.

Mr. Mattis stated okay, fair enough.

Ms. Hunte asked do people who own a plot in that cemetery have to be notified?

Mr. Potenski stated no, I don't believe so. It is a 1500 radius from the property line out. I don't believe they have recorded deeds in the County Clerk's Office.

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

Mr. Reber stated I just want to make a comment on the issue of waiting to vote until the approval of DOTS. We continually approve conditional variances, and the such without having the fact finding issues from DOTS.

Mr. Heady made a motion in Case No. 35-08 to adjourn the case to October meeting seconded by Mr. Chin with all voting "aye."

Mr. Mattis asked is there any other business tonight?

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

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Christine B. Cothren