

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 17, 2009*. The meeting was called to order, and began with the Pledge of Allegiance.

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

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

Also Present

Wai Man Chin, Vice Chairman  
James Flandreau, Clerk of the Zoning Board  
John J. Klarl, Deputy Town attorney

**ADOPTION OF MEETING MINUTES: 05/20/09**

Mr. John Mattis stated the first item is the adoption of the minutes for May since we hadn't had a chance to receive them or review them could we have a motion to adjourn that to the next meeting? So moved, with all in favor saying "aye."

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**CLOSED AND RESERVED DECISIONS ADJOURNED TO NOVEMBER 2009**

Mr. John Mattis stated for information we have two closed and reserved decisions that are carried over through November because of the Moratorium.

- A. CASE No. 51-08                      John Nolan dba Cortlandt Organics** for an Interpretation if leaf composting and wood waste processing facility is a permitted use in the M-1 district on the property located at **33 Victoria Avenue, Montrose.**
  
- B. CASE No. 06-09 Department of Technical Services** for an Interpretation as to what constitutes demolition/distribution of concrete aggregate as it was used in Zoning Board of Appeals **Case No. 33-08** Decision and Order.

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### CLOSED AND RESERVED DECISIONS ADJOURNED TO AUGUST 2009

Mr. John Mattis stated we also have another closed and reserved decision which is adjourned to August.

- A. 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, non-conforming 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 Road, Cortlandt.**

### ADJOURNED PUBLIC HEARINGS TO JULY 2009

Mr. John Mattis stated we have another adjourned public hearing to this month.

- A. CASE No. 11-09**                      **King Marine** for an Interpretation that the previous non-conforming use obtained by Briar Electric can be changed to a non-conforming use for marine storage, sales and services on the property located at **285 8<sup>th</sup> Street, Verplanck.**

Mr. John Mattis stated we've requested that he go to the Town Board and ask them to change the Zoning Law which cuts in the middle of his property. Could we have a motion to adjourn that?

Mr. John Klarl stated I think at the last meeting it was adjourned to July 15<sup>th</sup>.

Mr. John Mattis stated I'm sorry, that's July, so we don't need a motion.

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### ADJOURNED PUBLIC HEARINGS

- A. CASE No. 08-09**                      **Jorge B. Hernandez, RA for M & S Iron Works** for an Interpretation if a structural steel & iron erector is a Special Trade Contractor on the property located at **439 Yorktown Road, Croton-on-Hudson.**

Mr. John Mattis stated that also is adjourned due to the Moratorium. I guess we're doing that from month to month. Could we have a motion to adjourn that to July? So moved, with all in favor saying "aye."

- B. CASE No. 09-09**                      **Anthony Cesarini, contract vendee,** for an Area Variance

for the lot width on the property located at **0 Barger Street, Cortlandt Manor.**

Mr. John Mattis stated he's not here yet...we'll call that later.

**C. CASE No. 14-09**                      **Linda O'Buck** for an Area Variance for the front yard setback for a proposed front porch on the property located at **95 14<sup>th</sup> Street, Verplanck.**

Ms. Linda O'Buck stated I didn't see the new plans for the addition of my front deck. They were sent to the office by my architect who I told to revise the plans that were sent. I sent them to an actual architect this time. The only question I had I told him that it was said by one of the Board Members that my new roof could only be 5' x 5' to keep it at that but when, so he did that, but when we actually measured it because there's a little overhang there, it was 6' x 4' already.

Mr. John Mattis stated that's the current one.

Ms. Linda O'Buck continued that's the current one. So I was wondering if I were to make a new one if I could do it 6' x 6' or maybe I should just leave it as it is then, if I can't have it any bigger than that, because 5' x 5' is only a foot. It's 6' x 4' now.

Mr. John Mattis responded quite honestly none of us have seen this until right now. We haven't had a chance to review it since it's been revised. Apparently you haven't even seen it?

Ms. Linda O'Buck responded I haven't seen it because we were trying to get it here in time for the Board to look at it. The last time I was here we talked about extending the deck, just squaring it off and that seemed to be okay with everybody. The roof was not approved and I am going along with that for sure, but I already have a little roof on there now. I gave a picture last time and that little roof is 6' x 4' and when I had heard one of the Board Members say he didn't think the roof should be any bigger than 5' x 5' when I asked the architect to make the plans without measuring, he put that in the plans no bigger than 5' x 5'.

Mr. John Mattis asked but you would like it to be 6' x 4'?

Ms. Linda O'Buck responded I would like it if I could at least have it 6' x 6' if I could. If I'm going to make a bigger one, because otherwise, I'm just going to leave it as it is.

Mr. James Seirmarco stated I wouldn't have a problem with it slightly bigger, one foot.

Ms. Linda O'Buck asked so 6' x 6' would be okay?

Mr. James Seirmarco responded to me it would be.

Ms. Linda O'Buck stated I'm not sure I'm going to do it that way anyway at this point I don't know what it's going to look like.

Mr. James Seirmarco stated we just don't want to make it much, much bigger.

Ms. Linda O'Buck stated but it won't be any bigger than that if that's okay.

Mr. Raymond Reber stated I didn't have a chance to look at the plans. My first reaction when I saw the elevation was kind of a little small just from a perspective point of view, so I would not have any trouble certainly going the width to 6 because that doesn't really impact. Coming out, the way he's got it designed again since it's not being supported by columns or anything, it's being braced from the wall, again I don't see any problem with a 6' x 6'.

Mrs. Adrian Hunte asked and as it is now is it actually coming over the doorway?

Ms. Linda O'Buck responded yes it comes over the doorway. But, now they're making the deck a little bit bigger so that someone can stand there when you open the door and not have to go down the stairs so I wanted to at least cover that person if they were standing there.

Mr. John Mattis stated yes that makes sense.

Mr. Raymond Reber stated it also helps on these very nice plans that are readable.

Ms. Linda O'Buck responded much better. I did get my money back from them, but not all of it. They kept \$300 but you live and you learn.

Mr. Raymond Reber stated that was an embarrassment to have to even submit plans like that is...

Ms. Linda O'Buck stated and as I said, I never saw them.

Mr. James Seirmarco stated these are accurate and well detailed.

Mr. Wai Man Chin stated we just got this tonight but quickly looking at it I don't see a problem with what he's done and what you're asking for the 6' x 6' right now. I would again not have a problem.

Mr. James Seirmarco stated if you look at the side view it really shows that overhang is in proportion to the rest of the design. I don't have a problem with that. I would like more time to look over everything else.

Mr. John Mattis stated I have a little concern with approving this tonight because you haven't really seen it. We haven't really seen it. I don't think we have a problem with it but I'd prefer to wait another month so that we really have a chance to review it. Because, generally we get the cases in advance, we read them over the weekend, we work over them at the work sessions. You know, this is the first we've seen this.

Mr. James Seirmarco stated technically it's supposed to be 10 days.

Ms. Linda O'Buck asked do I have to come back again?

Mr. John Mattis responded yes but it can be very short.

Ms. Linda O'Buck stated I'm just worried I'll be on vacation at that time next month. I was kind of hoping to get this done this summer.

Mr. Raymond Reber stated I personally have no problem approving it if you're comfortable with it with the modification on the roof.

Ms. Linda O'Buck stated Var Hanson did all my other renovations, he did all my other plans for my house so it was not a problem, it's just that this company offered to do it all so that's why I went with them, otherwise I would have been using him all along.

Mr. David Douglas stated my concern is I literally saw this for the first time 10 minutes ago and I haven't had a chance to look at it and digest it. It's probably okay.

Ms. Linda O'Buck stated you can send me something in the mail.

Mr. David Douglas stated we don't generally vote on something when we've just seen it right then. I personally prefer that we wait a month.

Mr. James Seirmarco asked can I ask you to send somebody to represent you if you're not going to be here. Send somebody, just give a letter saying: "Mr. Hanson is hereby representing you."

Mr. Wai Man Chin stated if anything just give a note so-and-so is representing me.

Mr. James Seirmarco stated anybody just to represent you. I just feel uncomfortable I just received it 10 minutes ago also.

Mr. Wai Man Chin stated it looks good but we'd like to talk about it at our work session. We should have gotten it before this past Monday so we could have had the work session to review it, but based on quickly looking at it myself I would not have a problem with this but I think we should, like everybody says we should wait an extra month. If you have somebody who could cover for you, just give a letter saying that person's representing you for that night and that's it.

Mr. John Mattis stated I don't think we'll have any problem with it but we really have to do our due diligence.

Mr. Wai Man Chin stated just want to make sure of everything.

Mr. John Mattis asked any other comments? Anyone in the audience?

Ms. Linda O'Buck asked how long do I have to leave the sign in my yard? Do I have to leave the sign for another month?

Mr. John Mattis responded yes, I believe you do. That has to be up for the duration.

Ms. Linda O'Buck stated so I just leave it until next month.

Mr. James Seirmarco stated Mr. Chairman I make a motion to hold this plan for further review until the July meeting just to let the applicant know conceptually in the brief time that we had to review it that it looks okay, we want to go over it in much more detail and we'll have a decision at the July meeting, seconded with all in favor saying "aye."

Mr. John Mattis stated that July meeting is the 15<sup>th</sup>, that's the third Wednesday in July.

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## **NEW PUBLIC HEARINGS**

### **A. CASE No. 16-09                      St. Columbanus for an Area Variance for a second freestanding sign on the property located at **120 Oregon Road, Cortlandt Manor.****

Mr. Steve Chester presented himself to the Board and stated from Signs Ink and I'm accompanied by Father Keenan. We are here to attempt to get a second freestanding sign allowed for his property. The property is over 15 acres not counting the ball fields and it's an oversized lot. It's got a lot of frontage as I'm sure you're well aware. The school is not mentioned at all on the other side which is strictly for the church. We'd like to get some awareness in the community of what's there and what's available. Father Keenan has been tirelessly working here for 22 years and he's been doing a great job in the community. It's his first time here granting purpose whatsoever and it's his first time he's asking you people for your help. It's a 3' x 4' carved sign, beautiful. It would only add to the community and make things look nice in that area. We're hoping that you guys would go along with what we're presenting.

Mrs. Adrian Hunte asked does the sign exists already? Is that correct?

Mr. Steve Chester responded no, we didn't put it up.

Mr. Raymond Reber asked it's been manufactured?

Mr. Steve Chester responded that's neither here nor there.

Mr. John Mattis stated it really is because I'm going to make a comment here because you have a

history of coming in here with signs that are already made and then asking for permission as for variances and it puts us in a very bad position. This isn't the first time you've done that. Mr. Reber sat down with you one time and went over the Code with you and these things should be approved before you come in. It puts us in a bad position. We have to tell people no after a sign's made. In the future, if there's going to be a variance please don't put those people through that because it's an extra expense to them if we turn it down.

Mr. Steve Chester stated I understand what you're saying but I really don't recall the other instance.

Mr. John Mattis stated there have been several.

Mrs. Adrian Hunte stated well we're here now on this particular matter so these signs, there's another issue, because there's a request that these signs match. Is there a way to have both signs match? They're different.

Mr. Steve Chester responded they're different in size and in color. They're also different in what they're representing. There is a sign existing on the wall there that's blue and they prefer it blue.

Father Keenan stated the school color is the blue and white. The whole idea is if they have the same color as you're driving by – the idea is to make them stand out so people going by are going to...

Mr. John Mattis stated this brings us back to the reason why the signs shouldn't be made in advance because we have a letter here from Chris Kehoe who is the head of the Planning Department and the Architecture Review Committee recommended that the signs should match in color. That puts us in another bind because you've already made the sign. You should review the Code and get the approval before you make any of these signs. Again, it puts us in a bad position.

Mr. Raymond Reber stated my own perspective on this is I don't really care if the sign's been made, it's irrelevant as far as I'm concerned when it comes to making a Zoning decision. I have more fundamental problems; we're being asked to give a variance and when we're being asked to give a variance there's a number of criteria that we're supposed to consider and I have a little problem getting past those criteria because I have checked at some other locations where there are a combination of church and parochial schools and the ones I've checked it's combined into one sign, it says "St. Francis.." or whatever it might be "church and school" on one. So, I have a problem with saying why don't we just replace the existing sign with the one sign because you're allowed one sign and take care of it that way. In addition, the school's been there for a long, long time. We all know it's there and all of sudden now we have to give a variance for a sign because what people can't find the school. Personally, I can't justify a variance. If I agree that you can have two signs on this location I'm basically saying anybody up and down any of these roads should be able to put up two signs because there's no overriding issue that says you absolutely have to have it because traffic problems, or whatever, because the school's been there

for years, and years, and years. If this was a real issue it would have been brought up years ago. My vote would be no, I'm sorry. Not that I have anything against the sign per se, or whatever, but looking at the criteria I just can't justify it.

Father Keenan responded well if I could just address it a little bit. I'm not sure everybody knows that it's there. A lot of our youngsters are coming out of town. It's not all just parishioners who would know it's there of course in and out. We have a number of youngsters coming from Montrose, from Croton, even from Cold Spring and with all of the new people moving into the area that they would not be that aware of it. Plus the fact, this is going back in '95, we put an extension on the back of the school to put in a preschool and the teacher there, one reason this came up in conversation, is that the lady didn't even know we have a preschool. Well this sign will highlight the fact that we are pre-K through 8<sup>th</sup> grade. So, that was some of the reasons behind the signs. We've had that experience where people have come in and said "oh, I didn't know you had a preschool."

Mrs. Adrian Hunte asked is there anywhere else that that sign could be placed on that property if you had the second sign?

Father Keenan responded I don't know where you would have it that it would be that visible. You'd want it visible, people on Oregon Road going back and forth.

Mrs. Adrian Hunte stated notwithstanding that there's some self-created difficulty because the sign may have been manufactured already, I don't see that there's any undesirable change to be produced in the neighborhood or a detriment to the nearby properties, also I think that you don't have any reasonable alternative from what you've said and there is a need for the public to see that there is an additional program at the school and the school from the church.

Father Keenan continued and again, if I could just add to that, as you know there's a lot of competition out there and you're aware that the Catholic schools the situation they're in, thank God here we're holding our own, but we're in this last year been doing a lot of promotion. In fact, I have flyers here and brochures and rest of them have gone to parishes in Croton, Verplanck, Montrose, Holy Spirit in Cold Spring asking them to promote the school so this is part of that whole promotional type thing to make people aware that we are here, that we are viable and the rest of it. It's all tied in.

Mr. Raymond Reber stated your very argument most times signs are not for people to be aware that something is present. Most signs are there so that when people are going to find someplace, they know where to find it. You don't drive down the road and say "oh look we've got this here." It's not really the way you get most of your business. If you did, you'd be in deep trouble. The sign is there so that when people, by whatever means, because at church they've heard about it or they've looked it up in a directory or whatever and they say "oh, let's go find St. Columbanus School," they'll go down the road and look for signs so they know where they're going. That's a sign of identification, not advertising. An identification could be done on one sign combined.

Mrs. Adrian Hunte stated I don't believe that this variance would have an adverse impact on the physical and environmental conditions of the neighborhood. Also, there is a church not too far away on Locust Avenue that has two signs and there is no school.

Mr. John Mattis stated I'd like to make a comment. When you're going north on Oregon Road, and Oregon Road outside of the state roads and the county roads, is one of the busiest in the Town. The sign that you see now is beyond the driveway, so this you would see as you're approaching and I think from a safety standpoint that's a good idea.

Mr. Wai Man Chin stated I would have to agree with that. Again, we're talking about signage, I'm sure you didn't know that you had to come through the Board for additional variance for signage and everything else but that's something that happens again like that I would probably turn it down but in this case I wouldn't. I see that it would help the church and the school and everything else, especially at that intersection right there. I would approve this myself.

Mr. John Mattis asked any other comments?

Mr. James Seirmarco responded I agree with Mr. Chin and Mr. Mattis, I think that it's a better placement of the sign and I think it does – young couples that are just about to have school-aged children I think it does add to the advertisement issue and I do support it.

Mr. John Mattis asked any other comments? Comments in the audience?

Mrs. Adrian Hunte stated I make a motion to close the public hearing, seconded with all in favor saying "aye." On Zoning Board of Appeals **case no. 16-09** for St. Columbanus, 120 Oregon Road, Cortlandt Manor I move that the area variance for the second freestanding sign be granted and this is a SEQRA type II action, no further compliance required, seconded with all in favor saying "aye," "opposed."

Mr. John Mattis asked could you poll the Board please?

Mr. James Flandreau polled the Board; Ray Reber; opposed, Mrs. Adrian Hunte; yes, Mr. David Douglas; yes, Mr. James Seirmarco; yes, Mr. John Mattis; yes, Mr. Wai Man Chin; yes, Mr. Charles Heady; yes.

Mr. John Mattis responded motion carried 6 to 1.

Mr. James Flandreau stated you'll receive the D&O sometime next week and then we'll finish processing the building permit. So, don't put it up until that time.

**B. CASE No. 17-09                      Mr. and Mrs. Morlitz** for an Area Variance for the lot coverage and floor area on the property located at **48 Diamond Avenue, Cortlandt**

**Manor.**

Mr. John Mattis stated we have a letter from Susan Morlitz: "Please be advised that Mr. and Mrs. Gerald Morlitz do hereby withdraw their application for a lot coverage and an area variance for the property located at 48 Diamond Avenue, Cortlandt Manor." So, that is withdrawn.

Mr. John Klarl stated just for the record they appeared at our work session on Monday, it was based upon substantial comment by the Board that led to the withdrawal.

**C. 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. John Mattis asked anyone here for that case? (no response). We'll call that again.

**D. CASE No. 19-09 John A. Sarcone III** for an Area Variance for the side yard setback to legalize the enclosed porch on the property located at **65 Furnace Dock Road, Croton-on-Hudson.**

Mr. John A. Sarcone III stated this is an application for a three foot variance for a porch that was constructed by my late great uncle Michael Sarcone. The porch was there originally when he bought it, he then enclosed it sometime in the late '70s and never got a permit. My aunt is 84 years old. She'd decided to sell and move to Texas with her daughter. The only problem is we need a CO, then when we went to the Building Department they said "well, you need a variance." I filled out the application. I believe that all the criteria has been met. Incidentally, the porch faces 9A. The only thing separating the porch and 9A is the roadside basically. I don't believe that the three foot variance is going to create any detriment to the community. It certainly would be a tremendous expense to my aunt if she had to tear it down and there is a contract for sale for the place. It's a cash buyer and once we have the approval then we can get our CO from the Building Department and the sale could go through and my aunt could go out to Red Lobster again.

Mr. James Seirmarco stated I understand Mr. Sarcone's position and I have no problem with this at all. It's something that was done in the '70s and it doesn't really impact, as Mr. Sarcone has said, the front of the house so I don't have a problem with this.

Mr. David Douglas stated for me the clenching aspect is that it fronts on Route 9. It has not had any impact on anybody from the last 30 years and will not have any impact on anybody.

Mrs. Adrian Hunte asked I agree but do we have a procedural issue concerning posting a sign?

Mr. James Flandreau responded yes, the sign wasn't posted when it should have been and he missed by two days of when they came in to pay for the fee and picked up the sign to be posted at the property.

Mr. John A. Sarcone III stated I have to say that I was called and I appreciate the courtesy call from the Building Department. I volunteered to come get the sign and of course, I got distracted and I didn't do it but we did put the sign up right away, as soon as we got it, it was on Friday. It was published in the paper. The neighbors know about it because we're friends with the neighbors. There's one neighbor right next door and there's one across the street. In fact, they helped move my aunt out, some of them. I don't believe, if the Board could consider waiving that, I would appreciate it otherwise, it will be a whole other month.

Mr. John Mattis asked do you have a closing scheduled?

Mr. John A. Sarcone III responded well, we held off on that because out of respect for the Board.

Mr. David Douglas stated we've consistently required people to comply with the sign posting requirements and I think that's not something that we should waiver from.

Mr. John A. Sarcone III responded I understand and I respect that. In this case, I just think that if this Board would consider an exception.

Mr. John Mattis stated I'd have to ask our attorney. I'm not sure if procedurally we can waive it.

Mr. John Klarl stated you have to look at the language. We haven't done it before. Obviously, I would have to take a look at the language of the Code.

Mr. David Douglas stated I think that would set a bad precedence. I understand what you're saying, but I think that would set a bad precedence because everybody comes in here and they want a variance as soon as possible. They all want it a week before yesterday and this situation is not going to be any different than 12 people that are going to come in here the next year.

Mr. James Seirmarco stated and you're not the first one who has not put up the sign and we consistently always postpone it one month for that reason.

Mr. James Flandreau stated one of the cases before us tonight **14-08**, the first case that was heard was held off a month because she did not have the sign posted last month.

Mr. John A. Sarcone III stated I have to say this, I had asked whether or not, I was the attorney to several Zoning Boards of Appeals and Town Attorney in two different Towns and I would say every Zoning Board usually requires the applicant to send out those certified mail, return/request and it's nice that the Town of Cortlandt doesn't do that because that's a burden. But then of course, not having that pressure on me to do that.

Mr. John Klarl asked do you think you're going to have a closing before July 15<sup>th</sup>? The Board looks like it's on the verge of granting it and if your closing wasn't going to take place until July 16<sup>th</sup>.

Mr. John A. Sarcone III asked so you're saying it's granted subject to... and then.

Mr. John Klarl stated no we'd have to open the public hearing on July 15<sup>th</sup> and grant it you're hearing substantial comment in your favor but I didn't know to what extent we're ready to close or not ready to close.

Mr. John A. Sarcone III responded we can't close without the CO.

Mr. David Douglas asked you'll be able to close on the 16<sup>th</sup> of July though?

Mr. John A. Sarcone III responded we could set the closing for that date and I understand I respect the decision whatever it's made.

Mr. David Douglas stated the Board has never wavered on the sign. If have your closing on the 16<sup>th</sup> it looks like things would...

Mr. John A. Sarcone III stated if you had done it in the past.

Mr. James Seirmarco stated you would be the first.

Mr. Wai Man Chin stated I don't think we can do that. We've asked other people where they didn't put the signs up and we had to give them another month.

Mr. John Klarl stated we obviously saw you made the college effort because it was just two days shy of the whole thing.

Mr. Raymond Reber asked I have no problem. I did visit the site, you're right it borders on US-9, there's no other neighbors that would be affected. That's all fine. But, we have another criteria usually, when we are asked to give a variance on something that was built without a building permit, we usually say any approval is conditional on an engineer or somebody certifying that it met all of the construction codes. Now, has that been done?

Mr. James Flandreau responded yes it has. The architects submitted with the building permit of the certification that it's structurally sound.

Mr. Raymond Reber asked you've got that in hand? The holding up is the sign problem. I just wanted to clarify that the sign was the critical issue.

Mr. Wai Man Chin stated he has the submitted plans and everything else.

Mr. James Seirmarco stated this is during the building permit review process. I make a motion that we adjourn until the July meeting and at that point we would probably give a positive approval to this **case no. 18-09**, seconded with all in favor saying "aye."

Mr. John A. Sarcone III asked Mr. Chairman do I need to reappear on that date, the 15<sup>th</sup>?

Mr. John Mattis responded procedurally we generally require it, but do you have somebody to come in?

Mr. John A. Sarcone III responded no, I can't have my aunt come back from Texas.

Mr. John Mattis stated if you could get a neighbor or anybody.

Mr. John A. Sarcone III no, I just didn't know.

Mr. John Mattis stated procedurally we don't like to do anything without you being there or some representative. We may have a question.

Mr. Raymond Reber stated just in case a neighbor comes and stops in.

Mr. John Mattis stated you could have a neighbor show up that says "I oppose this."

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Mr. John Mattis stated we have two cases that we are going to recall here: **case 09-09** Anthony Cesarini. Apparently they're not here. They were sent a letter that said "the Board will move forward with the information provided at the April meeting, if they did not appear." So, we're going to open the public hearing, re-open it, and proceed with this case.

Mr. Charles Heady stated refer the letter to the applicant that they should appear at the July meeting, so the information we have now will go on with the case with the information we have now.

Mr. John Mattis stated this was a case that was asking for a variance for a lot width and subsequent to our April meeting we were given information that this was a lot of record from 1908 but in further investigation, we found that lots were changed although it physically had the same dimensions it became a different lot number and therefore it was a different lot. I'd have to look at the minutes here. That notes which lot it is.

Mr. John Klarl stated you're looking at lot 6.2.

Mr. John Mattis stated lot 6.2 which was formerly lot 16. When it changed from lot 16 to lot 6.2, it no longer was grandfathered as a lot of record back in 1908 so therefore it lost its standing and we condemned vote on whether or not we would give the variance for the width.

Mr. Raymond Reber stated for the record to note that at the time these lots were reconfigured the Zoning was such at that time that this was not a building lot and they should have incorporated it

somehow in the adjacent lots when they restructured the properties. I think it would be inappropriate for us to grant this when even at that time they had an alternative to make this in compliance with the Zoning at the time.

Mr. John Mattis stated and I would like to state again, for the record; lot 16 was a lot of record in 1908 and therefore they did not require a variance for that, however that became lot 6.2 which now is a new lot. At that time it did not meet the width requirement and that's why it's here for a variance.

Mr. Raymond Reber stated it didn't meet the area requirement back then either.

Mr. John Mattis stated that's correct.

Mr. James Flandreau stated as a lot of record in '84 the Town Board put a R-10 made it 7,500 for lots of record it would have complied to that part of it, but it doesn't comply to the width, and it doesn't comply to the lot size now.

Mr. Raymond Reber stated at the time they created that lot though, the Zoning was larger than what they...

Mr. John Mattis asked any other comments? Anyone in the audience?

Mr. Charles Heady stated I make a motion for **case no. 09-09** to adjourn the public hearing to the July meeting...oh close the public hearing. We're going to close it?

Mr. John Mattis responded yes, we're going to close the vote on this. We're not going to adjourn it.

Mr. John Klarl stated the letter indicated...

Mr. John Mattis stated the letter indicated that they were to appear here and that we would move forward with the information provided if they did not appear. They didn't show up last month. We could deem this abandoned if we want. But, I want to make a decision on it. We told them we were going to carry on with the case if they weren't here.

Mr. John Klarl stated I was going talk about making a motion based on merits also coupled with the fact that the applicant did not show up as requested by the Board.

Mr. John Mattis stated for two months now.

Mr. Charles Heady stated I make a motion with **case 09-09** to close the public hearing.

Mr. John Klarl stated they did show up – he sent a letter in May.

Motion seconded with all in favor saying “aye.”

Mr. John Mattis stated now for the variance.

Mr. Charles Heady stated I make a motion on **case 09-09** to deny a variance for a lot width where we require a 60 feet as per section 88-12 by the Town Code at the time the lot was created down to 50 feet at the above-referenced property, SEQRA type II, no further compliance required.

Mr. John Klarl stated with a denial we don't have to use SEQRA.

Mr. John Mattis stated with a denial a “yes” is a vote to deny, just to make that clear.

Mr. John Klarl stated the motion is to deny and SEQRA is not involved because it's a denial.

Motion seconded with all in favor saying “aye.”

Mr. John Mattis stated so that's denied unanimously. 7-0 vote.

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Mr. John Mattis stated and **case no. 18-09** Post Road Holding Corporation. We have no one here. Second call.

Mr. Wai Man Chin stated we should send them a letter.

Mr. John Mattis stated I was going to suggest that. We adjourn, send them a letter and if they don't appear next month we'll deem the case abandoned.

Mr. Raymond Reber stated I make a motion on **case 18-09** to adjourn to the July meeting, and to send a letter and it would be abandoned if they do not appear, seconded with all in favor saying “aye.”

Mr. John Mattis stated that's adjourned to July. Any other business anyone? Do we have motion to adjourn, seconded with all in favor saying “aye.” Meeting is adjourned.

**NEXT MEETING DATE:  
July 15, 2009**