

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, April 13th, 2011*. 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 (absent)
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 Feb. 16 – March 16, 2011

Mr. John Mattis stated I make a motion we approve the minutes for February and March.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the minutes for February and March are adopted.

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PUBLIC HEARINGS ADJOURNED TO APRIL, 2011 FOR TOWN BOARD ACTION

- 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 8th Street, Verplanck.**

Mr. David Douglas stated is awaiting Town Board action. It's my understanding that there's not been any Town Board action and we talked about further adjourning this to, I think it was September we talked about.

Mr. Wai Man Chin stated June.

Mr. James Seirmarco stated no September. Second was June.

Mr. David Douglas stated we could do it until June but we thought we'd be overly optimistic if we did it in June.

Mr. Wai Man Chin stated I thought we changed it back to June.

Mr. David Douglas stated whatever people want.

Mr. John Klarl stated September was the work session discussion.

Mr. David Douglas stated do we have a motion to adjourn it until September?

So moved. Seconded with all in favor saying "aye."

Mr. David Douglas stated **case 11-09**, King Marine is adjourned to September, hopefully we'll have some news by that point.

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PUBLIC HEARING ADJOURNED TO APRIL, 2011

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 I believe that the applicant had asked for an adjournment to, at least May, in order to get its approval from the Health Department. I believe we had talked about giving them until June.

Mr. John Klarl responded yes.

Mr. David Douglas asked do I have a motion to adjourn **case #18-09**?

Mr. John Mattis stated I'll make that motion.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case 18-09** is adjourned until June.

B. CASE No. 01-11 Bojan Petek for an Area Variance to construct a new garage on property located at **28 Hollis Lane, Croton-on-Hudson.**

Mr. David Douglas stated the applicant had requested that this be adjourned to June as well. Do we have a motion to do that?

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case 11-01** is adjourned to June.

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CLOSE AND RESERVED DECISION ADJOURNED TO APRIL, 2011 FOR TOWN BOARD ACTION

- A. CASE No. 01-10** **Zuhair Quvaides** for an Interpretation of the definition of outdoor storage and vending machines on the property located at **2072 E. Main Street, Cortlandt Manor.**

Mr. David Douglas stated we're awaiting Town Board action on this one as well and we talked about adjourning this one to June as well. Do I have a motion to do that?

So moved. Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #01-10** is adjourned until June.

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ADJOURNED PUBLIC HEARINGS

- A. CASE No. 14-10** **Michael Parthemore** for an Area Variance for a 3rd freestanding sign for **CRISTINA's** restaurant at **15 Baltic Place, Croton-on-Hudson.**

Mr. James Seirmarco stated Mr. Chairman, we had a lengthy discussion at the work session on Monday. Just a little history behind this, the building has been there for quite a long time. It's an unusual building, if it was a standard square building with a front entrance on one side and a lobby and it was a new building, this would be easy decision. We would just adhere directly to what's in the sign Ordinance and that would be typical of what we would do but this is a unique situation. The second thing is, this building had some prior approval from the Planning Board and Building Permit issued for a specific sign scheme that was on the building, signs in excess of 200 square feet of freestanding and wall signs and companion way signs and quite a few signs that are on the building. We asked the applicant to come in and try to work with us to streamline all the signs that are on there, because of the one additional sign that they were requesting for Cristina's Restaurant. In the meantime, we have been going back and forth discussing what should be done and we discussed on Monday some of the strategies: 1) I would recommend that

we would approve the freestanding sign as designed in the drawings that were attached. This will include a number of two or three free spaces for future signs for future businesses they would have in the building. Secondly, I would suggest that we approve some of the signs that are on the walls and I think there's a list of things of the location of the three signs on Albany Post Road or Baltic frontage will need a Variance but we probably should approve that Variance of 18 square feet. The signs for Novak law firm we, I think unanimously, agreed that one sign should be for the law firm over the door and one sign on whichever side of the building he deems appropriate and the other two removed or changed. The building has a unique situation, the applicant's tenants are allowed to subdivide, some of the areas in their particular space and if they subdivide to a particular 'x', 'y', 'z' corporation that corporation should come in and have its own sign installed on the wall. We didn't see the need for three Novak signs. One would be fine; one over the door would be fine and if there are two there that are representing other businesses that are occupying the Novak space, name them for that particular business and come in and get approval for that. Thirdly, any future signs – before I go on that, there a number of hanging signs that don't meet the height requirement. The height requirement is 8 foot. They are existing for many, many years now they're 6 foot 8. I think it was the opinion of the Board at the time when we discussed it, that those could remain with a Variance and I would recommend that we grant that Variance. There are a number of freestanding signs and this building has – it fronts on Albany, it fronts on Baltic Place. It's hard to tell which is the front of the building. Let's say that the majority of the parking lot is – well you could either say the side yard or the rear yard depending upon how you look at it, most people have to go around at least two sides of the building to get to the parking lot. I assume that some of the applicant's tenants want signs on every side so as you drive around the building they could be aware that it's in there but it gets to be a little too much.

Mr. John Klarl stated it's almost true that some people almost hit four sides of the building. They go to the front, side, driveways. A lot of the times, people who've parked there, they've hit four sides of the building.

Mr. James Seirmarco stated they're coming from the south and they make the right and a right they would completely circumvent the building. It's a very unique building. It doesn't allow us to set a precedent for other buildings. The other thing is, the middle of this building is open, so their entrance is on the inside of the walls, the outside of the walls, in the middle of the building, second upstairs, downstairs. It's been in existence for a number of years like this. The Planning Board did approve a couple of years ago, a sign scheme. If we were in concert at that particular time we probably would not have recommended that that entire thing be approved but that's water over the dam or under the bridge, whichever way you want to call it. I think the Amberlands sign could certainly be the most – there are two in the back on the top of the building and one or two on the walls. I would think that I would recommend that we keep the two on the top with a Variance, the ones on the side would probably be removed, the one at the door, there's a hanging one in front of the door I believe.

Mr. Rich Bartzic responded there's no hanging one.

Mr. James Seirmarco stated but the one in front of the door would be okay but the rest of them we should take those down. All future tenants just point them our direction. We get plenty of sign requests every month. We probably have two this month and I don't remember the last five years a month without a sign request so it's not a problem.

Mr. John Klarl stated Jim that was a very good summary of what we discussed Monday night and you did underscore at the end that we talked about it that there's new tenants that propose signs down the road they should come back to the Zoning Board of Appeals as your last remark. But, we underscore it on Monday night.

Mr. David Douglas asked anybody else have any comments?

Mr. Wai Man Chin responded we did say that we would want to close and reserve.

Mr. James Seirmarco stated if there's no further comments I would make a motion...

Mr. Rich Bartzic stated basically yesterday, today, after the work session I looked everything over. I tried to simplify everything as much as I could and bring it within bounds and make it understandable for everybody. Basically, I don't believe we're looking for any more. We're not looking for a Variance anymore for additional square footage of wall signs. We're looking for a Variance of four of the signs. I did remove one of the Novak signs in the rear parking lot. He did request that the one on the bank side would stay. That would need a Variance. The other two tenants there did request a sign at this time so I did put their names there on the side. If you look at the picture scheme that Ken did you will see that there's quite a few signs that have been taken off of it.

Mr. Raymond Reber stated I think the summary, as the applicant has indicated, he's reduced the wall signs and got within the allowable **120** and that was a key factor for us so that there is no Variance. And, I think the other signs that Mr. Seirmarco referenced; the freestanding signs and the hanging signs do make sense. I think we're in pretty good agreement as to what makes sense for this property.

Mr. John Mattis stated I agree.

Mr. James Seirmarco stated if there are no further comments I would make a motion to...

Mr. Ken Hoch stated Jim, can I just interrupt for a second because I had a long conversation with Rich this afternoon and I just want to be sure the Board's got a full understanding. The latest freestanding sign is larger than the one we looked at on Monday. This one is **92** square feet as opposed to **80**. He wants to make it slightly higher to fit in more panels. On that sign, as I wrote in the review memo he would need a Variance for the size of three of the signs which are greater than the eight square feet allowed. I believe, as per our conversation, what Rich is referring to is the side driveway, he would need a Variance for the existing Novak sign and he has two proposed signs that want to go here. Now, they fall within the allowed square footage...

Mr. James Seirmarco asked all three of them would be Novak signs?

Mr. Ken Hoch responded no. They fall within the square footage, they need a Variance for the location. He will have, and I haven't computed it because we're removing one sign and adding another, I believe he will still have remaining square footage under the **120** so if he wanted to add a sign on either Baltic Place or Albany Post Road, he wouldn't have to come back to this Board, however, if he wanted to use that square footage for another sign in the driveway he would.

Mr. Raymond Reber stated again, a technicality on the freestanding sign for the dimensions, those posters included, they're supposed to be and they're not.

Mr. Ken Hoch stated the issue there is a necessary support for a sign this big.

Mr. Raymond Reber stated but still, even if it's a necessary support we still include them. We always had if they're on the side of the sign right?

Mr. Ken Hoch responded but there are cases where it wasn't, it was the necessary support, it wasn't decorative.

Mr. John Mattis stated if they were put inside we would...

Mr. Raymond Reber stated they're not inside, they're outside the sign, they're visually outside the sign, they're not buried in the sign, so we've...

Mr. John Mattis stated always included them.

Mr. Raymond Reber stated we've taken the outside physical dimensions of the signs. The width has to be expanded by the post here.

Mr. David Douglas asked does that bring it outside the **120**?

Mr. Charles Heady stated in other words you're not including the **6' x 6'**.

Mr. John Mattis asked does it go over **100%**?

Mr. Raymond Reber responded I don't know, that's the only thing. Does that create a problem in terms of what is allowed?

Mr. Ken Hoch responded I don't have the math done.

Mr. James Seirmarco stated well it's **11' x 1'** so it's probably **11** square feet more.

Mr. Ken Hoch stated he can theoretically get a Variance up to **96**.

Mr. John Mattis stated it does create a problem.

Mr. Ken Hoch stated no, **96** square feet.

Mr. Raymond Reber stated with the **96** including the full Variance that we can give.

Mr. Ken Hoch responded yes. So, he might have to do some little adjustment.

Mr. Raymond Reber stated if he can go with four inch posts and then take the other two inches off the sides of the sign then he fits the **96** dimensions.

Mr. Ken Hoch stated if it'll be structurally sound.

Mr. Rich Bartzic stated I could check if the posts could go inside the sign.

Mr. John Mattis stated if they go inside then these dimensions are fine.

Mr. John Klarl asked is that a possibility?

Mr. Rich Bartzic responded I will have to check into it.

Mr. John Klarl stated you can probably talk to the sign guy.

Mr. Steve Chester stated we could do it that way and incorporate the posts within it but then it wouldn't illuminate all the way to the edges so it might look a little strange.

Mr. Wai Man Chin asked and you're from Signs Ink.

Mr. Steve Chester stated I don't understand why you're counting the posts on this when it's a necessary support and not decorative.

Mr. Raymond Reber stated because we had some people come in and **6** inch, **12** inch, it's amazing the dimensions so rather than argue the policy that I've understood for the years that I've been here is we don't want to argue so just include it. We have a **100%** Variance that we're allowed to give and that should be enough to include the supports and that way we don't have to argue with the applicant over what's structurally sound. I don't even know whether the 6 inch is structurally sound. As an engineer maybe I can come up with a four inch post and it would work, I don't know but...

Mr. Steve Chester stated it's a pretty big sign. I would feel a lot safer with **6' x 6'**.

Mr. Raymond Reber stated I'm not arguing with you. I agree that the six inches is a safe way to

go, I'm just saying we have a problem in that we include the outside dimensions and we're only allowed to go up to a certain limit and with that post we go slightly over so the question is...

Mr. Steve Chester stated well, why don't you just allow him 96 square feet and we'll reduce the size of the sign.

Mr. Raymond Reber stated that's fine. If he just wants to take a few inches of that's fine.

Mr. John Mattis stated and you can coordinate that with Ken.

Mr. James Seirmarco stated that's exactly correct, I was going to suggest that they coordinate with Ken, up to **96** Square feet.

Mr. John Klarl stated it would be more structurally sound.

Mr. James Seirmarco stated so give time to get the final details in place, I make a motion that we...

Mr. Raymond Reber stated we can close and reserve on what we're going to approve. They know what we're going to consider. We're going to consider the max.

Mr. James Seirmarco stated that's what I was going to say, close and reserve. We can approve it next meeting after we see the actual details of everything. Make a motion we close the public hearing on **case #14-10**.

Seconded with all in favor saying "aye."

Mr. James Seirmarco stated I make a motion that we close and reserve **case #14-10**.

Seconded.

Mr. David Douglas asked so you make your motion we close the matter and reserve the decision on it?

Mr. James Seirmarco responded right.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #14-10** is closed and the decision is reserved and that means that hopefully we'll have a decision by next meeting but technically we've got 62 days.

B. CASE No. 06-11 **James Connors** for an Area Variance to allow an 8' x 12' shed in the front yard on property at **28 Richmond Place, Cortlandt Manor.**

Mr. David Douglas stated Mr. Connors we had a site visit over the weekend, as you know. I guess I should turn over to Mr. Seirmarco because it's his case. We had a site visit over the weekend and we looked around the property. I think, as we discussed with you, the consensus of those of us there was that the only spot that really works is to move the shed behind the privacy fence in the front of the yard there but back far enough so it would be behind the front of the house that way it won't be in the real front yard. It'll still be technically in the front yard because your side, as you know, is also defined as a front yard but by moving it behind the fence it won't be in front of the house and we discussed that at length and I think that was the view of Mr. Reber, Mr. Heady and I who were there that day. Anybody else have any comments? Should we close and reserve this?

Mr. James Seirmarco asked any other comments from the audience on this case? I make a motion we close case...

Mr. Charles Heady stated to move that shed back it's going to take you – I know the weather's bad, you can't do it now but when do you think is a reasonable time you could get that back to where it belongs?

Mr. James Connors asked I get 90 days to do it?

Mr. Charles Heady responded how about to June 15th? Is that enough time?

Mr. James Seirmarco stated 60 days.

Mr. James Connors responded yes that should be enough.

Mr. Raymond Reber stated which means we'd have to give you a Variance to allow for the shed to be on the front yard off of whatever – even with the street because it's all the same name.

Mr. Charles Heady asked it would be towards the back of the house on the side there right?

Mr. David Douglas stated it would not be in the front yard of the front yard.

Mr. Raymond Reber stated it would be north – the front yard on the north of the property.

Mr. John Mattis stated behind the curtain fence.

Mr. Raymond Reber stated located behind the curtain fence and behind the line of the actual front of the house. That would be the Variance.

Mr. James Seirmarco stated I make a motion we close the public hearing on case #06-11.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion we approve subject to moving the shed from the front yard as it is now to the front yard which is on the north side of the house behind the face of the house, or the setback of the house, and allow the applicant to have 60 days or until June 15th to accomplish the task...

Mr. Raymond Reber stated and behind the privacy fence.

Mr. James Seirmarco stated behind the existence privacy fence. This is a type II SEQRA no further compliance required.

Mr. Charles Heady stated if he puts the building back there he has to check with Enforcement , with Ken so he sees it's back in the right place.

Mr. James Seirmarco stated right and you'll contact Ken, the Town, after you've moved it to see if the location is acceptable to the Town.

Mr. John Klarl stated bring in a terrific photograph.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance as stated is granted.

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RE-OPEN CASE 02-11

Applicant requests the case be re-opened to consider a new sign design plan for **Fortena Corp.** for an Area Variance for a freestanding sign on property located at **7 Croton Ave., Cortlandt Manor.**

Mr. John Mattis stated we had before us a sign that exceeded the **100%** because the columns actually brought it over the Code and as we discussed in the earlier case, the Code says "only support columns" so as we've been consistent we include that. So, you designed this, and I think the columns look very nice, so that the total area will be **32** square feet including the posts and that is the Variance that we are allowed to give. The Code allows **16**. We can give **100%** Variance. We can give the **32%** Variance. I think it looks very nice and I recommend we approve it.

Mr. James Seirmarco stated well first we have to vote whether to re-open the case or not. I have a hesitation about granting the request to re-open it. I'll tell you where my hesitation is. Last month this specific issue came up. I guess it was the owner of your company?

Steve Chester responded Tim.

Mr. James Seirmarco stated and he indicated that he wanted to withdraw it and we asked him in about five different ways “do you really want to withdraw it?” Do you have authority from the client to do that? Is that what the client really wants to do?” and he answered in those five different ways, “yes, yes, yes, I definitely and the client definitely wants to withdraw it.” I have a problem then when that happens that a couple of weeks later somebody comes in and says “no, we want to re-open it and start it again.” Part of my problem I think is arising from what I do with much of the rest of my life in which I’m on the other side of the table there and I know that if I’m telling the judge that I’m appearing in front of that I want to withdraw something and then I come back a month later and say “no, ignore everything I said last month.” It’s not met with much happiness and I think correctly so because we rely on what people say and government authorities rely on what people say. I’ve got a lot of hesitation about re-opening the case. In my view, if you want to make another application, fine come back the next month so we can do it.

Steve Chester asked can I explain it at all because something different happened than what usually happens. The day after the last meeting, we had a meeting with Linda Puglisi as well as John, and Ken.

Mr. David Douglas stated that was before the last meeting.

Steve Chester responded no, the day after.

Mr. David Douglas stated I thought that we were told that there had been a meeting.

Mr. John Klarl stated there was a meeting after the last one. Our last Zoning Board of Appeals meeting was on March 14th, the meeting that was held during the day was held on March 18th, four days later.

Steve Chester stated and then we met with Linda and we explained the dilemma that we were having trying to get a sign like this approved and she’s very much for this type of sign. In fact, the sign manual, Ken brought to the meeting, on the front cover, is a sign just like this and there’s no way to get it unless you came here and I’ve been trying to get that look, kind of changed so we wouldn’t have to even come here to even get a sign with columns.

Mr. John Klarl stated just to be fair to the Supervisor, I think she liked the architecture involved in the sign but I don’t think she spoke to dimensions and Variances. She indicated a preference for the design based upon she thought they were attractive posts. She didn’t then speak as to I think a certain Variance we granted up to a certain amount. She gave you a favorable comments on the design but didn’t really have some kind of representation as to what she wanted in terms of dimensional posts, or dimensional Variance.

Steve Chester stated but she tried to get this sign – find a way to get this sign done.

Mr. John Klarl stated design, but she didn't...

Steve Chester stated and in fact, Ed Vergano drew different things for me to send me back to the drawing board to try to make something work.

Mr. David Douglas stated but that doesn't speak to my issue. We were aware at the last Zoning Board meeting that this meeting I thought it had already taken place, but I'm getting my sequences wrong, but we were aware that this meeting was going to take place and we were aware that that's the issue and if the Town Board and its wisdom decides to change the sign Ordinance, that's great then we'll apply the sign Ordinance as changed. That's not my issue. I'm not talking about the merits of whether your new application is good or should be approved or isn't. I have serious reservations about re-opening it.

Steve Chester stated I understand but the reason we had to re-open and we thought we should close it, if you remember Raymond at the last meeting recommended something underneath, which seemed like the only solution for me at that time. I showed that to the client...

Mr. David Douglas stated you two meetings ago.

Steve Chester responded yes, two meetings ago.

Mr. David Douglas stated no, I'm not talking about what happened two meetings ago.

Steve Chester stated but that was the reason we said we wanted to withdraw it at the last meeting because we showed him the alternative and he said "no, I don't want to do that." So, we did make the attempt to try to get him to go along with what the Board recommended and not that it was an official recommendation but it was a way to get something done and he didn't want to do it and then after the meeting with Linda, all of a sudden, I came up with this design in which I didn't think he'd ever go for because it's half the size of the other sign but he said "yes, he likes it." That's why I'm trying to get it re-opened.

Mr. James Seirmarco asked so you go ahead and make another application?

Steve Chester responded of course we can. It's another \$150, it's another month delay. We've been down the road...

Mr. James Seirmarco stated in all fairness, when the Chairman asked "are you sure that you want to do something?"

Steve Chester responded we were sure at that time.

Mr. James Seirmarco stated you're being taped right now. you're being recorded, it's an official legal meeting and asked five ways to Sunday "do you understand? Do you want to withdraw

this?” When you say “yes,” and then you say “oops, never mind.”

Steve Chester responded we made a mistake, everybody’s made mistakes in their life and this is a chance to just you know re-open it and get it finished and be done with it. To drag it on another month and for more expense, everybody makes mistakes. We made a mistake. I apologize for the mistake. I’d like to get it finished if there’s a way to get it done tonight it would be great.

Mr. Charles Heady asked would you want to go before the Town Board and have them change the Code then you won’t have to come back at all like you said?

Steve Chester responded no, I want to get the Code changed as well, but that’s for the future.

Mr. John Klarl stated it might take more than a month.

Steve Chester stated if we could get it done in this matter – I didn’t think he’d ever go for something so low to the ground and squat but he wants it and it looks nice and we’d like to get this approved if we can.

Mr. David Douglas stated my view is he’s entitled to change his mind. He’s entitled to make a new application and we’ll consider it. That’s my personal view. We have to vote but I think the rules are it has to be unanimous. I know that I’m not going to vote in favor of it, but we’ll take a vote if you want.

Steve Chester responded obviously there’s no point.

Mr. David Douglas stated procedurally whatever I’m supposed to do. If you don’t want us to take a vote, we won’t, that’s fine.

Mr. John Mattis stated I think we should to get it on the record.

Mr. David Douglas stated I think we should too.

Mr. John Mattis stated I move that we re-open **case 02-11**.

Seconded.

Mr. David Douglas asked all in favor, opposed? You should poll the Board, Ken.

Mr. Ken Hoch asked Mr. Reber; yes, Mr. Mattis; yes, Mr. Seirmarco; yes, Chairman Douglas; no, Vice Chairman Chin; yes, Mr. Heady; no. Motion fails.

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NEW PUBLIC HEARINGS

- A. CASE No. 09-11** **Karen Kid** for an Area Variance for a side yard setback to expand a side and rear yard deck, and add a roof and screens to part of the side deck on property located at **2393 Maple Ave., Cortlandt Manor.**

Mr. Roger Blaho stated I'm the architect and they asked me to design a deck and an extension for them. I designed this really neat thing and finally I kept asking them for a survey. We finally got a survey and you could see it now in your papers there, what apparently looked like we were just extending something that was already there, we were extending an existing non-conformity even further. Because, the deck that I was looking at was non-conforming anyhow but they didn't know. You could see all the dimensions on the survey there because the corner of it, based on my drawing here, the existing deck, the corner of it was about **22 ½** feet from the property line.

Mr. Kid stated that's how we purchased the house. We didn't make any changes.

Mr. Charles Heady stated I was talking to Mrs. Kid...

Ms. Karen Kid stated you spoke to my mother-in-law. She was there walking the dog.

Mr. Charles Heady stated she explained to me that you bought the house with that deck already on there, which you had nothing to do with, which I can understand why you've got the problem that you have. We can give you the Variance on the side but as far as you've got on there a partial roof and a screen, you'd have to get another Permit for that, maybe separate than what the Variance you need for the porch itself.

Ms. Karen Kid asked and how do we do that?

Mr. Charles Heady responded you come to Ken and he'll straighten that out for you.

Mr. Roger Blaho stated the extension involves an extending of the existing deck plus roofing over the existing deck and the new extension with screening enclosure.

Mr. Charles Heady asked you got the Permit for the extension haven't you?

Mr. Wai Man Chin stated we don't permit roofs over open decks. What you're trying to do is create a room right now and by creating a room we've got to make sure that the room is structurally sound for a regular room, not a deck no more. It would be a regular enclosed room. This is something totally different than just putting a roof over an open deck and screened in because then after a while somebody's going to close it up, put heat in there and this and that and it becomes a room for the house. That's why it's not permitted for roofs over open decks but if you want to convert that to a regular room to the house, that's a different story.

Mr. Kid stated we're not looking to make this into a room. It's an addition onto the house. It's a small house as it is, our children are growing. We have a huge bug problem so we're looking to screen it in and to screen it in you need a top to it.

Mr. Raymond Reber stated our problem is that we've seen this happen time and again, people put these in, they put the roof up and they put the screening in and then a couple of years later, the screening gets replaced by windows and a couple of years later they insulate it and a couple of years later they put heat in it and all of a sudden, guess what? It's a family room. They have these screen gazebo type units that you can buy and set on your deck, so it kind of serves the same purpose but it's physically not a structure on the deck. That's our problem. But, I have another question. I'm curious, the existing deck, does that go all the way back to where you have that seating, circular seating area? Is that existing now?

Mr. Kid responded no.

Mr. Roger Blaho responded perhaps my drawing is not...

Mr. Raymond Reber stated I have a serious problem then adding in that area because that whole thing pushes into the setback and you're going the other way with a lot of deck. I do have a problem with expanding into the setback with the new extension of the deck. That, to me, is excessive. I understand the part of it is there and I'm willing to accept what's there but I don't think we should complicate it by pushing further into that area.

Mr. Wai Man Chin stated that whole octagon shape is now inside the outside setback requirement...

Mr. Raymond Reber stated in other words, if you move it out of the setback and put that – redesign the deck so that whole section is in the center...

Mr. Roger Blaho responded if I move it out of the setback line, I've got to crank the building and build a curve...

Mr. Raymond Reber asked pardon?

Mr. Roger Blaho responded if I'm going to move it off the setback – or keep the existing setback line, the building is no longer rectangular. It's got to be turned...

Mr. James Seirmarco asked the deck we're talking about?

Mr. Raymond Reber stated the existing part of the deck that's there that goes over the line, fine. Now, you're going to extend it further back and put in that seating area. What we're saying is you shift that over – because you're going to expand the deck to the side anyway, so instead of putting it to the one corner, move it to the center, put that whole section in the center coming out.

Mr. Roger Blaho responded this is a roof thing and once I start cranking that out...

Mr. Raymond Reber asked where is there a roof? We're talking about a deck. We just said no roofs over any deck.

Mr. Roger Blaho responded we're looking to having a screened porch and a deck which I think – porch which has a roof...

Mr. Raymond Reber asked are we agreeing to a screened porch? I didn't know we were going to agree to a screened porch.

Mr. David Douglas stated I know that's what you requested but I think what Mr. Reber was saying is we have a lot of hesitation about the screened part.

Ms. Karen Kid stated the existing deck that's there now, that's the part that we'd like to close in because it's behind the dining room and to the living room, we'd like to make the outdoor deck on that side so we can maintain our view.

Mr. Wai Man Chin stated I see your point. I know what he's trying to do right here but it's just the idea that we don't permit a roof over a deck and that's not our policy and it's not the Zoning policy to permit that.

Mr. John Mattis stated the way we see this now, which we didn't have, this is a sunroom, covered sunroom, and you're talking about **2,136** square feet – no, I'm sorry **2,136** square feet total with the decks, but your decks are almost **800** square feet. One third of all of this is decking and if you could do that and not have such an excessive Variance over there with the bump out that looks like gazebo and everything else that might be acceptable but you've got a continuous roofline there, it looks like you've got skylights there. This is not the type of deck that we've ever approved. This is basically a room.

Mr. Raymond Reber stated if I understand correctly from the plan that we have, that extension is coming off of what is labeled as the dining room and then the new deck is going to be coming off the living room. If you change things around and put your sunroom, or whatever, coming off the living room then you don't have to come before us.

Ms. Karen Kid stated that would take away our view.

Mr. Raymond Reber stated I'm sorry, but we understand that but there's things we can allow and there's things we can't. You have the right to build a sunroom, but not on the setback over in that corner.

Mr. Kid stated if we have the architect angle it where it doesn't interfere with the property line, then it's okay to have the roof or you're denying the roof?

Mr. Raymond Reber responded once you get within the setback, we no longer have jurisdiction.

Mr. Wai Man Chin stated no, no, he's saying he still wants a roof over the one thing.

Mr. Raymond Reber stated yes, but I'm saying if he's not in the setback and he's in the backyard, we have no jurisdiction and then he goes to the Building Department.

Mr. Wai Man Chin stated half the porch is in the setback. Side yard setback is going on slight angle.

Mr. Raymond Reber stated I know that, if he can rearrange the part that he wants to make a sunroom so it's however designed it's out of our jurisdiction.

Mr. James Seirmarco stated I look at that as expanding a non-conforming use. How can he do that?

Mr. Raymond Reber responded he can't, that's what I'm saying he can't. So, we're telling him if he wants to do those things – look, he's got a deck on the side that's existing. We can give a Variance for the existing deck.

Mr. James Seirmarco stated but not to expand it.

Mr. Raymond Reber stated but not to expand it.

Mr. James Seirmarco continued he wants to cover it and screen it in.

Mr. Raymond Reber stated that's what we're saying we can't do. He's got to rearrange it so it's somewhere else in the back of the house.

Mr. James Seirmarco stated he can screen in a new deck.

Mr. Raymond Reber stated the deck part we can give a Variance for and if he just wanted to put a corner of a deck we could do that but not a structure.

Mr. Wai Man Chin stated not a covered area.

Mr. John Mattis stated this is a structure.

Mr. Wai Man Chin stated we can't do a covered area. That's the problem.

Ms. Karen Kid stated a lot of people around us have them.

Mr. David Douglas stated we can we just – it's not in our policy to do it.

Mr. Wai Man Chin stated because if they have a screened in porch and if we don't know about it and they built it by share or whatever...

Mr. John Mattis stated well, if it doesn't require a Variance they're allowed to have a screened in porch.

Mr. Raymond Reber stated they may have a setback. You're allowed to have it, you're just not allowed to have it in that one corner that's too close to your property line, that's the issue.

Ms. Karen Kid stated if we redesign it and we go to a different Board.

Mr. Raymond Reber responded you'd just go to the Building Department.

Mr. John Klarl stated if you stay within the setback you just go to the Building Department.

Mr. Wai Man Chin stated you go to see this gentleman.

Mr. John Klarl stated if there's no Variances required you don't come to this Board.

Mr. Kid stated if we're not dealing with the property line by **30** feet, if we just go up the back of the house and we make the screened in room with the roof and we're not dealing with the property line issue which needs the Variance.

Mr. Wai Man Chin stated it's not the property line. It's the setback from the property line.

Mr. Kid stated defined setback.

Mr. James Seirmarco stated as your property line will be **30** foot back from the property line, that's the setback.

Mr. Kid stated so the drawing that we gave you where it's not screened in – we used the screened in area at that point with the roof, that would be okay.

Mr. Wai Man Chin stated let me explain.

Mr. John Mattis stated on what you call the new deck in the middle there?

Mr. Kid responded yes.

Mr. John Mattis responded yes, you could do that because it doesn't require a Variance. It could be considered a room then and it's allowed.

Mr. James Seirmarco stated you're not unique. Those are questions that everybody would ask.

Mr. Kid stated just so that I understand we've lived up here over 10 years, we've never made any changes, significant changes, we're not familiar with the system.

Mr. Wai Man Chin stated there's a lot of people who aren't familiar with it.

Mr. Kid stated I'm just trying these so that when...

Mr. Wai Man Chin stated this is what I'm saying, right now you got property line, the setback is 30 feet from that property line towards the house so that means if you look at this drawing your property line's out here and your setback line's over here so most of this deck is inside that setback requirement that everything's supposed to be away from the property line.

Mr. James Seirmarco stated but you didn't do that.

Mr. Wai Man Chin stated some of it is existing. We don't mind giving a Variance for the existing open deck but once you cover it then we can't give that. If you want to cover something over here that's beyond the **30** foot setback then you see him.

Mr. James Seirmarco stated go to the Building Department to get a Building Permit.

Mr. Roger Blaho asked if I take the existing non-conforming deck and I can't put a roof over the entire extension of it.

Mr. Wai Man Chin stated no roof. You're not understanding. You can't have a roof over that.

Mr. James Seirmarco stated it's a roof in a non-conforming within the setback, you can have a deck in there but you can't have a roof.

Mr. Wai Man Chin stated you're creating a more non-conformity.

Mr. Roger Blaho stated but I would ask you to consider it.

Mr. David Douglas stated it's not a non-conforming use, we're allowed to grant it but our policy is that we don't. We're allowed to.

Mr. John Klarl stated I think he was talking about a non-conforming dimensionally.

Mr. David Douglas stated but it's not a non-conforming use.

Mr. Roger Blaho stated I was just asking if you would consider extending this area problem by just putting a roof on what's already there. Would you consider that at all?

Mr. John Mattis asked over what's there today? That needs a Variance also because that goes past the 30 foot setback.

Mr. Roger Blaho asked yes, but does it go past so extreme? It's not as extreme as what I showed now.

Mr. David Douglas stated you're suggesting just putting the roof over what's already there.

Mr. Wai Man Chin stated if we give that to you we have to give it to everybody who's within that setback requirement. That sets a precedent. You're an architect you should know that.

Mr. Roger Blaho stated I'm just asking if you'd consider that.

Mr. Wai Man Chin stated there's a lot of things that we'd like to give but certain things we just can't.

Mr. John Klarl asked are you saying your clients want to modify the proposal?

Mr. Roger Blaho responded I don't know what they're going to do. We have to talk about that.

Mr. John Klarl asked you want to think about it again?

Mr. Wai Man Chin stated maybe you would like to adjourn this tonight and come and speak to Ken who can explain it to you more so by showing you what you can do and what you can't do.

Mr. Roger Blaho stated I know what the issues are I was just wondering what you would give us that's all. You're not even willing to let us put a roof on the old one.

Mr. John Klarl stated you've heard the Board's comments tonight, that's something you might want to mull over with your clients before the next meeting.

Mr. Wai Man Chin stated I would like to screen in my porch. I have a big deck in my back yard. I've been living here for **30** years and I don't do that and I'm within the setback requirement also and – it's all open right to the woods.

Mr. Roger Blaho responded I'll design it for you.

Mr. Wai Man Chin stated believe me, I would like to do it too but it's not permitted.

Mr. Kid asked if we redo the design of the deck where it's on the 30 foot line it's not an issue of putting the roof on within the 30 foot line?

Mr. James Seirmarco responded right.

Mr. John Mattis stated then the Town would consider it a room and you can have a room within the 30 foot setback.

Mr. John Klarl stated I think what the Board was trying to tell you in short is if you observe the setbacks with whatever construction you want you don't have to come to this Board you just go to the Building Department. You stay within the setbacks you have to go to the Building Department only.

Mr. Raymond Reber stated what we do have to decide on is they will need a Variance for the existing deck which I have no problem with giving for the existing but we need the dimensions and they're not here on this package so they have to come back – you come back to us with the dimensions of the existing portion of your deck and we'll give you a Variance to make that legal.

Mr. Roger Blaho stated that was my question I was going to ask, do we have to visit you to get straighten out this...

Mr. Wai Man Chin responded you do.

Mr. Raymond Reber stated you can't get the Building Permit unless we give you a Variance for the existing.

Mr. Roger Blaho stated there's a retroactive whatever it is.

Mr. David Douglas stated well, we'll give you the Variance going forward but I don't think there's going to be much controversy about giving that to you.

Mr. Kid asked but do we need that though if we're going to knock down the existing deck and move it to where it's in Code?

Mr. Raymond Reber responded no.

Mr. David Douglas responded no, if you're not going to be doing anything within the 30 foot setback you don't need to deal with us.

Mr. Wai Man Chin stated but if you want to leave part of that deck...

Mr. John Mattis stated but you lose that whole side deck where the kitchen and dining area.

Mr. David Douglas stated you might want to keep that. I assume you want that in which case we'd have to give you a Variance for that but I think that the feeling here is that's fine.

Mr. Raymond Reber stated I'm willing to say you can keep what you have, that's my vote.

Mr. John Mattis stated but no roof on this.

Ms. Karen Kid asked who gives us those dimensions?

Mr. Raymond Reber responded your architect or whatever has to figure it out.

Mr. Wai Man Chin responded your architect. You guys can come and speak to Ken. He'll be happy to meet with you. I think you should adjourn this until next month until you speak to him and go over everything with him.

Mr. Roger Blaho asked do you want architect's dimensions or surveyor's dimensions?

Mr. Ken Hoch responded surveyor's.

Mr. Raymond Reber stated it has to be surveyed.

Mr. David Douglas asked do architects measure differently than surveyors?

Mr. Wai Man Chin stated I think Mr. Ken Hoch will give you a better clue on everything in person at the Building Department rather than try to guess this right now. I would just adjourn.

Mr. Raymond Reber stated I don't know how Mr. Hoch would deal with it but if there's a good survey that shows the house and the property lines and everything else all dimensioned and it's not clear exactly where the deck is, I would think it would be allowable to go out and then measure the deck from a defined point and say "okay **10** feet over." That would be acceptable right Ken?

Mr. Ken Hoch responded the issue was on the survey it says a proposed deck.

Mr. Raymond Reber stated so it doesn't count.

Mr. Ken Hoch stated there's no dimension.

Mr. Raymond Reber stated if you have a survey that shows the house as is, then you could work off that survey.

Mr. David Douglas stated you can measure off the house. You could work backwards.

Mr. Ken Hoch stated that's exactly what I had Roger to do when he submitted this. I said "look, I don't know the dimensions for the deck, can you scale it?" and that's what he provided.

Mr. James Seirmarco stated it does seem convoluted at times but it does make sense.

Mr. Roger Blaho stated we came here to see if at all we had the possibilities of getting this built and no we don't.

Mr. Raymond Reber stated in your redesign, if you end up if for some reason you want a foot here or there we're not going to say "absolute to nothing" but really minimize encroachment in any addition that you put on. Really minimize it to zero if you can.

Mr. Roger Blaho stated we have to decide what to do with our existing encroachment then. We will decide.

Mr. Raymond Reber stated if you don't do anything to it, if you leave it just as a deck I think the Board is agreeing that we'll give you the Variance you need to make that legitimate.

Mr. Charles Heady stated adjourn it until next month, as you talk to Ken go over the situation and then he can straighten it out and you can be all set and you come back before here and we can go over it – maybe you don't even have to come back here. I don't know what you're going to do – if you're going to tear that deck you have there on the side then you wouldn't need come back to us but if you leave it up and use it then you're going to need a Variance for that. If you talk to Ken he'll know which way to go.

Mr. Wai Man Chin stated he'll give you everything that you would...

Mr. Roger Blaho stated as a clarification, somewhere in your Ordinance it says a deck could extend three feet beyond the setback line.

Mr. Ken Hoch stated six feet into the setback just for the deck. It can't have a roof. This one is still beyond the six feet that would be allowed.

Mr. Charles Heady stated I make a motion on **case 09-11** to adjourn the case until May.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case 09-11** is adjourned to the May meeting. You'll confirm with Mr. Hoch in the interim.

B. CASE No. 10-10 Golf Hollow Brook, Inc. for an Area Variance for a freestanding sign on property located at 1060 Oregon Road, Cortlandt Manor.

Mr. Kenneth Biktjorn stated I'm here representing Hollowbrook Golf Course. I'm requesting an add on sign to our main sign that's there and I believe you have all the paper work there.

Mr. David Douglas stated Mr. Chin this is your matter.

Mr. Wai Man Chin stated I looked at all the paperwork and I don't see a problem with the extra signage below the Hollowbrook Golf Club, the Woods at Hollowbrook Bistro, so forth.

Dimension is not that great and again, I would not have a problem supporting this.

Mr. David Douglas asked anybody else have a comment?

Mr. John Mattis responded I think this makes a lot of sense.

Mr. David Douglas stated I think we all agree with what Mr. Chin said, putting the restaurant sign underneath the current sign.

Mr. Wai Man Chin asked anybody in the audience?

Mr. David Douglas stated we could argue about it but I don't think anybody's going to argue the other side.

Mr. Wai Man Chin stated I make a motion on **case 10-11** to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Wai Man Chin stated I make a motion on **case 10-11** to grant an area Variance to allow an increase from **20** square feet up to **25.52** square feet for a freestanding sign, this is type II SEQRA...

Mr. Raymond Reber stated **82**, you said **52**, it's **25.82**.

Mr. Wai Man Chin stated **25.52**.

Mr. Raymond Reber mine says **8**.

Mr. David Douglas stated mine says **8**.

Mr. Raymond Reber stated make it **26** then we're covered.

Mr. David Douglas stated you know what it is? it says different numbers in different places on our sheet here.

Mr. Wai Man Chin stated I grant the area Variance to allow an increase from **20** feet up to **26** feet for a freestanding sign, this is a type II under SEQRA no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance up to **26** feet is granted.

Mr. Kenneth Biktjorn stated thank you gentlemen. Goodnight.

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ADJOURNMENT

Mr. John Mattis stated I move that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

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**NEXT MEETING DATE:
May 19th, 2011**