

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, August 17th, 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
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 July 20, 2011

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

Mr. David Douglas stated those minutes are adopted.

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PUBLIC HEARINGS ADJOURNED TO SEPT. 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 that'll be on for next month.

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CLOSED AND RESERVED DECISION ADJOURNED TO SEPT. 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.**

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ADJOURNED PUBLIC HEARINGS TO SEPT., 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.**

- B. **CASE No. 15-11** **James Meaney** for an interpretation – does Local Law 12 of 2010 prevent the Green Materials application to the Planning Board, PB No. 28-08 filed 8/22/08, from proceeding; and does Local Law 12 negate the ZBA Decision and Order in case No. 33-08.

Mr. John Klarl stated I had that the meeting application had adjourned from July to August. It was September Mr. Hoch?

Mr. Ken Hoch responded yes.

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CLOSED AND RESERVED DECISIONS

- A. **CASE NO. 11-11** **William Caltagirone** of 230 Watch Hill Rd. for an interpretation that Building Permit #20110152 granted to **Padraig & Deidre Carroll** for a new single family residence on property located at **10 Rocky Ridge, Cortlandt Manor** was not properly issued.

Mr. John Klarl stated we have had public hearings in this application by Mr. Caltagirone. We had a public hearing at the May meeting and then the June meeting. At the June meeting we closed and reserved decision and this Board discussed this in our work session on Monday night. Based upon those discussions we have in front of us a proposed Decision and Order. The pros in Decision and Order, by my count and put together by Mr. Hoch, comes to approximately six pages. I don't want to read the entire thing but to sum it up in an intelligible way it's an "application by Mr. Caltagirone who resides at 230 Watch Hill Road for an interpretation that the Town of Cortlandt Building Permit #20110152 dated April 6th of 2011 which was issued to Mr. and Mrs. Carroll for a new single family residence on the property located at 10 Rocky Ridge Road was not properly issued by the Town and should be annulled." So, Mr. Caltagirone is challenging the issuance of the Building Permit. We indicate in our Decision and Order that Mr.

and Mrs. Carroll's property is located in the **R-40** single family zoning district, is approximately **1.13** acres in size and it has a front yard setback of **235** feet to the proposed dwelling. Mr. Caltagirone resides at 230 Watch Hill Road and his residential property is adjacent to the Carroll property at 10 Rocky Ridge. The issue in the case involves Rocky Ridge which is a private road. With that we indicated that the staff, DOTS staff (Department of Technical Services) had gone through their usual procedures to look at issuing a Building Permit and on page **2** of our Decision and Order we show the various documents that were submitted in connection with the Building Permit application. We also indicate that, as part of the Building Permit process, if there's any access questions they're referred to the Town attorney Mr. Wood and Mr. Wood issued a memo on January 2010 saying "he's reviewed all the submissions received by both the property owner Mr. Carroll as well as Mr. Caltagirone and adjoining property owner." He indicates there to appear based upon his review of the records that "the Town insurance company certification to Mr. Carroll and in fact Mr. Carroll has a right of access by ingress/egress over the easement shown on the subdivision map." Mr. Wood further wrote in his memo: "it would appear that based upon the fact the parcel **1**, the lot in which he wished to build only has frontage on the right-of-way and asked to watch the road through the right-of-way that was the intention of the Planning Board in approving the two-lot subdivision to allow access over that right-of-way." Mr. Wood sums up: "therefore it appears the May issue of Building Permit based upon the access herein described." As we go into our Decision and Order – Mr. Caltagirone put together a nice summary for us of his arguments as to why he doesn't think the Building Permit wasn't properly issued and we enumerate those points and those issues on page **3** of our Decision and Order. Mr. Caltagirone's position is the only ingress/egress to the vacant lot is through Rocky Ridge for which the Carroll's do not have easement rights as Mr. Caltagirone believes. We indicate the history of the subdivision back in **1974**. We show the arguments for Mr. Caltagirone that "the contemplated construction for the one family house overburdens the easement." His further argument that the contemplated construction will overburden the easement road and the neighborhood because it requires an exemption from the Mined Land Reclamation Law which the law of state of New York. Mr. Caltagirone further argues that there's been increasing amount of garbage discarded in this area and that will overburden the easement area and he also talks about in his summary to the Board about the tree removal Ordinance that we have in the Town and he doesn't believe that there was a proper notice and explanation to the property owners in the area. Finally, one of Mr. Caltagirone's final arguments is the operation of rock crushing hammers in proximity to the property line pose an extreme danger for an **80** foot tall tree. So, this Board has considered all the various arguments made by Mr. Caltagirone and the Board makes several findings; one is that "the easement serving the Carroll's was originated as parcel **#1** on file map **#18304** and with their deed of July 31st, 2003 where they added language to their deed that they received the property at hand together with the permanent right of ingress and egress over a certain **20** foot wide road shown in the designated upon the map." Next thing we find out about the easement is that the "title company did a thorough search to the Carroll lot and affirmatively assured vehicular and pedestrian access from the Carroll lot over the insured easement to the public road (Watch Hill Road)," and of course this is critical for the Carroll's to obtain construction loan for building their house. Third thing, we find out about these is that we've received a letter dated January 31st, 2008 from the Assistant Vice President and Counsel for United General title insurance company, the title company in this matter, and they write in

their letter that “Schedule A” which was the legal description of the property that Mr. and Mrs. Carroll receiving their deed that “Schedule A of the above referenced policy of the title insurance reads as follows: “Together with a permanent right of ingress and egress over a certain **20** foot road shown and designated upon the map herein referenced as **20** foot easement. Therefore the easement as insured is an insurable interest, within the Terms and conditions of the title policy.” United General also wrote in the letter that “United General Title Insurance Company stands behind his policy in Terms and Conditions” and they indicate that they’re available for further discussion. “This Board finds, as essential matter to the entire Decision and Order, that a title company has insured the easement benefitting the Carroll’s and this Board does not and will not disturb that title company’s conclusion and ultimately the issuance of the title insurance policy to Mr. and Mrs. Carroll.” Number two thing that we find is concerning Mr. Caltagirone’s argument concerning the construction and the school bus stop would burden the easement and we indicate that “the contemplated construction will burden easement road in a similar fashion of previous single family houses constructed on Rocky Ridge or other private roads in the Town. In addition, this Board believes that the addition of a single family home will not overburden the school bus stop nor create a physical hazard for students at the bus stop.” Our third finding is, under the DEC Mine Land Reclamation Law, the Carroll’s received an exemption and we find that “the granting of the exemption does not in of itself overburden the easement serving the Carroll lot and any activity that may violate, any state or code rule is of course subject to enforcement action by the Town Code.” The garbage complaints we were advised that the Town Sanitation Department advised the Board that they do not drive on Rocky Ridge because it is a private road. The longstanding practice by the Town is to pick up garbage at the Rocky Ridge intersection and Watch Hill Road and the Sanitation Department has indicated to us that it has no record of any complaints and there have been no complaints to Code Enforcement regarding trash on the road. Finding #5 deals with the Tree Permit application and we point out that notice was given to the required property owners and the notice that’s given by letterform further states that additional information on this application is available for your review when you come into the DOTS office. Under finding 6 it’s about rock excavation and we said that obviously “the Carroll’s are subject to the risks and dangers of any single family house construction site and are liable for any damage caused to any adjoining property owner and New York State and Town of Cortlandt construction Codes and site visits are consequently in place to guard against and minimize such risks and dangers.” 7) As to further subdivisions, we indicate that if there was going to be a further subdivision of any lots on Rocky Ridge that would take Planning Board permission by Planning Board application and approval. 8) We indicate that we had at least four neighbors show up at our public hearings and indicate they support the issuance of Building Permit and that only Mr. Caltagirone who does not use Rocky Ridge opposes the issuance of the Building Permit. Under the SEQRA review, that’s the State and Environmental Quality and Review Act, there’s a section, under the SEQRA reg, there’s a section **17.5c** which deals with type II actions and it provides that “the following actions are not subject to review under this part and subdivision 9 is construction or expansion of a single family house.” Argument 10 and finding #10 by this Board concerns the argument that the fair market value of this lot is not what the value was of other lots and we indicate it’s not within the purview of this Board, the Zoning Board of Appeals to make decisions regarding the propriety of granting permits based upon analysis of comparative market values. As a result of all the foregoing and there’s a lot in the

Decision and Order, the Board finds that “the Building Permit #2011-0152 was properly issued by the Town utilizing and observing the Town’s usual process to issue a Building Permit for a single family dwelling. This Board has additionally considered all the other arguments made by the applicant and finds them to be insufficient to annul the granting of the Building Permit to Mr. and Mrs. Carroll. This is a type II action under SEQRA consisting of the interpretation of an existing Code of Rule so no further compliance is required” Mr. Chairman. And, I might want to say that there’s one allange in the exhibit of the Decision and Order and that is the DOTS log concerning all the relevant steps in the Building Permit process, an ex. dec. is an exhibit to show the type of screening and analysis that goes on with a single family home Building Permit.

Mr. Raymond Reber stated before I put it into a vote I’d just like to compliment this Board, the Town DOTS Department, Mr. Klarl and Mr. Wood for the extensive work they did to carefully review this in depth and it shows in this D&O that all issues were covered and carefully evaluated. With that I’d like to make a motion that we deny the request to withdraw the Building Permit...

Mr. John Klarl stated and a motion to adopt the Decision and Order.

Mr. Raymond Reber stated a motion to adopt the Decision and Order as read for **case #11-11**, this is a type II SEQRA, no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated so moved. That Decision and Order will be adopted.

B. CASE No. 18-11 **Craig Gustavson** for an Area Variance for the front yard setback for a pool deck; and an Area Variance for the total square footage of accessory structures on property located at **8 Woodland Blvd., Cortlandt Manor.**

Mr. James Seirmarco stated this is an unusual case for a pool deck be in the front yard but there is a number of reasons for having it and based on those our Decision and Order is to grant the Variance required.

Mr. John Klarl stated Mr. Seirmarco in reading it on page 2, there seems to be two holdings in the Decision and Order Mr. Seirmarco, it says “1) therefore this Board hereby grants an Area Variance to the applicant to place the pool deck in the front yard” and the second holding on page 2 is “due to the size of the lot and the square footage of the house, the Board noted that the lot coverage is just 5%, well below the allowed 60%, therefore this Board hereby grants an Area Variance for the percentage of floor area of all accessory structures from an allowed 50% up to 93% of the floor area of the principal dwelling.” I find those to be the two essential holdings in the D&O.

Mr. David Douglas asked Mr. Klarl do you want to point out the discussion about how unusual this is?

Mr. John Klarl stated sure. I didn't want to trump Mr. Seirmarco.

Mr. David Douglas asked or Mr. Seirmarco do you want to – one of you.

Mr. John Klarl stated essentially, we indicate here that this is an application for a pool deck to be placed in the front yard which is not permitted and for a Variance for the percentage of the total floor area of the accessory structures to the floor area of the principal structure, the main house. Once again, this is in the **R-40** zoning district. The existing pool is in the side yard. It does not require a Variance. A portion of the proposed pool deck would extend into the Woodlands, Boulevard front yard approximately **84** feet from the front property line, more than the **50** feet front yard setback required in the **R-40** zone. This Board has granted certain Variances in the past to locate such accessory structures in the front yard where they cannot be seen from the street or there are no alternatives to locate them in the front yard, specifically the **Solomon** case which is **case 59-06** dealt with a tennis court in the front yard which was granted a Variance. Due to the topography of the Gustavson home, front property, “neither the existing pool nor the pool deck could be seen from either road.” That’s where we had our holding that the Board grants an Area Variance to the applicant to place the pool deck in the front yard. As to the second aspect of the application the total floor area of all accessory structures to the floor area of the principal structure, this Board reviewed and ruled on just the situation in the Solomon case and the Jacob’s case which is even a little older, which is **case #67-02**, in this application the floor area, the existing accessory structure, the one story barn where the garage, breezeway and storage area is **1,581** square feet. The principal dwelling has an area of **2,152** square feet which allows a total of **1,076** square feet, **15%** for the accessory structures with the addition of a proposed pool deck the total accessory floor area is **2,006** square feet or **93%** of the floor area of the principal structures. So, we indicate once again as a holding, that “due to the size of lot and the square footage of the house, the Board noted that the lot coverage is just **5%**, well below the allowed **60%** and therefore this Board grants an Area Variance for the percentage of floor area of all accessory structures from an allowed **50%** up to **93%** of the floor area of the principal dwelling.” That’s the essence of the Decision and Order which we have to credit Mr. Hoch for being our ghost author.

Mr. James Seirmarco stated I make a motion to close the public hearing on...

Mr. John Klarl stated just adopt the D&O.

Mr. David Douglas stated we already closed it.

Mr. John Klarl stated we actually closed and reserved at the July meeting, you’re right but tonight we’re making a motion to adopt the D&O.

Mr. James Seirmarco stated I make a motion to adopt the D&O as just described by our Town Attorney.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Decision and Order is adopted as read and the Variance is granted – I don't know if Mr. Gustavson is here or not but Mr. Hoch he can come on Tuesday or Wednesday, whatever it is.

Mr. Ken Hoch responded yes.

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ADJOURNED PUBLIC HEARING

A. CASE No. 14-11B Capurro Contracting, Inc. on behalf of Patricia Doherty for an Area Variance for a front yard setback to rebuild a deck and for the existing front steps; and the side yard setback for the existing house on property located at **122 Westchester Ave., Verplanck.**

Mr. David Douglas stated we got an e-mail yesterday from the applicant requesting that the case be adjourned until next as they are currently working with the surveyor to resolve the issue.

Mr. Charles Heady stated I make a motion on **case 14-11B** to adjourn it until September.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #14-11B** is adjourned to September at the applicant's request.

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NEW PUBLIC HEARINGS

A. CASE No. 20-11 Gas Land Petroleum Inc. for Area Variance for minimum lot area, rear yard setback, canopy setback, minimum landscape coverage, landscape buffer strip, maximum driveway width, driveway within 50 feet of an intersection on property located at **2148 Albany Post Rd., Croton-on-Hudson.**

Mr. John Klarl stated I'll just give a little background and that is that this application by Gas Land Petroleum Inc. as often site plans do are proceeding before two Boards, this is before the Planning Board for site plan approval and it's before this Board now for certain Variances. The Planning Board has had several public hearings. They're thinking about doing a Resolution but

they of course know they're mindful they have to do coordinated review with this Board. Now, this is the appropriate time to come before this Board to look at the Variance application and obviously when both Boards are ready to act then we'll close both hearings and adopt whatever Resolution the Planning Board wants to and adopt whatever Decision and Order this Board plans on adopting. But, we have had several Planning Board applications and now she's up to the point Ms. McMannis to take center with the Zoning Board of Appeals.

Ms. Margaret McMannis stated I'm with the Chazen Companies. I represent Gas Land Holdings Corporation which recently purchased the existing gasoline site at 2148 Albany Post Road in Montrose, New York. They intend to take down the existing building, build a new structure with a canopy and three gas islands. The parcel is an existing parcel that is non-conforming with the existing zoning for area and for setbacks. We require several Variances in order to accommodate the site; one is the Area Variance because the requirement is **20,000** square feet, the lot is a little over **12,000** square feet. The existing building has **11.7** foot setback from the off-set from the back of the property line. We intend to keep that **11.7** foot setback from the rear property line. We also would need a Variance for the canopy distance from the front and side yards. The existing landscape coverage for the parcel is about **26%** and we increase that actually to about **28** or **28½ %**. There wasn't really a way to reach the full **30%** compliance. There are four existing entrances to the parcel; one on Trolley Road North, one on Trolley Road and two that are in the front onto Albany Post Road. They are all non-conforming and require Variances. The last item that we would be seeking a Variance for I believe is the sign Ordinance. That was not in the published public notice so we'll have to come back for that but I do have sketches of the proposed freestanding sign, the sign that would be on the front of the building. This is the proposed sign which would be on the corner of the parcel and it is the Sunoco logo and these are actually two new digital signs that post the price of the gasoline. This is a sign on the building that would say "Food Mart."

Mr. John Mattis stated there are quite a few Variances here.

Ms. Margaret McMannis responded yes, there are quite a few Variances.

Mr. John Mattis stated however, I am very familiar with that property. I live in that area. That gas station has been closed for **3** years, **5** years. It's really an eyesore. There are several little eyesores there. You're faced with a daunting task of having a property where it was built on prior to zoning, it doesn't meet virtually any of the requirements and we're faced with the task of "do we approve this or do we let it sit the way it is?" We always have to look a little differently at existing properties and in the neighborhood like that where virtually everything there is non-conforming. I think that you've done a really good job with this.

Ms. Margaret McMannis responded thank you.

Mr. John Mattis stated one of the concerns I had was could you even move the building back a little so that the canopy could go back and there'd be more room around the islands or anything? It creates an even greater Variance, the **11.7** feet.

Ms. Margaret McMannis responded it would create a greater Variance. There would probably be no reason that we could not move the building back. I'm really stuck with – I can't shift it left or right basically because we have the existing septic there so I can't move it. I could move it back. We were holding the **11.7** because that was an existing non-conformity that I didn't want to exacerbate. If we do move this building, obviously if you shift it **5** feet you could shift everything **5** feet back.

Mr. Raymond Reber asked was this ever discussed with the Planning Board? Did they ever raise that issue?

Ms. Margaret McMannis responded I don't think it really came...

Mr. John Klarl stated they did talk to you about the back and I thought you shifted it to get down to the **11** a little bit.

Ms. Margaret McMannis responded we actually shrunk the building a couple of feet and stole **6** inches from the curb in order to get adequate turning space.

Mr. John Klarl stated Mr. Vergano wanted you to slide it back because he was concerned about the circulation of traffic around the pumps so I thought you either shrunk the building or moved it back to try to accommodate it a little bit more.

Ms. Margaret McMannis responded I think another reason why we didn't move this back is access behind the building for fire – I don't think fire trucks would actually pass back there but I don't know how close one structure is to the other.

Mr. John Klarl stated I don't recall seeing fire...

Mr. Raymond Reber stated the building that's on the adjacent property obviously is very close to the property line so certainly they can't complain about encroachment on a line and access wise for emergencies the buildings are offset. It's not like they're back to back, they're all off set so if they did have to service those buildings from the Fire Department or whatever, I think again all you need is a passageway for maintenance and whatever. So if you cut that down by **5** feet and made it **6 ½** or whatever's left you'd still have enough room to get in there to do maintenance on the buildings and whatever and I think that **5** feet as Mr. Mattis asked would certainly help you on the front end to make that less crowded.

Ms. Margaret McMannis responded yes, that would not be a hard shift for me to move the building back **5** feet along with the canopy.

Mr. Raymond Reber stated another comment I'd like to make, these restrictions that were right off the **30** foot setback, the canopy, the **30** foot rear yard setback and all the rest of these requirements, these are relatively recent, they were only instituted a couple of years ago and at

the time I approached the Town Board members because it concerned me because they are so drastic and I said that many of our commercial properties could never ever meet these. And, their answer to me was “we understand that, what we’re saying is this is the ideal. This, if we could find it and we could implement it would be the nicest way to develop commercial property.” But they said “you, the Zoning Board, have to be rational and realize that many of the lots will never comply and you can’t be unreasonable as long as it is not detrimental to the community or the neighborhood feel free to give the Variances as appropriate.” Normally, we’re very restrictive of Variances. When it comes to this particular regulation on each properties, I at least was told personally by Town Board members use good judgment, don’t panic if you have to give significant Variances.

Ms. Margaret McMannis stated I do want to comment that the gentleman who owns this, Mr. Malice, was at the public hearing for the Planning Board and his main concern was visibility of his sign but other than that is for this project.

Mr. John Klarl stated I mentioned to the Board at our work session on Monday night that Mr. Malice did appear at the last Planning Board and if you stand out in the road looking at the station right now to the left there’s a Malice sign and he was concerned you were going to put screenings that you wouldn’t be able to see the Malice sign from 9A so you indicated on the record that you’d work with your client to allow screening of a height that you’d still allow the Malice sign to be seen from **9A**.

Ms. Margaret McMannis responded yes, I actually revised the landscaping plan to remove an **8** to **10** foot evergreen and put in a small evergreen shrub.

Mr. John Klarl stated so the world can still see the Malice sign in the driveway. That was his comment.

Ms. Margaret McMannis responded yes.

Mr. James Seirmarco stated I just have one concern about that. It tends to be – you look at gas stations you generally look at the storage behind them and they end up with tires and they end up with an oil tank, drain oil tank and they end up with parts of cars and **55** gallon drums of spent liquids...

Ms. Margaret McMannis stated this is not a service station. It’s a convenience store. The existing structure does have two bays as a service station. This is just a gas petroleum dispensing area with a convenience store.

Mr. James Seirmarco stated then empty soda boxes, milk cartons and associated stuff ends up behind these buildings so the smaller you make that space the more you can subtract the nuisance. It’s a trade off for me.

Ms. Margaret McMannis stated my client owns upwards of **80** or **84** similar gas stations that he’s

purchased many of them in a dilapidated state such as this one where he has renovated them. I have actually some pictures of very nice locations and he really maintains his property.

Mr. John Klarl asked where's the nearest station he has to this one?

Ms. Margaret McMannis responded there is one -- he bought the small one in Cold Spring. That's right on the corner of **9D** and **301**. There was a very small station there. Most of his things are either across the river or north.

Mr. John Klarl asked Duches County?

Ms. Margaret McMannis responded Duches County, Arlington has a very nice station, Hyde Park, New Palz.

Mr. John Klarl asked is he always the same brand of gas?

Ms. Margaret McMannis responded no, he owns -- he dispenses several.

Mr. John Klarl asked it could be a Shell it could be a Mobil?

Ms. Margaret McMannis responded Sunoco, Shell, Mobil.

Mr. Wai Man Chin stated all the same.

Ms. Margaret McMannis responded high priced right?

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

Mr. Wai Man Chin stated I think Mr. Reber said it all.

Ms. Adrian Hunte stated I agree.

Mr. David Douglas asked somebody wants to be heard?

Mr. Dennis Malice stated I own the property just behind here. Again, I welcome them here. This gas station's been abandoned. It's an accident waiting to happen. I have absolutely no issues with them moving it back **5** feet if that's the case except my oil tank is on the side and I would ask them if they would help me move it to a safer location towards the back of my shop. I don't know if they would entertain that?

Mr. John Klarl asked can you point out where the oil tank would be?

Mr. Dennis Malice responded I don't know if they have it here now. I believe it's towards this back corner right here.

Mr. Raymond Reber stated I thought it was towards the front. Isn't it more forward?

Mr. Dennis Malice responded no, this would be the back here, this is the front of my shop, this is the auto body shop...

Mr. Raymond Reber stated I saw the tank. I thought it was here but I saw the tank I know what you're talking about.

Mr. Dennis Malice stated my only issue would be if they move it back it would be very close to that. If a vehicle or whatever would have to go by there whether it's cutting grass or anything of course there may be an issue with that and I would probably approach them and maybe ask you if there was a way you could help me to move it over to the back side here.

Mr. Raymond Reber responded I think it's a typical **250** gallon?

Mr. Dennis Malice responded **275**, it's not in concrete, it's above ground. Again, I have absolutely no issues if they need to move it back, if the Board needs to send me anything.

Mr. John Klarl stated one issue raised at the Planning Board was about your sign and making your sign visible.

Mr. Dennis Malice responded that was it too and I think – and that's basically shrubs. That's just vegetation more than anything...

Mr. John Klarl stated I'm just saying that was something you were concerned at the Planning Board meeting and I mentioned it. I don't know if you heard it.

Mr. Dennis Malice responded yes I did and it's fine, otherwise that's the only thing. Thank you.

Mr. David Douglas asked is there anybody else? Anybody else up here on the Board have any other comments?

Mr. John Mattis stated I don't think so.

Mr. Charles Heady stated I think everybody agrees with her moving back **5** feet.

Mr. John Klarl asked Ken, we have to re-advertise?

Mr. David Douglas stated my understanding is you'll come back with a revised plan that moves the building.

Ms. Margaret McMannis responded come back with the revised plans and we can advertise for the sign.

Mr. Wai Man Chin stated I didn't realize that the sign, it's not only the Sunoco but the part below it is part of signage...

Mr. Raymond Reber responded no not that, the pricing part.

Ms. Margaret McMannis responded yes, I do realize that. Yes, I included that in the calculation of the sign.

Ms. Adrian Hunte stated I think we had mentioned at our work session because of the signage we may have to re-notice.

Mr. James Seirmarco stated we said that.

Mr. John Klarl stated Ms. McMannis when you do your new plans for the Zoning Board of Appeals you'll give a set to the Planning Board so they know.

Ms. Margaret McMannis responded yes I will. I'll give it to Chris by the 23rd.

Mr. John Klarl stated same time, when you bring the new plans in for the Zoning Board of Appeals you'll give Chris a set.

Ms. Margaret McMannis responded actually I intend to make the changes before the next submittal for the Planning Board so that they'll have it at the next meeting.

Mr. John Klarl stated right, that's what I'm saying.

Mr. John Mattis asked is there anyone else in the audience who would like to speak? I'd just like to say that this is a very good solution to a difficult piece of property and it's going to really make that area look much better.

Ms. Margaret McMannis responded you know I grew up in Buchanan and lived here many, many years and it is sad to see that part of Town looking dilapidated and I think it will be a vast improvement.

Mr. John Mattis stated yes. I move that we adjourn Zoning Board of Appeals **case #20-11** to the September meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the case is adjourned until next month.

Ms. Margaret McMannis responded thank you.

B. CASE No. 21-11 Custom Mechanical Service and Design Corp. on behalf of Eric Roppa for an Area Variance for an accessory structure (shed) in the front yard on property located at **2069 Quaker Ridge Rd., Croton-on-Hudson.**

Mr. Ron Charnike for Custom Mechanical Service and Design on behalf of Eric and Jessica Roppa.

Mr. David Douglas asked do you have something indicating that you're authorized to represent them?

Mr. Ron Charnike responded yes I do. Basically, we're looking for the Variance for a shed. In the packet we provided the Board, going towards the back of the packet we provided pictures for you. The current situation right now is the slope of the driveway. They can't even get fuel in the winter time. The driveway is iced over, slick. We're installing a radiant heating system for them in the driveway. Currently they have a utility pole on the property right now about **75** feet in. We want to install a shed behind the shrubbery that's there now, when I say 'shrubbery' some of it is **12 -15** foot high not viewable from the road unless you almost pull into their driveway to see it. Installing, it's there. Were able to from the utility pole, come right down into the shed, install the controls right in there. If someone is working on the system, should the system go out, it's man-made, it's going to have a problem here or there. Rather than working in two feet of snow outside on a steel enclosure, exposed to the elements, it's a natural shed made out of natural wood, a color deck works with the surroundings rather than a steel enclosure with controls in it that's visible and a little more awkward looking than a standard shed. The hardship is that we could run it down to the house, the power, but you're talking a **600** amp service to run almost **650** feet almost down to the house.

Mr. Wai Man Chin asked **600** amp service?

Mr. Ron Charnike responded the problem is, it's not what the system draws it's because it's a continuous load you have to go **25%** over and then you to for every **100** feet we have to go up in our size. So, by the time you get done our **411** amp service, they won't give you a **400** or **411**, the next size up is **600** amps. Then you're talking it's almost a **700** foot run.

Mr. Charles Heady asked you already have an underground service from the pole down to the house now right?

Mr. Ron Charnike responded no, what they have is on the road we come the primary power off the road and swings onto their property overhead and then drops down to an underground service. What we're going to do again is we're going to take from that primary transformer that's on the roadway and it would drop down as a separate meter application right into the equipment shed that's there. We're not talking anything large here, we're talking a **6' x 8'** to an **8' x 8'** kind of shed. We've got three control panels that are **2** foot by **2** foot each, that's it.

Mr. Charles Heady stated we don't generally give a Variance for a front yard and that's in your front yard on that piece of property right?

Mr. Ron Charnike responded it's a fairly large parcel of property there...

Mr. Charles Heady asked I know, **3,000** feet from the house approximately?

Mr. Ron Charnike responded about **700** feet from the house.

Mr. Charles Heady stated looks like more than that to me.

Mr. Ron Charnike stated the way the crow flies, it's about **700** some odd feet all the way down to the bottom. We're **535** to our one wire and that wire ends just before the house and then we have a pad at the house as well. By the time you get to the outside edge of the garage we're about **700** foot and that's a lot of wire.

Mr. Wai Man Chin asked you want to heat the whole driveway?

Mr. Ron Charnike responded no, no it's just going to be a set of tracks. We neglected to put in there our website shows it. It's a two **2** foot tracks that go all the way down the driveway.

Mr. Wai Man Chin asked you need a **600** amp service for that?

Mr. Ron Charnike responded well, it's **24** amps per wire. You're going to have **12** wires so you've got to do the numbers and by the time you get done adding **25%** for a constant load and again, I don't know what the vocation is but when you're talking **100** foot per, in a constant load, they want us to go up in our wire size every **125** feet so we're talking a double lot wire by the time we get to the house. At **700** feet, that's a lot. If this were just an overhead it wouldn't be bad. If it was **200** feet from the house it wouldn't be bad. We have houses where we put in twin meters **200** feet off the road to do something but this is just a long one for them. It's a hardship. You're talking **\$9** a foot.

Mr. Wai Man Chin stated it's **\$7** a foot.

Mr. Ron Charnike responded not when you include the PVC and the trenching so by the time we get done with this going down there and we've got to disturb the driveway, we've got to completely cut up the driveway and the sidewalk to get the service into it in there. There's just going to be a lot more involved. Again, we don't even have to. We don't have to do it. We can put a, which I have here copies...

Mr. Wai Man Chin stated even at **\$10** a foot, **750** feet, per conductors...

Mr. Ron Charnike responded three, so you're going to run a ground and you're going to need a neutral too.

Mr. Wai Man Chin stated so two hot legs and one neutral.

Mr. Ron Charnike stated one ground and one neutral. By the time we get done with PVC and trenching, by the time we get done with this – plus we've got to run the controls to it as well, the sensor has to go up at the top of the roadway.

Mr. Wai Man Chin stated you're talking about **\$15,000**.

Mr. Ron Charnike stated you're talking about **15 to 18,000**. If we are made to go to the house, yes sir. Our other alternative would be to put a stainless steel enclosure that we could be approved for. It's a utility enclosure out there but it's going to be ugly. It's going to reflect sun. It's made out of where I can put aluminum or stainless steel out there. It's going to be six foot high. It's going to be five to six foot wide, double cabinet and you hit it wrong in the sun and you look at it wrong you're going to get a suntan or sunburn. Our thing is try to put it in the shed and the other thing is it never goes down in July. It's always February 20th and if there's a problem and so we're out there with the wind and snow and the ice trying to make an adjustment because the customer wants it to come on a little earlier or a little later. You're working with a lot of electric, a lot of snow, and a lot of ice and you're standing there in the snow. When possible we like to have a roof over our heads too.

Mr. Wai Man Chin stated I have **1,500** feet on my driveway. I don't have no electric...

Mr. Ron Charnike stated I don't know what your incline is.

Mr. Wai Man Chin stated the incline is steep so I mean I'm sure you can understand. I don't know what your runoff is...

Mr. Wai Man Chin stated I have people plowing it and that's it.

Mr. Ron Charnike stated they have had people to come in and plow and then they had people that will not show up anymore because they cannot get back up the incline.

Mr. Wai Man Chin asked what kind of incline are you talking about?

Mr. Ron Charnike responded it's pretty steep. I would not want that incline – I had one in Warwick, New York where my truck, and I've got four-wheel drive diesel with the best tires you can buy on the market on there, they're snow **Duratec** tires and they're designed to eject snow, I slid backwards **250** feet. This incline is actually worse. Listen, whether it's a natural looking shed or we're just going to put an electrical enclosure there. We're just trying to save the customer a steep shot into the pocketbook.

Mr. David Douglas stated I'm not sure I understand why he can't just plow the driveway. I'm sorry if I'm being cynical about this but I live on a substantially steeper driveway, a longer driveway and if he wants some names of some good plow companies that are dependable, I can tell him them.

Mr. Ron Charnike stated I would appreciate that I guess if I wasn't into the radiant heat business and trying to make a profit. I'm sure we can put that for another meeting at another particular time. That was a little harsh but you know something we have some clients who have as flat as this table and they just don't want to see snow.

Mr. David Douglas stated I'm joking about it a little bit but part of it is that you're seeking a Variance for something that we rarely, rarely grant. So, there's got to be a real hardship, at least in my mind I can't speak for anybody else. At least in my mind there has to be a really significant hardship for me to consider granting a Variance that we almost never give. I went out to the site and I saw the driveway and there are probably hundreds of driveways with that grade in this Town. This is a very hilly Town and there are lots of houses that have long driveways like that.

Mr. Raymond Reber stated I'd like to approach it a little differently. The owner has all the right if he wants to put in radiant heat I have no problem with that.

Mr. Ron Charnike stated that's seems like a big part of the contention here is do I snow plow it or do I heat it.

Mr. Raymond Reber stated that's part of his decision. If he wants to gold plate his roof. I mean, who am I to complain? The issue is the Variance. Now, I want to get back to the cost elements. The project is you're proposing is going to cost the owner approximately how much?

Mr. Ron Charnike responded **\$55 to \$60,000** by the time they're done.

Mr. Raymond Reber stated **\$55 to \$60,000**. Now, to run the lines in, the cables in on the pole going in to feed to this box, how much does that cost per foot?

Mr. Ron Charnike asked the primary line coming in from the street?

Mr. Raymond Reber responded yes, you're going to have to get to your box which you say you want to put it in a building...

Mr. Ron Charnike asked from the existing pole?

Mr. Raymond Reber stated you're going to come in to the pole.

Mr. Ron Charnike stated the electric company's going to bring in to the pole and then they're going to string it within a **100** feet, they string it for free. So, they're going to string that or we're

going to trench it in the ground directly to the shed itself. By the way we're putting up a mast or underground they're going to give that to us for free.

Mr. Raymond Reber asked if we move the shed back a **100** feet, what's the incremental cost to you? If we say put it **100** feet further back...

Mr. Ron Charnike asked oh, further down the hill?

Mr. Raymond Reber stated yes, in other words you come from that pole you go another **100** feet. What's that **100** feet cost you?

Mr. Ron Charnike responded well the problem is that they, whether we string it left or we string it right truly isn't the matter there, they still going to give you that wire, the problem is we now need to get from that shed up to the top of the hill with the primary wires to the radiant heat system.

Mr. Raymond Reber asked which you've got to do anyway right?

Mr. James Seirmarco asked if you put up another pole will they run it to the second pole?

Mr. Ron Charnike responded I don't think whether they put up a pole or if we take it from that primary pole and whether the pole will handle it or we go another **100** feet or we just go underground...

Mr. Raymond Reber stated here's what's happening, you're not answering my question which is fine, it's fine because you know what, we're not supposed to let economics be the deciding factor. The deciding factor is does the applicant have an alternative that does not require a Variance? The alternative is you put the shed, whatever you want to build, legally, on the property behind the house and you run the wires back. You're spending **50** to **60** thousand dollars for something that several Board members here have already said that is no different than any other homeowner, this is no particular hardship, and to be honest even if it is that's not necessarily the basis for which we give Variances. It has to be that there's no alternative. To me, fine the homeowner wants to put this in, fine, but just meet the requirements. I would not give a Variance for this kind of an application. Run the wires so that you've got a legal shed. Your argument about a green containment building and the weather – phone companies has these tall boxes all over the Town with the panels. They open them up in the middle of the winter to service them.

Mr. Ron Charnike responded sir, please don't get me wrong, I've been in construction for **30** some odd years and I've worked in some pretty harsh weather so I don't need but the phone does or what we do. We're out there in the harsh weather too. The idea is that what we trying to do was that rather than put an unsightly cabinet, which we can put it was a matter of just putting up a wooden shed.

Mr. Raymond Reber stated those cabinets aren't unsightly if they're painted forest green, you've already said you were willing to put shrubbery all around it. You wouldn't see the cabinet either but that's all a moot point. The point is I would not vote for a Variance for all the reasons stated. You can put the service in and put your shed or building or whatever you want, somewhere legally in the side yard or the backyard or whatever.

Mr. Ron Charnike responded well, again, the backyard is – well with the side of the house we're talking **700, 750** feet away, obviously we've gone to the other end of the spectrum here.

Mr. Raymond Reber stated but the applicant has **50 to 60** thousand dollars to spend on the deicing so obviously he has some money.

Mr. Ron Charnike stated we're not talking about the economics. I understand.

Mr. Raymond Reber continued and we can't use economics as a factor anyway. Sorry.

Mr. Ron Charnike stated that wasn't my primary concern. That was brought up to me by the gentleman here, by the Vice Chairman. I just answered that question as to how that comes up as a price structure and why it was a fiscal hardship, or someone's hardship is not someone else's, I understand that but economically it is an issue or it's not an issue here.

Mr. John Mattis stated not on our Board.

Mr. Ron Charnike stated I understand but I've heard the ideas that...

Mr. Raymond Reber stated and I know wire can be run – my family has own some property that was more than, same thing, more than **600** feet off the land, years ago they had to put poles in all the way in because they didn't want to go underground because they couldn't afford it but the utility company came in, put **5** poles to get that wire all the way to the house. It's not rocket science. It's done all the time. Just keep running that line until you get it to...

Mr. Ron Charnike stated they have a front yard that they just don't want to see **5** phone poles in at the very bottom, that's what they bought.

Mr. Raymond Reber stated okay, then put it in the ground. If they don't want to see it they can bury it.

Mr. Ron Charnike stated I understand. Like I said, up at the top of the road we can put a utility cabinet up there just like you said, just like the phone company does. They're utility grade. They're approved by the utility company for being put right next to the poles. However we're allowed to or whatever other application we need to make to do that, it's the utility company. That was their recommendation originally to us and we said we'd rather go with a natural look, something that's going to be hidden behind the trees, not seen by anybody and not in anybody's way. You can't see it from the road. You can't see it from the sides. So, that's why we did it.

Mr. Raymond Reber stated we have, as mentioned in various cases, yes we've allowed for some things in the front yard. Those were cases where there was absolutely no option for what the person wanted to do, no other place to put it and what they wanted was something – was pretty practical and ordinarily necessary for the average homeowner. So, those were the reasons why we gave them.

Mr. Ron Charnike stated why you folks have approved or not before, I've never been before the Board. I wouldn't know that. That's not the history of whether it's pools tonight or anything else. I don't know the local scheme.

Mr. James Seirmarco stated I'm going to read to you, there are **5** specific Area Variance criteria. I won't read them all but I'll read you two: "the benefits sought by the applicant cannot be achieved by some other method feasible for the applicant's to pursue other than an Area Variance. And **5**: "the alleged difficulty is not self-created." Item **2** and **#5** – now we have to meet this criteria so two out of the five you don't meet. It is self-created...

Mr. Ron Charnike responded right, but we are also using the word 'feasible' in there – it's a matter of what you folks – we'll take your marching orders if you say, like this gentleman seems to indicate, he'd rather see an electrical cabinet like ConEd use, I'm more than happy to put it there.

Mr. Raymond Reber stated what I'm saying is once you get it out of our purview which means you don't need a Variance you can do what you want. I just gave a personal statement that's all.

Mr. Ron Charnike responded I understand that. Whether we put bushes or paint it green as you indicated we can do to a silver cabinet or we leave it silver with the original as it comes from the manufacturer that's for the client to do later on if they so want to. Again, our only thing here whether we paint it a green and put green shrubs around it or it's the same size, maybe double the size of that and it's made out of wood and it's a little wood shed that you can get from Home Depot and conforming to whatever size you want it looks like it belongs there in comparison. That was the only reason for the request other than the fact of also – we're not running the wire all the way to the house, they're not going to spend the **20** grand.

Mr. John Mattis asked how old is the house?

Mr. Ron Charnike responded it's not old, old. The house has only got a **200** amp service in there right now...

Mr. John Mattis asked **10** years, **20** years?

Mr. Ron Charnike responded I would say the house is **20** years old.

Mr. John Mattis stated **20** years old and all of a sudden you can't get fuel deliveries up there. All of a sudden nobody will plow.

Mr. Ron Charnike stated well, they've only moved in within the last year or so.

Mr. John Mattis stated well somebody was getting fuel delivered and it was not a problem for **20** years or so and now all of a sudden they can't get fuel deliveries in the winter and they can't get somebody to plow it. If this was a new house and a builder built it and they happened to buy it I'd be a little sympathetic to that but if it's **20** years old – somebody's been getting fuel up there for **20** years and somebody's been getting their car in and out of there for **20** years.

Mr. Ron Charnike responded sir, I'm here to try to make a natural look to a situation in comparison to something that's going to look very mechanical and it's not really a Board issue it's going to be an electrical Permit issue of putting a cabinet there and being done with it. I have no problem with it either way. The same work to us. The same controls go in. Our thing to the customer was it's actually going to cost them more money but...

Mr. John Mattis stated I think the main thing we have to go on are the two points that Mr. Seirmarco stated and the fact that we are not to consider economics because everybody would say everything's a financial hardship.

Mr. Ron Charnike stated I totally agree. It's been brought up a few different times, other different ways. To me, I'm here for one thing only. What does it look like when you pass it? Do you want to see a silver box that looks mechanical in the middle of the woods? And, I live up on Greenwood Lake so I know what it is with the woods.

Mr. John Mattis stated the fact that you put it somewhere else you can still put it as the same type of shed.

Mr. Ron Charnike stated no, at that point – again the wires are going to go there. They're not going to go down at the house. We're not running them all the way down – we would just put an electrical control box, something right up over there that meets Code and that the control panels can go in.

Mr. Raymond Reber stated you don't understand. That's got a Variance too and I wouldn't approve that.

Mr. Ron Charnike responded for a ConEd box?

Mr. Ken Hoch stated that's a tough question because...

Mr. Wai Man Chin stated like a generator in the front yard.

Mr. James Seirmarco stated that's not a permitted use. That needs a Variance. We're not arguing about the type of cabinet, we're arguing about the location of the cabinet in the front yard. So, you're saying that you possess the ability to just put another stainless steel cabinet here...

Mr. Ron Charnike stated our question is whether we've used sheds before. We've used enclosures before – tonight for a shed if we need to come before you for an enclosure. I haven't given you any paperwork on it I have no idea...

Mr. James Seirmarco stated it's the same criteria. It's a self-created hardship and you have an alternative. Out of those five issues that we must meet you're not meeting two of them. It is a self-created hardship and we can't deal with self-created hardship and **2**: there are alternatives. Whether you put a wooden shed there, stainless steel shed, green shed or whatever it's a shed in the front yard so the same rules would, I think, would apply...

Mr. Ron Charnike responded I guess my question would be if we're disturbing ground to put in multiple poles as has been discussed here in front of the yard and keep running and stringing wires rather than whether it's underground, family members could or couldn't afford it and that's an economic issue and that was obviously for them back when and the issue here being whether we're going in trenching underground. If we're installing a phone pole now and we're disturbing the ground to put in poles, what is part of the difference here? Right now they have poles that are right there off the roadway, if we put it in say next to the actual pole itself instead, would that make a difference if we enclosed it with arborvitae around it so it can't be seen at all?

Mr. James Seirmarco responded if it's a shed of bigger than what **10' x 10'**?

Mr. John Mattis stated no, the front yard always needs a Variance.

Mr. James Seirmarco stated it's a shed in the front yard. That's the issue. A telephone pole I'm not sure.

Mr. Ron Charnike stated that's why I'm saying we're trying to figure out ways to mount our two foot panels.

Mr. James Seirmarco stated I think facilities poles are permitted.

Mr. Ken Hoch stated I think they are.

Mr. Ron Charnike stated I guess my next question would be if we got from the manufacturer, let's say if our panels rather than being indoor panels if they were what's called **3R** panels, they're outdoor panels and they were mounted outside. Our electrical devices, now this isn't a generator, that's not a noise generating device it's a control panel, **2' x 2' x 8"** deep, three of them – right there, right where we're talking right now you have two automatic gates and two big stone pillars there that are the length of that box there right now that were allowed to be built,

that are bigger than any generator, shed in square footage, etc, etc, and the garage doors and we have power convertors and we have areas to connect wiring. So, now the question here is; are we talking in size now of what's allowed to connect wire. Is an electrical box only allowed to be this big or can my electrical box be this big? Because, I'm going to stick on the word 'feasible' in there and I'm going to say at what point is someone not allowed to run power up to the front of the house and then what size box can they run it? I just kind of need to know – I'll play in the rules I just need to know what the rules are.

Mr. James Seirmarco stated let me read you that statement again. It says "whether the applicant can achieve his goals via a reasonable alternative which does not involve the necessity of an Area Variance. Whether an undesirable change will be produced in the character of the neighborhood." You're okay there. "Whether the Variance is substantial." It's probably not substantial. "Whether the Variance will be an adverse impact on physical or environmental conditions in the neighborhood. Whether there has been any self-created difficulty."

Mr. Ron Charnike stated if I may be allowed for that moment there, the people here...

Mr. Wai Man Chin stated I've seen in many places where people don't have their meters inside the house. Sometimes they're right by the front of the road on a pole with the panel right below it. I don't have a problem with that.

Mr. Ron Charnike responded I just need to know what size...

Mr. Wai Man Chin stated I don't think that's a requirement with the Zoning Board if you just put it on a pole with these panels there.

Mr. David Douglas stated right now we're talking about hypothetical situation. We've got a certain application in front of us, my personal view is that if you want to come back with another plan, you can come back with another plan and talk to Mr. Hoch and see whether another Variance is needed or not but we're not going to sit here and design and answer different design questions...

Mr. Ron Charnike stated I understand that but we've gone from the wire...

Mr. David Douglas stated I'm sort of cutting off the conversation.

Mr. Ron Charnike stated we've gone from the wiring to generators. I don't know what the lay of the land is and I guess my question here kind of just comes back to just to this and then I'm more than happy to do whatever you want me to do. When the concrete wall was done and the actual garage openers, the gate openers were done and the control wiring is brought up, I guess I need to know who or – I don't mean this to come off wrong, but I don't know if it's in the purview or if you want me to come back to you or is it an electrical issue to where – or do I have to go to them first and then have them write you something. What do we need to do to make the connections?

Mr. David Douglas responded you need to go to Mr. Hoch and his Department with a plan and he'll make an initial determination as to whether or not a Permit can be granted or a Variance is needed.

Mr. Wai Man Chin stated let's put it this way. Anytime you put a structure in the front yard, it needs a Variance, no matter it's a generator or a shed, you need a Variance.

Mr. Ron Charnike responded but is what you're saying is a structure considered a panel?

Mr. Wai Man Chin responded if it's on a light pole and this and that and it's a meter, that's not a structure. You have to talk to Mr. Hoch on that but I'm saying that any time there's a generator that people want to have – the power went off they can put it on it, that you need a Variance on for a front yard.

Mr. John Klarl stated the Chairman's quite correct when he says tonight the focus of our attention is an accessory structure shed in the front yard. If you have other thoughts you might want to adjourn this public hearing and discuss them during the day with Department of Technical Services staff Mr. Hoch, Mr. Vergano and others but tonight we're focusing on a shed. If you want to pursue other thoughts and other remedies than you should talk to staff during the day.

Mr. Wai Man Chin stated we can adjourn this thing right now and wait until you go over with Mr. Hoch and come back next month.

Mr. Ron Charnike stated I'm just trying to figure out...

Mr. Wai Man Chin stated we can vote on it the way it is right now or like you say....

Mr. Ron Charnike responded no, we'll come back.

Mr. James Seirmarco stated we can poll the Board on your specific request for a shed. I think you'll find we'd all be against it.

Mr. Ron Charnike stated understandable.

Mr. David Douglas stated maybe the best thing to do is to, as Mr. Chin suggested, is to adjourn it and then consider other options within the month and you can come back next month with a different alternative.

Mr. Ron Charnike stated that will be fine. I can speak with Mr. Hoch on it and we'll have...

Mr. John Klarl stated Mr. Seirmarco would say to consider your alternatives.

Mr. Ron Charnike stated in Warwick – and everybody's different...

Mr. David Douglas stated so why don't we do that way – by the way, you can tell your client that you did a very good job. We may not be disposed to grant you what you want...

Mr. Ron Charnike stated in **12** years this is the first time I had to be in front of the Zoning Board on a shed and now I lost the bet. Thank you very much folks. I had no idea. I said there is no way in the world where this thing is buried that this shed's going to get knocked down. Thank you very much. There was my tailgate money from Monday night, the Jet game. I appreciate it. I don't mean to be adversarial I just don't know what the rules are and I'm trying to play with them.

Mr. David Douglas stated no, you're trying to represent your clients.

Mr. Charles Heady asked the shed you wanted to put up, another reason why we go against it too is because they sell that property and somebody comes in says they don't like all these trees around it and they cut everything down and then you see the shed. You understand what I mean? So, different people have different thoughts.

Mr. Ron Charnike stated I would put it right next to existing pole that's there. I guess at this point my only question's going to be obviously to you tomorrow morning bright and early. Can we put an electrical – Mr. Chin you seem to have a good construction background knowledge here. What is a junction box is going to be my question? A junction box **4' x 4'** or a conjunction box going to be...

Mr. Wai Man Chin stated a junction box can be this big.

Mr. Ron Charnike stated and my junction box is going to be roughly **4' x 6'**.

Mr. Wai Man Chin stated a breaker panel is a junction box.

Mr. Ron Charnike stated my question to Mr. Hoch tomorrow morning is going to be...

Mr. David Douglas asked do we have a motion? I'm sorry I'm not trying to cut you off but I am cutting you off.

Mr. Charles Heady stated I make a motion on **case 21-11** and adjourn it until September.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #21-11** is adjourned until September.

Mr. Ron Charnike responded Mr. Hoch obviously I'll be in touch with but is there anything else that we will need from...

Mr. Wai Man Chin stated he'll tell you.

Mr. David Douglas stated Mr. Hoch knows everything.

Mr. Wai Man Chin stated you may not even be in front of this Board again.

C. CASE No. 22-11 2045 Post Road Realty Corp. for a Special Permit to establish and maintain appropriate screening for an existing contractor's yard on property located at **2045 Albany Post Rd., Croton-on-Hudson.**

Mr. John Foley stated President of Post Road Realty. I was given notice to have a fence installed on the property so we submitted an application of the type of fence that we want to put up and the area where we want to put it.

Mr. Wai Man Chin stated I actually went by your property and saw the property around. You do have some wood fencing around at this moment. There's one area where you want to put the fencing which is a chain link fence, some green dark mesh covered and of course then you have an area where – there's a building right next to you which is I think Mr. Carbone's building right there. Right now it's kind of abutting right up to the edges of it, kind of. Trying to put a fence behind his building I don't think it would do it any justice, that section of where the building is. I have no problem with the fence that you want to put up in that area that you indicated.

Mr. John Foley responded that's where the private homes are.

Mr. Wai Man Chin stated right, exactly. The only thing I would like to see done is, not now, but in the future, let's say the wood fence starts deteriorating I would like to see that fence to start to continue around.

Mr. John Foley responded our intention is to enclose the entire property. It's a money factor right now.

Mr. John Klarl asked with what type of fencing?

Mr. Wai Man Chin stated the same type.

Mr. John Foley responded oh yes, the same 8 foot tie. It's a very expensive fence.

Mr. Wai Man Chin stated I'm not asking you to take down the wood fence, I'm saying as it deteriorates it has to be replaced with the same fence that you're putting up by the residential area. That's the only comment I have on this thing right now.

Mr. John Foley responded is it okay for the 200 feet behind the property? That's what I'm here

for.

Mr. Wai Man Chin responded right.

Mr. David Douglas stated let's see if anybody else has any comments.

Mr. James Seirmarco stated I would only add to that comment that that's hard to police. I would like to put a timeframe on that, **5** years, **8** years, whatever you want to do it.

Mr. John Mattis asked for what?

Mr. Wai Man Chin asked how can you do that?

Mr. James Seirmarco responded you know how long fences last, it's 'x' number of years, double that.

Mr. Wai Man Chin stated if it starts to fall down it has to be replaced. If Code Enforcement sees it or somebody sees it then you have to replace it with that same type of fence that we put towards the back. You can't say that the guy has to put it up in **5** years. We can't do that.

Mr. James Seirmarco stated **6** years, or **5** years or something like that.

Mr. David Douglas asked anybody else?

Ms. Adrian Hunte stated I don't see how we're going to put a time limit on fencing.

Mr. John **Foley** responded on the entire perimeter.

Mr. David Douglas stated I think it's preferable to have it that if it deteriorates and it's falling down Code Enforcement will take whatever steps and then the requirement would be at that point that you put the same type of fencing on the rest of the place.

Mr. John Mattis stated that would apply to any contractor's yard regardless of what type of fence now anyway. It's a requirement that they have fencing. If that fencing in the front starts falling down then it's time to replace it and we would require in our Decision and Order that it's replaced by the same type you're putting in now.

Mr. John **Foley** stated absolutely, no problem.

Mr. John Mattis stated and we don't know if that's two years, five years or **20** years.

Mr. Wai Man Chin stated who knows.

Mr. Raymond Reber stated what's being proposed to include any fencing on the north of the

property?

Mr. James Seirmarco stated that's the side facing the Carbone property.

Mr. John Mattis stated the other side.

Mr. John Foley responded the other side. North side's got bushes.

Mr. Raymond Reber stated so there's no fencing proposed.

Mr. John Foley responded there's a partial fence there now with shrubs – fencing with shrubs is there right now.

Mr. Wai Man Chin stated some old fencing.

Mr. Raymond Reber stated that would need a Variance then because Code requires that – we're being asked to give a Variance on both sides; south and north.

Mr. Wai Man Chin stated basically yes.

Mr. Raymond Reber stated because that requires fencing.

Mr. Wai Man Chin stated I'm saying any time any fence along the property starts to – you've just got to replace it with new fencing as indicated.

Mr. David Douglas stated I think that the fencing would be required on that side as well. Am I right? They don't do the Code the fencing's required.

Mr. Ken Hoch responded the Code requires appropriate screening based on the Board's determination of what appropriate screening is which could be topographic features, vegetation or fencing.

Mr. John Klarl stated solid walls or opaque fences.

Mr. Wai Man Chin stated that's why I'm saying if anything ever happens in certain areas it's got to be replaced with fence.

Mr. John Klarl stated the big language of the statute is “such screening shall substantially conceal in the judgment of the Zoning Board of Appeals all operations of such builder supply yard, contractor's yard or lumber yard throughout all seasons of the year from the view of pedestrians or motorists passing such use.”

Mr. Wai Man Chin stated right.

Mr. John Mattis asked do you think it's appropriate that we adjourn this and do a site visit?

Mr. Charles Heady responded no, I don't think so.

Mr. John Mattis stated then we could look at the whole thing...

Mr. David Douglas stated I think that's a good idea.

Mr. Wai Man Chin stated it's not a bad idea. We could do a site visit. Not the whole Board would come and take a look at it but I think we generally agree pretty much what you want to do. Just to take a look.

Mr. David Douglas stated John I think that's a good idea.

Mr. Wai Man Chin stated the next meeting is September 21st, so we're talking about the Saturday before.

Mr. John Mattis stated the 17th.

Mr. John Klarl asked what time?

Mr. David Douglas responded **10 a.m.** is that convenient? Does that work for you?

Mr. John **Foley** responded yes.

Mr. Wai Man Chin asked anybody else in the audience. I'm going to make a motion on **case 22-11** to adjourn to the September meeting and have a site inspection on September 17th at **10 a.m.**

Seconded with all in favor saying "aye."

Mr. David Douglas stated we'll see you on the 17th at **10 a.m.**

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Mr. David Douglas asked are you here to be heard on something?

Mr. **?** stated no I was looking for the public hearing about the gas station on Albany Post Road.

Mr. David Douglas stated that was held already but there will be a continuation of that hearing at next month's meeting. There was no vote taken. We listened to what the applicant had to say.

Mr. John Klarl stated Variances were identified by the applicant and the applicant's also agreed to move the building back towards the Malice property another **5** feet.

Mr. David Douglas stated it's on next month on September 21st.

Mr. ? stated thank you.

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ADJOURNMENT

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

Seconded with all in favor saying "aye."

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**NEXT MEETING DATE:
WEDNESDAY SEPT. 21, 2011**