

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, December 18<sup>th</sup>, 2013*. 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:

Wai Man Chin, Vice Chairman  
Charles P. Heady, Jr.  
James Seirmarco  
John Mattis  
Adrian C. Hunte  
Raymond Reber

Also Present

Ken Hoch, Clerk of the Zoning Board  
John Klarl, Deputy Town attorney

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**ADOPTION OF MEETING MINUTES FOR NOV. 29, 2013**

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

Mr. David Douglas stated those minutes are adopted.

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**ADOPTION OF 2014 MEETING SCHEDULE**

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

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**ADJOURNED PUBLIC HEARING TO FEB. 2013:**

- A. CASE No. 2013-18**                      **DOTS Code Enforcement** request for an Interpretation and determination of the non-conforming status: in **Case #161-87** an Interpretation was granted to this property that a tutorial service conducted by the Petitioner within their home was a customary home occupation. The Application was accompanied by

statements from the applicant as to the number of students, employees, etc. At the time the Interpretation was granted, the Ordinance did not contain a cap on the number of employees or students that could be on the premises. Subsequently, the Ordinance was amended to limit the number of students and employees. A determination is needed as to what if any limits apply to **Case #161-87** presently.

Mr. David Douglas stated that will be on in a couple of months.

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**ADJOURNED PUBLIC HEARING TO JAN.:**

- A. **CASE NO. 2013-22**                      **Frontier Development** for Area Variances for the side yard setback, front yard parking setback, landscaping for parking area, parking spaces, and signage on property located at **3025 E Main St., Cortlandt Manor.**

Mr. David Douglas stated this is another adjourned item.

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**ADJOURNED PUBLIC HEARINGS:**

- 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 asked I understand that the applicant wants an adjournment?

Mr. Ken Hoch responded yes. I spoke to the applicant during the week.

Mr. David Douglas asked when do they want it until?

Mr. Ken Hoch responded one month because they think the Planning Board might be done by then, if not he'll ask for another adjournment to February.

Mr. Raymond Reber stated I make a motion on **case 18-09** to adjourn to the January meeting.

Seconded with all in favor saying "aye."

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

**B. CASE No. 2013-27 Phoenix 184 Westchester** for an Area Variance for an accessory structure, a deck, in the front yard on property located at **184 Westchester Ave., Verplanck.**

Mr. David Douglas stated Mr. Hoch I know that last month the applicant did not...

Mr. Ken Hoch stated he's here.

Mr. David Douglas stated okay, good. If you could tell us who you are because it gets recorded...

Mr. Jason **Courier** stated I'm representing Phoenix **184 Westchester**. It's the house on **184 Westchester**.

Mr. Wai Man Chin asked do you have a letter?

Mr. Jason **Courier** asked a letter of?

Mr. David Douglas asked are you the owner of the company?

Mr. Jason **Courier** responded I am the owner. I bought it with a deck on there which was on the property card but, in speaking with Ken we found out it was built illegally and we're asking to put back up the deck that was falling apart. On this though it says a deck in the front yard which isn't the case. I don't know if it was a typo or...

Mr. David Douglas stated well, it actually is technically is the front yard because, as I understand it correctly is a paper road and that counts as a front yard.

Ms. Adrian Hunte asked Mr. Courier could you just tell us exactly what you plan to put in its place?

Mr. Jason **Courier** responded the same sized deck that was there.

Ms. Adrian Hunte asked but you still need a Variance of **9.79** feet?

Mr. Jason **Courier** responded correct.

Mr. Raymond Reber stated the unique situation here is that we've got this two front yard situations. You're actually on Westchester Avenue and you're set back anywhere from **55** to **68** feet because the house is angled. The issue is 10<sup>th</sup> Street which physically does not exist but it's a paper road. Your house is **20.27** feet from the 10<sup>th</sup> Street property line. Your deck doesn't go any closer than the house, it's just an extended – so anybody looking at it would think it's in the back of the house. Really, all that you're asking and rebuilding this is to have a deck that does

not encroach any closer to 10<sup>th</sup> Street than the house does and this to us is normally something we have no problem with.

Mr. David Douglas stated I just want to explain to you and to the members of the public. We say a “paper road” what that means is that that there’s no actual road there but if you look on the maps of the Town, the map of the Town will say that 10<sup>th</sup> Street goes through there but it doesn’t really. It doesn’t exist.

Ms. Adrian Hunte stated and it doesn’t appear that there will be any other structure there. This appears to be – there’s nothing there now.

Mr. Jason **Courier** responded no.

Ms. Adrian Hunte asked anybody have any comments in the audience? I don’t see that this would cause an undesirable change in the neighborhood or the character of the neighborhood or any detriment to any nearby properties since there are no properties on this side – at least for the moment and it is a paper road. It appears as though this was something that was there before and your options are somewhat limited. You don’t have much space in the back.

Mr. Jason **Courier** responded yes, because what the previous homeowner did is actually made it so there’s basically a slider there to a deck. It’s kind of a safety issue to not put a deck back up.

Ms. Adrian Hunte stated and we’re talking about – although in actual feet it’s not that much in terms of **9.79** it is **33%** but I don’t see that it’ll have any adverse impact on the physical or environmental conditions in the neighborhood. At this point it’s not self-created in the sense that it was there and it’s falling apart, you need to just replace it.

Mr. Wai Man Chin stated I’m just going to agree with Mr. Reber that the deck is not going any further than the house and the house is built quite a while ago.

Mr. John Mattis stated yes, the house was conforming. It was a **20-foot** setback required and the deck was conforming at the time that it was built. The Code has changed and now it’s a **30-foot** so they’re really aligning it as it was with the house. You won’t even see it from the road.

Ms. Adrian Hunte asked anybody else?

Mr. Charles Heady stated I also agree with what Mr. Reber says.

Mr. James Seirmarco stated me too.

Ms. Adrian Hunte stated on **case #2013-27** the applicant Phoenix **184** Westchester Avenue, Verplanck, NY I make a motion to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Ms. Adrian Hunte stated on **case #2013-27 Phoenix 184 Westchester** for an Area Variance for the front yard setback to demolish an existing deck and to build a new one on 10<sup>th</sup> Street from an allowed **30** feet down to **20.21** feet I make a motion that we grant the Variance. This is a SEQRA type II no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Mr. Wai Man Chin asked Mr. Hoch would you like to make a comment?

Mr. Ken Hoch responded I'll just be sending you some paperwork Jason so they can get you the permit.

**C. CASE No. 2013-29                      Marcia Royce** for an Area Variance for the front yard setback to rebuild a fire damaged house on property located at **2223 Maple Ave., Cortlandt Manor.**

Mr. David Douglas stated at the last meeting there was a survey that was supposed to be done and it's our understanding that survey hasn't been done yet so the applicant wants to adjourn it until January.

Mr. Ken Hoch stated yes, the attorney asked until January.

Mr. Charles Heady stated I make a motion on **case 2013-29** to adjourn it to January.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #2013-29** is adjourned until January.

**D. CASE No. 2013-33                      Sharon Garb** for a Special Permit to establish and maintain appropriate screening for an existing contractor yard on property located at **2201 Crompond Rd., Cortlandt Manor.**

Ms. Adrian Hunte stated I understand there was a site visit from some members of the Board and at that visit it was determined that there are certain items that need to be addressed. Mr. Hoch, do we have certain things that we've discussed that we'd like to have addressed before we proceed? As I said, at our work session, we discussed certain items that we felt need to be

addressed at the property before we consider the Special Permit issue and Mr. Hoch, I believe you have the items.

Mr. Ken Hoch stated there are a couple of items the Board asked me to check on. One was if there are any apartments in that house and I spoke to Mr. Garb yesterday and he told me there are no separate apartments but there are four people sharing the house. There was also an issue of RVs parked on the property which would not be part of a contractor yard.

Ms. Sharon Garb asked RVs?

Mr. Ken Hoch responded recreational vehicles.

Mr. John Mattis stated on the left hand side.

Ms. Sharon Garb responded we don't have any recreational vehicles.

Mr. James Seirmarco stated you have a boat trailer.

Ms. Sharon Garb stated there's trailers, those are contractor's supplies. It's not recreational vehicle.

Mr. James Seirmarco stated one of them is a boat trailer.

Ms. Sharon Garb stated I'm sorry, there's no RV.

Mr. John Mattis stated the supply trailers on the left side as you come in, kind of far back.

Ms. Sharon Garb stated yes, there's a boat trailer but not an RV.

Ms. Adrian Hunte stated we had screening.

Mr. Raymond Reber stated a number of us did go for a site visit and it's a relatively large piece of property. It's got several buildings on it. The specific issue that's been brought before us is the argument that when someone has a contractor's yard, basically storing contractor's equipment and materials that it be, if it's in a residential area, that it be properly screened so that it's not annoying the neighbors. In looking at the property and looking at, particularly the one house in the back, it's kind of hard to guarantee that you can screen the property because that house is at a higher elevation and we're not going to ask for a **100**-foot tall fence or whatever. However, I think there's a feeling among the Board members that were at the site that there are some things that can be done to minimize the impact. I think the easiest thing is to work on a survey and lay something out. Generally speaking, if you look at – okay, we've got the property map up there, as you come in the central driveway there that shows the split and like oval coming in, off to that right side before you get to that one building that's in the upper part of the property as we see it there, there were some trucks in that area and generally, the building itself

screens those trucks from the neighbors in the back. There are no neighbors – where it says “foliage” up there, there are no neighbors so that’s not the concern. The concern is toward the back where it’s marked “6-foot fence.” Generally, if they’re on the, as we look at it, the left side of that upper building they’re reasonably screened so the thought was if they keep the equipment in that area and we simply ask you to put an 8-foot fence extension from that building say up in the property line on both sides somewhat just to make sure that the trucks have an area they can park, that that would suffice for protecting that area. Actually, there was a gentleman there that has a lawn care I think it was, business and he parks in that building that you approach when you come in that split driveway, that first building. On the lower side of that building there’s a driveway that goes in and he parks his trucks toward the back, but that’s again, up on a ridge. The property drops down as you go up on the map and we talked to him and the thought was that there again on top of that ridge, with an 8-foot fence, you can put shrubbery too. Personally I would put a fence. It’s a lot easier and it’s instant and you’re done. Along that strip where he parks his trucks then again he can leave his equipment there and they’re just pickup trucks, nothing outstanding, and again, that would provide proper screening – and I think with those two adjustments you’ve created two areas that are properly screened so that the neighbor really is not being visually disturbed by having some trucks on the property. That’s my opinion and I think that would suffice, to meet the basic intent of the Ordinance which says “contractor equipment is to be screened from residential neighbors.”

Mr. James Seirmarco stated I too made the site inspection. I have similar comments. I just have one question. Are there any offices for some of the contractors on site?

Ms. Sharon Garb responded no.

Mr. James Seirmarco stated because it looked like rooms there with air conditioners sticking out.

Ms. Sharon Garb responded no, that’s our antique shop.

Mr. James Seirmarco stated that’s an antique shop.

Ms. Sharon Garb responded yes, we’ve been there forever. The bottom half, yes.

Mr. James Seirmarco stated just to concur with Mr. Reber, there were some trucks, where he just mentioned, where the proposed fence would go, some trucks are past that so we would ask you to take those trucks and contractors and bring them down towards the road.

Ms. Sharon Garb responded towards 202?

Mr. James Seirmarco responded right.

Mr. Raymond Reber stated Ken can work with you to mark up a map to show you where.

Ms. Sharon Garb stated we’d appreciate that. I’d be glad to do what you request.

Mr. James Seirmarco stated there's going to be a considerable length of fence. It's not all the way around the perimeter. It's going to be a considerable length of fence but I think that's probably...

Mr. Raymond Reber stated I would think probably in the range of **50 – 60** feet would suffice but again we'd have to lay it out and see where it comes to.

Mr. James Seirmarco stated I would think it's longer than that but that's okay. We shouldn't discuss how many feet it is.

Ms. Sharon Garb stated I imagine you want to block off the back part towards his house.

Mr. James Seirmarco responded yes, right.

Ms. Sharon Garb stated if you'll show us on the map I'd appreciate it very much.

Mr. James Seirmarco stated some general clean up wouldn't hurt but it's been in existence for a long time and I understand that you're trying to survive off some of the activities that go on on the property. I don't have a problem with it.

Ms. Adrian Hunte asked any comments from the Board?

Mr. John Klarl stated Mr. Seirmarco, when we looked at Special Permits to establish or maintain a contractor's yard, we've had clean up provisions from DOTS. Robert Miller used to count the number of busses on certain properties. Often times when we're looking at a Special Permit for a contractor's yard, this Board, and other Boards in the Town have had a condition that the property be cleaned up by naming the items that had to be removed...

Mr. James Seirmarco stated I think behind the building as you come in the first entrance where there's a number of garages there and look like they're separate contractors – behind that building towards the rear of the property there was just looks like old wood or old something back there, a big pile of something back there.

Ms. Sharon Garb responded it used to be a lumber yard.

Mr. James Seirmarco stated right, Toddville Lumber, I remember.

Ms. Sharon Garb stated building materials.

Mr. James Seirmarco stated I think maybe just a general clean up would be in order to the pleasure of Ken.

Mr. Raymond Reber stated and the contractor equipment is relatively minimal; there's some pickup trucks, a dump truck. It's not like they have big construction equipment or anything of that nature in there.

Ms. Sharon Garb responded no, no noise and no smell.

Mr. James Seirmarco stated and they're not storing any dirt or rocks or whatever on the property.

Ms. Adrian Hunte asked any other comments from the Board? Anyone in the audience wish to be heard?

Mr. **Anastasios Marcopolis** stated I live at **12** Peachtree Drive which is adjacent to the property. Some of the issues that we're having, especially this time of the year is the company that I guess rents the space there and parks their vehicles, they're snow plowing so it could be **10, 11, 12, 2, 3, 4** in the morning when they're there refueling, putting sand in their trucks, prepping for the next day, things like that, any time of the night they could be out there making noise. The men are obviously making noise. In the summer time we have a similar issue too because they get there early in the morning to prepare for the day's work and my daughter's room is very close to the property line and they're scared. They woke up at **1:30** in the morning and they were out there doing something. I guess were getting ready for the snow. That's an issue. We moved in **16** years ago, maybe **17** years ago now and there were no contractors on that property. It was just houses that were there and obviously they're in disarray as you can see but at least they weren't a nuisance and now it's become a real problem where all hours of the night we have issues, especially in the winter time.

Mr. Raymond Reber stated well we can certainly, as part of the Special Permit, limit the hours that there could be activity or at least anything that's in any way noisy or disturbing that they don't perform that during strange hours of the night because it's a reasonable request. You shouldn't be awakened at **3:00** in the morning because their trucks are doing something. I think that could be made as part of the Special Permit.

Mr. **Anastasios Marcopolis** stated anything this Board can do to help myself and my family, that would be greatly appreciated. Thank you.

Ms. Adrian Hunte asked anyone else wish to be heard in the audience?

Mr. Manuel Foto stated I spoke the last time we had the meeting last November. I was following the plan that you were laying out, putting more like a fence towards the center of the property, kind of dividing the property frontage by **202** and then rear part of the property. How do we guarantee that the contractors will keep their equipment in the front side of the property?

Mr. Raymond Reber responded how do we guarantee that anybody in this Town does what they're supposed to do?

Mr. Manuel Foto stated they will have a tendency...

Mr. John Mattis stated call Code Enforcement.

Ms. Adrian Hunte stated it's an enforcement issue.

Mr. Manuel Foto continued because they will have a tendency to walk towards the back of the property I can guarantee that.

Ms. Adrian Hunte stated but that's not for us to determine here. That's an enforcement issue that if you see something then of course you would have to...

Mr. Raymond Reber stated a Special Permit would have to be removed if they abuse it. The key is they stay within the rules that we specify just like running trucks in the middle of the night and it's up to the neighbors if, in fact, they're causing those problems you report it to Code Enforcement. Code Enforcement talks to the owner and if they don't correct it the Special Permit can be removed.

Mr. Manuel Foto stated you did mention an 8-foot fence towards the rear of the property. The property does slope up in that area. An 8-foot fence I don't know if it's really going to do anything.

Mr. Raymond Reber stated we're talking about on the ridge to – looking out from your house it would be to the left on that higher ridge, putting up a fence on that ridge up there.

Mr. John Mattis stated where the landscaping trucks were parked. They were there Saturday, the landscaping trucks.

Mr. Raymond Reber stated but that would shield them. You wouldn't see those trucks.

Mr. Manuel Foto asked parallel to my fence you're talking about?

Mr. Raymond Reber responded no, perpendicular to your fence. And then we would divide the property on the 202 side where that front building is, we'd put a fence across there so that would be parallel to yours. That would keep the trucks as far away from your property as possible.

Mr. Manuel Foto asked the layout of your proposed fence, would that be discussed at a subsequent meeting?

Mr. Raymond Reber responded it would be – we turn it over to Code Enforcement and they would work it out with DOTS engineering group and then they would work with the owner to make sure it's done properly to achieve the objective of screening as best as we can.

Mr. Manuel Foto asked would I have any say in that layout?

Mr. Raymond Reber responded you can review it if you have a logical objection or concern you can express that.

Mr. Manuel Foto stated I'd like to see it.

Mr. Raymond Reber stated you can work that out with Code Enforcement and DOTS.

Mr. Manuel Foto stated great. Thank you.

Ms. Adrian Hunte asked anyone else wish to be heard from the audience? Hearing none...

Mr. David Douglas asked are we going to close and reserve this?

Mr. John Klarl responded I think so.

Mr. Wai Man Chin stated I thought we were just going to adjourn it until we work out the...

Mr. David Douglas stated that's right.

Ms. Adrian Hunte stated on **case #2013-33**, the applicant Sharon Garb, the owner Eva Shapiro of the address of the property **2201** Crompond Road, Cortlandt Manor, NY request for a Special Permit to establish and maintain an appropriate screening for an existing contractor's yard, I make a motion that we adjourn the case until the January **2014**, to resolve specific issues for the Special Permit.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that's adjourned and just so you understand we'll be discussing it further between now and then at our next work session and then it might get wrapped up next month. It might not.

**Inaudible.**

Mr. David Douglas stated once it's on the agenda...

**Inaudible.**

Mr. James Seirmarco stated yes, but there would be no more notices sent out.

Mr. David Douglas stated you won't get a notice. The next meeting is on January **15<sup>th</sup>**.

Ms. Adrian Hunte stated the work session is January **13<sup>th</sup>**.

Mr. John Mattis stated it's always the third Wednesday of each month.

**E. CASE No. 2013-31                      William Caffrey** for an Area Variance for the side yard setback for a deck on property located at **103 4<sup>th</sup> St., Verplanck.**

Mr. David Douglas stated this is an application to reopen this matter so under the rules for it to be reopened it has to be a unanimous vote to reopen. We discussed it at the work session...

Mr. Wai Man Chin asked did the gentleman come in to speak to you at all before?

Mr. Ken Hoch responded yes, Mr. Caffrey called me this morning. He obviously was aware of what his wife had told him. I told him we wanted, if the Board voted to reopen the case he would supply a revised plan with deck dimensions including the deck height and he was very agreeable to do that.

Mr. Raymond Reber stated I don't know, it seems more appropriate to me that he submit – asking to reopen on a case we already heard is that material be submitted to us that we can review to see if it justifies reopening.

Mr. David Douglas stated I had thought that he was going to be here tonight with the revised plan.

Mr. Ken Hoch stated he couldn't make it tonight.

Mr. John Klarl stated he should have it in hand when he makes the request.

Mr. David Douglas stated so we'll put it on the agenda for next month, if he could give us the revised plan...

Mr. John Mattis asked can we adjourn a reopening? I guess we can adjourn this case, can't we?

Mr. Raymond Reber responded no, you don't do anything. No action.

Mr. Ken Hoch stated I'll put it on for next month.

Mr. David Douglas stated it'll just stay closed and then if next month he brings in the revised plans we'll consider it.

Mr. Raymond Reber stated and he can have the materials for the work session.

Mr. David Douglas stated tell him that we'll need them not just for the next meeting but we'll need them for the work session so we can see it.

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**NEW PUBLIC HEARINGS:**

**A. CASE No. 2013-34                      Jesse Stackhouse for a Special Permit for an Accessory Apartment on property located at 3 Hill & Dale Rd., Cortlandt Manor.**

Mr. Jesse Stackhouse stated 3 Hill & Dale Road, Town of Cortlandt, Cortlandt Manor. I'm here for a Special Permit for an accessory apartment.

Mr. John Mattis stated you're requesting an accessory apartment of **789** square feet. By Code, the maximum allowed is **600** square feet and by Code is not allowed to be more than **25%** of the square footage of the habitable space. The reason for that is that the Town Board was very clear on that: they did not want two-family houses. They wanted accessory apartments that were quite small. You are **189** square feet larger than the **600** required which is **31.5%** over what's allowed. In addition, what really is allowed on the **25%** rule is only **528** square feet and you're asking for **789** divided by the **528** you're allowed, that's **49.4%** or almost **50%**. You're talking about close to **800** square feet. There are one-bedroom apartments that people rent that are that size. We very rarely give more than **25%** or **600**. We might give **610**, **620** if it fits within the **25%**. If it's a smaller house we might give **26**, **27%** but you're **31.5%** over the maximum that the Code allows and you're also **49%** over what in this specific instance based on the square footage of your you're allowed. What you're asking for is just too large. We've never given anything this large before. It would set a precedent that I don't know how we'd live with because the Town Board's very clear. They want these small. They want a very small apartment where a family member or something can live in or a friend or relatives but not something of this size. This is larger than anything we've really ever entertained.

Mr. Jesse Stackhouse stated I quoted what my architect drew up. I thought the area if we had an apartment was smaller than what you said there. I don't have it in front of me.

Mr. John Mattis stated the architect states that the apartment is **789** square feet. The habitable space is **2,111**.

Mr. Charles Heady asked John, how would it be if he took off ...

Mr. Wai Man Chin stated what's going to happen is that you should have your architect revise this based on the Code as close as possible. The Code says **600** square foot is the maximum or **25%** of the main house. Right now he's over on both.

Mr. John Mattis stated this is already existing. How does the architect revise how – they're going to have to change is what you're saying?

Mr. Wai Man Chin stated they have to do something. This is existing.

Mr. John Mattis stated that's up to the architect. What we're acting on right now is what's there and unfortunately it's too large.

Mr. Wai Man Chin asked how is it existing?

Mr. John Mattis responded you never did this with a Building Permit.

Mr. Jesse Stackhouse stated no, at that time accessory apartments weren't allowed.

Mr. John Mattis stated they weren't allowed, but that's why you didn't get a Building Permit?

Mr. Jesse Stackhouse stated right, they were illegal, accessory apartments.

Mr. John Mattis stated and now you're telling us "it's too big, I did it. I knew it was illegal when I did it but I did it anyway and now..." That puts us in a very bad position on a number of issues.

Mr. David Douglas stated I give you credit for being honest.

Mr. Jesse Stackhouse stated I honestly did it because of my parents. I made the apartment for them.

Mr. John Mattis stated so you honestly didn't get a Building Permit, it might be unsafe. It might not meet any building Codes, safety Codes. You didn't get a CO. You weren't paying taxes on it. It's much larger than what's approved and at least you're being honest now. Thank you.

Mr. Jesse Stackhouse stated I'm not going to lie. I'd like to correct it. I didn't know these numbers just thrown out at me. What you're basically telling me is it has to be **600** square feet.

Mr. John Mattis stated **528** is what you're allowed according to the Code and you have **789**, you're **261** square feet...

Ms. Adrian Hunte stated no **189** square feet...

Mr. John Mattis stated **261** square feet above what's allowed by the size of his house, **528** is what's allowed.

Mr. James Seirmarco stated if there was no Variance.

Ms. Adrian Hunte stated if there were no Variances.

Mr. James Seirmarco stated what we're looking for you to do is look at the apartment as it exists today and try to figure out the areas that could be cut off of that apartment, closed off closets,

areas of rooms to get it back down to a workable situation.

Mr. Raymond Reber stated in defense of the applicant, I must confess, I just did a calculation of the numbers. I come up with **624** feet. I have no idea where the **789** square feet are.

Mr. James Seirmarco stated I agree with you Ray. I don't understand the figures either.

Mr. Raymond Reber stated as I do the numbers, it's just a little over **600** square feet, that's including everything.

Mr. David Douglas stated maybe what you should do is you should...

Mr. Raymond Reber stated it may not be as much trouble as it sounds but we get the architect to recheck the numbers.

Mr. David Douglas stated what I'd suggest is that you talk with the architect, sit down with him and walk through the numbers and the size of the spacing with him and if you want we can adjourn it until next month.

Mr. Wai Man Chin stated that's what I was trying to say. Talk to the architect, figure out the right proper size that you have there compared to what you have as the main house, percentage-wise and everything because there's something not right here. We're saying that it's too big based on your figures that you gave us.

Mr. John Mattis stated your architect has a letter of November **13<sup>th</sup>**. He says the main floor is **1,322** square feet and the apartment is **789**.

Mr. Jesse Stackhouse stated I received a letter because when I brought the site plan from the architect to Kenny I believe he didn't have the dimensions of the apartment and upstairs on there and Kenny wanted that so I called the architect back up. Whether he made a mistake I don't know but when you said **700** or something and I'm thinking **600**...

Mr. John Mattis stated we're taking it off his letter.

Mr. Jesse Stackhouse stated I understand.

Ms. Adrian Hunte stated that's the actual full square footage for the basement.

Mr. Raymond Reber stated I'm using the dimensions that's shown on the plan. I assume the dimensions are accurate and based on that I come up with **624** square feet.

Mr. John Mattis stated he did the dimensions.

Mr. Jesse Stackhouse stated I understand what you're saying.

Mr. David Douglas stated what I would suggest is let's adjourn it for a month and between now and then you'll sit down with the architect and you can resubmit. If he thinks the numbers are different or some configuration that's different or whatever it is that he wants. He can resubmit that to us.

Mr. Wai Man Chin stated and you can talk to Mr. Hoch also. Mr. Hoch can give you exactly the figures and everything with the architect. Mr. Hoch can help you out on that somehow. Because we're basing it on what you're giving us.

Mr. John Klarl stated we can make ourselves available to sit down with the architect if he wants.

Mr. Jesse Stackhouse asked what at a work session or something?

Mr. John Klarl responded no, daytime meeting. If he wants some guidance, he can call us or see us.

Mr. David Douglas stated if your architect wants to sit down one day with Mr. Hoch and Mr. Klarl then he can make an appointment and they can talk it through with him.

Mr. Jesse Stackhouse stated I see what you're saying. Thank you.

Mr. John Mattis asked is there anyone in the audience who would like to speak? I move that **case #2013-34** be adjourned to the January meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #2013-34** is adjourned.

Mr. Jesse Stackhouse asked I have a question for Kenny, can I come over, the numbers that – I didn't write them down that John just gave me for what the apartment has to be...

Mr. Ken Hoch stated call me tomorrow and we'll go over it.

Mr. Jesse Stackhouse stated thank you.

**B. CASE No. 2013-35**                      **Miriam Arrighi** for a Special Permit for an Accessory Apartment on property located at **4 Hollow Brook Court South, Cortlandt Manor.**

Mr. David Douglas asked could you tell us what it is that you want?

Ms. Miriam Arrighi responded a Special Permit for an accessory apartment in my house.

Mr. David Douglas stated the same basic issues as before. The apartment already exists at this point?

Ms. Miriam Arrighi responded yes.

Mr. David Douglas asked and you're seeking to legalize it?

Ms. Miriam Arrighi responded yes.

Mr. Charles Heady stated she's about a **100** square feet over which is allowed.

Mr. David Douglas stated you have some of the same problems as the last applicant has. According to your architect the apartment is **600** square feet and **25%** of the size of the house would only be **503** square feet so your apartment is over by almost **100** feet.

Mr. James Seirmarco asked do you understand?

Ms. **Loni Luthner** responded and I did the drawings of the as-built situation at her home. When I did the square footage I incorporated the closets in there. I don't know whether I should have or not but if I shouldn't have they can be deducted so that the square footage is less.

Mr. Charles Heady asked you're talking about the closet and the bathroom?

Ms. Adrian Hunte stated non-habitable space; bathroom...

Ms. **Loni Luthner** responded I calculated those amounts into the square footage which I assume I should not have so that the square footage would be less.

Mr. Ken Hoch stated just to try to clarify a little and we've had this discussion before, if you take out the non-habitable space in the apartment you have to take out the non-habitable space in the house and therefore your numbers will probably end up the same.

Mr. John Mattis stated you got the closets in the accessory they come out of the main portion too.

Mr. David Douglas stated you could try to do the numbers and see if it helps but my guess is that percentage-wise it probably won't change that much.

Mr. James Seirmarco stated so you'll have to get creative.

Mr. David Douglas stated in terms of percentage-wise, by seeking **600** feet as opposed to **500** that's approximately **30%** more than what you'd be entitled to and at least since I've been on the Board I don't know that we've ever given something that large.

Ms. **Loni Luthner** stated Miriam is recently widowed. She doesn't work. She has a part-time job

and she really needs an income. Basically, her children have been living there so they helped pay her for living there but now they're gone and it's just sitting there and she's in desperate need...

Mr. James Seirmarco stated that's the legislative intent of the accessory apartment. Just what you just described, that's the legislative intent of an accessory apartment.

Ms. **Loni Luthner** asked family, is that what you're saying?

Mr. James Seirmarco responded family but to have a small portion of the house to help you mitigate financial problems. It's when they get to be too big that's not the spirit of the law.

Mr. John Klarl stated and an accessory apartment legislation was aimed at the young portions of the citizens and the older people who want to downsize.

Ms. **Loni Luthner** stated really, it's a small apartment.

Mr. David Douglas stated right, but if this apartment were within the parameters, the size that's in the Code...

Ms. **Loni Luthner** asked so what needs to be done?

Mr. David Douglas responded it needs to be smaller. It needs to be reconfigured so that it meets the requirements of the **25%**.

Mr. Raymond Reber stated one of the issues we just said earlier was what's livable space? As you deduct areas that are "non-livable" you can get down below the **600**. The question is where are you then in the ratio with the living area? My question to Mr. Hoch is could you please help everyone? Generally, what is not considered living space in an apartment?

Mr. Ken Hoch responded that's an interesting question because I've looked back for previous interpretations in Zoning Board cases and I haven't found anything. I rely on the architect to say "here's the apartment," whether it's got two closets or one, does it really matter? It's within the habitable space of that apartment because when you start deducting that then you've got to get into the whole house and are you deducting – every bedroom has a closet, we're going to reduce that.

Mr. Wai Man Chin stated I'm not sure if that's...

Mr. Ken Hoch stated I don't know what the proper way to do that is but...

Mr. Wai Man Chin stated I think an accessory apartment you deduct that but on the upper apartment you do not deduct that, you just take it as a whole. That's how I've always done it. I've got to remember how the Code reads...

Mr. Ken Hoch stated I can't find an interpretation where that was...

Ms. Adrian Hunte stated excuse me...

Mr. Wai Man Chin asked can I finish?

Mr. Raymond Reber stated I think we need to resolve this.

Ms. Adrian Hunte stated yes, but it may not be resolved here. Go ahead Wai.

Mr. Wai Man Chin stated what I'm saying is years ago we used to take the whole apartment, or the upper part of the house as a whole. We always took the bottom portion or the accessory apartment without the non-habitable spaces. That's how we used to do it years ago.

Mr. James Seirmarco stated I agree.

Mr. John Klarl stated that's accurate.

Mr. Wai Man Chin stated and I think that's the accurate way of doing it because I've done that years ago and other municipalities it's the same way. I don't know, like you say interpretation, maybe we need an interpretation but I think that's the way it should be.

Mr. John Klarl stated typically, we looked at the main level as a whole. We didn't subtract non-habitable space but we did do it to the lower apartment. That was always the practice.

Mr. James Seirmarco stated whether it's right or wrong, that's what we did.

Mr. John Klarl stated that was the practice.

Mr. Raymond Reber stated and that makes sense, as long as we agree that that's a reasonable standard we go with that and then the question is; within the apartment where we do allow some subtractions, what do we subtract? Just closets...

Mr. Wai Man Chin stated closets and the bathroom, that was it.

Mr. Raymond Reber stated okay, then it's simple if that's the guidelines we want then fine, we define that and we go from here using that rule.

Ms. **Loni Luthner** asked are we deducting the bathroom, did you say?

Mr. Wai Man Chin responded that's what we used to do. I've been on the Board for **20** years plus and years ago that's what we used to do, as a whole of the upper apartment and the accessory apartments we deducted the non-habitable spaces and that's how we did it, years ago.

I don't know if we made any kind of interpretation since then. I don't think so.

Mr. Ken Hoch stated because the architects compute the habitable space for the house, which would be including the entire house, which would be including the closets and the bathroom in the apartment but then we're not going to include those when we compute the square footage of the apartment.

Mr. Wai Man Chin stated for the accessory apartment. That's how it used to work.

Mr. Ken Hoch stated I just need a clarification.

Mr. Wai Man Chin stated I've been in a lot of municipalities as an architect before and that's how we always used to work and at the Zoning Board here this is how we did it many years ago. I'm just saying that's how I remember it.

Mr. James Seirmarco stated I agree.

Mr. Charles Heady stated we had a case not too long ago, a while back, we deducted the bathrooms and the closets in the downstairs apartment.

Mr. Raymond Reber stated I think we have a precedent and a consensus and that's what we should go on, continue that precedent.

Ms. Loni Luthner asked so if we deduct the bathroom and the closets we could probably be very, very close to what we need to be.

Mr. James Seirmarco stated do that and come back.

Mr. David Douglas stated that's exactly right, take the month and do the recalculation, tell us what the numbers are and then the issues that we've discussed may not be a problem for you anymore. They may be, I don't know, it depends on the numbers.

Mr. Wai Man Chin stated I think the Board wants to adjourn it anyway because we work out those numbers based on what I just said and the Board will talk about it during the next work session and then make a determination or whatever.

Mr. David Douglas stated that's just what I said.

Ms. Loni Luthner asked when do you want the new numbers?

Mr. Ken Hoch responded two weeks before the meeting.

Ms. Loni Luthner asked bring them to you?

Mr. Ken Hoch responded bring them to me.

Ms. Loni Luthner stated okay, we'll do that.

Mr. Wai Man Chin asked anyone want to be heard in the audience?

Mr. Charles Heady stated I make a motion on **case 2013-35** to adjourn to January.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the motion is adjourned to January.

Ms. Loni Luthner stated thank you very much.

**C. CASE No. 2013-36                      Hudson Sign Co. on behalf of Dr. Bard Levey for an  
Area Variance for a wall sign on property located at 1 Baltic Place, Croton-On-Hudson.**

Ms. Kelly Rudick stated representing Hudson Sign. We're requesting a Variance at 1 Baltic Place for Bard Levey, a dentist, who would like to install an illuminated sign cabinet above the doorway, the main entrance, facing the courtyard. There's currently no signage facing that side of the property and he feels that people visiting the restaurant and the yoga studio in that area currently don't see the dentist there because there's no signage. That's what we're requesting.

Mr. Wai Man Chin stated the way I see it you have the sign going across both doors. I know that only one door is being used and the other ones...

Ms. Kelly Rudick stated they do use both doors; one is an in-and-out but they're not labeled "in-and-out."

Mr. Wai Man Chin asked one goes in? One comes out?

Ms. Kelly Rudick responded right, but that space is occupied by the dentist.

Mr. John Klarl asked are they like French doors here?

Ms. Kelly Rudick responded no, there's a partition in between.

Mr. Raymond Reber stated these signs are usually for the purpose of indicating to someone that's arriving where they should and so my feeling is the indoor, that's where the sign should be and I would recommend – the wording is fine. I would just maybe make it a two-tier sign but shrink it down and put it over the door that's actually the "in" door so that people aren't actually confused and that's typically why we have these signs.

Ms. Kelly Rudick stated my husband felt and I guess with the dentist that esthetically it was more pleasing to be centered above both doorways. The dentist is fine with having a smaller sign as long as his name could be on it and the word “dentist.”

Mr. Raymond Reber stated that’s fine and he can make the sign a little higher so he gets two rows.

Ms. Kelly Rudick asked but could he center it still?

Mr. Raymond Reber responded no, over the door. These are supposed to be entrance signs to show people where to go. Whatever the entrance door is I would recommend that’s where the sign be.

Mr. Wai Man Chin stated I happen to agree on that. I’d rather have it over just the door that’s going in and as Mr. Reber said, it could be a two-tier “Dr. Bard Levey” and “dentist” underneath it. Only on one side.

Mr. James Seirmarco stated I agree.

Mr. John Mattis stated I agree.

Ms. Adrian Hunte stated I concur.

Mr. John Mattis stated he will have a sign on the sign board for that building too. This will not be the only sign. This is more of a sign so people can...

Ms. Kelly Rudick stated he’s just feeling that – I guess the dentist is feeling that the traffic that’s coming in to the restaurant and that yoga...

Mr. John Klarl asked and you referred to the total sign?

Mr. John Mattis stated the people that come in, the purpose of the board sign is so that they know what’s there.

Ms. Kelly Rudick stated the directory, right.

Mr. John Mattis stated and they’ll still be able to see that. People passing by that they can see that there’s a dentist there.

Mr. Wai Man Chin asked anybody in the audience? I make a motion on **case 2013-36** to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Wai Man Chin stated I make a motion on **case 2013-36** to – what’s the square footage now?

Mr. Raymond Reber stated I think all you can say is a sign above one door and with the wording as shown: “Dr. Bard Levey – Dentist.”

Ms. Kelly **Rudick** stated it doesn’t exceed the size of the doorway.

Mr. Raymond Reber stated as long as it doesn’t exceed the size of the doorway, we’ll be happy with it. If he fills up that space, he can only go so far.

Mr. Wai Man Chin stated that the new sign will be over the entry door going into the space and will not be – only just above that doorway, only. It could be a two-tiered sign saying “Dr. Bard Levey” and “dentist” underneath of that.

Ms. Kelly **Rudick** stated okay.

Mr. Wai Man Chin stated this is an Area Variance, and 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 is granted.

Ms. Kelly **Rudick** stated thank you.

**D. CASE No. 2013-37                      DOTS Code Enforcement** for an Interpretation that the pre-existing, non-conforming five-family residence has been in continuous use since July 15, 1996, with none of the units vacant for more than one year from that date to the present on property located at **1 Hale Hollow Rd., Croton-On-Hudson.**

Mr. David Douglas stated my understanding is that we – it’s more than my understanding, we got a letter from a gentleman that may be retained as a lawyer for Mr. and Mrs. Ray requesting that we adjourn this until the January meeting which we would be inclined to do but if there are people here that want to be heard about this now who came, you came here, we’d be perfectly happy to have you speak tonight if you wish. Anybody who wants to be heard tonight, that’s fine and if nobody else wants to be heard then we’ll just adjourn it.

Ms. Dora Tarver stated I’m familiar with this type of proceeding but I submitted a deposition. I don’t know if you have a copy. I moved into one of the apartment units **June 25<sup>th</sup>, 2011** and I moved out **June 29<sup>th</sup>, 2013**. When I was there, initially there was one tenant: Leslie, a very nice lady. She showed me around the Croton/Cortlandt area and at that time there were two vacant units that were being remodeled. Literally, Rita gave me a tour of the other apartments and I saw them and they were nice and they were not occupied and they were not occupied for a few

months. Eventually, a tenant did move into one of the units and then another one, many months later, moved into another and then I moved out. So, I'm just here to let you know that it was definitely not completely occupied when I moved in.

Mr. John Klarl asked what were the dates of your knowing being the contents of the property? From what date to what date did you know the inside of the property?

Ms. Dora Tarver responded okay, so I moved in **June 25<sup>th</sup>, 2011** and at that time there were only two tenants: Leslie and myself and literally two months later, Leslie moved out because her mother was ill and she had to go to California. So, I was the only tenant for a few more months in this unit and then eventually they did bring in another person and then months later another person. When I left...

Mr. John Klarl asked when did you leave?

Ms. Dora Tarver responded **June 29<sup>th</sup>, 2013**, when I left the apartment that Leslie lived in, that she moved out of, they had gutted and were planning to remodel it. So, when I left that had been vacant pretty much the entire time after Leslie moved out. So, when I came in **June 25<sup>th</sup>, 2011** Leslie left early that Fall and that apartment was vacant the entire rest of the time that I was living there.

Mr. Wai Man Chin stated almost a year and a half to two years?

Ms. Dora Tarver responded yes, pretty much.

Mr. John Mattis asked you're saying that there were two apartments that were vacant for more than a year? One for the two years that you were there and one for about a year and a half?

Ms. Dora Tarver responded there was one that was definitely – the one that Leslie lived in because she moved out a couple of months after I moved in. That was vacant for the rest of the time. When I moved out it was vacant because they were remodeling it.

Mr. James Seirmarco stated one year plus.

Ms. Dora Tarver stated yes. But when I moved in it was Leslie and I and then Leslie left and it was just me and then two other tenants eventually moved in. One of them moved out and then there was just two other tenants; myself and another woman. And, then actually, eventually Leslie came back but she moved in to a different apartment because the original one that she was in was still being renovated. I don't know if she's still there or not but...

Mr. Raymond Reber stated now you had mentioned when you moved in they had shown you a couple of other apartments.

Ms. Dora Tarver responded yes, they showed me the two that they were working on, they were

remodeling it. They were showing me they were painting and they were doing the floors and I watched the progress as they were doing it.

Mr. Raymond Reber asked but they weren't ready to rent them at that time?

Ms. Dora Tarver responded no. They looked nice but no they weren't ready.

Mr. Wai Man Chin stated thank you.

Ms. **Marianne Calis** stated I submitted an affidavit about this case on the **9<sup>th</sup>** of August **2011** concerning the number of apartments in use at the Hale Hollow Road address. I'd like to restate for the record here that I was a resident there from **August 15<sup>th</sup>, 2009** to **March 15<sup>th</sup>, 2011**. In other words, one and a half years and during that time there were three apartments in the building; one rented to me, one rented to Leslie **Hochberg** who Dora was just talking about and then the one upstairs to the owner, the owner lived in that one. There were always three apartments filled at that point, not five. There never were five families in the residence during the year and a half that I was there. Mrs. Weeks showed me the two empty apartments on several occasions. One was used for her personal storage. It was completely unfinished on the interior and uninhabitable. The other one, what she called apartment two had no floors. She had some construction crews working on the grounds over drainage issues during a great of the time that I lived there, maybe a year's worth of work on this and those men just, those crews just used that apartment for its bathroom. Later on, I believe she finished or nearly finished the bedroom that she used for overflow from her apartment for a spare bedroom when she had relatives come and visit her. What I am speaking tonight about is my concern that when I submitted my affidavit in **2011**, a subsequent affidavit was submitted by the owner's niece, Heather Murphy that refuted my affidavit saying that apartment two was always habitable and occupied. Heather Murphy, I saw her come and go, I got to know her, had many conversations with her and her family. She would sometimes stay in the downstairs bedroom but they would do all the cooking, all of the dining, all of the everything upstairs with her aunt. I then found out that my affidavit had been tossed out and that Heather's affidavit saying that the apartment had been rented all that time, meaning mine was inaccurate with the one that had been submitted to the file and mine, for reasons unknown, had been tossed out. I just want to put that out there for you and I'd love to know why mine was tossed out. I'd like to find that out sometime but it rankles. I wasn't lying so I'd like to know why mine was being treated that way. Thank you.

Mr. Ken Hoch asked Mr. Chairman can I respond?

Mr. David Douglas responded of course.

Mr. Ken Hoch stated your affidavit was not tossed out. The reason I brought this case to this Board is that we have depositions with different facts stated so yours is in the record.

Ms. Dora Tarver stated I just want to add one point of clarification. When I lived there, Rita and Gary did live upstairs. I wasn't counting them because they lived there. I just wanted to point

that out. They were there but there were two empty apartments. There were three for a period of time and then two for a period of time.

Mr. John Mattis asked there were two the whole time you were there? More than a year.

Ms. Marianne Calis responded two empty. We always had Leslie around or one other person.

Ms. Dora Tarver stated for a period of time there were three empty – after Leslie left, and then another tenant moved in and there were two empty and then another tenant moved in and then there was one empty but then one of the tenants moved in and moved out and there was two empty again.

Mr. Raymond Reber stated I'm curious with respect to apartment two that Ms. Calis you referenced. When you moved in, in June of 2011 what was the status of apartment two?

Ms. Dora Tarver responded the one that Leslie lived in?

Mr. Raymond Reber asked number two.

Inaudible

Ms. Dora Tarver stated that was one of the ones that she showed me that they were working on. They brought in a stove. I remember them connecting the gas to it and blah, blah, blah.

Inaudible

Mr. Raymond Reber asked did they eventually rent that before you left?

Ms. Dora Tarver responded they did before I left but the person who took it actually only stayed for about 6 months and then she left and then it was vacant for a period of time and then Leslie came back and they gave it to her.

Mr. Raymond Reber asked so she eventually went into that apartment when she came back?

Ms. Dora Tarver responded yes.

Mr. John Mattis stated for the record, Mr. Hoch, this wasn't asked at our work session. Did they have Building Permits for any of this work that they've done?

Mr. Ken Hoch responded no they did not.

Ms. Dora Tarver stated and when Leslie moved out, just so you know, I didn't take photos but they literally gutted – they took out everything. There was nothing – because after Sandy the power went out for a couple of weeks and they had to get a generator so they opened it up to see

if they could put the generator in that space and when I looked at it there was no floor, there was literally dirt, no walls, nothing. I was like “wow, it’s going to take forever to get that in condition.” That’s where they were.

Mr. Wai Man Chin stated thank you.

Mr. David Douglas stated thank you. Anybody else want to be heard?

Ms. **Gabriella** stated I’m Rita Ray’s next door neighbor. I’m just here to express that I have no problems with Rita Ray renting or having tenants. She has brought wonderful tenants like these people here and that I enjoy them thoroughly. She brings diversity. She brings great tenants that have brought a lot of – the neighborhood has become better with the neighbors that she brings and it’s a shame that this is happening because our block it has become a very sad place to live and it seems like there’s a lot of problems. I just want to see Rita live a happier life and have being able to rent her place to be able to afford what she needs to afford – and none of her neighbors, not once, have been a trouble to us. We are more than happy to support Rita in this if she needs to have support from us whether if it bothered us or not. My husband Jason **Bark** and I Gabriella support Rita in this. Thank you.

Mr. David Douglas asked which house are you at?

Ms. **Gabriella** responded I’m right next to her.

Mr. David Douglas asked what’s the address?

Ms. **Gabriella** responded number **3** Hale Hollow Road. Thank you very much.

Mr. David Douglas asked anybody else? Why don’t we adjourn this until next month then?

Mr. Raymond Reber stated I make a motion on **case 2013-37**, a DOTS Code Enforcement interpretation for 1 Hale Hollow Road, Croton-on-Hudson to be adjourned to the January meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #2013-37** is adjourned until next month.

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## **ADJOURNMENT**

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

Mr. Ken Hoch stated Mr. Chairman, I'd just like to have us adjourn this meeting in memory of Patricia Figa, the Town's Deputy, Assessor who worked for the Town for **19** years, who passed away suddenly last week.

So moved.

Seconded with all in favor saying "aye."

Mr. David Douglas stated meeting is adjourned in her memory.

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**NEXT MEETING DATE:  
WEDNESDAY JANUARY 15, 2014**