

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on Wednesday, June 18, 2008. The meeting was called to order at 7:00 p.m., and began with the Pledge of Allegiance.

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

- Raymond A. Reber
- Adrian C. Hunte
- David Douglas
- James Seirmarco
- Wai Man Chin, Vice Chairman
- Charles P. Heady, Jr.

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

**ADOPTION OF MINUTES: 4/23/08**

Mr. Mattis stated since we have not received these minutes yet, we will adjourn their adoption to the next meeting.

**CLOSE AND RESERVED DECISIONS**

**CASE NO. 23-07 CONGREGATION YESHIVA OHR HAMEIR for an Interpretation/reversal of Code Enforcement Officer’s determination that the dormitory housing its’ students is a pre-existing, nonconforming use and that a Special Use Permit is or may be required for the Yeshiva’s operation or expansion on the property located at 141 Furnace Woods Rd., Cortlandt Manor.**

Mr. Mattis stated I will turn that over to our attorney for his comments.

Mr. Klarl stated this applicant is still proceeding before the Planning Board, and as you know we closed our public hearing and reserved decision so I suggest that we adjourn this to our July meeting, and we’ll find out the status of the applicant at that point.

Mr. Chin made a motion in Case No. 23-07 to adjourn the case to the July meeting seconded by Mr. Heady with all voting “aye.”

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**ADJOURNED PUBLIC HEARINGS**

**CASE NO. 31-07 BEST RENT PROPERTIES, LLC for an Interpretation that the Town Attorney’s determination that the property at the southwest corner of Westbrook Drive and Oregon Rd. cannot be developed as a retail shopping center is incorrect.**

Mr. Reber stated this is being reviewed by the Board. Our attorney is drafting a D&O, and we will review it at our next Work Session, and vote on it at the next meeting.

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**CASE NO. 48-05 CINGULAR WIRELESS SERVICES INC. for a Special Permit for a wireless telecommunications facility on property located at 451 Yorktown Rd., Croton-on-Hudson.**

Mr. Flandreau stated one of the comments that the Board had at the last meeting was about the applicant going back to the Thalle property about getting a lease with them. I have not heard any information from the Thalle owners about this.

Mr. Mattis stated since we haven't heard anything about the lease from the Thalle property, we'll have a decision on that next month.

Mr. Reber stated there was also a question asked as to the suitability of the Con Ed towers, which are located at an elevation of 600 feet above sea level, but because of the topography of the terrain there the signal will not be able to cover the desired area. Even though it appears that the road is in the site line, we actually took elevation sections lining the various points along Rte. 129, across Colabaugh Pond Rd. and Mt. Airy Rd., and the terrain is such that there are still a number of dead spots, quite a number of dead spots, if they located on the towers of Con Ed. So the applicant's presentation to us stating that they are not really suitable to achieve the coverage that they need would conclude as accurate.

Mr. Seirmarco made a motion in Case No. 48-05 that we Reserve Decision for the July meeting seconded by Mr. Heady with all voting "aye."

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#### **ADJOURNED PUBLIC HEARINGS**

**CASE NO. 45-07 MARK & ELIZABETH HITTMAN for an Interpretation that granting a Special Permit for a Medical Office Building does not require abandonment of the residential use in the building on the property located at 1989 Crompond Rd., Cortlandt Manor.**

Mr. Mattis stated I will turn this over to our attorney for comments.

Mr. Klarl stated this afternoon the attorney for the applicant faxed a letter to Code Enforcement with a copy to me, and he indicates in his letter that the adoption of the Zoning text amendment by the Town Board has been accomplished, but now he is awaiting a resolution granting a Special Permit and site plan approval by the Planning Board, and also in that approval, hopefully, it will indicate there are no variances that are needed. Therefore, he asked for an adjournment for one month so that by that time he'll have his Planning Board resolution at the Planning Board meeting in July. So he is requesting a one month adjournment.

Mr. Douglas made a motion in Case No. 45-07 to adjourn the case to the July meeting seconded by Mr. Reber with all voting "aye."

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**CASE NO. 53-07 HILLTOP NURSERIES, LLC for an Area Variance for parking spaces associated with the proposed commercial business in the R-40 portion on the property located at 2028 Albany Post Rd., Croton-on-Hudson.**

Mr. Brian Panessa appeared before the Board. He stated I am the principal of this project, and I am appearing this evening to inform you that the Planning Board has provided me with an approving resolution, and I am here to ask that the Zoning Board of Appeals close out this application for Area Variances of parking, as well as a turnaround variance for truck deliveries.

Mr. Seirmarco stated we reviewed this case prior to the conclusion of the Planning Board's approval. There was a lot of discussion, and we given all the information that was needed, and we were just awaiting a

Planning Board resolution. So this is the final step that has to be done.

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

Mr. Seirmarco made a motion in Case No. 53-07 to close the public hearing seconded by Mr. Reber with all voting "aye."

Mr. Seirmarco made a motion in Case No. 53-07 to approve the Area Variance required with respect to parking spaces associated with proposed commercial business in the R-40 portion of the property, and for an Area Variance for delivery trucks to use a portion of the residential area to turn around as shown as plans submitted, dated 2/7/2008. This is a Type II Sequa with no further compliance required.

Mr. Reber seconded the motion, and stated I just want to elaborate for clarification that the variance for parking spaces was for both commercial, and residential portion of the property, with all voting "aye."

Mr. Mattis stated you will have a sign there so that people will know not to enter there correct?

Mr. Panessa stated that is correct. The driveway that goes around the building is for emergency purposes, and only residential use, no commercial use.

Mr. Flandreau stated the Decision & Order will be ready next Tuesday.

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**CASE NO. 09-08 JAMES M. FLANDREAU, DEPUTY DIRECTOR OF CODE ENFORCEMENT for an Interpretation if the screening for a pre-existing contractor's yard was installed as per Zoning Board of Appeals Case No. 05-03, and the Interpretation if the property known as 0 Van Cortlandt Place is part of the pre-existing contractor's yard and an Interpretation if the vehicles on 14 Van Cortlandt Place which have not been moved, can stay as part of the contractor's yard on the property located at 14 Van Cortlandt Place.**

Mr. Heady recused himself from the case.

Mr. David Wright, Esq. appeared before the Board. He stated I have on additional page to add to the thousands of pages that I submitted to the Board, may I hand it up?

Mr. Mattis stated sure.

Mr. Wright stated we had dropped off on June 4<sup>th</sup> a little under 2,000 pages of business records as requested by the Zoning Board constituting not all of the invoices of the business from the year 2003 through the year 2007, but about 85 percent of them. My staff went through, and spent about 100 hours putting together, turning this business upside down. I have 7 more boxes of records in the car, if you really want to pursue them, but I just can't copy all of that. These documents are showing you that this is a legitimate, ongoing, active business involved in septic tank pumping. We provided to you, and we tried to put it chronologically, I hope that was more convenient so that you could see month by month, that they were actually carrying on this business with a little less in the winter time, because I guess they do a little less septic pumping in the winter. We also provided receipts from Westchester County where they dump off the septic, which are official governmental records. As I said, I do have 7 boxes including the originals of all of those copies that were made under my supervision in the office, and I will represent that they are true, and accurate copies of the originals. We've also handed up copies of registrations for 6 vehicles, I have the originals of those in my pocket. Mr. Gardner did not have the registrations for the earlier years, he is supposed to be here by now, I think he must be delayed by the rain tonight. I represent that he did have

registrations for those vehicles for the earlier years, and I just don't know what further questions the Board would have. I think I have satisfied your questions in that regard. I think at the last meeting we covered the screening, which I think the Board had felt was inadequate, and certainly the property owner is prepared to take whatever steps the Board feels to make it more appropriate to correct that. Second, was the issue of the vehicles, which were alleged to be inoperative, and then there was a question of the house being part of the contractor's yard, and I think the Board has resolved that. So with that, if there are any questions, I would be happy to try, and answer them for you.

Mr. Mattis stated well I'm looking at the registration here, and the tanker in question with the temporary registration, this is still only showing the temporary.

Mr. Wright stated he didn't have any of the earlier ones, he was not able to find them.

Mr. Mattis stated okay, then we will have to conclude that there weren't any. We have pictures that show that it has been in the same location since the year 2004. I think that we can conclude that is not an operable truck, it can't be leaving the property.

Mr. Reber stated I think there is also a question from Code Enforcement again about the registration of that tanker, and concerned that this registration really relates to the same tanker that is sitting on the property. So I think we may have to have Code Enforcement, and go back to the property to try and match the registration numbers with the vehicles.

Mr. Chin stated I'd like to ask one question, the tanker that is on the property now, how many gallons is that?

Mr. Wright replied I don't really know.

Mr. Chin stated we have an e-mail from the County Health Department indicating that the tankers that were used for septic are 4200 gallon, and the other was a 2000 gallon tanker. The one is the lot is a lot bigger than both of them.

Mr. Wright stated yes, that's correct, I know that much.

Mr. Chin stated so that means according to Westchester County records they don't have any record of that tanker.

Mr. Seirmarco stated I don't think the license plates match any of these registrations.

Mr. Mattis stated well I think the vehicle in question, that large tanker does not appear on any of these copies of registrations, it's much, much greater than even 4200 gallons, and you can't show that it's ever been registered except for a temporary registration. So, again, that just would lead me to believe more, and more that it is a junk truck that has been sitting on that property for years.

Mr. Wright stated I didn't have time to go through all the septic records, the permit receipts to compare them.

Mr. Mattis stated well we can save you the trouble with vehicle, because you won't find it there.

Mr. Wright stated I am saying if you do close the public hearing, maybe we can have 10 days, or something to submit that kind of tabulation, if there is any evidence to that.

Mr. Reber stated there is also another question. All the vehicles stored in a contractor's yard are supposed to be used on some regular basis, and there is a bulldozer in the back that I am convinced has never been

moved, but on assumption that it is taken to job sites, which one of these registrations would get that

bulldozer to the job site? I don't think you can put it in a pickup truck, and you certainly can't put it on a tanker. I don't think the dump truck either. So I don't think he has shown any evidence that he has the ability to haul that bulldozer to a site.

Mr. Wright stated well there are hitches I think, on all these trucks, bolt hitches, and maybe pursue hitches, but I think there are also trailers up there that I have seen.

Mr. Reber stated it would take a really, heavy duty, special trailer to haul a bulldozer. You can't just take any ordinary trailer, and just load it on that. So that is another bit of evidence that would indicate whether the equipment is really being used on a regular basis.

Mr. Chin stated it has been a month now, and we've asked for registrations for prior years, and you're still saying there is none. It is very easy to go to the motor vehicle department, and ask them for copies. I have done that myself. So I don't know why you can't do that, or the owner can't do that.

Mr. Mattis stated I was at the motor vehicle office two days ago, and I asked them if I needed records of the prior registration for the years going back, and they said that they could do it very easily. They just go to the computer, and retrieve it, yet we have nothing from your client here, and they further told me that you would not have a temporary registration after you've had a permanent registration. So the argument that that vehicle has been moved for years doesn't hold any ground with us. Again, I am disappointed that the applicant isn't here to answer some of these questions.

Mr. Seirmarco stated there is a form here from Westchester County, and they show that the 1993 vehicle, license plate number 56723, and that is the one on the bottom left on your list, and then they show license plate number LP5596 on the top of that list, so where is the registration for the large tank truck?

Mr. Reber stated I think it should be pointed out that the top one is the special, temporary registration.

Mr. Seirmarco stated that is not the large truck, because the one that is registered with Westchester County indicating LP5596 is a 2000 gallon, white Ford, so I guess my question still stands where is the registration for the large tanker truck that is on the property? He further stated (referring to the list of vehicles) this is a trailer, this is a dump truck, this is a utility truck, and this is a pickup. So none of those registrations are the registration for the large tanker.

Mr. Wright stated I thought that we had supplied that a couple of meetings ago.

Mr. Reber stated what I would recommend is that we refer this to Code Enforcement, and let them go out, and cross check these registrations with the vehicles. This is what was submitted so we have to assume this is what he is using, plus what we have from the health department. It is just silly to keep asking, and waiting for documents, if they haven't given it to us, we assume they don't have it. So ask Code Enforcement to check these registrations against the vehicle to determine if they match, or not.

Mr. Flandreau stated I would suggest, Mr. Wright that either you, or the owner get in contact with me about what day he is available to have all the vehicles on site, and then we can check that out.

Mr. Chin stated I suggest that it should be done within the next 10 days, because we need time to go over that before the next meeting.

Mr. Flandreau stated I can make time by the end of next week, by next Friday you should have this inspection lined up.

Mr. Seirmarco stated I am still confused about the Westchester County Health Department records where \

they list the two trucks, neither one of those is the size of the tanker on his property.

Mr. Mattis stated for the record Mr. Wright, when you came in last month with the registration, and whether or not the health department says it's a 2000 gallon, or whatever. As I said last month I was insulted by some things that went on, and I am insulted by that too. You were reporting that to be a large, large, thousands of gallon tanker, much in excess of 2000 gallons, and then when we checked with the health department it turns out to be a very much smaller one. It is not the vehicle that you client has stated he is using, and somebody should of checked into that, and let us know the correct answer last month. It seems like the more questions we have, I don't want to use the word mislead, but the less information we get.

Mr. Reber stated that is why we need Code Enforcement to verify this information for us so we can make a determination as to what we need to do next.

Mr. Wright stated my client did indicate that he was using that tanker, yes. So I will have to go back, and further clarify that with him.

Mr. Mattis stated yes, I think you need a further discussion with your client as to what is really what.

Mr. Reber stated so we are requesting Code Enforcement to do a site inspection to see if the equipment on the site matches the registrations, and if not we will have to have him move the vehicles off of the site.

Mr. Mattis stated okay, and I hope we wrap this up next month. I don't want you to come back again, and we still have the same questions not answered.

Mr. Wright stated understood. I will also request from the DMV a history of each vehicle's registration records.

Mr. Mattis stated that would be very helpful.

Mr. Chin stated especially the ones that are on the site.

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

Mr. Reber made a motion in Case No. 09-08 to adjourn the case to the July meeting seconded by Mr. Chin with all voting "aye."

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**CASE NO. 16-08 EDWARD & SONIA ABOUD for an Area Variance for a side yard set back for a proposed addition on the property located at 31 Furnace Brook Dr., Cortlandt Manor.**

Mr. Flandreau stated their architect came into our office about a week and a half after the last meeting inquiring about the information that the Board had requested about making the variances smaller, and I haven't heard anything from the architect, or the owners since that time.

Mr. Douglas made a motion in Case No. 16-08 to adjourn the case to the July meeting, and have Code Enforcement send them a letter stating that if they don't show up, then we will consider the case abandoned at that time seconded by Mr. Chin with all voting "aye."

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**CASE NO. 19-08 DENNIS SHERWOOD for an Area Variance for a side yard set back for a**

**proposed two story addition on the property located at 70 Paulding Lane, Crompond.**

Mr. Flandreau stated I received a fax from Mr. Sherwood today asking for an adjournment, he is ill, and cannot make it to the meeting tonight.

Mr. Heady made a motion in Case no. 19-08 to adjourn the case to the July meeting seconded by Mr. Chin with all voting "aye."

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**NEW PUBLIC HEARINGS**

**CASE NO. 20-08 KEY BANK for an Area Variance for the total signage on the property and two free standing signs on the property located at 3000 E. Main St.**

Mr. Alberto Dacan appeared before the Board. He stated I am representing the sign contractor who is redoing all of the signs at Key Bank. We are asking for a variance, because the original proposal is over what is allowed by the code.

Ms. Hunte stated I have a question for you, on the exterior site plan that you submitted there is a notation that all signs at the site not noted on the site plan will remain as is, can you explain that?

Mr. Dacan stated that is something that should have been omitted, any of the signs that are there will be removed, and replaced. Actually, there is one sign on the back façade that will not be replaced, that will just be covered with panels that will be painted that beige color.

Mr. Klarl stated you should really indicate on the plan which signs are coming down, and what is going up. That note that Ms. Harkins is referring to is confusing.

Mr. Dacan stated the signs will be removed.

Mr. Flandreau stated there is also signage on the ATM too saying the ATM is open 24 hours is that staying?

Mr. Dacan stated that is going to be removed.

Ms. Hunte stated so which signs are you actually looking to take down.

Mr. Dacan stated the ones that are shown on the site plan.

Mr. Mattis asked do you want to go over them individually?

Mr. Dacan replied yes, no problem. You have the sign that is right over the entrance of the bank, which is going to be removed, and we are installing new panels that will be illuminated.

Mr. Mattis asked and that will be 51 square feet?

Mr. Dacan stated that is correct. Then we have the side façade, we are going to be removing the panels, and replacing them with a new sign, which is 34.2 square feet, and the ATM kiosk has two panels including the logo, and the name of the bank, which will be replaced, and the one side will be left just blank.

Mr. Mattis stated so you are requesting ATM on both sides, and the name of the bank as well.

Mr. Dacan stated yes ATM, and Key Bank on the other side. Then you have two directional signs, which

will total 4 square feet, and there will be a sign which is on the canopy, two sides on the canopy, which will be removed, and also the back façade sign will be removed, and will be replaced with blank panels.

Ms. Hunte asked where is that located?

Mr. Reber stated if you are facing the bank it is on the left side.

Ms. Hunte asked is that obstructed in any way by Circuit City?

Mr. Dacan stated no, no, the bank is positioned on an angled so that when you're coming down from the opposite side you can see it.

Ms. Hunte asked can you see the façade sign, the 51 square foot sign from the road?

Mr. Dacan stated yes, oh yes, either way you can definitely see it yes.

Ms. Hunte asked you can see the sign on the façade on Rte. 6 as you are approaching from the west?

Mr. Dacan stated yes, they had signs there before, they also had them on the back façade, which is not really necessary, it is just a parking lot there.

Ms. Hunte stated the difference right now though is that you are now exceeding the amount allowed.

Mr. Dacan stated well is the way they would like it to be.

Ms. Hunte stated well I believe after discussing it our Work Session that the Zoning Board is okay with granting a variance, however, it would be 34.2 square foot sign on the side of the building in that the other signs would adequately compensate the identification.

Mr. Mattis stated I think you even stated that yourself that you can see the sign on the front of the building, and there is really no need for the sign on the side, because when we're granting a variance for excess signage generally there is a reason for it, and there is no real reason since you can see the sign in the front, the building will be properly identified from that.

Mr. Seirmarco stated I have a question about the sign on the kiosk, one side says ATM, I would assume the other side is going to say Key Bank also?

Mr. Dacan stated one side facing the left side of the parking lot will say Key Bank, and the other two sides....

Mr. Seirmarco stated I think that is just way too many signs, it is just redundant. I am speaking for myself, that is just my opinion.

Mr. Douglas stated I agree, I don't see the reason to have another sign that says Key Bank there.

Mr. Seirmarco stated I would say the sign on the front is okay, the ATM sign is good, and the rest of the signs are not necessary.

Mr. Dacan stated the building itself is in a parking lot area, and is set back from the road.

Mr. Mattis stated right, I think what we're saying is we concluded that the 5 of 7 signs were appropriate,

and we would probably give you a variance for that, but the sign on the side would be redundant since you can see from the front, and also it is valuable to say ATM where the ATM is, but you don't have to put Key Bank in there. So I think we have exception with the Key Bank on the ATM part, and the other sign on



the side.

Mr. Dacan asked is there anything else that could be done, because that is the first thing the customer will ask? Is the decision then final?

Mr. Matti replied well, we're supposed to grant variances that are appropriate, and keep them to a minimum. So I don't think we're taking anything away from people not being able to identify the bank when they're approaching, because it sits back, and you can see the sign in the front. So if you don't have the one on the side it doesn't make a difference, and when they're driving around, and see directional signs that say ATM they know they are at Key Bank so I don't think it has to say it again.

Mr. Reber stated there are other businesses there where if you are looking at Key Bank to the right that do not have the benefit of the left side, and they have been perfectly fine with the signs in the front. So I think that is a reinforcing fact that these are sufficient. I concur with what was stated before, we don't grant variances unless it is absolutely needed. There is no safety issue, or any other issue with posting those additional signs that say Key Bank.

Mr. Mattis asked are there any other comments from the Board?

Mr. Heady stated I just wanted to mention that before you put the signs up you have to have them measured by Code Enforcement before you do that.

Mr. Dacan stated yes, Jim had told me that. He was very helpful throughout this whole process for me.

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

Ms. Hunte made a motion in Case No. 20-08 to close the public hearing seconded by Mr. Chin with all voting "aye."

Ms. Hunte made a motion in Case No. 20-08 to grant the Area Variance for signage on the property from 54.4 square feet to 51 square feet, the variance required is 8.4 square feet, and a variance for two free standing signs, when the code only allows one sign. This is a Type II Sequa with no further compliance required seconded by Mr. Heady with all voting "aye."

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**CASE NO. PATRIK MCCARNEY for an Area Variance for the size of the freestanding sign on the property located at 2305 Crompond Rd., Crompond**

Mr. Joel Greenberg, architect and Mr. Patrick McCarney appeared before the Board.

Mr. Greenberg stated I just have a hand out for the Board before I get started. He stated we are here to ask for a slight variance in order to keep an existing sign, same size that it is now, which is the one that says The Country Store will be changed to say Westbrook Plaza. We will also be having three tenants in the building, and we want to have three tenant signs for a total of 16 square feet, and a total of 30 square feet. So the total square footage for the announcement of the plaza, and the three tenants will be 46 square feet. In the handout that I just gave you are allowed to have one 24 square foot sign announcing the name of the shopping center, and then below that it says the square footage above may be increased no less than 4 square feet, and no more than 8 square feet per tenant to a total of no more than 48 square feet combined business, and identification. So basically we are asking for a total of 46 square feet where the code allows a

total of 48. Now of course the variance we are requesting is the 6 square feet for the Westbrook Plaza sign. So this is slightly above the total. So are total square footage of signs are actually 2 square feet less than the code permits. If you have any questions, I would be happy to answer them.

Mr. Heady asked how high is that sign going to be?

Mr. Greenberg replied it is exactly what you see here.

Mr. Heady stated there are no measurements on your drawing here for the height.

Mr. Greenberg replied the height from the floor to top is 10 feet.

Mr. Heady stated so it will be the same as the old sign.

Mr. Greenberg stated correct.

Mr. Douglas stated just let me understand, you're saying you don't need a variance for the tenant signs, but you want to make the Westbrook Plaza sign.

Mr. Greenberg stated we don't want to make it, we just want to replace what is there.

Mr. Mattis stated if you read the code, you do need a variance, it says it may be increased, that means increased with a variance.

Mr. Greenberg stated well we're not asking for that, we just want to replace what was there.

Mr. Mattis stated it says the business sign may be increased no less than 4, and no more than 8, may be increased, per tenant, but that's at our discretion. We need to give a variance for that. It's just a technical issue, it is not automatic.

Mr. Greenberg stated okay, I agree, I am fine with that. What I am trying to say is that the total square footage allowed, if it were granted, allowed is 48, we are asking for 46.

Mr. Klarl stated right it says to the total of no more than 48 square feet of combined business, and ID signs.

Mr. Greenberg stated correct.

Mr. Chin asked how high are the tenant signs, what are there sizes?

Mr. Greenberg stated well the total square footage would be 4 x 4, so they are approximately 1 1/3 feet in depth, and about 16 inches in height.

Mr. Chin stated so the letters of the tenants will be about 10 inches or so.

Mr. Greenberg stated probably around that, yes.

Mr. Douglas asked would the tenants be able to put signs on the building?

Mr. Greenberg replied yes, there is another section of the code, if you read down at the bottom of the handout I gave you, it says you're allowed to have 1 square foot of wall signs per linear foot of the building. We have a total of approximately 120 feet.

Mr. Douglas stated okay, so aren't these tenants going to be able to have their signage on the building?

Mr. Greenberg stated yes.

Mr. Douglas asked so why would they need to have additional signs?

Mr. Greenberg replied well very simply, because when you are driving by you want to be able to see the tenants that are in there, and then the wall sign will be over their door so you know where to go. I think most shopping centers usually have the name of the shopping center, and the tenants that are there.

Mr. Douglas stated well I agree, but why should the signs be larger than what the code says.

Mr. Greenberg stated they are not larger. The only reason we are asking for that variance is because we want to replace what is there, it's been there for probably 25 years.

Mr. Douglas asked is the total square footage of what you are asking for larger than what is there now?

Mr. Chin replied no.

Mr. Douglas stated it is the same as what is there now.

Mr. Chin stated exactly.

Mr. Mattis asked even the little sign underneath?

Mr. Greenberg stated no, the large sign we are using the exact same frame. The difference is that we want to replace it with three individual signs of the tenants that are going to be there.

Mr. Douglas asked how big is that part?

Mr. Flandreau stated 9.62 square feet.

Mr. Douglas stated so it is not really that you want to just keep what was there before.

Mr. Greenberg stated I thought you were just talking about the top part, I apologize.

Mr. Douglas stated I don't see where we should grant this.

Mr. Greenberg stated you really can't get more than two rows of letters in there, otherwise, you are not going to be able to read it. So the reason we want to do that is so we can have three tenants that are going to occupy that space.

Mr. Douglas stated my view on this, as I have said dozens of times, if the code allows signs of a certain size, and the Town allows us on an individual basis to increase the size, if there is a reason to do so. My personal view is that we should stick to what the code says. In some circumstances it makes sense to increase it, I don't see this as being on of them.

Mr. Greenberg stated again if you read the code, you are allowed to go even higher than what we are asking for, with a variance.

Mr. Douglas stated I know you can ask for it, but it doesn't mean we have to grant it. If the code says up to a certain size, I personally feel we should stick to it. That is only my opinion, and I usually lose on this. I always lose on this. It just seems to me the Town set a policy of what they think the appropriate size is for this Town, and unless there is a particular circumstance, then we should adhere to that.

Mr. Greenberg stated well I just think this is necessary. If you are driving along Rte. 202, it is probably about 35 mph, where most tend to go over that. So what we're saying is that, obviously, the walls signs, the building is set back from the road probably about 30 feet. So the freestanding sign, which is right at the property line, at least when you are driving by you'll see the name of the plaza, and you'll see the three tenants. Then when you go in, you'll walk along the walkway in the front, and you'll see what stores are

in there. The Town recognizes the fact that you can have a freestanding sign with the name of the plaza, and the name of the tenants.

Mr. Douglas stated what you're really saying is that you think the exception should be anything on Rte. 202, and people on Rte. 6 think they should be the exception, and the people along Rte. 9A think the same, and then you have covered basically all of the commercial areas in the Town.

Mr. Greenberg stated well I think I made a good argument to cover what we are asking for.

Mr. McCarney stated the previous tenant basically already had what we are asking for. I don't understand the difference.

Mr. Seirmarco stated the question is to me, why can't the signs just be smaller, the same size lettering as the existing sign. The underneath part that now says pet supplies etc., your signs now listing the businesses there are larger. I don't agree with that.

Mr. Greenberg stated okay fine, I agree. If you feel that you don't want to go from post to post that is fine, but at least give us the same size lettering that can just be added to the bottom of that sign, and we'll keep the space between, and cut this back.

Mr. Mattis asked the 9.6?

Mr. Greenberg stated well Jim said the sign is 9.62 feet. The only thing I would ask is an additional spot below just so we can get another row of letters, that might add another about 6 feet or so. Again, you do have the power to go up to 24 square feet on this particular sign, and here we're showing 6 feet, and if we add the one more row of letters it would probably be down to like 12. So in effect, your allowed to grant us up to 24, we'll accept the 12, and I think that is reasonable. As far as the wall signs on the building itself, we're allowed up to 8 square feet, and will not exceed that. So we will not be asking for any variances for those signs.

Ms. Hunte asked what is the total square footage of the property?

Mr. Greenberg stated it is 80,000 square feet.

Mr. Heady asked are you going to have more tenants later on?

Mr. McCarney replied no.

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

Mr. Heady made a motion in Case No. 21-08 to close the public hearing seconded by Mr. Chin with all voting "aye."

Mr. Heady made a motion in Case No. 21-08 to grant an Area Variance for the size of a free standing sign from the allowed 24 square feet up 46 square feet on the above referenced property. This is a Type II Sequa with no further compliance required seconded by Mr. Chin.

The Board was polled as follows:

Raymond A. Reber	Yes
Adrian C. Hunte	Yes
David Douglas	No
James Seirmarco	No

John Mattis	Yes
Wai Man Chin	Yes
Charles P. Heady, Jr.	Yes

The motion was carried by a 5-2 vote.

\* \* \*

**CASE NO. 22-08 WALTER HAASS for an Interpretation that the dwelling is a pre-existing nonconforming two family dwelling and, if required, an Area Variance for the expansion of a pre-existing, nonconforming two family dwelling for a proposed second story addition and for the side yard set back for an existing on story sunroom on the property located at 3 Elm St., Cortlandt Manor.**

Mr. John Lentini, architect, and Mr. Walter Haas appeared before the Board.

Mr. Lentini stated I am representing Mr. Haass, who is standing here with me. I have a hand for the Board.

He stated I didn't get this information in in time for your Work Session. We have a nonconforming expansion that we were applying for, but we did not know that we were also going to be facing a nonconforming illegal use. After we filed for putting two dormers on the house, first of all it's a two family, side by side apartments. The first floor on the left is a living, kitchen, a stair upstairs, a bathroom, and a bedroom, and on the right there is a living room, kitchen, bath, and then upon research by the Town Code Enforcement, they discovered two CO's, which is my exhibit 1, which would seem to indicate that this house was twice issued a single family CO. We have a hard time explaining that, however, searching the history of this house, which we believe was built in 1926/27, and the subject of certain litigations, problems, their may have been a CO issued before this. There also may be that the CO was misissued. In any event the Haass' purchased this house in 1985 believing that they were buying a two family house, and actually got title for a two family house. Initially they received some erroneous information from the Town, and ultimately this was exhibit 2 which indicates that there were no records at all. Although, we can find some now, but there were no records at that time to disagree with the notion that is a two family. My exhibit 3 indicates the most sound proof that we have to show why someone would believe this is a two family, and that is the tax card. The oldest one we could find indicated it was a two family with two kitchens, and in 1967 an inspection indicated that it was 40 years old, therefore it must have been built around 1927. We discovered a cornerstone in the house that reveals the number 9, so we thought maybe in 1929 or so it was built. I attempted to research the whole area, and there was no one who could help with that. We also noted on the record that there was a 9' x 16' shed on the property that really appears to be an extension so they encroached the property line, and Mr. Flandreau indicated that we really should get a variance for that too. Even though you can only enter it from the outside so it seems more like a shed. So that is part of our variances we are requesting. Exhibit 4, is the proceedings of a 1954 Zoning case, which sounded very much like the ones today, where there was a lot of contention about being able to build another two story house. At the time the owner who was living in this house had rented the other apartment, and actually ran a hairdressing salon in the kitchen of the apartment, and was trying to build another house, and run the business. She ultimately moved out, and separated lot 2 in half to 3, and number 3 remained as Mr. Haass'. That is another potential that one of those CO's that we discovered might have been wrong. At one time there seemed to be some confusion that 1, 2, and 3 where Elm St. is was owned by one owner. On the second page of Exhibit 4 there is a mention about where the Zoning Board says they can't do anything about it, also indicating they were there before 1951. One of the things that you will see in Exhibit 5 is

letters from people that lived in the house before. We even attempted to get a letter from Mr. Beisen, the original owner, but were not able to get it submitted in time. The letters are sort of in descript in terms of the dates these people knew anything. I would have liked to see a little bit more accuracy, but we had an 80 year old woman, who remembers that it was always a two family.

Mr. Haass stated there was a letter from Mrs. Jean Simone, who the niece to Mrs. Pearson, who had owned the house, and she is also the sister-in-law to Ethel Beisen. I have been in contact with Mrs. Beisen's son, who lives in North Carolina, and actually when my late wife, and I bought this house, we had approached the Town, and were morally conscientious of making sure it was a two family. We had approached Mr. Beisen at the time, his mother was alive, and they both had told my wife, and I that it was a two family, and it has always been like that.

Mr. Lentini stated I have driven to Lake Allendale, and have driven by this house many times, and always noticed the two doors, but I know that at least since 1988 there has been side by side doors at this house. What we are trying to is expand it. I was hoping at first to ask for an expansion of a nonconforming use, but at this time we are hoping just to get a decision that this is in fact a two family house. We are trying to improve the second floor so Mr. Haass can move in with his father-in-law. They have tenants there now, they have asked the tenant to leave. So we are looking to leave with some sort of decision on this.

Mr. Douglas stated I will admit that I am somewhat confused. I also admit that I don't have the ability to digest everything that you gave us right now. So I can't listen, and look through all of this at the time. Let me skip over all of the confusing stuff, and just get to what you are trying to do here. Ultimately what you are trying to do is you are trying to expand this.

Mr. Lentini stated what we are trying to do is expand, what we believe is a prior nonconforming use. It sounds sort of illegal, but it has a legal status.

Mr. Douglas stated well that is part of what I am getting at. As a general rule, I believe that you have a nonconforming use, and you cannot expand that use whatsoever. The concept is that a prior nonconforming use can stay in the state that it is, but you can't expand it whatsoever.

Mr. Lentini asked even if you ask for special permission to do so?

Mr. Douglas stated no, that is not how it works.

Mr. Mattis stated you cannot expand a nonconforming use at all.

Mr. Lentini stated so putting a dormer on the house would be increasing the space so it is not allowed?

Mr. Klarl stated if you a two family house, nonconforming use, in the past we may have allowed an open wood deck, we've allowed a shelter as you come in the front door, but nothing that expands the living space of a nonconforming use.

Mr. Seirmarco stated you are not the first one that has come before us with this request. You can make repairs, but you can expand anything while doing so.

Mr. Mattis stated I have been on the Board for about 15 years, and we have never allowed an expansion of any kind for a nonconforming use.

Mr. Douglas stated first of all what you are seeking from us is to say yes, it's a two family house, and to allow you to expand the use, but we can't allow you to expand the use. So put aside the issue of whether it should be a one family, or a two family house. If I am understanding correctly, you can't get what you want anyway.

Mr. Lentini stated well the house can still be used as a two family anyway.

Mr. Chin stated yes, correct.

Mr. Lentini stated the dormer was just to make a bit more habitable for them.

Mr. Douglas stated well the two family issue, I think, would have to be a Code Enforcement issue, and we would have to look at that next. I am just focusing at this point in time what you would be seeking from us overall. The reason you are here is because you want to achieve something, and I don't see that we can grant that to you even if we were to agree that it should be a two family.

Mr. Reber stated well that is part of what he is asking for.

Mr. Lentini stated we are asking just to begin with whether it is a two family house or not.

Mr. Flandreau stated right now with the application that came before us in Code Enforcement, and we do in our records have a Certificate of Occupancy, prior to zoning showing that it's a single family. The applicant, and Mr. Lentini are disputing that, and asking for an Interpretation from the Board with regard to all of the information that they have given as a two family. It has always been a two family according to them, and I guess they are saying it was an error that this CO was issued.

Mr. Lentini stated I am not even sure it was an error actually, there might have been different accounting, but the 20 years I have been here it has been a two family, as far as I could see.

Mr. Douglas asked has the property been used as a two family house continuously?

Mr. Lentini replied since 1985, my client can testify, and there are letters submitted to indicate it was a two family before that.

Mr. Klarl stated so the application is really two fold. First, it's as to whether the dwelling is pre-existing, nonconforming two family, and then you are asking for an Area Variance for the extension of a pre-existing, nonconforming with a proposed second story addition.

Mr. Lentini stated that is correct.

Mr. Klarl stated so it is a two fold application.

Mr. Flandreau stated there is actually also a third part. In reviewing this we found that there was an extension put on sometime.

Mr. Lentini stated actually there are no records, and it appears that there was a shed of some kind attached to the side of the house.

Mr. Mattis asked so that was built without a Building Permit?

Mr. Flandreau stated yes, it is.

Mr. Lentini stated it was there prior to my client purchasing the property.

Mr. Mattis asked do you know when that was done?

Mr. Haass stated when I bought it, there was a survey done, and it was there.

Mr. Reber stated usually what we require is a structure like that built without a permit has to be certified by an engineer that it is a safe structure. If we give a variance, and it is approved, and the next day it falls down, and somebody is hurt, then we're exposed. So that would be one of our requirements for that structure.

Mr. Flandreau stated you said that the sunroom doesn't have access to the main structure.

Mr. Lentini stated it is only accessed from the outside. It is really one a two season room.

Mr. Flandreau stated okay, so then it is not an iatrical part of the main structure.

Mr. Lentini stated no, it is not, and I have examined it, and have found no structural problems at all. There have been a certain amount of upgrades over the years.

Mr. Chin stated a nonconforming house can be repaired, but everything has to be left exactly the same way. If a window is 2 foot wide, you can't change it. You can replace, but not expand.

Mr. Mattis stated you can replace plaster with sheetrock, things like that, but the physical character has to stay the same.

Mr. Reber stated one thing that I read in here that does help me a little is I am confused about this public hearing back in June 1954 where Mrs. Pearson spoke, but that was the house that was built next door to the house in question. That is the one in this zoning case, and not this house. I feel comfortable with an Interpretation, personally, that this probably has been a pre-existing, two family home. So I don't have a problem with that. As indicated in our conversation tonight, we can't allow an expansion of any kind. The only issue is the sunroom, and the fact that it doesn't have an entrance from the house. What would Code Enforcement have to do deem it a detached storage building, get a Building Permit, issue a CO, I mean what do you do with something that is not an iatrical part of the house?

Mr. Flandreau stated if this was an accessory structure, we would have a Building Permit that we would issue, with the architect certifying that the structure is safe, and complies with the Building Code. It depends on what the Board feels, since the Board has granted open decks, and front entryways, and things like that.

Mr. Douglas stated in regard to the issue of a two family status, I would feel more comfortable, if we had more time to mull this over. I really would like to read this hand out further, and have time to go over it thoroughly. I would also like to have a better handle on what the legal effect would be to have a one family CO here.

Mr. Lentini stated I am fine with that. The only other option Mr. Haass would have, if you deemed this a single family house is to have an accessory apartment. Unfortunately, one side isn't half of the size of the other apartment so I don't know what the criteria is for that.

Mr. Klarl stated it is 25 percent.

Mr. Lentini stated the way it was built was right down the middle there is a wall that divides the two halves, and it is not a very good architectural design. I don't even know that it was done by an architect.

Mr. Chin stated I would try to leave it the way it is.

Mr. Lentini stated it would probably be more valuable just the way it is.

Mr. Douglas stated what I propose we do is we adjourn this, and go over the information that was submitted

this evening.

Mr. Mattis stated I think that is a good idea. I think you are very convincing, but we haven't seen this before tonight, and I would like to look it over as well.

Mr. Douglas asked would a site inspection make sense?



Mr. Mattis stated I went by the house, and I don't think a site inspection would be necessary. This is more of an interpretative issue. Are there any other comments from the Board? Is there anyone in the audience that would like to speak?

Mr. Douglas made a motion in Case No. 22-08 to adjourn the case to the July meeting seconded by Mr. Chin with all voting "aye."

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**CASE NO. 23-08 KIM TURNER for an Area Variance for the front yard set back for a proposed front porch on the property located at 6 Lakeview Ave. W., Cortlandt Manor.**

Mr. Pat Blanco and Ms. Kim Turner appeared before the Board.

Mr. Blanco stated we're here for an Area Variance for a front yard set back for a proposed covered front porch. What we're proposing is to square off the house a little, and make it look a little better than what the architect originally had planned. I believe we're minus a few feet from the street in the front. The street is on a cul-de-sac, or was at one time so the driveway is really about 15 to 20 feet to the street so we are requesting a variance.

Mr. Reber stated I went out, and visited the site. The street was a cul-de-sac, which is now is just part of the road, which makes a left turn so they're off to the back side on the right. From a visual perception they appear to be quite far back from the road even though the dimensions here say they're not. It is only because of the curvature in the road there. Also, this is basically consistent with the existing building except for some of the minor modifications that they had requested, one being the porch that will extend across the front line of the house. It is a relatively small porch, only about 5 feet in depth, and they are also adding an extension portago, which intrudes a couple of feet, and that would require a 3 foot variance on a 50 foot set back. None of these are of a major significance, the way it is angled it is really just the corner of the porch. The house does angle slightly towards the cul-de-sac. I really don't see this as having any impact on the neighbors. The neighboring houses are set at a distance, and there is shrubbery in the front, and separating the homes. So really could not even see this too easily from the neighboring homes. So I have really no problem with granting these variances.

Mr. Mattis stated okay, I have been out at the property too. It is set back from the neighbors, there is buffering. Because of the cul-de-sac, your property line is to the cul-de-sac, which isn't even really part of the road anymore. So this really isn't a detriment to the neighborhood. Are there any other comments? Is there anyone in the audience that would like to speak?

Mr. Reber made a motion in Case No. 23-08 to close the public hearing seconded by Mr. Douglas with all voting "aye."

Mr. Reber made a motion in Case No. 23-08 to grant the front yard Area Variance from 50 feet down to 40 feet for a front porch, and an Area Variance for the front yard from the required 50 feet down to 45 feet, and an Area Variance for the front yard set back from 50 feet down to 47 feet. This is a Type II Sequa with no further compliance required seconded by Mr. Chin with all voting "aye."

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**CASE NO. 24-08 JEANNE & MICHAEL ANZALONE for an Area Variance for the front yard set back for a proposed front porch and proposed second story addition on the property located at 15 Lincoln Rd., Crompond.**

Mr. Chris Borchart and Mr. and Mrs. Anzalone appeared before the Board.

Mr. Borchart stated I am the architect for the applicants. We are coming here tonight requesting two variances for an existing structure. It is the R-40 Zoning District. The required side yard set back is 30 feet. The existing addition as it sits on the house now is 25.76 feet. The required front yard set back is 50 feet, and again the existing addition is a 30 foot set back. As I said, both additions are there, we're just really trying to work around an existing, nonconforming structure. All of our imposed improvements would not make any condition, or effect anything as it presently is. When evaluating the project, I took a look at the 5 criteria that you usually take a look at. We really don't think there is any undesirable change to the neighborhood. We are kind of just updating the last unimproved structure on the street. If you look up and down the street, I don't know if you've had a chance to go look at it or not, but most of the other houses on the street are currently two story houses, and so we felt like an upper level addition would be kind of keeping with the character of the neighborhood. When we did come to the upper level addition, one of the things we tried to do is from the existing kind of corner, we tried to push our upper level addition back so it would kind of sit back, and from there we are proposing a new open front porch. One of your other criteria is whether or not there is an alternate method that is available to us in terms of expanding the house. We did look into some sort of addition off of the back of the house all on one level, and it got into kind of a functional issue that would make it a very long, and deep house, and not very convenient on a day to day basis. Even with the addition on the back side of the house, we would still be in front of you asking to legalize, or approve the nonconforming condition. One of the other criteria is the size of the variance, specifically up in front, we have basically 60 percent of the 50 foot required, and so it is if you look at it purely in mathematical terms, it is a large percent of the overall variance. Again, I go back to the fact that it currently exists now. The impact on the environment conditions, there will be a lot of landscaping specifically along this edge over here, which is probably the closest edge to the neighbors. So in a lot of ways we were talking about a large terrace on the back side of the house, and having it landscaped. So just from an aesthetic standpoint we felt like the landscaping would be an improvement. So we don't think there will be any adverse impact to the environmental conditions. The last issue, whether or not this is self created, and again, it is an existing condition.

Mr. Seirmarco stated I did get to drive by the house, and it is in a very rural area. I wanted to ask about the septic system, and where that is located?

Mr. Borchart stated yes, the existing tank is here (referring to the plans), and the fields are actually sitting out this way. What we are proposing to do is to run a beam across from the corner of the existing structure out to the post there, and span, if you will, across the top of that area. Again, the actual footprint of the foundation in relationship to the tank won't change at all.

Mr. Chin asked will the driveway be on top of the fields?

Mr. Borchart replied the driveway will actually cross one of the leader lines that goes out to the fields.

Mr. Chin stated so the fields are on the other side.

Mr. Borchart stated correct, and that is one of the reasons we are asking to kind of canter the driveway over, if you will, to try to avoid the fields. Whether or not, it would make a difference, we are going to try to do some sort of grass paver system or maybe gravel.

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Mr. Chin stated this is right down the road from where I live, and you really can't even see the house from the road.

Mr. Seirmarco stated yes, it is very rural. It was not even found on mapquest. It was raining so hard by the time I got there so I didn't get out.

Mr. Chin stated I think the only question that came up at our Work Session was about the garage in the front right there?

Mr. Reber stated if you are asking to build a new one I think it is unreasonable to grant two garages on the same property, when one is fully in violation of set backs. So from my point of view I think that one of the conditions would be that before a CO is issued for the work that they are proposing that the old garage be removed. They can leave it there until they're done doing all of their renovations, and additions, but once it is all done, I think that it should be removed.

Mr. Anzalone stated the new garage would be great to have, but the old garage has a lot of high powered tools, and is also a workshop built in it, so if we could, if we had to remove this, then I might want to make the new one slightly bigger so that it does have a space for two cars, and possibly a small workshop.

Mr. Reber stated I don't really have a problem with that.

Mr. Mattis stated it makes a lot of sense, and it will probably be better for you in the long run anyway.

Mr. Reber stated as long as you do not exceed 50 percent of the living space in the main dwelling.

Mr. Flandreau stated with the two garages now, and the accessory structure they haven't gone over that 50 percent so by taking down the one garage, and making the new garage slightly bigger, as long as they keep it the 6 feet off the property line they wouldn't even need a variance.

Mr. Reber stated okay that should work.

Mr. Mattis stated so you could expand the garage, remove the other one, and as long as your 6 feet off the property line you wouldn't have to come back for a variance.

Mr. Borchart stated I do have a letter to hand up from the neighbor across the street, who is most directly effected.

Mr. Mattis stated the letter is from Toni Marie Belou and John Leibowitz. They just briefly stated that they have no concerns with the Anzalone's project.

Mr. Flandreau stated I just want to mention that the side yard does not require any variance, the two variances are for the front yard, one for the porch on the first floor, and the second one is for the second story addition.

Mr. Douglas stated I concur with what everyone said. I just want to apologize to your son, who I think I may have scared. I just wanted to apologize for that.

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

Mr. Seirmarco made a motion in Case No. 24-08 to close the public hearing seconded by Mr. Chin with all voting "aye."

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Mr. Seirmarco made a motion in Case No. 24-08 to grant the front yard Area Variance from 50 feet down to 32 feet for the second story addition, and a front yard Area Variance from the required 50 feet down to 32.17 feet on the above referenced property, and that we will allow the applicant to leave the existing garage in tact until the work is completed, and will be taken down before the CO is issued. This is a Type II Sequa with no further compliance required seconded by Mr. Reber with all voting "aye."

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

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Christine B. Cothren