

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, November 17th, 2010*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Charles P. Heady, Jr.
James Seirmarco
John Mattis
Adrian C. Hunte
Raymond Reber

Also Present

Wai Man Chin, Vice Chairman
Ken Hoch, Clerk of the Zoning Board
John Klarl, Deputy Town attorney

ADOPTION OF MEETING MINUTES for Oct. 20, 2010

Mr. David Douglas stated the adoption of the meeting minutes for October. Do I have a motion in that regard?

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

Mr. David Douglas stated the minutes for October are adopted.

*

*

*

PUBLIC HEARINGS ADJOURNED TO NOV., 2010 FOR TOWN BOARD ACTION

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

Mr. David Douglas stated at the work session we had talked about adjourning that to January. I understand that it probably would be preferable if we adjourn it to February if that's okay with everybody.

Mr. Raymond Reber stated I make a motion that we adjourn **case No. 11-09** to the February meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that case is adjourned until February.

B. CASE No. 30-09 **Dominick Santucci** for an Interpretation that allows dwelling units over the existing commercial use on the property located at **2064 E. Main Street, Cortlandt Manor.**

Mr. David Douglas stated at the work session we talked about adjourning that further to December. Can I have a motion?

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

Mr. David Douglas stated **case 30-09** is adjourned to December.

* * *

CLOSE AND RESERVED DECISION ADJOURNED TO NOV., 2010 FOR TOWN BOARD ACTION

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

Mr. David Douglas stated at the work session we had talked about adjourning that to January and I've been advised that it might be preferable to adjourn that to February if that's okay with everybody.

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

Mr. David Douglas stated **case No. 01-10** is adjourned until February.

* * *

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 stated I believe we've got an e-mail from the applicant's representative Ed Gemmola indicating they're still awaiting Health Department comments and they've asked to adjourn the meeting until either January or February. I propose that we adjourn that to January.

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

Mr. David Douglas stated **case No. 18-09** is adjourned to January.

B. CASE No. 06-10 **Nida Associates** for Area Variances for subdivision of four existing tax lots into four real property lots at **5 and 14 Dove Court, 2003 and 2005 Albany Post Road, Croton-On-Hudson.**

Mr. Ralph Mastromonaco stated I think it's been two months since I've been here. The last time I was here was there was an issue of one particular Variance that this applicant sought which had to do with the sizes of one of the lots and Mr. Reber pointed out should that sewage treatment plant on that lot need to expand the small area we gave, it wouldn't be enough. We spent the last month and a half looking into that. Essentially, we wrote a letter dated November 3rd to your Board and I think I explained basically that should there ever be a – the long range plan for the sewage treatment plant is not to expand it or to do anything to it other than keep it going and the long range plan is essentially is connect it up to the local sewage treatment plant, the county sewage treatment plant but that, of course, is irrelevant to the question at hand. What we did was combine the sewage treatment plant lot to the much larger lot where the retail office building was, thereby eliminating several, three Variances and the particular Variance that your Board was opposed to is now eliminated. The sewage treatment plant is now on a lot that is at least one acre in size which is the zoning requirement. As a result of that some of the other smaller Variances went away; building coverage and landscape coverage. We're back in front of you again to see if we can divide the shopping center into three parcels now. As you know we have an application before the Planning Board and in order to do that subdivision we need certain Variances. I don't know if you were all here for the whole history of this application but I can go over it again if you'd like.

Mr. John Klarl asked so the three parcels sought would be **lot 1, lot 2** and the combination of **lot 3 and 4**?

Mr. Ralph Mastromonaco responded yes, **lot 4** is gone.

Mr. John Klarl stated so I'm saying the new three parcels would be **1, 2**, and the combination of **3 and 4**.

Mr. Raymond Reber stated I believe that the concerns I had which did revolve around the sewage treatment plant have been resolved by merging those two lots and I would not have a problem with the remaining Variances that would be necessary for them to make this division into the three lots.

Mr. David Douglas asked anybody else have any comments?

Mr. Wai Man Chin stated I agree.

Mr. Charles Heady stated I agree with Mr. Reber.

Mr. John Mattis stated I agree.

Mrs. Adrian Hunte stated I agree.

Mr. David Douglas asked Mr. Reber you want to make a motion?

Mr. Raymond Reber responded I'm trying to find the latest that defines what these Variances are now.

Mr. John Mattis stated they're actually shown on this latest.

Mr. Ralph Mastromonaco stated if you can specify the Variances today and then I think Ken and I should get together before there's a final decision and just be sure that we have...

Mr. John Mattis stated what we had on the original worksheet was minimum yard dimensions; **lot 1** a foot for a canopy, **lot 2: 7.9** feet and **10.5** feet for docks, the merged **lots 3** and **4** had a minimum lot width which I don't think – did that go away for the sewage treatment plant? No, that part still has **75** feet. The minimum yard dimensions on the second side yard on non-corner lots which was **lot 4** which is merged with **8.60**, in the rear it was **4.1** feet. Maximum building coverage was **28.1%** on **lot 2** and minimum landscape coverage **lot 1: 25.2%**, **lot 2: 14.6%**. A buffer strip abutting the residential district **7.96** feet for **lot 2**. Buffer strip abutting the street line **5** feet on **lot 1**, **3** feet on **lot 2** and **12** feet on the **lot 3** portion of that combined lot now. I believe those are all the ones still existing. So, three of them were eliminated and all the ones that I just enumerated are the ones that we'd have to approve.

Mr. Ralph Mastromonaco stated it's based on the revised plan of October 29th, 2010.

Mr. James Seirmarco asked when you merge the sewage treatment plant and the office building would the expansion of the sewage treatment plant include to take in part of the parking lot for the office building?

Mr. Ralph Mastromonaco responded we're speculating on whether this even needs to be...

Mr. James Seirmarco stated I understand.

Mr. Ralph Mastromonaco stated if you look at the plan there is without encroaching on the parking lot of the office building there are still area to expand – I would say you could take that plant and probably increase its footprint by probably **25%** without encroaching on parking lot.

Mr. James Seirmarco stated just wanted to get in the record.

Mr. Raymond Reber stated if we want to work it that way we could do based on those terms and then Ken can write it up specifically for the D&O.

Mr. John Mattis stated we had a chart with the worksheet that showed all of them and we just eliminate the three tonight.

Mr. John Klarl stated I think what we should do procedurally is either just adjourn it and work out these with Mr. Mastromonaco because there's a companion Planning Board application or closed and reserved where we look and see to make sure the Planning Board Resolution and the Zoning Board D&O line up with each other so both can be adopted.

Mr. Raymond Reber stated closed and reserved probably is the best.

Mr. John Klarl stated recently we had one where the Planning Board identified a further Variance and they had to come back here. It's a coordinated review between the Planning Board and the Zoning Board and we can do it one or two ways: either kind of have an idea what you want to do and adjourn it and Planning Board that or close and reserve and swap our Decision and Order for the Planning Board Resolution.

Mr. Raymond Reber stated I don't have a problem with the closed and reserved.

Mr. Wai Man Chin stated I would say close and reserve.

Mr. John Mattis stated nothing's physically changing. There's no hurry to get this done.

Mr. John Klarl stated obviously there hasn't been a huge public outcry on this application.

Mr. Raymond Reber stated I make a motion then that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. Raymond Reber stated I make a motion on **case 06-10** Nida Associates to approve the three lot subdivision and the associated Variances that had been previous referenced, this is a type II SEQRA no further...

Mr. John Klarl stated we'll close and reserve decision...

Mr. Raymond Reber stated I move that we close and reserve.

Seconded with all in favor saying "aye."

Mr. John Klarl asked Mr. Mastromonaco you have a definite date of the Planning Board right?

Mr. Ralph Mastromonaco responded I haven't made an application.

Mr. John Klarl asked you're not on for the December?

Mr. Ralph Mastromonaco responded not that I know of.

Mr. John Klarl stated when you talk to Ken Hoch maybe you can confirm with Chris to be on the Planning Board agenda.

Mr. Ralph Mastromonaco stated we're just waiting for Ken to review the total – we're not waiting for anyone else except Ken to review the total extent of the Variances.

Mr. John Klarl stated what happens is we closed and reserved so Ken will be working with me on the decision and the Board will be obviously having – they'll see the final Decision and Order. They're going to have formally adopt the Decision and Order. We closed the public hearing and reserved Decision. We're going to formally adopt it in a future Zoning Board of Appeals meeting.

Mr. Ralph Mastromonaco asked so the Planning Board won't be confused about this?

Mr. John Klarl responded I think what we'll do is we're going to ask Ken to write a short pithy memo to the Planning Board that indicates that we closed tonight and reserved Decision and with the eye towards a favorable grant of Variances based upon the new configuration of three lots.

Mr. Ralph Mastromonaco stated that's fine.

Mr. John Klarl asked Mr. Chairman would you like us to write a staff memo to the Planning Board?

Mr. David Douglas responded as long as it's short and pithy.

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

Mr. David Douglas stated we got an e-mail and they've requested to adjourn this to December. When I say "they" the applicant has requested that it be adjourned to December.

Mr. James Seirmarco stated Mr. Chairman I make a motion that we adjourn **case No. 14-10** to the December meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case **No. 14-10** is adjourned to December.

D. CASE No. 23-10 **Jennifer Cohen** for an Interpretation that the applicant's requested home occupation is a permitted use, but if not, applicant requests a Home Occupation Special Permit on property located at **212 Colabaugh Pond Rd., Croton-on-Hudson, NY 10520**

Mr. Charles Heady stated is there intentions in doing anything remodel the inside of the house at all?

Ms. Jennifer Cohen asked to remodel inside the house? No.

Mr. Charles Heady stated I was thinking you might have to do something to make room for the exercises.

Ms. Jennifer Cohen responded no.

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

Mr. Raymond Reber stated we did obviously have a lengthy discussion at the work session as to a couple of issues: 1) whether or not in fact a special permit is needed and then if a special permit is needed what the conditions would be. My feeling, as I expressed it, was that I think that this requirement of the training does fall under the general description that includes training on musical instruments, and dance, and other things. To me it seems to fall under home occupation which would mean it would not need a special permit. However, under the normal home occupation there are 2 restrictions: 1) because it's an occupation it's not expected to have any overnight activity so that would be a problem that we couldn't authorize overnight activity and the other is that the Code for home occupation limits it to 4 and the concern was that even if we gave the special permit we probably couldn't grant either of those as a Variance going beyond 4 or overnight stays. It appeared to me that what we were saying is that the special permit does not solve the applicant's problem and so the logical conclusion is we interpret it that it is a home occupation as defined by the Town Code and as long as they comply with the rules of the home occupation they don't need a special permit. That's my understanding of where we stand on this.

Mr. David Douglas asked anybody else?

Mr. James Seirmarco stated we actually had a long discussion. We don't all agree about this. I

believe that the intent of the law is to look at the impact to the neighborhood, to the Town and the neighborhood and to see if the home occupation – because if you look at the home occupation definition that’s what it says at the beginning that it should not have any adverse affect to the Town or to the neighborhood or whatever. The specifics by right is what Mr. Reber just said. If you want to have 4 people and have it one night you don’t even have to come here but by definition you came here for relief from that so that would, to me, it’s requiring some other way of looking at this. Does this impact the Town? Does it impact the neighborhood? Does it have adverse impact to any of those things? There is some concern about setting a precedent because somebody might want to have some other thing that might have adverse affect or maybe in their opinion it doesn’t but it might border on that and they might say “well you set a precedent because you gave it to this applicant.” To me, that’s where the line comes in. I look at this as – and somebody said this the other night “this is not my idea” – having company for Thanksgiving for somebody comes from 500 miles away and they stay overnight, you’ve got 6 people, it’s the same thing, to me.

Ms. Jennifer Cohen stated we’re going to have more people for Thanksgiving than during teacher training.

Mr. James Seirmarco stated me too. It’s probably going to have the same impact as having your family and friends for a holiday, I believe, this is my personal feeling. If you wanted to cut it back to 4 and have one night than like I said before you don’t have to come here. You’re asking us to give you some relief there and I think we have to look not at the numbers and the days but: does it have an adverse impact on the neighborhood? And, I don’t think it does.

Ms. Jennifer Cohen stated we’ve talked to most of our neighbors and – especially like I had mentioned last time once we put the signs in the yard some of our neighbors talked to us and said “what are you guys doing?” And, we told them, and nobody came. Nobody complained. More than one person actually said “if you need any support. If you need us to sign anything that it’s okay just let us know.” If you guys can’t come to agreement tonight and that’s something that would be helpful I’d be happy to come back next month with some signatures. I don’t know.

Mr. James Seirmarco stated probably we’re not going to decide tonight but I would say that Charlie mentioned last time that if we were to grant a special permit there would be a very succinct of ground rules that we could review this maybe in the first five years three times, the first year, the second year, the fourth year. That would be for the specific reasons of if there’s any impact to your neighbors and your neighborhood. If there were any complaints during this time than you would lose this special permit. I’m in favor of something like this, very closely reviewing this for the initial time. If there’s no problems during this time I would be certainly willing to extend this. I would personally like to sit down with the rest of the Board members and generate a succinct number of criteria for review of this and grant the special permit. I’d just like to say one thing, you’re teaching teachers who will ultimately provide help the special students as I understand this.

Ms. Jennifer Cohen responded to not just special needs students but that is a big part of our

program.

Mr. James Seirmarco stated this is, to me again, makes it unique. It's not something that you're having pottery classes where there's **50** other people. You're doing something very unique. I would have no problem approving yours and somebody coming in next week and saying "I want overnight stay and I'm going to teach 2-day pottery classes" and I'd say no. I think in this particular case it is unique. I think we can put together succinct rules and regulations for review over the first initial years and I would go along with that.

Ms. Jennifer Cohen stated I appreciate that. I have no problem with additional review.

Mr. James Seirmarco stated I'm sure that it's not going to be unanimous.

Ms. Jennifer Cohen stated if I could just respond and that makes sense to me and if I could respond to Mr. Reber's comments. I don't want to be argumentative but you know when you say "it limits to **4** and I don't see how we can give a special permit beyond that." My understanding was that's why we need the special permit. Last month we were sitting here and it was just a simple thing about a sign but you guys gave a **95%** Variance on the size of a sign to a hamburger company which is fine but obviously you can give Variances on the size in the scope of what it is that's in the Code. I live in the Town. I work here. I'm not trying to cause any trouble for anybody. I'm happy to talk with neighbors and make sure everyone's comfortable and stay in touch with you guys and make sure everything's good but a **95%** Variance to a hamburger company, I'm not asking to open a College in my house.

Mr. David Douglas stated I want to just clarify something. I didn't vote for the **95%** Variance so Mr. Seirmarco and I are in line with that but it's not what I wanted to clarify. What I wanted to clarify is that the procedural posture that you're in front of us here is not actually for a Variance. You're seeking two things: first on the one possibility is you're seeking an interpretation that as to whether or not what you want to propose falls within the definition of the Code; the home occupation and if it doesn't then you're requesting a special permit. That's slightly different than a Variance.

Mr. Raymond Reber stated my personal feelings are the same as Mr. Seirmarco's. I think what you're doing is perfectly fine and that's why I argued the case so I think you can go ahead with it. You don't need a special permit so that was the first interpretation. The next problem is: can we give Variances on a special permit? Which that's where I'm having a little problem. I don't know whether we can. There's an issue that maybe we don't have that freedom because there are things that we have leeway on like on a sign it says specifically in the Code. It says we can give up to **100%** Variance on signs under special circumstances. Here, and I think maybe that's where Mr. Seirmarco said if we review it further and look into the legalities can we in fact give those kinds of Variances under a special permit. By the way, I was the one who brought up the Thanksgiving dinner scenario. The first part, you cleared that hurdle. We're saying you can run your business. There's nothing wrong with it. The issue now is can we find some way to have you go beyond the boundaries that are in the Code and do that through a special permit and that's

what I'm not so sure we can. That's what the hang up is.

Ms. Jennifer Cohen stated I thought that was the whole point of the special permit.

Mr. Raymond Reber stated a special permit primarily is to say you have a unique situation that the Code maybe doesn't allow but we think, under the conditions like Mr. Seirmarco said, it won't hurt the neighborhood even though the Town had not envisioned it we'll extend the definition of what a home occupation is. That's usually what the special permit is about.

Mr. David Douglas stated let me just clarify something. I'm not sure that we have voted yet whether she's cleared that first hurdle. That first hurdle is whether or not what you're seeking to do falls within the definition of a the permitted use and one of the issues was whether or not it's academic teaching or not. I'm now leaning towards finding that it is but we haven't actually voted on that yet.

Ms. Jennifer Cohen asked does anybody have any questions about that?

Mr. David Douglas responded no, I think it's all clear but I just want to say we haven't voted, we haven't decided whether you fall into that or not.

Mr. John Klarl stated I think the biggest number of questions that the Board had was about cars going to the property and the overnight stays. That was what they needed to hear from you. But, now it's a matter of reviewing the facts as stated.

Ms. Jennifer Cohen stated there are very few cars. Most people you pick up at the train station.

Mr. Wai Man Chin stated I agree with Mr. Reber on the home occupation as permitted by Code but I also agree with Mr. Seirmarco on a special permit on trying to I guess maybe enlarge that home occupation a little bit only because of its unique situations. You've indicated there's only 12 times a year basically, it's not like 5 days a week. There's a lot of factors that I'd like to take a look into it but basically there's things that the Board still has to talk about and that's why I think we're going to either close and reserve or we're going to adjourn this until next month. It's up to some of the Board members how they feel about this right now.

Mr. David Douglas stated my recommendation would be that we close and reserve because I think it's just a matter of us just talking amongst ourselves. We've gotten all the facts at this point and I don't know that we need to drag you back to say the same thing that we all – we understand what the situation is and we have to talk among ourselves as to what we think the proper result is and what's allowed under the Code. I'd recommend that we – this one we talked at the work session, that we close and reserve and then we'll issue a decision.

Mr. Charles Heady stated as far as you said about the cars you're picking up some people at the train station so there won't be that many cars at all from what you explained to us.

Ms. Jennifer Cohen responded no, we have a two-car garage so our cars are in the garage. The one that we had in September only one person drove. Everybody else we picked up at the train station. It's mostly people coming from the city.

Mr. Charles Heady stated you see where we're coming from, it's either the **6** or the **4**. The **6** for the Special Permit if we can do it, how we can work it out. That's why we want to talk it over and see how we can...

Mr. Wai Man Chin stated believe me, we talked a lot about it on Monday on this past work session.

Ms. Jennifer Cohen stated I guess in my mind the logical – if it was just **4** and it was fine and it fell under the home occupation then we could only have **4** people like the logical thing for me would be to try to have more so that all the people who want to come can come and it seems like if anything that like having them more frequently would be more disturbing if it was going to be disturbing at all. The difference between **4** and **6** I don't think affects any of our neighbors at all but it makes it so that we can do them less frequently.

Mr. Wai Man Chin stated so instead of **12** times a year you make it **24** times a year or something like that you're saying.

Ms. Jennifer Cohen stated I don't know. That's not what I want to do. I don't want to spend every weekend doing this. I don't come back next month?

Mr. David Douglas stated what we're going to do now is we're going to vote to close the public hearing and reserve a decision and then we have to issue a decision within **62** days under the law.

Mr. John Klarl stated essentially **2** meetings.

Mr. James Seirmarco stated it gives us **2** workshops to talk and **2** meetings to talk, time for us to search some more legal issues and teach us whether we're right or wrong.

Ms. Jennifer Cohen asked would it be helpful or in any way meaningful for me to get some statements from my neighbors?

Mr. James Seirmarco responded it certainly wouldn't harm.

Ms. Jennifer Cohen stated to me, every time I read this it says the exact same thing like "home occupations are important part of Town life." This Code exists to make sure you're not bothering your neighbors.

Mr. David Douglas stated it can't hurt – actually if we're closing and reserving then we won't...

Mr. John Klarl stated what you can do is you can have it closed and we have a comment period

so you can give a **15** day comment period to receive any written submissions.

Mr. David Douglas stated that's fine if neighbors want to...

Ms. Jennifer Cohen stated I don't want to bother them if it's going to be meaningless but if it's going to be meaningful I want to do everything I can.

Mr. David Douglas stated I don't think we really need it. I think that we know what the issues are and I don't think that there's going to have that much of an impact.

Mr. John Klarl asked so Mr. Chairman we don't have to give her a comment period then?

Mr. David Douglas responded no.

Mrs. Adrian Hunte asked Ms. Cohen are the majority of the attendees coming up from the city or are they coming from elsewhere?

Ms. Jennifer Cohen responded they are, at least so far. Most people – because most of our existing programs are in schools in Manhattan, Brooklyn and the Bronx, a lot of times it's teachers from those schools or guidance counselors, like people who already know about us from that way.

Mrs. Adrian Hunte asked how critical is the overnight stay portion?

Ms. Jennifer Cohen responded it's so important. The problem is I'm trying to do so much, like give so much information in a two-day period. We have meals together and then we're having conversations. We basically schedule a youth development conversation after dinner so we're actually talking and having conversations about youth development issues until about **10:00** so then to send everybody home and ask them to be back at **8:00** the next morning I think would just be prohibitive for people. Most people to get here really they're coming by train, a lot of people are coming from Brooklyn, from different parts of the city, it's an over two hour commute. It would be extremely challenging for most people.

Mrs. Adrian Hunte asked you can't send them to the Cortlandt Hilton?

Ms. Jennifer Cohen responded probably cost prohibitive. Like I was saying last time, it's a small community. People are really excited about staying because they're really excited about getting to know each other and talking to each other and having dinner together. It's a really small community of people who teach yoga to children. A lot of the overnight thing, the idea was that it would bring people together and we could talk about issues in our field and get to know each other and that just doesn't happen if you're just in workshopy, lecture situations and then you send everyone on their way.

Mr. Raymond Reber stated I think the general consent – we all would like to find a way for you

to do what you're doing. I don't think any of us are opposed to what you're doing. It's a matter of can we find the mechanism where we have that freedom. We have certain we can do and there's things that the Town Board doesn't let us do and that's what we've got to work on to come up – it's not that we want to work for you. I think you've got our full support but we just can't unilaterally do certain things. We've got to work on it and see what we can figure out.

Ms. Jennifer Cohen stated I understand the concern about setting precedent and some of you guys were talking about it last time “well if somebody wants to open a bed-and-breakfast or a boarding house of whatever” but I would imagine that if anybody came and said “oh, I want to open a boarding house” you set a precedent with this and you said “okay, you can allow **6** people to stay over for **10** nights a year, **12** nights a year” they'd probably be like “okay...”

Mr. Raymond Reber stated that's the other problem. I'm not so sure – some of my colleagues have said “well it's only **10** nights” I don't know whether there's such a thing as having a restriction of that nature because how would we ever police it? First of all we don't have a police department and Code Enforcement is not going to come to your house every weekend and fill out a chart to say they're this weekend and not. Once we approve this thing, theoretically you might say you're only going to do it **6** but if you get a lot of clients and it goes to be **20** or **30** we don't really have a way of controlling that. That's the other thing we have to look at in terms of what's the potential outcome and how do we monitor it.

Ms. Jennifer Cohen stated the only response I would have to that is you're not monitoring any of the situations that you've given approvals on in the past and there's no real way – unless somebody complains. I'm sure if I was doing this **50** times a year and constantly having people, eventually if it was bothering someone, someone would complain. If it wasn't bothering anyone and it probably wouldn't matter anyway.

Mr. Raymond Reber stated that's true. You raise a valid point. That's an issue that we deal with.

Mr. John Klarl asked Ms. Cohen you're still thinking of having, as you said in October, the events **5** to **6** times a year for **2** days each?

Ms. Jennifer Cohen responded yes. It's definitely **2** days and I thought I had said – we had **5** scheduled and I thought we had talked about maybe doing **6** to **8** a year in the future. But yes, it's **2** days.

Mr. John Klarl stated you said last time you thought it was **5** to **6** times but you'd like to do it **8** times a year?

Ms. Jennifer Cohen responded to be honest, what I would love to do is to have it **6** times a year and have them be full and that would be plenty for me and that would be great.

Mr. John Klarl stated **6** times a year **2** days each time.

Ms. Jennifer Cohen responded for **2** days at a time. If you guys are going through the trouble of sorting this out and putting it on paper, of course it makes my life easier and gives me more flexibility if you think it would be okay **8** times a year or **10** times a year or whatever you think the upper limit of not bothering anybody would be. It would be easier for me to have that flexibility.

Mr. John Klarl asked so you were thinking **6** to **8** times a year?

Ms. Jennifer Cohen responded yes, that would be great.

Mr. David Douglas asked do we have a motion? First of all, does anybody else want to be heard?

Mr. Charles Heady stated I make a motion on **case 23-10** to close and reserve decision.

Seconded with all in favor saying "aye."

Mr. John Klarl stated what we can do, if you don't want to come to the next meeting, you can call Code Enforcement the next day and see if there's a decision. Actually, you can call the next meeting I think is December 15th is that a Wednesday? You can call the day before and see if the Board has reached a conclusion at the work session the night before. Our work session should be like the 13th and then the 14th Mr. Hoch might be able to give you some insight if the Board is going towards the decision or not.

*

*

*

NEW PUBLIC HEARINGS

- A. **CASE No. 24-10** **Department of Technical Services** for an Interpretation that the retail sale of bulk building materials such as sand, gravel, masonry blocks and stone, whether stored outside or in a structure, is regulated by Local Law No. 12 of 2010.

Mr. David Douglas asked Mr. Hoch you're representing DOTS on this?

Mr. Ken Hoch responded I am. Town of Cortlandt, Code Enforcement office. The DOTS staff, Department of Technical Services staff recently met with an applicant's agent who's investigating the possibility of opening a masonry supply business in a commercial zone. The business would sell tools and supplies to individuals and to contractors. The applicant also proposed to sell some items such as: sand, gravel, and stone in bulk and at that point the question arose as to whether the sell of such bulk merchandise qualifies as a retail store use or should be considered as a use covered by the recently adopted **Local Law 12**, which revised the Town

Code for Contractor's Yards and Specialty Trade Contractors. Our understanding is that the bulk items would be delivered by dump truck, causing a certain amount of fugitive dust when unloaded. They would be stored outdoors or possibly under a structure and would be loaded onto customer vehicles at the time of sale. This same type of material, sold in packaged form is available at other retail locations in the Town, most notably Home Depot. The existing Code defines a "Contractor's Yard" as any space, whether inside or outside a building on a parcel of land, used for the storage or the keeping of construction supplies, materials, equipment, machinery or vehicles or parts thereof, whether they are in operable or inoperable condition or in active or inactive use by a person or other entity. The common understanding is the construction supplies are used and re-used by the contractor as needed for a particular project. The sale of construction supplies is not included in the definition of a Contractor's Yard. **Local Law 12** states there is no definition of Specialty Trade Contractor in the current Zoning Ordinance. This new Law provides a definition which specifically lists masonry as a "Specialty Trade Contractor." The Law requires a Specialty Trade Contractor to obtain a Special Permit from the Planning Board. However, the law is also silent on the sale of material by a Specialty Trade Contractor. This request for an interpretation is to determine whether the sale of bulk building materials should be classified as a Retail Store Buildings Material use or falls into the Specialty Trade Contractor use and therefore would be regulated by **Local Law 12**. None of these uses are currently site specific. This is a general interpretation that would apply to all the commercial and industrial zones in Town.

Mr. Wai Man Chin stated from what we discussed on Monday night's meeting, I believe that anything that's loose is not permitted. It has to be packaged. The sand's packaged, the gravel's packaged, anything's packaged where you're not using a big machine to dump it into another vehicle that's fine. That's how I see it.

Mr. James Seirmarco stated it's delivered in packages on a pallet, that's fine.

Mr. Wai Man Chin stated as long as it's packaged, it's not loose based on what my interpretation of the Code is.

Mr. David Douglas asked anybody else have any views? I think we're all in agreement based on what we discussed at the work session. Do we want to do this the close and reserve so we have a written D&O?

Mr. John Klarl responded absolutely.

Mr. Wai Man Chin stated I make a motion on **case 24-10** to close and reserve.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case No. 24-10** is closed and reserved.

*

*

*

ADJOURNMENT

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

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

*

*

*

**NEXT MEETING DATE:
Dec. 15th, 2010**