

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, October 21st, 2015*. The meeting was called to order, and began with the Pledge of Allegiance.

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

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

Also Present

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

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ADOPTION OF MEETING MINUTES FOR AUG. 17 SEPT. 16, 2015

So moved, seconded.

Mr. David Douglas stated the August and September minutes are adopted.

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ADJOURNED PUBLIC HEARINGS:

- A. CASE No. 2015-10 New York SMSA Limited Partnership d/b/a Verizon Wireless** for a Special Use Permit for the installation of a wireless telecommunications facility consisting of a 140 foot monopole with antennas for both Verizon Wireless and the Mohegan Fire Department, together with related equipment at the base thereof in an approximately 1,500 square foot fenced equipment compound, on property located at **260 Croton Ave., Cortlandt Manor.**

Mr. Michael Sheridan stated good evening Chairman, members of the board. My name is Michael Sheridan. I'm the attorney with Snyder & Snyder LLP, attorneys for New York SMSA Limited Partnership d/b/a Verizon Wireless. Verizon Wireless is looking to install a public utility personal wireless communication facility at 260 Croton Avenue. The facility will consist

of a 140-foot tall monopole as well as equipment at the base of the tower. At the top of the monopole will be fire district antennas to assist with the fire district's communications needs. The property is in fact a fire district property and has a firehouse located at that property. I received comments from the Town Engineer on Monday. I did prepare a response and submitted to the Zoning Board Clerk upon my arrival this evening so you just have the response to those comments as well as some other issues raised I believe at the prior adjourned meeting where some comments were discussed.

Mr. Raymond Reber stated this is my case. As you say, we had seen a letter Monday night and reviewed it briefly, had discussed some of the points. Some of them are administrative in terms of questions with the DEP since it's in the water district and what have you. One of the main ones we were discussing was item #1 which addressed the issue of the location of the pole and its location relative to its height and the regulation that the pole needs to be 50% -- the distance from the property line has to be 50% the height of the pole. In the past we heard where these poles are designed so that they fold on themselves and I guess that was part of the logic of the 50%. In this case, as it's currently located, that's not the situation so that has to be addressed. We have to agree that we can give a Variance to some extent on that but unlikely. The other question was the 140-foot height which is on the high side and I believe even two meetings back, one of the residents had asked the same question because they said "isn't it on a hill? So doesn't that help you?" I had mentioned that I did not find in the report that was prepared where you do a coverage map of what gets covered and what isn't covered, showing different height levels and I was wondering: were you able to find that there is data on that or is it something they have to go back and get for us?

Mr. Michael Sheridan responded I can certainly get data on that. I will say this: the code requires three additional co-locators to be on the tower at 140 feet. We have designed the tower to not only include the fire district antennas but three additional co-locators as required by the code. That pushes down the height of what coverage you can get from the bottom co-locator. So, Verizon needs the coverage -- I don't know if you sell the coverage map but there's a large area that needs to be covered. It certainly doesn't cover everything on the map and any decrease in coverage from that map would require, when they move forward in the future to try and fill that remaining coverage gap, would require -- though the more gap there is, the possibility of more towers. The less gap there is, if they can provide as much coverage as possible from the existing towers, it would limit the amount of additional towers in the future that would be needed. In addition, as I was saying before, if you lower the bottom co-locator, then that makes the tower less desirable or again, for that bottom co-locator makes it a smaller range that they can cover and again, you lead to the same problem. Your code provides that you can have a tower up to 140 feet. We have, even though it's not covering everything as indicated on the map, we have designed a tower within your code provisions which is allowed and that is why...

Mr. Raymond Reber stated I understand that regulations do give limits. That doesn't mean it shall be, it just says it could be and I understand your arguments but I must confess, these arguments haven't been a major issue with tower applications in the past. I think, from my point-of-view as an engineer, what I would like to see is the impact of coming down; to come

down 20 feet, how much coverage do you lose whether it's significant or insignificant because at no height, unless you go 200 feet up or whatever, you're not going to get the full coverage ideally that you would like. The terrain just doesn't allow it. We understand that. If there's an issue about locating the co-locators and the fire department; first of all I don't think the fire department is a height problem because right now I don't think their tower is all that high. If you could give us that data of what their system now operates from and how you would design the co-locators and what the range of height would be for them and then show us the coverage data and I think then we can say 'yes, that makes sense; 140 is the right number' and go along with it or we can say 'we don't understand why it has to be 140 and it can't be 120' which then means the 50% is down to 60. In a way it helps your site location also since you've got this restriction that is in the code. To me that's the major issue here.

Mr. Michael Sheridan stated we can get information from Verizon and show you that, something that was mentioned at the work session on Monday and we'll be able to put something together for you.

Mr. David Douglas asked anybody else have any other questions from the board?

Mr. John Mattis stated I'm concerned with the 20.9 feet off the property line, because even if this is designed to fall down upon itself – you're what, 30 feet from me? You're talking about 21 feet. There's got to be debris that's going to be pushing out stuff as that comes down. It's not just going to come down and stay exactly where it is. It's going to spread out and you're required 70 feet and you're asking for 21, 20.9 and I have a concern about that.

Mr. Michael Sheridan stated my understanding is that the pole is designed, again, I think I understand what you're saying about debris but it's designed to collapse upon itself so...

Mr. John Mattis stated right, but you've got 140 foot pole that's collapsing on itself, when it hits the ground, that's got to go somewhere. It's not just going to pile up. It's going to spread out. 20 feet isn't very far.

Mr. Michael Sheridan stated I think it's designed not to hit the ground. I think it's designed to fall into itself so it's not hitting...

Mr. Raymond Reber stated I think it's designed to fold over so you've got half the tower comes down on the bottom half, but I mean that's not saying the whole tower from whatever happens and which way it gets hit and the momentum it doesn't snap or break it and it does fall. So then, the question is, even after it folds on itself if it falls down, is it going to stay within that 20-foot limit? That's why the code is written the way it is to be extra conservative to protect any neighboring property.

Ms. Adrian Hunte stated the Engineering Department mentions that this property is located within or appears to be located in New York City watershed. Is there any additional information required from New York City DEP?

Mr. Michael Sheridan responded we're working on that to see if in fact it is located in the watershed and if it is what would be required from the DEP which I don't think the engineer was even clear that it was located within the watershed. It's our understanding that it wasn't but we're just confirming that.

Mr. Raymond Reber asked anyone in the audience have any comments or questions? If not, I recommend we adjourn to the next meeting so that additional information can be provided to answer some of our questions.

Seconded with all in favor saying "aye."

Mr. David Douglas stated you'll pick up with us again at our meeting on November 18th.

B. CASE No. 2015-17 ASF Construction & Excavation Corp. for an Interpretation that the applicant is a Specialty Trade Contractor as defined by the Town Code Chapter 307-4 Definitions so they can submit a Special Permit Application to the Planning Board on property located at **37 Roa Hook Rd., Cortlandt Manor.**

Mr. David Douglas stated the applicant's attorney was on jury duty for several weeks and is asking for an adjournment.

Ms. Adrian Hunte stated on case 2015-17 ASF Construction & Excavation Corp. for an Interpretation that the applicant is a Specialty Trade Contractor as defined by the Town Code Chapter 307-4 Definitions so they can submit a Special Permit Application to the Planning Board on property located at 37 Roa Hook Road, Cortlandt Manor, NY I make a motion that we adjourn the matter to the November 18th Zoning Board of Appeals meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that case is adjourned.

C. CASE No. 2015-20 Emily Fehlbaum for an Area Variance for an Accessory Structure, a 12' x 24' garage, in the front yard on property located at **100 Laurel Rd., Croton-on-Hudson.**

Mr. David Douglas stated I guess Mr. Hoch got an email from the applicant saying she wanted to postpone the work but it was unclear whether the applicant realizes that what she's essentially asking is to withdraw the application so Ken and I spoke before and I think what might make sense is that we adjourn this for another month and then he'd be in touch with her to make sure she understands what the implication is of what she's asking for.

Mr. Charles Heady stated I make a motion on 2015-20 to adjourn it to next month.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that case will be adjourned to next month and Mr. Hoch if you could reach out to the applicant.

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PETITION TO RE-OPEN CASE #2015-22:

A. CASE No. 2015-22 **Anthony Perez** to revise a front yard setback dimension for an Area Variance for the front yard setback to construct a deck extension on property located at **164 Dogwood Rd., Cortlandt Manor.**

Mr. Anthony Perez stated good evening. Basically, it's my second time. I'm sorry that I'm here again. Basically, the first Variance that I submitted where I wanted and what I came for, they didn't match the drawings of the architect so it was off roughly around 3 feet or so. I just want my deck to finish my front porch property line. That's what I'm basically looking for.

Mr. Raymond Reber stated I think what the applicant is describing is a little confusion with the architect. I don't think there's anything being requested here that's different than what we originally understood so on that basis I would make a motion to re-open case #2015-22 for a Variance for a deck between the house and the pool.

Seconded, with all in favor saying "aye."

Mr. David Douglas stated since we have a unanimous vote it's required to re-open and you got the unanimous vote so it's re-opened. Do we have to advertise it again?

Mr. Ken Hoch responded it was.

Mr. David Douglas stated so we can ahead and just vote on the Variance.

Mr. Raymond Reber asked with that, does anyone in the audience have a question on this issue? If not, I believe this board recognizes that there's no real change from what we originally approved and intent. It's just getting the record, the plans on file matching what was asked for. On that basis, I make a motion we approve the Area Variance for case #2015-22 as shown on the revised drawings. The Variance is down to a proposed 39 feet from a 50-foot required?

Mr. Ken Hoch responded it's 41 before, now it's 39.

Mr. John Mattis stated and it should be noted that it doesn't come out in front of the porch anyway. It's lined up with that.

Mr. Raymond Reber stated it's a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. Anthony Perez stated thank you so much. Have a good night.

Mr. David Douglas stated thanks a lot.

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ADJOURNMENT

- A. CASE No. 2015-23 Acadia Cortlandt Crossing, LLC** for Area Variances for the Minimum Buffer Required along a residential district boundary and the Minimum Landscape coverage required, and a Variance from the required number of parking spaces on property located at **3144 E Main St. (Cortlandt Boulevard), Mohegan Lake, NY.**

Mr. Brad Schwartz stated good evening Mr. Chairman, members of the board. For the record, Brad Schwartz from the law firm of Zarin & Steinmetz representing the applicant, Acadia Cortlandt Crossing, LLC. As I think all of you know, Acadia is proposing a new shopping center of 130,000 square feet known as Cortlandt Crossing on Route 6 located across from the current Cortlandt Town Center. We currently have an application pending before the Town Board for a re-zoning application to re-zone a portion of the property. The Town Board is also serving as lead agency under SEQRA and that SEQRA review is ongoing. In fact, the FEIS was just accepted as complete last night by the Town Board. There's also a pending application before the Planning Board for a site plan review of this project. We're here tonight to begin our application seeking three Variances for the project with respect to parking, landscape coverage and buffer to a residential district. Jerry Schwalbe from Divney, Tung & Schwalbe is here. He's prepared to make a short presentation providing a brief overview of the project and to explain in greater detail the three Variances that are requested.

Ms. Adrian Hunte stated this is my case. That's fine, we welcome your presentation but we've also discussed that since this is pending before the Town Board and the Planning Board that we would probably have to defer and put this over, but please, by all means.

Mr. Brad Schwartz stated that's great. You're board's not positioned to grant any approvals tonight because the Town Board has not completed the SEQRA process yet.

Mr. Jerry Schwalbe stated thank you Brad. Good evening Mr. Chairman, members of the board, Jerry Schwalbe, Divney, Tung & Schwalbe planners and engineers for the applicant. The

property is 36 acres in size. The purpose of the application with the Town is to develop 130,000 square feet of retail and parking. You can see on top of the map there's a Van Cortlandtville School, to the left of the property is Route 6 and to the south is a residential district. The line in between, you'll see the CD district which is the red line as proposed to go to the blue line to 15 acres and then 28 one acre is remaining in the rear which will remain as open space. As Brad mentioned, there's three Variances we're seeking. The first Variance is a reduction in the side yard setback which is on the side of the school. There's also in the R-residential zone so it would require a 50-foot setback. We're looking to reduce that buffer to 30 feet: one, because the school has a bus garage on that side, there's no residential properties along that side and that would allow us to increase the parking in that area without having to go into the north side which is the buffer, open space that we would like to preserve. That red line on the side shows the 50-foot line and then where you can see where the parking is, if you go to the next slide Ken, you'll see a little bit more detail. We've done several sections to illustrate the condition there and basically the bus garage is much, much higher, almost 25 to 30 feet higher than the parking so it's definitely much lower. There's no visual impacts at all that we can see from looking both inward and outward from the two projects. The next slide shows you the typical cross-section. You can see the darker line on top and the green line showing the landscaping and the improvements that are proposed; the parking being below it and the condition varies between 25 and all the way down to maybe 15 feet at the lowest end as it approaches closer to Route 6. In front of that area there will be a rock cut with some vegetation trees, the slope back up and then screening up between the garage building and the site conditions. The next slide is a variation of that. It just shows a slightly different condition with some additional plantings, again, trees lining up against the parking edge that would grow up, obviously taller at some point, extending above towards the bus garage building line sight as well. Next slide is another similar condition showing a view from inside looking towards the wall and the school. The grey mass you see at the top is the bus garage that's sort of back a little bit from the property line and the rest of the site is landscaped and it will be vines and things to grow over the rock cut that's proposed there as well as some other retaining wall. Next slide, the other Variance that we're seeking is...

Mr. Brad Schwartz stated no portion of any building will be located within the 50-foot buffer. It's strictly for parking and an access way.

Ms. Adrian Hunte asked do you know what the closest entrance to one of the buildings in the Cortlandt Crossing would be to the school's entrance?

Mr. Jerry Schwalbe responded the entrance to the building is facing Route 6. It doesn't face the side of the building.

Ms. Adrian Hunte stated I understand that.

Mr. Jerry Schwalbe stated I don't know the exact dimension there. I'd have to measure it. The closest point is probably at least 75 feet or so, at least.

Ms. Adrian Hunte stated less than 200 feet.

Mr. Jerry Schwalbe responded oh yes, less than 200 feet.

Ms. Adrian Hunte asked what about the farthest end?

Mr. Jerry Schwalbe responded meaning?

Ms. Adrian Hunte continued the stores, the opposite end of the buildings.

Mr. Jerry Schwalbe asked I'm sorry, which one – I can't point...

Ms. Adrian Hunte asked from the school to the farthest building at the other end of the complex, would you say that's less than 200 feet or more than 200 feet?

Mr. Jerry Schwalbe responded I should clarify, that's not the school. That's the bus garage on that side. The school's actually further over.

Ms. Adrian Hunte stated I understand.

Mr. Jerry Schwalbe stated the setback to that corner, I said is about 75 feet. To the other end, separating to the residential side, is that what you're asking for?

Ms. Adrian Hunte asked from the school to the very end – to the most easterly building, correct.

Mr. Jerry Schwalbe stated it's at least 500 feet. It's definitely much further.

Ms. Adrian Hunte stated thank you.

Mr. Jerry Schwalbe stated the other Variance that we're seeking for is the reduction in the landscape requirement which is that 22%, the code requires 25%. The reason being is we would now like to move back into the open space. We'd like to keep the building and the parking down closer to Route 6. If you think about it, if you add the entire site we're at 63%, much more than what's required but we're looking at it from the CD zone only which is 22% so, theoretically we would have a lot more but from a code perspective we're seeking some relief on that rather than having to go back out and putting more plantings in the parking area we'd like to keep that at 22% and provide the open space in the rear.

Mr. James Seirmarco asked and the open space stays open forever and ever?

Mr. Jerry Schwalbe responded that's the plan. That's the proposal, yes, to be open space. There's also that green area up at the top is a landscaped berm that would also further screen the development from the residential area to the rear and to the side. The last Variance that we are seeking for is a reduction in the parking. The code -- there's three uses on the site: there's a bank, there's retail and a restaurant. The mixed-use together would require a total of 693 spaces

which is almost 5 per thousand, it's pretty high. We had, because Acadia also owns the Cortlandt Town Center, they had counted the cars during the Holiday season and there was only about 4 per thousand, so we're looking to be a little better than that; we're at about 4.7 per thousand so we have a reduction of 77 parking spaces we don't feel are needed for this project.

Ms. Adrian Hunte asked just another question, I'm sorry, you just mentioned the restaurant is where?

Mr. Jerry Schwalbe responded the restaurant would be in one of those smaller pads out in the front.

Ms. Adrian Hunte asked that's the westerly side or the easterly side?

Mr. Jerry Schwalbe responded that's the westerly side, not all the way to the west but more to the middle. See the three ones in the middle, it would be one of those pads that would be the restaurant more than likely.

Ms. Adrian Hunte stated make sure it's more than 200 feet.

Mr. Jerry Schwalbe asked I'm sorry.

Ms. Adrian Hunte stated make sure it's more than 200 feet from the school.

Mr. Jerry Schwalbe stated oh yes, that's definitely more than 200 feet, yes.

Ms. Adrian Hunte stated ok.

Mr. Jerry Schwalbe stated and that's pretty much the extent of the Variances requested.

Ms. Adrian Hunte asked anyone have any comments in the audience?

Mr. Nat Longordo stated I own the property #5 Baker that's adjacent to this project here and I'm concerned about the buffer between my property and the proposed project here. I just don't want to see a huge building where I have residential apartments. It's a major concern and I've only been contacted by them when they were proposing to purchase my property. Since then, there's been no communication and I guess I had to come here to really find out what's going on. I left several messages without any return phone calls so that's my concern.

Mr. John Mattis asked which house is it? Show us on there? Does it show on this one?

Mr. Nat Longordo responded it's attached basically. When you go to La Villetta Restaurant, right into Baker, it's the first driveway on the left. I have an 11-family complex there.

Mr. Raymond Reber stated as you heard by the applicant, our position here is to deal with zoning

requirements and there's three issues here, none of which have to deal with your side of the property because, from a Zoning point-of-view they're meeting all the requirements so it's out of our hands. They're doing fine. If you want to talk to the Planning Board about how they plan it, that's another issue but our jurisdiction is limited to giving Variances and right now they're providing you all the buffer that the town requests.

Mr. Nat Longordo stated I understand that but how do I get that to see what's actually going on because I'd like to...

Mr. Raymond Reber responded you have to go to the Planning Board and review it with them or go to, I guess I don't know, the department how it plans, you can review them at the Coding Department.

Mr. Nat Longordo asked are you guys sending the letters out for when these hearings are or...

Mr. Ken Hoch responded no.

Mr. Raymond Reber stated that's why they have the plaques, those big yellow and orange plaques that's to notify...

Ms. Adrian Hunte stated the Planning Board's meeting schedule is available on line is it not?

Mr. Ken Hoch responded yes. For the Planning Board, they've had several meetings on this.

Mr. Nat Longordo stated I understand that.

Mr. John Klarl stated as a matter of fact the Planning Board is waiting to hear from this board. The Planning Board's had several public hearings. You can go into the Planning Department during the day and look at the plan itself. You can attend the meetings. You can look at the minutes. There's a variety of ways you can look at the plans.

Mr. Nat Longordo stated okay, thank you.

Ms. Adrian Hunte asked anyone else in the audience?

Mr. Dominic Esposito stated good evening Mr. Chairman, members of the board. My name is Dominic Esposito. I live at 6 Lucs Lane. I'm bordering this property and I'm directly impacted by this property. My thing here is that the land was purchased. Acadia knew what they were purchasing. They purchased the first 400 feet as commercial and the rest was residential and I asked the board not to rezone that residential portion of it because now it's directly impacting us.

Mr. John Klarl asked you asked which board?

Mr. Dominic Esposito responded you guys.

Mr. John Mattis stated we do not change the zoning. Something like that would be done by the Town Board. In fact, you've been at those meetings. I think you probably knew that.

Mr. Dominic Esposito stated I've been at those meetings but I believe the Zoning Board is where you adjust the zoning...

Mr. Wai Man Chin stated we don't zone, we...

Mr. John Mattis stated we act on the zoning code. The Town Board has to change that zoning and move it back which you propose.

Mr. David Douglas stated just so you know. This is the first involvement we've had with the application tonight.

Mr. Dominic Esposito stated yes, I understand that. I guess the only other thing I can say is that we all know that there's an existing traffic issue here. Am I in the right realm?

Mr. Wai Man Chin stated again, that's the Planning Board.

Mr. David Douglas stated as what Mr. Reber said before, there's sort of a division of labor between the different boards.

Mr. Dominic Esposito stated right, I'm under the assumption that the boards at least talk to each other and say "look, this is..."

Mr. David Douglas responded no, we each consider our own individual aspects of it. The only aspects that we're involved with are the three that were mentioned: the landscape coverage and the parking and then the setbacks. The issues of traffic that's – at the appropriate Planning Board meeting.

Mr. Dominic Esposito asked that's all part of it, correct?

Ms. Adrian Hunte asked part of what?

Mr. John Klarl stated there's a coordinated review by the three boards, each board having its succinct functions and obligations and duties.

Ms. Adrian Hunte stated our job here, as the Zoning Board, is to either grant or deny Area Variances. In this particular instance they're asking for a Variance to have a shorter distance between the property and the buffer of the adjoining property so we're here...

Mr. Dominic Esposito stated so I would say, do not give them that because you're impacting the area surrounding areas. If you shorten that buffer area you're going to impact – I mean it's really

close to the school there. If you go on the other side where the residential portion is, if they want to minimize that buffer...

Mr. John Mattis stated they haven't requested that. They only requested it on the school side.

Mr. Dominic Esposito stated I'm just making a point. I would say deny that part. I would say that we don't need something like this here.

Mr. James Seirmarco stated it's two...

Mr. Dominic Esposito stated it's two separate things, I understand that, but you've got to understand us as a resident...

Mr. James Seirmarco stated deal with the buffer.

Mr. Dominic Esposito stated I get it but you have to understand us a resident in that area that we're directly impacted by all this. We have too many stores in such a small corridor...

Ms. Adrian Hunte stated we do understand but that's not our jurisdiction.

Mr. Raymond Reber stated we cannot make zoning decisions, Variance decisions based on those kind of factors. We're given very specific factors to consider and only those whether traffic is a problem, whether the community is not interested, we can't use those in this court to impact our decisions.

Mr. Dominic Esposito stated okay, well thank you for your time.

Ms. Adrian Hunte stated thank you for your input.

Mr. Dominic Esposito stated I will go back to the other boards.

Mr. David Douglas asked anybody else?

Ms. Adrian Hunte asked anyone else?

Mr. Charles Messina stated good evening my name is Charles Messina. I'm a Cortlandt Town resident. In this picture, this berm that they're referring to...

Mr. Raymond Reber asked where do you live, what address?

Mr. Charles Messina responded 127 Dogwood Road.

Mr. Raymond Reber asked so you're not in the immediate area?

Mr. Charles Messina responded no. The berm that's being described in this picture, could you tell me how many acres it is? Any idea? Ballpark?

Mr. Raymond Reber responded a berm is kind of hard – you're talking about...

Mr. John Mattis stated it's linear.

Mr. Charles Messina stated the green area in the picture that they're referring to that it's going to be landscaped.

Mr. James Seirmarco stated the open space and then there's the green berm.

Mr. Charles Messina stated no, no, I'm not talking about the berm. I'm talking about up in the back of the property behind the big 20,000 square foot building.

Mr. Wai Man Chin stated oh, the open space.

Mr. Raymond Reber stated he had that figure on the other chart, 20 some odd acres.

Mr. Wai Man Chin stated something like that.

Mr. Charles Messina stated and that's going to be landscaped? Is that the idea?

Mr. Raymond Reber responded it's going to be cleaned up as I understand it and then left natural...

Mr. John Mattis stated the part that's green will be cleaned up.

Mr. Charles Messina stated the part that's green is going to be cleaned up and it's going to be planted? Is it going to be planted? Is it going to be landscaped?

Mr. Raymond Reber responded no, it's going to be left natural as far as I know, right? The applicant can help us but...

Mr. Charles Messina stated that's what I'm asking. Looking at a picture like this, I'm just curious to know what that area is. Is it woods? Is it going to be cleared? Is it going to be landscaped and is it going to be public use?

Mr. Raymond Reber responded it's a combination but I'll let the applicant describe it to you.

Mr. Charles Messina stated that's my question.

Mr. David Douglas stated maybe the applicant, if you want, you can respond.

Mr. John Klarl stated the applicant is dealing with these issues right now with the Planning Board about the berm.

Mr. Jerry Schwalbe stated I don't have an exact area of the berm area but it's between 3 ½ to maybe 5 acres in size depending on the extent of it. That area that's being worked on is -- there are some trees in there. Also, that was part of their -- there were several homes that were demolished in that area. The existing white house that's there, the state house, that's dilapidated. That's coming down. It's in that area as well. There's a barn in there as well, that's all coming out. The idea is to replant that, reforest that whole area back again.

Mr. Raymond Reber stated but that's just a small strip right on the back edge of...

Mr. Jerry Schwalbe stated that goes from the back corner. There's another one Ken that might show the whole site. There you go.

Mr. Charles Messina stated that whole big green area.

Mr. Raymond Reber stated no, you're not talking about where you're working the whole green area, are you?

Mr. John Mattis stated just the bright green.

Mr. Jerry Schwalbe stated the bright green, not the whole back, no that's all wetland. That's staying as natural.

Mr. Charles Messina asked so the bright green; is that going to be cleared? Are you going to be clear-cutting it? You'll be cutting all the trees down?

Mr. Jerry Schwalbe responded in that area we are, yes.

Mr. Charles Messina asked then you're going to be re-planting it?

Mr. Jerry Schwalbe responded re-foresting it.

Mr. Charles Messina asked my question is: is that going to be a public-use area? That's what I want to know. I mean, you're doing a big project like this: is there any benefit as far as environmental to the town? Is it going to be a park? Is there going to be access?

Mr. David Douglas stated these are questions for the Planning Board. Let's not all talk at the same time because he's just going to hear a wave of noise.

Mr. Charles Messina asked so I'm addressing the wrong people for this?

Mr. David Douglas responded right. You need to talk to the Planning Board. These are all valid,

important points but it's just that we don't have any say on this.

Mr. Charles Messina stated so I would need to go to a Planning Board meeting. When is the Planning Board meeting typically held?

Mr. Wai Man Chin stated John?

Mr. John Klarl stated I don't have the date but it's the first Tuesday.

Mr. Charles Messina asked first Tuesday of every month?

Mr. John Klarl responded yes, but you can call Mr. Hoch because sometimes it varies with Holiday schedules but the Planning Board is resting right now with the issue of the berm, the issue of the open space. You talking about it right now, this would be a good time to attend the Planning Board meeting.

Mr. Charles Messina asked and would the Planning Board also address the impact that the traffic is going to...

Mr. Wai Man Chin responded yes.

Mr. Charles Messina asked so that's all Planning Board?

Mr. Wai Man Chin responded all Planning Board.

Mr. Charles Messina asked and that's on Tuesdays of every month and I'll check the schedule.

Mr. John Klarl stated yes.

Mr. Charles Messina stated okay, thank you.

Members stated thank you.

Ms. Adrian Hunte stated anyone else wishes to speak in the audience? Mr. Schwartz did you have something to say?

Mr. Brad Schwartz responded that completes our presentation. I just want to remind your board and the public as well, the Town Board is serving as the lead agency for SEQRA so the DEIS, the FEIS, those are also publicly available and anyone from the public who wishes to review some of the other issues that were mentioned tonight can certainly review those documents and familiarize themselves with the studies that have been done on the traffic, the landscape and the screening and so forth. As your board has correctly mentioned, we were before you for three very specific Variances.

Mr. John Klarl asked Mr. Schwartz, the buffer issue isn't resolved yet right?

Mr. Brad Schwartz responded that's still being evaluated.

Mr. John Klarl stated right, and so is the open space.

Mr. Brad Schwartz responded yes.

Mr. John Klarl stated and the people who would be able to use the open space.

Mr. Brad Schwartz responded what has been resolved – 21 acres in the northern part of the property, that's going to remain as protected open space in perpetuity. The details about how many trees are being planted, the landscaping, those kinds of issues are still being detailed and finalized.

Mr. John Klarl stated because the board was really focusing on it recently.

Ms. Adrian Hunte stated on case #2015-23, Acadia Cortlandt Crossing, LLC for Area Variances for the minimum buffer requirement along residential district boundary and the minimum landscape coverage requirement and a Variance from the required number of parking spaces I make a motion that we adjourn this matter to the December...

Mr. David Douglas asked did the Town Board want us to opine on what we thought about these things? Is that part of the review or the idea is just to put it off until December? I thought they were looking for some guidance from us.

Ms. Adrian Hunte stated I think we should put it off.

Mr. John Mattis stated I'd prefer to just put it off at this point.

Mr. David Douglas stated if you prefer to put it off, that's fine.

Mr. Raymond Reber stated I guess the only thing is John has to revise this. Is the Planning Board looking for us to say that we generally accept the Planning Board's proposal because if they go through all this trouble and then we say 'no' it's got to go back and they've got to do it again.

Mr. James Seirmarco stated it doesn't say an interpretation of our opinion. It says 'Area Variances'.

Ms. Adrian Hunte stated we can't vote.

Mr. Raymond Reber stated we've done it before where we've given a consensus of whether we're finding it reasonable or unreasonable so that the Planning Board knows that they are on

safe ground or they're not. The question is: do we do that now?

Mr. John Klarl responded the Planning Board would love to hear from this board but they haven't specifically requested it, but they certainly would like a memo indicating which way we're leaning.

Mr. David Douglas stated you know what, it's up to the other members of the board if we all agree we want to do a memo but I'll just speak from myself personally as one out of seven people. Personally, I've looked at each of the items that you've asked us to consider and I do not have a problem with any of them. With regard to the buffer requirement on a residential district but it's the school and it's not really impacting any residences and the closest thing is the garage/shed that's there. With respect to the landscape coverages, you're going down from 25 to 22%, to me does not seem to be a substantial difference and looking at the whole property you're substantially over the coverage. I think it was 63% if you look at it in totality. I think in terms of the parking, it seems adequate based – I am by no means an expert on traffic but based on the study that you've submitted it seems sufficient. That's just me talking.

Mr. Raymond Reber stated I concur completely and I would like to add that on the buffer requirement, that 50-foot requirement is a relatively new requirement where they expanded it from 30 to 50 and I have talked to Town Board members and the purpose of that was they were a little concerned that in certain areas they didn't want to see buildings, major commercial buildings getting too close. They wanted to make sure there was open space and they also wanted where a commercial property buffered up against a residential property, again, to get some additional space but their feeling was that is not an absolute and as our Chairman states: it's a school. The school is quite a ways from this property line. There is the garages is there. I'm familiar with it. My grandson goes to that school and I don't see how this impacts in any way on the school and certainly it wasn't the intent on that setback of 50 feet was to say "that's an absolute." I think as Mr. Douglas said, this is a classic example where 30 feet is more than adequate, so I concur.

Ms. Adrian Hunte stated well from the zoning perspective and remember we're not voting but it does appear for the Variances that you have presented the case such that the Variances would be allowed within the parameters of the code as it stands now but to also recognize that the Planning Board has not yet granted preliminary site plan approval and that the site plan is subject to additional changes by the Planning Board for final approval and/or also by the Town Board during their review. Any vote from us would have to be, when we get that information from the Town Board or the Planning Board.

Mr. Brad Schwartz responded correct but I think the information you just provided is certainly sufficient for Mr. Klarl to go back, report to the Town Board, report to the Planning Board. I think that's all great information and we appreciate your board's seeming endorsement of the Variances and we'll come back to your board after the SEQRA review is completed.

Mr. John Klarl asked what Town Board agenda are you on? Which Town Board?

Mr. Brad Schwartz responded to be determined Mr. Klarl because if the FEIS was accepted last night it is now a 30-day public review and comment period.

Mr. John Klarl asked so you don't have a date yet for...

Mr. Brad Schwartz responded no we don't have a date yet for the next Town Board meeting.

Mr. David Douglas stated we should put this on for December?

Ms. Adrian Hunte asked you think December would be...

Mr. Wai Man Chin stated I think December. Again, I concur with Mr. Douglas on what he had indicated. I believe that the parking is more than sufficient the way you have it now compared to what is by code and the buffer and everything else; I like the way you're doing the landscaping, the rock cut and everything else going. It's kind of preventing a lot of things happening from the school to the property itself. I would not have a problem approving this if/when that time comes.

Mr. Brad Schwartz stated I appreciate those comments.

Ms. Adrian Hunte asked any other comments from the board/audience/Mr. Schwartz? Hearing none on case 2015-23 I make a motion that we adjourn this matter to the December, 16th 2015 Zoning Board of Appeals meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated okay, we'll see you in December.

Mr. Brad Schwartz stated Happy Thanksgiving. See you in December.

B. CASE No. 2015-24 Jamie Bennett for Area Variances for the side yard setbacks for an existing deck and storage shed on property located at 4 Harper Ave., Montrose, NY.

Mr. Jamie Bennett stated good evening Chairman, members of the board. I am seeking a Variance for an existing deck, an existing shed on property at 4 Harper Avenue.

Mr. James Seirmarco stated Mr. Chairman I had an opportunity to drive by and walk in the backyard and it's there. I understand that you're not responsible for building it. I really don't have a problem with the deck or the other storage shed. I don't have a problem with this.

Mr. Raymond Reber stated this is a very narrow lot and there is a garage in front of the shed and this is just lining up with the garage. It's not like you're encroaching further on your neighbor.

Mr. Jamie Bennett stated exactly.

Mr. James Seirmarco stated I was concerned about lot coverage. According to the map the lot coverage is like 30% so we don't have a problem there. Again, I don't have a problem with this.

Mr. John Mattis stated I concur with those comments.

Ms. Adrian Hunte stated I concur as well.

Mr. Wai Man Chin stated no problem.

Mr. James Seirmarco asked any comments from the audience? If not, I make a motion to close case #2015-24.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion to approve the Area Variance for a side yard setback from a required 7.5 feet down to 5 for an existing deck and an Area Variance for the side yard setback from a required 7.5 feet down to 1.91 for an existing shed. This is a SEQRA type II, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Jamie Bennett stated thank you.

Mr. David Douglas stated if there's any paperwork needed you'll speak to Mr. Hoch.

C. CASE No. 2015-25 Demitri Vourliotis Living Trust for an Area Variance for the rear yard setbacks for an existing shed on property located at **194 Cortlandt St., Croton-on-Hudson, NY.**

Mr. Demitri Vourliotis stated good evening. Basically, it's an existing shed. It's been on the property probably 30 some odd years and I think it needs about 2 feet on one side and about 11 inches on the other side.

Mr. John Mattis stated we're showing a parcel 2 and a parcel 1.

Mr. Demitri Vourliotis stated correct.

Mr. John Mattis stated and then we're showing another shed that seems to be in dispute with the neighbor on who's property it really is.

Mr. Demitri Vourliotis stated we've worked things out. I'm going to give him a lot line adjustment and give him that property to kind of just square things up. They had a bad survey and they thought they owned that property which they don't. We've done the research and the deed work and so I'm going to give them a lot line adjustment so they can have that piece of property.

Mr. John Mattis asked so that is not an issue anymore?

Mr. Demitri Vourliotis responded no, they're here tonight if you'd like to speak to them.

Mr. John Mattis stated no, we didn't know – we knew there was a dispute. We didn't know it was settled, because we were going to wait until it got settled before we...

Mr. Demitri Vourliotis stated no, they're here tonight if you'd like to speak with them.

Mr. Raymond Reber asked the lot line adjustment has been done?

Mr. Demitri Vourliotis responded no, we're in the process of doing it now.

Mr. Raymond Reber stated it has to go before...

Mr. John Klarl stated there's no application yet right?

Mr. Demitri Vourliotis stated no.

Mr. Raymond Reber I would wait.

Mr. Demitri Vourliotis stated it's coming soon.

Mr. John Mattis stated we're not going to take this down. It's there. It's going to sit there whether it takes a couple of months. I would rather you come back when you have the lot line adjustment and everything is settled and then we'll complete this case.

Mr. James Seirmarco stated because right now there's three sheds on your property.

Mr. Demitri Vourliotis stated yes, I know. Only one is mine but the other two on the other lot, the other lot to be.

Mr. James Seirmarco stated maybe you have the same problem with the other shed.

Mr. Wai Man Chin stated until that lot line is actually done we can't really approve something that's not on their property.

Mr. John Klarl stated lot lines should go first and the lot line will have a condition that you obtain the necessary Variances or the remedy you need from this board but the Planning Board is really going to row the boat here.

Mr. James Seirmarco stated it sounds trivial but it's not for us. We have to address the fact that there's three sheds on your property. We have to address that first. The easiest way to have the lot line adjustment and show us some sort of survey or spot survey of that area and then once that's done we can proceed on the two sheds.

Mr. Raymond Reber stated it wouldn't be logical when you've got multiple sheds and we're giving a Variance on one and ignoring the other. Somebody could say 'well, what's the difference?' There is no difference so that's why this has to be fixed and then we can make a decision on whatever sheds are impacted.

Mr. John Mattis asked do you have any indication of the time frame?

Mr. Demitri Vourliotis responded we're looking to do this ASAP so, I don't know.

Mr. John Mattis stated my question is: should we adjourn this to November? Do you think you'll be done or should we wait until December?

Mr. David Douglas stated but they'll have to get the Planning Board approval for the lot line adjustment.

Mr. John Mattis stated I think we'll need two months then.

Mr. Demitri Vourliotis asked it's one meeting with the Planning Board?

Mr. James Seirmarco responded one meeting, yes.

Mr. John Klarl responded typically, for a lot line adjustment like this, yes.

Mr. Demitri Vourliotis stated I'd say December.

Mr. David Douglas asked December? Okay.

Mr. Wai Man Chin stated basically, you should get to the Planning Board right away and file.

Mr. John Mattis stated you may not even be able to get the application in time for the Planning Board for November. Probably be early December and then you can come back to us. Okay, so

we'll adjourn it to December. Is there anyone in the audience who would like to speak? I move that we adjourn case #2015-25 to the December 16th meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated we'll see you in December.

Mr. Demitri Vourliotis stated okay thank you.

Mr. David Douglas stated thanks.

Mr. Wai Man Chin stated thank you.

D. CASE No. 2015-26 Elissa Kuber for an Area Variance for the front yard setback for a proposed carport and screened porch on property located at **6 Reber Rd., Croton-on-Hudson, NY.**

Mr. **Matthew Carroll** stated good evening everyone. I'm representing Jonathan Kuber and Elissa. I'm the contractor, Matthew Carroll, Custom Works Building Remodeling.

Mr. David Douglas stated before you start, let me just disclose something which I don't think matters to be fair. My daughter used to babysit for your kids. If you think that I should now recuse myself, I won't take any offense. She's away at college. I just wanted to disclose that.

Mr. **Matthew Carroll** asked first name?

Mr. David Douglas responded Danielle.

Mr. Raymond Reber stated and since we're clearing the air. Since we're making full disclosures. Reber Road is named after my family. My family once owned all those properties including the house that's in this case but that's all history. We have no vested interest in those houses at all.

Mr. **Matthew Carroll** stated **inaudible**.

Mr. Raymond Reber stated distant cousin.

Mr. John Mattis stated I don't know anybody there nor have I babysat for anybody.

Mr. **Matthew Carroll** stated basically we're looking for a front yard Variance so we can connect the proposed carport to have a covered roof to walk into the front door when you park. Propose to pushing it back away from the front door.

Mr. Charles Heady stated I was down there the other day but nobody was home to talk to somebody. I have no problem with what you want to do. It's only 2 feet more than what was there before in front, you're bringing it out to the front yard right? I also see you're making the roof line different on the right of the house. I have, myself, like I said before I have no problem with what you want to do. I think it will work out pretty good.

Mr. Wai Man Chin stated I have no problem with this case.

Ms. Adrian Hunte stated I concur.

Mr. James Seirmarco stated me neither.

Mr. John Mattis stated I concur.

Mr. Wai Man Chin asked anybody in the audience?

Mr. David Douglas asked anybody in the public want to be heard?

Mr. Charles Heady stated I make a motion case 2015-26 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Charles Heady stated I make a motion on case 2015-26 the Variance requested, an Area Variance for the front yard setback from a required 50 feet down to 24.24 feet for a proposed carport and screened in porch, SEQRA II, no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Mr. Matthew Carroll stated thank you very much.

**E. CASE No. 2015-27 Building Permit Services on behalf of Barbara Fay for
an Area Variance for the front yard setback for an existing living room and den on
property located at 119 Dogwood Rd., Cortlandt Manor, NY.**

Ms. **Norie Hildinger** stated good evening Chairman and the members of the board. My name is **Norie Hildinger**. I am the owner of Building Permit Services and I am here to represent my client Barbara Fay in this request for a Variance. My goal here is first, to give you a little bit of history and then to make four points on why we should grant this Variance. To begin with, as you look at -- the history on this is back in 1958 when the owner of the home went to get a

Variance for the garage, a breezeway and a dining room which had been already built. The Variance was granted and as it sits now in 2015 the footprint of the home is still the same. Now, the owner of the home wants to sell her home and through a title search -- there's a den behind the breezeway that she went to get -- they wanted a CO for that because it wasn't on the original survey and through attempting to getting a retroactive building permit for this, it came out that the den might need a Variance. So, it's a question of whether it needs a Variance or not but moving ahead, as you can see, there's the existing garage, the existing den and the existing living room. This footprint has existed the whole time of the home has been there since before 1951 or so and the portion in question is behind is between the existing living room is this -- if you can see it, it's the existing den and what this was at the time, when the owner bought the home, the home is as it is and she was just trying to get it legalized. Am I making sense?

Members of the board responded yes.

Ms. **Norie Hildinger** stated that's kind of the history of it. Now, bear in mind that the home, there's a couple of issues. The structure in question was granted a side yard Variance in 1958 for the garage and the breezeway and I believe the Variance was in the packet. Since granting the Variance in 1958, there's been rezoning as well. There's a paper road. This is just such a convoluted case. Where the home is now, it was a side yard originally and at some point it became a second front yard because it's on Hand Place, it's on Dogwood Road but it also is on Hand Place, a paper road so the home originally was a front yard and a side yard but some time probably -- we're figuring probably when ZORP came into effect that became a front yard as well. So, it went from a side yard to a front yard. That's another complication on this but not really because the home, I just want to go back and say that the footprint of the home really hasn't changed. I think the area that the Building Department was a little questionable about was this area that's now an existing den was on a 1975 survey shown as a patio and there was a wall put in, in the back, not on the front yard, which is now a front yard which was the side yard. It was enclosed, this patio and that's what we were trying to get a Building Permit for. We're kind of all on the same page with that. Why I think we should grant the Variance, I have four reasons. The first reason is this was not a self-created case. The woman bought the home as is. She inherited this problem. Number two, the zone: it's a very small and irregular lot so that all needs to be taken into consideration as well. Bringing me to point number three which is that only if you looked at the whole house, almost the whole house really doesn't comply. It almost doesn't make sense to worry about the back portion. In that case, and I have -- I printed out a plot plan that shows like only 200 square feet of the whole house where it complies. **[Inaudible]** complies to the existing zoning. Moving forward two, point one she didn't create it. The house has always been on a small and irregular lot so to make improvements on that lot it would always be difficult. The benefit sought for this Variance cannot be achieved any other way than by granting the Variance. I mean, the whole rest of the house doesn't comply and then we're going to dismantle the den. It really doesn't make sense which brings me to my next point which it would cause complete undue hardship to this homeowner to do this would be a real economic hardship. She's trying to close on the home and this whole process has made her lose one closing already and it's been very difficult for her so there's a huge economic hardship on this one and then to my fifth point, where there are obviously are no other neighbors here. Nobody

really objects to this. It's not encroaching on anybody. It's not causing drainage issues or taking down trees or anything that people complain about when you try and build something. For those four good reasons, I would really request that you grant this Variance.

Mr. Wai Man Chin stated this is my case. Basically, what it was is that that existing den, according to the 1975 is shown as a breezeway kind of. That's what it shows there.

Ms. Norie Hildinger stated or a patio.

Mr. Wai Man Chin stated patio, breezeway. I personally do not have – I went there. I looked at the site. I know the configuration of the site. I know the property over there and it looks like the house has been there for a long time, everything. I just want to clarify one thing. You're saying that when Mrs. Fay bought this property that the den was already existing den, was not an open breezeway?

Ms. **Norie Hildinger** responded I believe so, yes.

Mr. Wai Man Chin stated no, so that's why I want to clarify.

Ms. **Norie Hildinger** stated I believe so. This is not a self-created problem.

Mr. Wai Man Chin stated so basically the whole den, the garage, I mean everything you had a Variance for but you never got Building Permits for. I guess that's the problem on everything.

Ms. **Norie Hildinger** stated that's a very good question and if you look at the old minutes when the original construction was done, it was in the minutes, it states that it was probably under \$750 at that time.

Mr. Wai Man Chin stated that's not what – I hear what you're saying but I'm just saying you had all Variances for everything that was done it's just nobody every pulled a Permit back in whenever it was. I don't know what year...

Mr. Ken Hoch stated 1955.

Mr. Wai Man Chin stated a lot of things were built back then and I guess it just got buried away and nobody ever picked it up until now because she's selling the house. When she bought the house, I guess back in – when did she buy the house?

Ms. **Norie Hildinger** responded I'm not exactly sure. Late '70s, '80s probably the '80s, '70s. I'm not...

Mr. Ken Hoch stated 1977.

Mr. Wai Man Chin stated she bought the house in '77.

Mr. Ken Hoch stated February 14th, Valentine's Day.

Mr. Wai Man Chin stated basically she bought the house the way it is without doing anything to it. Again, some of the board members are saying we give a Variance for these things but it already had a Variance so it's only a Building Permit that was not obtained. I really do not have a problem with what you have there and what's on the site because I've been there. I walked, I looked around at everything and it looks like it's been there for 56 years or whatever the heck it is and it hasn't been touched, so I really don't have a problem with this one.

Mr. Charles Heady stated I have no problem with it whatsoever but you say they bought that with the breezeway all closed in right?

Ms. **Norie Hildinger** responded correct.

Mr. Charles Heady stated so it's no hardship on them at all because it was done before they bought it right?

Ms. **Norie Hildinger** responded yes. It's not self-created.

Mr. Wai Man Chin stated it's not a detriment to the neighborhood.

Ms. **Norie Hildinger** responded no.

Mr. David Douglas asked anybody else?

Mr. John Mattis responded I'm fine.

Mr. James Seirmarco stated I'm good.

Mr. Raymond Reber stated normally, I get kind of upset when I see people building things without Building Permits and what have you and certainly if it's encroaching in setbacks that's another reason to be highly concerned. However, I will admit that there are a number of unique extenuating circumstances here but in doing so I would like to clarify: we have a document that states from 1958 and it reads as follows: "the dwelling" and this is a Variance given then shortly after the codes were imposed "the dwelling on this parcel was erected prior to zoning in '51 subsequently in '54 and '55 a dining room, breezeway and garage were added." That's all. Nothing else is addressed. Then what happened, we have a survey by Mr. **Bunny** in 1975 and it shows the garage, the breezeway and it says now there's a porch. The porch is put on, it says enclosed but it lines up with the house so it's following the line of the house. Yes, it encroaches but it's not as close as the garage. They're still within the footprint and as you had indicated there was a patio section between the garage and the house in the back side. That finally got developed. Somehow, between 1975 and now the breezeway and the patio were combined, enclosed and became a den. The dining room still exists and what was a porch section is now

part of the living room. It was major changes here and obviously I think Code Enforcement needs to require that an architect, engineer certify that all this construction is according to code and has all the proper safety factors built into it but at least everything stayed within the footprint that had been approved in 1958. So I think on that unique situation and being that it's been this way since the '70s, yes I can go along and say this is unique enough and enough time has passed that I'd say it's okay.

Mr. Wai Man Chin asked anybody in the audience?

Mr. David Douglas stated and that's unusual for Mr. Reber.

Mr. Raymond Reber stated it's good to explain these things so that people that are watching don't think that they can do whatever they want.

Mr. Wai Man Chin stated we know you live on Dogwood.

Mr. Charles Messina stated I live on Dogwood. I live right next to Barbara's house and I've lived in my house for 32 years and I can tell you that her house has been exactly the same for 32 years. You're talking about it was a patio, or a breezeway. The house has looked exactly as it does today for the last 32 years. So, hopefully that helps out.

Mr. Wai Man Chin asked anybody else?

Mr. Aitor Baraibar stated I live at 133 Dogwood Road, directly across my neighbor and actually I came to this board earlier with my own Variance several months back so it's been interesting to get more and more information. I just want to quickly say I'm in support of basically authorizing this because when I moved to Dogwood it was one of the houses that I saw that I just thought was so quaint and so beautiful and so I would hate to think that any of that is going to change and now going forward. Just another consideration in support of granting the Variance.

Mr. John Mattis stated thank you.

Mr. Wai Man Chin asked anybody else? I make a motion on case 2015-27 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Wai Man Chin stated I make a motion on case 2015-27 grant the Area Variance from a front yard setback from a required 40 feet down to 1.95 feet for the existing living room and den. This is a type II under SEQRA and no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Mr. Wai Man Chin stated thank you.

F. CASE No. 2015-28 James Brown for an Area Variance for the side yard setback for a proposed rear open deck on property located at **24 Oregon Rd., Cortlandt Manor, NY.**

Mr. James Brown stated good evening. I think mine will be way less complicated than the previous one. I'm requesting a reduction in the side yard setback. The house was built in, I believe, 1937 and so I think it pre-dates the current zoning. Basically, the deck is going to be on the back of the house. There really are no other options. If I were to comply with the current zoning then it just wouldn't be viable. Does that make sense?

Mr. Raymond Reber stated this is my case. As the illustration, survey shows on the screen, it is a narrow yard and what you're proposing is in the back of the house and in fact the house isn't directly parallel with the property line, it's slightly angled and you are moving it slightly in so that the closest you're going to come to the property line is 5 foot 8 and as this plan shows the existing house actually comes to within 4 foot 2 in the one corner. You're not even encroaching as close as the house is. I have no problem with this.

Mr. John Mattis stated I agree.

Ms. Adrian Hunte stated I as well.

Mr. James Seirmarco stated me too.

Mr. Wai Man Chin stated no problem.

Mr. David Douglas asked anybody out there...

Mr. Wai Man Chin stated anyone in the audience?

Mr. Raymond Reber stated if not I make a motion on case #2015-28 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Mr. Raymond Reber stated I make a motion on case #2015-28 property located at 24 Oregon Road for a Variance for a deck side setback from a required 10 feet to a proposed deck setback

of 5 foot 7 which would be a 4.3 foot Variance. This is a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated Variance is granted.

Mr. James Brown stated thank you.

Mr. Wai Man Chin stated thank you.

G. CASE No. 2015-29 Angel Martinez for an Area Variance for accessory structures, two 12 foot high entry pillars with 12 foot gate, in the front yard, on property located at **288B Locust Ave., Cortlandt Manor, NY.**

Mr. Angel Martinez stated good evening ladies and gentlemen. I'm Angel Martinez. I live at 288B Locust Avenue, Cortlandt Manor. The reason why we're here is because we would like to install 2 pillars 12 foot high and the reason is simple; we want some privacy in the back. Unfortunately, Locust Avenue is a shortcut to Route 6 so we've got a lot of traffic and a lot of curious people but especially we've got a lot of unwanted visitors and a lot of times at night when we light up the lights at night because of the house size, the house gets a lot of attention and a lot of times we've got a lot of unwanted visitors, sometimes at 3 o'clock in the morning. For that reason we would like to have a higher gate than is allowed according to the zoning.

Mr. James Seirmarco stated I did make site visit and spoke to the Martinez's and he does have a large house, a large piece of property and he believes that the pillars should be larger than he had gotten an approval for 6 foot – that's the maximum the code allows. He wants 12, right? We spoke about the fact that in general we don't go above 6 foot. Many people have built them more than 6 foot and in some cases we have asked them to take them down, they've already been built and had to go to court and they took them down. I think a 6-foot fence, possibly, 6 foot with a 6 foot fence should keep out everybody that unwanted guests if you wanted to make it one more foot higher maybe, but I don't think anybody on this board is going to even go above 6 foot, but we can poll the board.

Ms. Martinez stated the reason we do this is to make the house nice also because if we put like 6 foot it's not going to look nice because it's such a big house and such small pillars in the front it's going to look funny. We come here to beg you guys to do something.

Mr. Angel Martinez stated it's not going to look proportional.

Mr. David Douglas stated in terms of the size, big houses, there are other big houses in the town, scattered about the town, that have the gates and the pillars that are 6 feet and I don't know that

they look inappropriate but the town has a rule about the 6 feet high and I'm not sure I see a reason why we should make an exception in this case.

Mr. Raymond Reber stated I concur. I know of a number of homes, as the Chairman said, some very large homes, 6 foot is the top that I've seen in all of these and they have the stone like you've built 4' x 4' with the gates. Six foot's adequate and, in fact, with your home you are set way back on the property so it's not like the pillars are right in front of your front door and you see this big house and these little pillars. I don't think that there's a direct relationship from an esthetic point-of-view of the height to the pillars versus the size of your house because it's set so far back that actually from the street, the house is only this big when you look at it. But, the main thing is we haven't granted this in the past and there are many other large homes that do what you're doing and they've stayed within the 6 feet.

Ms. Adrian Hunte stated usually we have certain guidelines and your 12 feet is above the code allowance. This would be a self-created difficulty. It would be a really substantial Variance and the benefit can be achieved by some other means, namely 6 feet or slightly above. Based on those guidelines, I feel that there are more way in favor of not granting this at 12 feet.

Mr. Wai Man Chin stated I just want to say one thing, I have two pillars in front of my house and they're only 5 feet high and I'm about as far back as you are but I have shrubs on each side of it and this and that and I have no gates but I have no problems with just the pillars there at 5 foot high. Six foot is high enough with the gate. What are you going to do on the side of the pillar?

Mr. Angel Martinez responded we are going to landscape.

Mr. Wai Man Chin stated I'm just saying, it's open on each side of the pillar right now.

Mr. Angel Martinez responded right now, but we're installing...

Mr. Wai Man Chin stated a pillar 12 foot high is not going to do anything for me and 6 foot high pillar and a gate. Even if you built a wall there, 5 foot high or whatever or a fence there but you still see past the pillars from either side of the pillars.

Mr. Angel Martinez stated now, but when we finish the gate, we are planning to install a lot of trees in the front. As a matter of fact, we are getting a shipment tomorrow and we had some today but that would cover the side not the main entrance.

Mr. Wai Man Chin stated let the trees grow higher. Pillar; 6 foot is pretty high already and...

Mr. John Mattis stated something I'd like to point out. The code allows fences and stuff of 6 feet in the front yard and only 8 feet in the side and backyards so this is even much than what the code allows for backyards.

Mr. Angel Martinez asked is there a way that you can meet us in the middle? Even if we have...

Mr. John Klarl stated 6 feet is in the middle.

Mr. Raymond Reber stated there has to be a justification for compromise. As my colleague expressed here, there are criteria we have to look at and those criteria don't justify granting any Variance.

Mr. Charles Heady stated right now you have pillars already built up there? It shows a picture.

Mr. Angel Martinez responded no, they are only 6 feet. It's only the box.

Mr. Charles Heady stated it looks higher to me.

Mr. Wai Man Chin stated don't make it higher. We've had other people in the Town of Cortlandt where they built with arches and everything else and they were torn down, they had to be taken down. Six foot is more than enough.

Ms. Martinez stated thank you.

Mr. Wai Man Chin stated either you let us vote on this or you just withdraw this case. It's up to you and go with the 6 foot. If you want to vote on it you know what the vote's going to be.

Mr. Raymond Reber stated either way it's going to be 6 feet. It's just a technicality as to whether we vote or you accept the code as it is.

Mr. Wai Man Chin stated or you just withdraw the case.

Mr. John Mattis stated it looks better on the record if you withdraw.

Ms. Martinez stated we're not happy about it but what can we do?

Mr. Angel Martinez stated all we're trying to do is to improve the Locust Avenue and you know we invested a lot of money on this property and we are trying to keep it as nice as possible and as you well know...

Mr. David Douglas stated it'll look good with the 6-foot gate and pillars. If you drive around the town you'll see lots of properties that have 6 foot pillars and they look good.

Mr. Angel Martinez stated not to us but...

Mr. Wai Man Chin asked would you like to withdraw the case?

Ms. Martinez responded no...

Mr. Wai Man Chin asked you want us to vote on it?

Ms. Martinez responded yes, vote on it.

Mr. Wai Man Chin stated okay.

Mr. David Douglas asked does anybody else want to be heard?

Mr. James Seirmarco stated I make a motion to close the public hearing on case #2015-29.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Mr. James Seirmarco stated I make a motion to deny the Area Variance for an accessory structure to 12 foot high...

Mr. John Mattis asked don't we vote positively?

Mr. David Douglas stated we vote in favor...

Mr. John Mattis stated we have to vote what they applied for.

Mr. James Seirmarco stated I make a motion to approve an Area Variance for an accessory structure two 12-foot high entry pillars with the 12-foot gate in the front yard. This is a type II SEQRA, no further compliance required.

Mr. David Douglas asked all in favor? Any opposed?

Members of the board stated "opposed."

Mr. David Douglas stated I think it's unanimous. We don't need to poll the board, it's unanimous.

Mr. Angel Martinez stated thank you.

Mr. David Douglas stated thank you.

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ADJOURNMENT

Mr. John Mattis stated I move that we adjourn.

Seconded with all in favor saying "aye."

Mr. David Douglas stated we're adjourned.

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**NEXT MEETING DATE:
WEDNESDAY, NOV. 18, 2015**