

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, June 18th, 2014*. 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 MAY 21, 2014

Mr. David Douglas stated but we just got the minutes a couple of minutes ago so...

Mr. John Mattis stated I move that we postpone, roll over or adjourn until next month, whichever is the correct term.

Seconded with all in favor saying "aye."

Mr. David Douglas stated we'll deal with the minutes next month.

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CLOSED AND RESERVED:

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

Mr. David Douglas stated we discussed this case at our work session on Monday and I think

we're going to continue to work through some of the issues it involves. Just keep it on the agenda until next month.

Mr. Wai Man Chin stated we have **62** days from last month right?

Mr. David Douglas asked is next month within the **62** days? If it's not we'll ask the applicant...

Mr. John Klarl stated we'll ask Mr. Sullivan.

Mr. David Douglas stated no, Mr. Hoch.

Mr. John Klarl stated you're absolutely right. The application...

Mr. David Douglas stated we'll check the calendar and if next month falls just outside the **62** days we'll ask for an extension.

Mr. John Klarl stated ask for an extension. This is what we talked about Sunday.

Mr. David Douglas stated I talked about it Monday but you talked about it Sunday but I talked about it Monday.

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ADJOURNED PUBLIC HEARINGS:

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

Ms. Sharon Garb stated good evening.

Ms. Adrian Hunte stated good evening Ms. Garb. We were here last month and Mr. Garb was here at the work session and we discussed the progress of the screening and that we have planted just about all the trees and we're expecting **2** more to be planted?

Ms. Sharon Garb responded yes.

Ms. Adrian Hunte stated I think we're inclined to – and we have pictures showing the growth of the trees so I think we're leaning towards some sort of approval subject to inspection by Mr. Hoch and satisfactory planting of the additional trees and then we had discussed possibly an additional cleanup of a couple of items, you mentioned Mr. Garb a tank – anything else? Anyone in the audience wish to speak? Hearing none, I make a motion on **case 2013-33** we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Ms. Adrian Hunte stated on **case #2013-33**, Sharon Garb for a Special Permit to establish and maintain appropriate screening for an existing contractor yard on property located at 2201 Crompond Road, Cortlandt Manor I make a motion that we grant the Special Permit subject to, of course as we just discussed the okay and approval of Mr. Hoch in his inspection and to the satisfactory planting of the additional **2** trees plus the additional cleanup to remove the tank and any additional debris.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Permit is granted with those conditions.

Mr. Wai Man Chin stated also type II under SEQRA, no further compliance required.

Ms. Adrian Hunte stated type II, yes, no further compliance required.

Ms. Sharon Garb stated thank you.

Mr. David Douglas stated and thank you for working with us for the last several months.

Ms. Sharon Garb stated I tried. Been here a long time, this Sunday, on my birthday, it will be **63** years we've lived here in the Town of Cortlandt, probably more than all of you have lived here.

Mr. Raymond Reber stated Happy Birthday.

Mr. David Douglas stated Happy Birthday.

Ms. Sharon Garb stated thank you very much, I appreciate it.

B. CASE No. 2014-08 **Amberlands Realty Corp.** for an Area Variance for the front yard setback for construction of a new caretaker dwelling, an area variance for an accessory structure in the front yard (an existing caretaker dwelling converted to a storage building), and an interpretation of whether the floor area of the proposed storage building exceeds 50% of the floor area on the principal building, on property located at **Scenic Drive, Croton-On-Hudson.**

Ms. Adrian Hunte stated good evening. When we met last we were discussing the accessory apartment versus the principle residence and the size.

Mr. Ralph Mastromonaco asked accessory?

Ms. Adrian Hunte responded sorry building, current house with the new construction whether that would then be accessory to the principle residence and we had some questions. We've gone over back and forth and your position is that, the principle buildings and the complex are the principle building and therefore this new construction would not really encroach upon the size restrictions there. So, we've discussed this further at the work session and I personally don't see a problem with what you're trying to do.

Mr. David Douglas stated right, but I'm not sure that we wanted to reach the interpretation issue of whether you should look at all the buildings or not. We just want to confine our decision to granting a Variance so that you can build the new building without reaching the broader issue because I'm not sure that we all agree with your interpretation but I think we agree that you're entitled to – we agree with giving you the Variance.

Mr. Raymond Reber stated the one question we had was, we were wondering whether something like this, because of the complexity at the site, would normally require a site plan review by the Planning Board but we had a ruling from DOTS who stated that was not necessary and so on that basis, I believe, we're free to look at the Variance and decide on the Variance and I don't see any problem with granting the Variance.

Mr. Ralph Mastromonaco stated thank you.

Mr. John Mattis stated thank you.

Mr. Ralph Mastromonaco stated thank you.

Mr. James Seirmarco stated I concur also.

Mr. Wai Man Chin stated so do I.

Ms. Adrian Hunte stated on **case #2014-08**, Amberlands Realty – is there anyone else in the audience who would like to speak? No? On **case #2014-08**, Amberlands Realty Corp. I make a motion that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Ms. Adrian Hunte stated on **case #2014-08**, Amberlands Realty Corp. for an Area Variance for the front yard setback for construction of a new caretaker dwelling, Area Variance for an accessory structure in the front yard, the existing caretaker dwelling converted to a storage building, and the interpretation of whether the floor area of the proposed storage building exceeds **50%** of the floor area on the principle building, I make a motion that we grant the

addition towards the back of the house and got a survey which much to our surprise differs somewhat from the original survey. We come to find that the proposed addition projected straight back from the existing kitchen would encroach onto the **10** feet from the property line. I don't have the papers in front of me, something on the order of **8** inches or so. We spoke to our immediate neighbor. He has no issue with it. I would like to simplify the construction by, and make it more esthetically pleasing by just continuing the line straight back. That's the basis of the appeal.

Mr. Raymond Reber stated this situation, as you described, you were essentially at the **10**-foot setback, apparently there's a slight discrepancy of a few inches which usually we would consider diminimus. Your situation is a slight angular positioning of the house so you...

Mr. John Isecke stated the house is slightly skewed.

Mr. Raymond Reber stated you skew in another **3** or **4** inches, but the net result is what you're asking for is an **8 ¼** inch Variance on a **10**-foot setback. The only concern I have when I looked at it was to double check, there is a utility easement and obviously it's critical that that easement be kept open so that it really can be serviced but I believe that as long as they've got **9** feet plus they probably can get whatever equipment or vehicle they would need in there. I do not have a problem with granting this Variance.

Mr. John Isecke stated I appreciate that. Is that the consensus of the Board?

Mr. John Mattis responded yes, and you're following the house in line back. It's just that it's caulked a little bit so that you're **4** inches further out, **3 ½** inches further out than the house itself because of the angle. No problem.

Mr. James Seirmarco stated I have no problem...

Mr. Wai Man Chin stated as you go back, actually, it gets closer to the lot line because the house is built on a slight angle. It wasn't parallel to the property line so that's why you're diminishing as you're going along. I don't have a problem with it either.

Mr. John Isecke stated apparently there was a little surveying done at the time.

Mr. Wai Man Chin asked anybody else?

Ms. Adrian Hunte stated Mr. Isecke we'd like to compliment you on your presentation , it's eco-friendly. We'll recycle these.

Mr. James Seirmarco stated probably the neatest one I've ever seen.

Mr. Raymond Reber asked anyone else in the audience needs to speak on this topic? If not, I make a motion on **case 2014-12** that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Raymond Reber stated on **case #2014-12** I request for 52 Emery Hill Road for a side yard setback from a required **10** feet down to a proposed **9 feet 3 and 3/4** inches which represents **8 1/4** inch or a **6.8%** Variance, I move that this Variance be granted. This is a SEQRA type II, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated Variance is granted.

Mr. John Isecke stated thank you.

B. CASE No. 2014-13 James and Ellen Clark for an Area Variance for the side yard setback for an existing wood deck on property located at **51 Stevenson Ave., Cortlandt Manor.**

Mr. James Clark stated good evening all. We are seeking a Variance. We have a two-foot encroachment on the side of the deck that goes close to my neighbor's property which is the rear of his house. When we built the deck we had no idea that that was actually going to be a factor.

Mr. James Seirmarco asked how long ago was that?

Mr. James Clark responded I believe that was **1997**.

Mr. Charles Heady asked did you build the deck?

Mr. James Clark responded no, I had a couple of my coworkers build the deck.

Mr. Charles Heady asked [**inaudible**] at the time right?

Mr. James Clark responded yes, sure.

Mr. Charles Heady asked you picked up a Permit to get it though?

Mr. James Clark responded no, not at the time I didn't. I wasn't aware that that was even necessary. I just had a couple of guys from the job and we did it.

Mr. James Seirmarco stated I visited the site and I looked at your porch. I spoke to your neighbor. It appears that it's not a hindrance to the neighborhood. It is a self-created hardship

which is a certain criteria we have. It's built, that's the problem. I personally don't have a problem with this. Having you cut off **2** feet doesn't make sense to me. I don't know what that accomplishes.

Mr. Raymond Reber stated **8**.

Mr. James Seirmarco stated **8** feet, excuse me. I just don't see what that accomplishes except to make it the way it would have been designed originally. I just don't have a problem with it.

Mr. John Mattis stated when something's built without a Permit and they come in we have to look at this as if it did not exist and would we approve it.

Mr. James Clark responded I understand.

Mr. John Mattis stated and this is an **8**-foot Variance on **10** feet required. That's **80%**. That is something to the best of my knowledge, and I've been on the Board for **20** years, we've never approved something that large.

Mr. James Clark stated I thought it was **5** foot.

Mr. John Mattis stated no, you're existing – you're **2** feet from the property line and you're required **10**.

Mr. James Clark stated I thought it was **5**-foot that was required.

Mr. John Mattis stated it's **10**. It would be a little bit easier if it was only **5**.

Mr. James Clark stated yes, sure.

Mr. Raymond Reber stated I also have a problem with it. I have a little problem with the fact that you didn't check with the Town before you built it. We always see in the news about a deck that collapses and people get hurt and that's why we have requirements. Like everything else people build you have to go and get a Building Permit to make sure it's done properly so that something like that doesn't happen, but aside from the fact, as Mr. Mattis has indicated under those circumstances would we have approved the deck **25' x 20'**, I don't know. I've never seen a deck that big and certainly one that would encroach **80%** of a setback. We had a similar situation a few years back where the owner had put – he had multiple homes on one property and under the Town Code you're not supposed to have that so it's non-conforming. Under non-conforming you can't expand a non-conformity. What he did was put a large addition on one of the houses without a Building Permit, without any approvals of any type, in total violation of both the fact that he didn't have a Building Permit and the fact that it was non-conforming, and he wasn't allowed to expand the non-conformity. We made him take the addition down. It was a **\$60,000** price tag but it's the only way we can protect the codes. If we look the other way on issues like this, then anybody can do what they want, come before us and say "well I didn't know

and it's done, so too bad." No, it's not too bad. From my point-of-view a **16-foot** wide deck, **20** feet long would have been quite adequate so the only position I feel I can take is to say: I want the deck cut back so that it's not encroaching on the **10** feet. Sorry, I think that's what we have to do to protect the code.

Ms. Adrian Hunte stated when individuals come before us, yes there is a question as to whether what they have done would be approved today and yes you did this without the proper permits and you've come here to us for relief. We have a letter in the file also that is from one of your neighbors who would be directly impacted by this deck and this person does not have a problem with your deck. I would say that based on our criteria that we look at, namely whether there'd be an undesirable change in the neighborhood or the character of the neighborhood. I don't think that there would be any adverse or undesirable change in the neighborhood or the character. The benefit sought: it's already there. Is is self-created but as we have discussed in the past, some hardship that's self-created is not necessarily a reason in of itself to deny someone relief or for a Variance. It would not have any adverse, physical or environmental impact on the neighborhood. With that said, considering your circumstances and it's been there for a number of years, I would not say no.

Mr. Charles Heady stated I feel sorry for the situation you put yourself in because if you're going to the Town to the Permit from the beginning they would explain to you how to build the deck and you wouldn't have to come before us today. It's a difficult thing for you to get yourself in a situation – we have to go by the code and I'm sorry to say but that's the way it is.

Mr. Wai Man Chin stated I'm going to have to agree with Ms. Hunte on this thing. It's not a detriment to the neighborhood even though it is a self-created hardship. I don't see taking it down would do any justice right now.

Mr. David Douglas stated well, there seems to be a split on the Board. My view on this is that I'm very hesitant to grant the Variance that you're requesting for a few reasons: I think that if we were to grant a Variance like this, give an **80%** Variance for somebody who did not, I'm not saying you did it maliciously or knowingly or otherwise, but when somebody builds something that would clearly not be approved, and then years and years later they come back and say "well, I didn't do it the right way, can you now bless it?" I think that sets a very bad precedent and I have concerns about doing that. It gives incentive for people to just ignore the requirements of the code and just come years later and say "would you people now please fix it?" In terms of the fact that one of your neighbors has said that they don't have a problem, we tend to give more consideration to neighbors saying they do have a problem than neighbors saying that they don't. There's often a lot of incentive for neighbors not to oppose what other neighbors want for a variety of reasons. In terms of – there are **5** specific factors that the law requires us to take into consideration and some of them go in your favor and some of them don't. Some of them were the ones Ms. Hunte mentioned. I don't think there would be an undesirable change in the character of the neighborhood, that's one of the factors. I don't think it'll have an adverse effect on the physical, environmental conditions of the neighborhood so those two factors are in your favor but to my mind, the other factors go against you and that, to me, are the more important

ones in this case and that's: it is self-created, it is substantial, it's an **80%** Variance and as Mr. Mattis said – Mr. Mattis has been on the Board longer than I have but in my **10** years I don't recall us ever giving an **80%** Variance. I think that the benefit that you're seeking can be achieved by another method. You can have a deck. You just can't have as large a deck as you want. I would vote not to approve the Variance.

Mr. Raymond Reber stated I think Mr. Mattis made a very specific point of it's one thing to look at the factors, the **5** factors and what have you in deciding whether something should be allowed to be built or done as opposed to what's already there and as Mr. Mattis said, we have to assume it's not there and say, okay, they come before us and they ask us: would we have ever consciously allow them to go **80%**? I don't think one member of this Board could honestly say that they would have approved **25' x 20'** deck that encroached **2** feet of the property line, in good conscience and I think that's a key factor in making a decision here.

Mr. James Seirmarco asked any other comments from the audience?

Mr. James Clark asked so to rectify the situation, the deck has to be cut back by how much footage?

Mr. Wai Man Chin stated by code, if everybody votes the way you see it, you would have to cut it back to meet code, **8** foot, unless you want to ask for a Variance of somewhat. You know what I mean?

Mr. Charles Heady stated it's quite a big Variance.

Mr. Wai Man Chin stated right now, like Mr. Mattis said, **80%** is a pretty large Variance but I was looking at where the deck was located and everything else and you've got kind of two property lines. You've got the house next to yours is an L-shape property line – it doesn't look like anything could be built over there. That's the only reason why I voted that way.

Mr. Raymond Reber stated also, as far as how far to cut it back, there would be extenuating circumstances, possibly, to consider however looking at the plans, I think cutting back **6** feet is not a problem because the way this is laid out, both your staircases front and back are within **16** feet or so, or half the distance to the house as are the supports, apparently, on this. It looks like cutting it back the **6** feet that's required would not structurally change the way that's set up. I don't see any extenuating circumstances that says we have to – it's **2** feet away now so another **6** feet – no **8** feet and then it would be **10** feet away. But, again, it looks like he's got plenty of room for cutting back **8** feet and his structural integrity is still there. I don't see extenuating circumstances in terms of why he can't do that.

Mr. James Clark stated the reason why we petitioned for the variance because the home right now is in contract to be sold and that is why...

Mr. David Douglas stated that's why you came. That's often when we see [inaudible].

Mr. James Clark stated that's basically why we're in front of you today.

Mr. David Douglas stated right, I understand and that actually goes to part of what I was saying before is that if you never decided to sell the house you would just keep with the deck for the next **10, 20** years whatever and it's only when somebody has to...

Mr. Wai Man Chin stated right now the deck is – in one corner is **2** feet away from the property line. As you're going further back it's further away from the property line.

Mr. James Clark stated it's an irregular shaped piece of property.

Mr. Wai Man Chin stated it's a pie shape situation there.

Mr. Charles Heady asked could he cut the deck in an angle? He wouldn't have to cut the back that much maybe.

Mr. Raymond Reber stated you don't have to cut at an angle. You just cut **8** feet off. What's the big deal? And, then there's no variance...

Mr. John Mattis stated it's only the corner he'd have to cut – you could cut less...

Mr. Raymond Reber stated oh come on guys. I mean...

Mr. John Mattis stated but then he's in conformance.

Mr. Raymond Reber stated however he does it – to ask us to give, what, a **6**-inch variance on a corner? For what? He just cuts it back another **6** inches and he's done.

Mr. Wai Man Chin stated I don't know – do we vote on it and let him come do what he's got to do and...

Mr. David Douglas stated there's going to be two ideas bounced around. Once we can vote on it then I think you see, you've counted the votes it's going to be **4** to **3** opposed, or if you think that there's some other thing you want to propose that has a lesser variance. I don't know if that does you any good. If you think that you could come back with something that we might find possibly satisfactory, we can adjourn this until next month and you can come back with revised proposal. I don't know if that does you any good. You're still going to have to make substantial cuts to it. That's up to you.

Mr. John Klarl stated but you don't have to make your own decision tonight. You can consider coming back next month.

Mr. James Clark responded yes, sure.

Mr. David Douglas stated if you want another month we will hold off on voting. If you want to come back next month with – you want to consider the possibility of coming back next month with another proposal for us to consider. I don't know that it will – agree with the proposal but it's really up to you.

Mr. James Clark stated as far as getting it together here, if I was just more or less draw a new plan where I want to go with this thing and come down and basically cut off **5** feet off that **20** – it's **25** in length, **20** in width – I come off and just make it a **20' x 20'**. Would that be sufficient?

Mr. Raymond Reber stated I guess I have a problem with the plans. This plan here, that shows the length along the side of the house as **20** and coming out from the house it shows **25** so we're proposing taking the **8** off of the **25** so you would still have a **17' x 20'** deck. Like I said, your stairs are over here so all you do is taking this section off over here and bringing a railing back in.

Mr. James Clark responded yes.

Mr. David Douglas stated and you can do that without us – needing a variance.

Mr. Raymond Reber stated you can just go ahead and get it done.

Mr. James Clark stated go ahead and get it done and then I have to come back...

Mr. David Douglas stated no, if you cut it back to there, you're within the **10** feet.

Mr. John Mattis stated if you cut it back to a **20' x 17'** deck, which is a substantially large deck, then you're at the **10**-foot line. You do not need a Variance.

Mr. Raymond Reber stated all you need then is to get Code Enforcement to give you a permit that says it's properly built, that's all.

Mr. Charles Heady stated you can withdraw your application.

Mr. James Clark asked I still have to go for an application to...

Mr. Charles Heady stated no, you withdraw this one.

Mr. James Clark stated just go ahead and cut it.

Mr. Wai Man Chin stated you would still have to talk to Mr. Hoch.

Mr. James Seirmarco stated you would get a Building Permit and a C of O.

Mr. James Clark stated get a Building Permit and that's it. Very good guys.

Mr. Wai Man Chin stated instead of us voting and it's going to go on your record. Just leave it for now and make a decision -- and then you withdraw it in a week or a month if you decide to go that way, that's all.

Mr. John Mattis asked how close are you – do you have a contract to sell yet?

Mr. James Clark responded we're just basically ready to go with that right now.

Mr. John Mattis asked so do you want to wait for another month or you just want to withdraw now and get it done?

Mr. James Clark responded I'm going to withdraw right now and get that taken care of.

Mr. Raymond Reber stated okay, it makes sense.

Mr. John Klarl stated you're going to make it in compliance with the code.

Mr. James Clark responded yes, and it will end up being a **20' x 17'**.

Mr. Charles Heady stated if you talk to Ken, he'll tell.

Mr. Wai Man Chin stated you still have to see Mr. Hoch to get a Permit on it.

Mr. James Clark stated we'll take care of that end of it too. Very good. Thank you. I'll stop by.

C. CASE No. 2014-14 Rose-Ann DiPietro for an Area Variance for the front yard setback for an existing sunroom on property located at **5 Carpenter Ave., Cortlandt Manor.**

Ms. Rose-Ann DiPietro stated good evening. This house is my parent's house. They bought it in **1962**. They both have passed away so I contacted the town to make sure that all the ducks were in a row and found out that there's all kinds of stuff. Mr. Hoch's been so helpful. Apparently there was a porch in the front of the house – there was a screened-in on the house that I remember as a little girl but apparently at some point my parents had closed it in and I needed to get a retroactive Building Permit for that which I've applied for. In the review of the plans we realized that it needed a Variance. So, the original survey shows that porch from **1953** which isn't the original from the building, the house is like a prior to zoning thing which I'm also working on getting that certification. I'm requesting a Variance for that front porch that's now labeled a sunroom because it does have walls and big windows instead of just screens.

Ms. Adrian Hunte stated this is my case Ms. DiPietro. Once again we have a situation here where activity and projects were taken care of without having proper permits. In this case it was

prior to zoning and had a front porch. The porch was converted to a sunroom, no Building Permit. You are coming before us to now try to make this correct and legal. The conversion itself would not be any larger than the original porch. The houses in the neighborhood, at least three of them: **3, 7 and 9** Carpenter Avenue are also prior to zoning and they do not meet the front yard setback. Once again, I'm certainly not in favor of granting Variances where there's not been compliance in the past and of course if you were to come before us today, similar situation, it would not be granted. There are concerns, of course, that as a sunroom, whether that's going to be made into livable space, which it should not be and no heating, etc and changing windows. But, once again, I don't see that there's any undesirable change in the character of the neighborhood and no detriment to the nearby properties. Can it be achieved, what you're seeking, by some other means? It's already there. It is self-created, but once again, I don't see that we need to tear this down or not give you the Variance. My colleagues of course will have different positions on this one I'm sure.

Mr. John Mattis stated no, we're going to surprise you.

Mr. Raymond Reber stated I have no problem because this is a different situation. The structure was there. It was a porch with a roof but the question is by closing it in so many years ago doesn't really change much in the appearance of the house and certainly it's not out of character with the neighborhood. The encroachment is – there's several houses along that street that were built way back when that are of a similar setback or even closer. In this case I don't think this is a significant problem or infringement and so I would – I mean, what are you going to do? Have them take the windows out or something. That's getting pretty trivial so I have no problem with granting this Variance.

Mr. John Mattis stated I agree and the difference between this and the prior case, this footprint didn't change. The other houses on the street have done that. They all appear to be in line where you have a singular deck that stuck out in the other one and that was something that was added on and moved...

Mr. James Seirmarco asked so let me ask you a question John: based on...

Mr. John Mattis stated this isn't a debate. I'm just making a statement, okay? So, I agree that this is appropriate.

Mr. James Seirmarco stated I agree and before you said that something **55%** we wouldn't allow...

Mr. John Mattis stated no I didn't. I said **80%** but this isn't a debate so if **55** is too much for you don't allow it but I think in this case it's appropriate. The footprint is going to be the same regardless. It's just the number in this case.

Mr. James Seirmarco stated I'm just trying to be consistent.

Mr. Raymond Reber stated the Variance here is not the setback. The setback was there, way, way back. That was there. It's the enclosing...

Mr. Wai Man Chin stated this was prior to zoning. It's already been there.

Mr. John Mattis stated the setback will be **55%** whether we approve this or not. If we don't approve it all they do is take the windows out and make it an open porch, so the key factor is not the setback, it's the enclosing.

Mr. James Seirmarco stated I understand.

Mr. John Mattis stated it doesn't change the dimensions.

Mr. David Douglas stated I agree with Mr. Mattis. I think the crucial distinction here between this case and the last case is that the house is prior to zoning. The porch is prior to zoning and the enclosure, it's not changing the footprint, it's not that the sunroom is going out further than what – the porch went out to that point and to me that's a very important difference between what the prior case was and what this case is.

Mr. Wai Man Chin stated the sunroom may have been prior to zoning.

Mr. James Seirmarco stated I think just to be consistent here. If the applicant would come today and ask to enclose that porch with sunroom windows I hesitate to say we would approve that. We didn't approve about two years ago, the applicant wanted to change the windows because they kept leaking during a rainstorm and we wouldn't allow that...

Mr. John Klarl stated that was a non-conforming use.

Mr. John Mattis stated they wanted to enclose a non-conforming open use.

Mr. John Klarl stated it's a little different.

Ms. Adrian Hunte asked anyone else on the Board?

Mr. David Douglas stated we got caught in a debate among ourselves but I think we're all in favor of granting a Variance which is all you care about. We just want to argue.

Ms. Adrian Hunte stated on **case #2014-14** Rose-Ann DiPietro, for the property located at 5 Carpenter Avenue, Cortlandt Manor, N.Y. Is there anyone else in the audience that wishes to be heard? Hearing none, on **case #2014-14** I make a motion that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Ms. Adrian Hunte stated on **case 2014-14** for an Area Variance for the front yard setback from an allowed **40** feet down to **18** feet for an existing front sunroom I make a motion that we grant the Variance.

Seconded with all in favor saying "aye."

Mr. David Douglas stated Variance is granted.

Ms. Adrian Hunte stated this is a type II SEQRA, no further compliance required.

Ms. Rose-Ann DiPietro stated thank you very much.

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ADJOURNMENT

Mr. John Mattis stated I make a motion that we adjourn the meeting since there's no other business.

Mr. David Douglas stated meeting's adjourned.

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**NEXT MEETING DATE:
WEDNESDAY, JULY 16, 2014**