

ZONING BOARD OF APPEALS

April 4, 2005

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, April 4, 2005, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT: Vincent Cestone - Chairman
Lenny Lim - Member
Victor Carlson - Member
Bill Flaherty - Member
Tim Pagones - Counsel

ABSENT: Joan Turner - Member

Vincent Cestone - Let's do the reviews for completeness first

Tim Pagones - Okay. Laurie Brown and Mark Mazzye. We have received the survey with some numbers on it. So it is complete. It is for an existing deck. So whenever you want to do it.

Vincent Cestone - Okay so we have nothing on the 18th which is our next meeting

Tim Pagones - It won't get in the paper for the 18th

Vincent Cestone - I know.

Tim Pagones - The only thing that I would suggest is that if you don't finish anything today, put them on for the 18th because you don't have to notice them

Vincent Cestone - You know what, I am going to ask the board members, do you want to have our second meeting the 25th of April? Which will mean we will have 2 meetings back to back. But it doesn't make sense to come in on the 18th for a 5 minute meeting

Bill Flaherty - Is that on a Monday

Vincent Cestone - Yes that is on a Monday

Lenny Lim - Vinnie are we going to keep any of these open?

Victor Carlson - Well we meet on the first and the third Monday.

Vincent Cestone - Yeah but we have nothing, we have no public hearings on the 18th.

Tim Pagones - Well you won't get anything into the paper. The only public hearings you will have is any continuation from tonight. So if you finish all five of your public hearings, then you have nothing. You just have review for completeness and maybe a couple of resolutions. If you meet the 25th, which is the 4th Monday of the month, you can get some stuff in the paper.

Vincent Cestone - Right

Tim Pagones - But that is up to you. If you want to start switching them.

Vincent Cestone - That's what I am thinking. What's your feelings Vic

Victor Carlson - I have another meeting on the 2nd and 4th Monday

Vincent Cestone - You do?

Victor Carlson - Lions is on the 2nd and 4th Monday

Lenny Lim - That's right. That's why we are the 1st and the 3rd

Tim Pagones - So you might not finish everything tonight.

Vincent Cestone - Okay

Tim Pagones - So I would say put this on for May 2nd

Vincent Cestone - May 2nd

Bill Flaherty - I take it then our meetings

Vincent Cestone - They are going to stay the way they are.

Bill Flaherty - Okay

Lenny Lim - The 1st and 3rd

Vincent Cestone - Okay. Then Leuthner again. Oh no that is for a draft resolution I'm sorry.

Tim Pagones - Right. Leuthner we are going to put on for the 25th for Resolution. That is the only one I didn't get done.

Vincent Cestone - How about the 18th?

Tim Pagones - 18th yeah that's what I said. The 18th.

Vincent Cestone - And then the next review for completeness is Hudson Design, Copeland.

Tim Pagones - I haven't received, we got a statement of use. He was supposed to supply us with some more plans

Vincent Cestone - And he never did

Tim Pagones - He might come tonight but I haven't looked at it. So I would say put it on for the 18th for completeness again

Vincent Cestone - Okay. And then Morris and Lippee

Tim Pagones - Morris Lippee that is complete. You can set that down for a public hearing.

Vincent Cestone - Okay they are on for the May 2nd meeting also. Okay, last one

Tim Pagones - That is complete and I already told Mr. McCormick that we put that on for the 2nd. That should be a quick one also.

Vincent Cestone - Okay that is on for

Tim Pagones - May 2nd

Vincent Cestone - yeah. Okay we're done let's go home.

Kim Shewmaker - How about Garrison Highlands

Tim Pagones - Yeah, you've got Garrison Highlands and that is complete. You can put that whenever you want. Do you want to put that on for the 16th?

Vincent Cestone - Yeah

Lenny Lim - May 16th

Vincent Cestone - All right. Now I will go into the public hearings. Is Mr. Spina here?

John Spina - Yes

Vincent Cestone - Hi. So explain what you need us for.

John Spina - We were, just to kind of review, we are looking to remove an existing shed room off of our house, the side of our house. And replace it.

Vincent Cestone - And what were we waiting for?

Tim Pagones - Well this was the one that was originally Stanley Houghton's house and he was

Lenny Lim - Oh this is the one we make him take a bunch of stuff off

Tim Pagones - They are looking to replace one of the decks in the exact same area. No?

John Spina - It was a room

Tim Pagones - A room. And I think it is going to be in exactly the same setback as Mr. Houghton's was

John Spina - No. It's gonna be a little bigger

Tim Pagones - All right it got a little bigger. But the problem was there was not a full board and they didn't want to take a chance of voting without a full board

Vincent Cestone - Okay.

Lenny Lim - Now this is the one, the room you are building is to the side right?

John Spina - That's correct

Vincent Cestone - It was the house that had five illegal additions

Lenny Lim - That one we all remember. He had the most bizarre staircases I've ever seen. You are on that road going to the tower

John Spina - Right

Lenny Lim - Who is your neighbor to the north? Is that Town land?

John Spina - On the side that we are proposing, oh this lot, it is a lot that is unbuildable but the woman who owns it is our neighbor. So, she lives in the

house one lot up.

Lenny Lim - Up here?

John Spina - That's correct. There is a lot here.

Lenny Lim - And down here is

John Spina - That is Green Space

Lenny Lim - Right

Vincent Cestone - Any questions from the board?

Bill Flaherty - I see in your company letter that you mean that the current room you have is not structurally sound? What are you going to do with that?

John Spina - We are going to tear it down

Bill Flaherty - You are going to tear it down. Where is that in relation to your

(Mrs. Spina talking and I cannot hear her)

Victor Carlson - Is there a foundation?

John Spina - No. It is built on posts. You know like a deck.

Victor Carlson - Are you going to put a foundation in?

John Spina - Oh yeah.

Victor Carlson - With a full basement?

John Spina - No. There is a big rock over here and the back of the house it is really only up here and if you put a shovel in there, it is really only about 3 courses of cement block in the back and you know the room is not going to be full height so it is going to be down 8 inches. So there is not going to be a full basement in the front. It is really just a crawl space. Going underneath it it looks like it was deck and then just put a skirt around it.

Vincent Cestone - That happens a lot. Any other questions from the board?

Bill Flaherty - There is nothing more that you can do in terms of mitigating the extensive variances that you are asking for

Mrs. Spina - We are really only adding _____ because of the existing variance

Bill Flaherty - You've got a variance?

Vincent Cestone - This is making an addition to the variance that they already have

Bill Flaherty – Oh okay. I saw in the documentation that you did have a variance going back.

John Spina - He had to get a variance in order to sell the house.

Bill Flaherty - Okay

John Spina - The room was put on I guess and in order to sell the house he had to come back here a few times

Lenny Lim - We made him remove a lot of stuff

Bill Flaherty - That was prior to my time

Lenny Lim - He built everywhere. He started off with a deck and then he enclosed it, then he made it a room, then he started another deck, then he started a third deck.

Vincent Cestone - Any more questions from the board? Any comments from the audience? Motion to close the public hearing?

Bill Flaherty - I so move.

Lenny Lim - I'll second.

Vincent Cestone - All in favor?

All Board Members - Aye.

Vincent Cestone - I'll make a motion for a straw poll. Do I have a second?

Lenny Lim - I'll second.

Vincent Cestone - All in favor?

All Board Members - Aye.

Vincent Cestone - Len?

Lenny Lim - I'll vote in favor.

Victor Carlson - I'll vote in favor.

Bill Flaherty - I'm in favor

Vincent Cestone - And so am I.

John Spina - Thank you.

Vincent Cestone - Before you can go to the Building Department, you have to bring your building plans to us. We have to, I have to sign them and then you can bring them to the building department.

John Spina - I have enclosed a set of building plans

Vincent Cestone - Are those the ones that you, a lot of times people want to change things. Because once I sign them, you can't make any changes.

John Spina - I wanted to change one structure part so

Vincent Cestone - Why don't you do that,

Tim Pagones - We had some discussion before. Why don't you make any changes that you want to do, let Mr. Monroe look at them to make sure that everything complies with the Code and Mr. Monroe will sign them and then Mr. Cestone will sign them. So everyone knows

John Spina - So I go to Tom

Vincent Cestone - Right. And then you won't have any problems

John Spina - Okay great

Vincent Cestone - Because I would hate to see you have to come back because you moved the window from over here to over there.

John Spina - No. And when should I do that

Vincent Cestone - As soon as you can

Tim Pagones - We will put it on for resolution for May 2nd

Vincent Cestone - We will put it on for resolution but it won't go into effect until Mr. Monroe sees the plans and approves them, and then I do.

John Spina - Okay

Mrs. Spina - In the mean time can we rip it down?

Tim Pagonis - You can always rip it down

Vincent Cestone - That would be up to the building department.

John Spina - Okay. Thank you again

Vincent Cestone - You're welcome. Okay. The second one is going to take a little while and so will the third one. So I am going to go right to number 4. Paula Clair Appeal #755.

Paula Clair - Should I come up there?

Vincent Cestone - Yes please. Introduce yourself

Paula Clair - Paula Clair

Vincent Cestone - Okay and if you would, tell us what you are here for

Paula Clair - Okay. I am here for a variance for a deck that has been on my house since I bought it. Apparently, I didn't even know it was illegal until I went to refinance my mortgage and it appeared that there was a deck, I knew there was a deck, the people who I bought the house from never applied for a building permit and built the deck. So

Vincent Cestone - So it was caught because you went for

Paula Clair - Refinance

Vincent Cestone - Mortgage

Paula Clair - Yeah

Lenny Lim - How long have you owned the house?

Paula Clair - 25 years. And there is a vacant lot on the side of the house where the deck is.

Lenny Lim - The topography is really, there is no other place you could put a deck, where the old owner could put a deck

Paula Clair - Pardon me?

Lenny Lim - Where he put the deck, was that the only place you could put it

because of the topography?

Paula Clair - Yeah

Lenny Lim - That's what I thought. When I went there, there was a lot of stream coming right next to it

Paula Clair - Right. I didn't change the location of the deck. It's been there since I bought the house.

Vincent Cestone - So, just for the record, describe the houses around you. Behind you there

Paula Clair - Behind me there is like all woods and there is a house all the way up on Aqueduct Road but it is not visible.

Vincent Cestone - Okay

Paula Clair - On one side, I have a neighbor and on the side that I have the deck there is not. Where the deck is there is a vacant lot with a stream going through it and which I think is for sale actually for many years. But I think the previous owner of the house next door, the next house, had purchased that lot but it is not visible. He just purchased it

Vincent Cestone - Because of the stream running through it

Paula Clair - Yeah. And these people bought the house, the recent people not too long ago I guess

Vincent Cestone - And behind your house is it steep?

Paula Clair - Yes. You can't really see the houses behind me

Lenny Lim - Also when Joan and I were on the site visit down there, we drove around the neighborhood and we noticed that almost everybody has a deck. It is not something that is uncommon.

Bill Flaherty - Well looking at the layout there is plenty of room in the back to build a deck. How far is it from the house to the beginning of the slope there?

Paula Clair - Well it slopes right away

Bill Flaherty - Would it be large enough to accommodate a deck such as the size that you have there?

Paula Clair - No

Bill Flaherty - No. And there is no other alternate plan that you could use to place the deck

Vincent Cestone - You are not replacing the deck, you are just trying to make the deck that you have legal?

Paula Clair - Yes

Bill Flaherty - Making it legal exactly, I understand. But I am trying to determine whether or not there are any other viable alternatives other than

Paula Clair - No because

Bill Flaherty - If you take that deck and tear it down and build a new one

Paula Clair - Not really

Bill Flaherty - That wouldn't be practical?

Paula Clair - No. The back slopes up right away which is why he probably put the deck there in the first place

Bill Flaherty - What do you do with the water

Paula Clair - Well the water

Vincent Cestone - Did you get water in the last storm

Paula Clair - A little bit yeah

Bill Flaherty - And this deck has been on this house for as long as you

Paula Clair - When I bought it, it was there

Victor Carlson - And how many years did you say you owned it?

Paula Clair - I bought it in 1979

Bill Flaherty - And why wasn't it determined at that time that the deck was not in accordance with the building code

Paula Clair - I don't know.

Bill Flaherty - Did you have a Title search done on the house?

Paula Clair - Yeah.

Bill Flaherty - Normally a title search finds

Paula Clair - I don't know why they didn't realize that that deck wasn't supposed to be there. I guess that's pretty common in this area

Bill Flaherty - Well I know, I am familiar with the area

Vincent Cestone - Any other questions from the board?

Lenny Lim - I don't have any

Vincent Cestone - Any questions from the audience? Motion to close the public hearing

Bill Flaherty - I'll so move

Vincent Cestone - And I'll second. All in favor?

All Board Members - Aye

Vincent Cestone - Can I have a motion for a straw poll? I'll make a motion

Victor Carlson - I'll second.

Vincent Cestone - And Vic will second. All in favor?

All Board Members - Aye.

Vincent Cestone - Len?

Lenny Lim - I'll vote in favor

Vincent Cestone - Vic?

Victor Carlson - I vote in favor

Bill Flaherty - I concur

Vincent Cestone - And so do I

Tim Pagones - So May 2nd I'll have the resolution

Paula Clair - Oh okay. May 2nd?

Tim Pagones - Mr. Monroe is here so he heard what is going on. May 2nd they will take the final vote and that's the final resolution

Paula Clair - Oh okay

Vincent Cestone - You don't actually have to be here but you can call the Town the next day to find out

Paula Clair - Oh alright. Thank you very much

Vincent Cestone - You're welcome. I am going to do Renee Divito. Is she here? Hi

Renee DeVito - Hello

Vincent Cestone - Please explain what you're here for. Introduce yourself and then explain

Tim Pagones - You need to speak nice and loud

Vincent Cestone - So we have it on tape

Renee DeVito - All right. On the front of the house one of the previous owners put in a screened in porch.

Vincent Cestone - Right and that's the one you are asking for a variance on?

Renee DeVito - Right.

Vincent Cestone - How long have you lived there?

Renee DeVito - Since 1974

Vincent Cestone - Okay

Renee DeVito - The survey that was done in 1973 which is a copy of the one that was done in 1955 had that screened in porch on it.

Vincent Cestone - 1955 it was on there

Renee DeVito - yes. After I read this further.

Vincent Cestone - So what you are saying

Lenny Lim - I don't see where the screened porch is

Renee DeVito - Oh, it is right here. See something OP

Lenny Lim - Concrete op what? See it says concrete something. Roof over, concrete OP roof over

Renee DeVito - Right

Lenny Lim - And that's from 1955

Tim Pagonis - Concrete roof over open porch

Renee DeVito - Right

Lenny Lim - Concrete open porch roof over okay

Renee DeVito - And there are pictures in there.

Lenny Lim - The pictures I have

Renee DeVito - Okay

Lenny Lim - We still aren't sure because this says concrete and we don't know when they screened it then

Renee DeVito - Oh that I can tell you I screened it in 1981 or something like that

Lenny Lim - So you enclosed it

Renee DeVito - Yeah

Lenny Lim - So it was an open porch with just a cover over head and you closed it in

Renee DeVito - All I did was staple screen

Lenny Lim - Yeah but you closed it in

Renee DeVito - Right

Lenny Lim - Now the screened porch is not coming out any further than the regular frame of the house right?

Renee DeVito - Right

Lenny Lim - okay

Vincent Cestone - And this pre-dates zoning

Lenny Lim - Yeah but it doesn't say it was a porch, it just says

Tim Pagones - Well she must have got cited for something

Vincent Cestone - How did you

Tim Pagones - How are you before the board?

Renee DeVito - I went for a mortgage

Tim Pagones - Okay. So I mean it is a simple thing. I don't think the board is of a mind to deny it. We know it's been there since when God, Jesus was a Corporeal. And the only thing the applicant is saying is that she put staples up on the mesh to put a screen there. She didn't change the actual size or anything.

Lenny Lim - No because it had a roof and everything already

Tim Pagones - Yeah it had a roof so she put the screen in and stapled it. No change. So if some bank attorney or some title company is having a problem with it, you might as well just legalize it now anyway as opposed to writing a letter saying well it predates zoning, it's legal. Might as well grant her variance and now there is no doubt the thing is okay. That's up to the board.

Vincent Cestone - Any other questions from the board?

Bill Flaherty - Well this doesn't meet setbacks on

Tim Pagones - Correct

Bill Flaherty - Your pictures show that it doesn't go beyond the main structure

Renee DeVito - Right

Bill Flaherty - And it predates zoning. So really no problem there

Vincent Cestone - No there's not

Bill Flaherty - That I can see.

Vincent Cestone - Any comments from the audience? I'll make a motion to close the public hearing.

Bill Flaherty - I'll second

Vincent Cestone - All in favor?

All Board Members - Aye.

Vincent Cestone - I'll make a motion for a straw poll. Do I have a second?

Lenny Lim - I'll second.

Vincent Cestone - All in favor?

All Board Members - Aye

Vincent Cestone - Vic?

Bill Flaherty - I approve

Vincent Cestone - Len?

Lenny Lim - I'll vote in favor

Vincent Cestone - And so will I. That's it

Renee DeVito - Good

Vincent Cestone - Is Novrello here? Novrello? We will do Maryann Albanese.

MaryAnn Albanese - Hi

Vincent Cestone - Can you just introduce yourself so we have it on the record.

MaryAnn Albanese - MaryAnn Albanese.

Charles Doyle - Charles Doyle

Vincent Cestone - Explain why you are here.

Charles Doyle - How long have you lived in the house?

MaryAnn Albanese - Since 1969

Charles Doyle - And now we have a notice of violation

Vincent Cestone - Okay. So the building department cited you

Charles Doyle – yes

Vincent Cestone - You were down there and you found these violations and you cited her? Is that correct?

Tom Monroe - It was based on a complaint

Tim Pagonos - I guess when were the sheds there

MaryAnn Albanese - The sheds?

Tim Pagonos - Yeah. That's what you are here for violation of the sheds. Right?

MaryAnn Albanese - They were there when I bought the house.

Tim Pagonos - Okay

Victor Carlson - When did you buy the house?

MaryAnn Albanese - 1969. October.

Charles Doyle - We don't have a picture of it from 1969 or even the survey. MaryAnn you have the survey when you bought the property

MaryAnn Albanese - It's just a blank survey with no buildings

Charles Doyle - But all the buildings were there.

Vincent Cestone - Now I'm looking at your plans, which sheds are we talking about here?

Lenny Lim - I see three of them

Charles Doyle - The plans you have are the Albanese survey

Vincent Cestone - These sheds?

Tim Pagonos - She was here last time and I circled them.

Lenny Lim - There are three of them but they are asking for two

MaryAnn Albanese - 2 sheds and the addition

Lenny Lim - the side entrance says shed doesn't it

Tim Pagonis - but it is 2 sheds and an addition

Lenny Lim - They have it marked wood shed on this one right?

(Talking over the survey...cannot hear)

Charles Doyle - This is one shed

Vincent Cestone - Right

Charles Doyle - This is a wood shed. Literally it is open on the whole north side

Vincent Cestone - It's a lean-to

MaryAnn Albanese - Yeah

Charles Doyle - And this is the side entrance

Vincent Cestone - Right

Charles Doyle - Up here

Vincent Cestone - And this area here

Charles Doyle - It comes back here

Vincent Cestone - So this whole area here

Charles Doyle - Yeah that whole area there

Bill Flaherty - I know you are applying for a variance for two sheds and a side entrance however, on the map I see a third shed here

MaryAnn Albanese - Behind the

Bill Flaherty - Yeah. Why isn't that, that is not complying as well from the side setbacks, same as the other two

(Talking at once)

Bill Flaherty - my question was, because she has three sheds and you are only applying for a variance for two sheds. I don't think you want to come back here 6 months from now, a year from now, and say we have a third shed here that

MaryAnn Albanese - actually, I thought that was the one. I didn't think the wood shed was

Vincent Cestone - that's considered a structure

MaryAnn Albanese - Oh it is?

Bill Flaherty - Now none of these sheds are on permanent foundations. They are very movable.

MaryAnn Albanese - That one behind the side entry, is actually _____. It is a top and a side and a dirt floor.

Lenny Lim - Which one is that one?

MaryAnn Albanese - The one behind the side entrance.

Lenny Lim - Okay

MaryAnn Albanese - The little thing

Charles Doyle - Out towards the river

MaryAnn Albanese - Right out towards the river

Bill Flaherty - Okay this one here. That's a very small shed

MaryAnn Albanese - It is a top, a side, you can't stand up in it

Bill Flaherty - Do you really need that shed

MaryAnn Albanese - I guess not I mean, I only had wood in there

Lenny Lim - That's a question I have, can't you consolidate some of these sheds

MaryAnn Albanese - Could I?

Vincent Cestone - Yeah

Lenny Lim - Would it be a problem to consolidate? I mean you have three different sheds. Some are small, some are lean-tos

MaryAnn Albanese - Yes

Lenny Lim - I mean

MaryAnn Albanese - Yes. The one in the wood shed, it is for wood which I do need and I do need that other shed because that's my basement and my garage.

And I don't have a basement or a garage.

Charles Doyle - The big one

Lenny Lim - They all say wood shed. I don't quite know which one you are talking about.

Bill Flaherty - You are using these sheds as a garage

MaryAnn Albanese - I use them as my garage. In other words I don't have a garage to store things.

Bill Flaherty - But you don't use the shed as a garage

Charles Doyle - No.

MaryAnn Albanese - Absolutely not

Charles Doyle - The cars are parked outside. The driveway, the Albanese driveway is on the north side and that's where the cars are parked.

Bill Flaherty - Right

Charles Doyle - Yesterday, with the high water and so on, I was up there and her husband had the pump going because the marsh was coming into the basement under the house. There is not even a basement. There is a little crawl space under the house and the water was literally shooting in there from about 3 feet below the ground level like two hoses coming right in and so they were using the pump to get that out which is why they really can't hold any of their firewood or anything down there. The firewood is all basically up on ground level and originally I think on the shed towards the river side, the smallest of the three used to keep wood in there. For example we could go down there today or tomorrow and look what the river just did and see the high tides that just came in, it just washes wood from the river into what used to be that shed. It is all just smacked up against that. And then that is between the pool, the above ground pool and the house right along the Kirsten Rost and Albanese line. The water literally came up that far in the last two high tides. Where she keeps her firewood is you go out to River Lane, Hudson River Lane the railroad side, she keeps her firewood in the second shed in. The one right paralleling the property line. That is like a lean-to. That is open on the north side so that you can get the wood in and out. And then the bigger building is, as a matter of fact, Barbara Spence, the person I bought my house from sent this up to me a while back. It is a picture taken somewhere in the early 1970's before the Spence house was even changed from a two room shed to the two and a half story building that we just demolished. And you can see the larger Albanese shed in the picture here. This is the Brennan house, an empty lot, and out here is the Spence property with a

shed we just had demolished and you have the Albanese property and the bigger shed is in this picture. And that picture is taken from, as I say the early 1970's. And that was an old building then when Ms. Albanese bought the property. One of the concerns that she had

Vincent Cestone - Would you be willing to keep just the large shed? And then stack your wood against it

MaryAnn Albanese - You mean take down the wood thing?

Charles Doyle - The small one

MaryAnn Albanese - The small one towards the road?

Charles Doyle - Yeah, the one right next to the big shed

MaryAnn Albanese - I'll take it down

Charles Doyle - Would you be willing to do that?

MaryAnn Albanese - Yeah

Bill Flaherty - Well what hardship would this create in the event that the sheds were to be removed from your property? And how would it effect your lifestyle?

Charles Doyle - You wouldn't have any place to store anything like equipment they use, tools, lawn mowers what have you. Is what is kept in that big building that was built long before they bought the property. It is back on the road. None of them meet the side setback. Nothing in that area meets the side setback.

Bill Flaherty - Well I am well aware of that. I have been down there on several occasions because that has been a very active area for us.

Charles Doyle - One of the basic objectives that I've had in talking with both Ms. Rost and MaryAnn is to try and as you've said on a number of occasions it's like the Hatfields and the McCoy's down there. I am trying to stop that process. Okay. And I am working with Ms. Rost, she has her property on the market, she has Melissa Carlton is the listing broker. As you may be aware, or maybe not, but the house was just built. It is two or three houses north of Schlick. And

Tim Pagonis - I guess the gist of the board is they don't, I mean they would love everything to be conforming but that would never happen here, I think the gist of the board is that they are looking to see if you can keep the big shed which you have your storage and get rid of those two lean-tos. The one that is by the jog in the back and the one that is right behind the big shed. I mean I think

Vincent Cestone - The board would not have an issue with that at all

MaryAnn Albanese - All right

Bill Flaherty - Is that doable. Is it practical

MaryAnn Albanese - The little one, the wood thing. But I'll do it.

Bill Flaherty - And keep the big shed. As a matter of fact get another shed. A bigger one.

MaryAnn Albanese - Oh no. No.

Charles Doyle - One of the concerns I had was that there was some indication that something was over the line. And we have found nothing over the line. If that is a concern anybody has, what I have offered to MaryAnn was because of the nature of the surveys that various houses have had down there. One good survey that we know is the one on our property and I am prepared to bring in the same surveyor, I've already got him on standby, if it is necessary to resolve any objection of that nature. But I am not aware that Ms. Rost has said anything that is over the line.

Tim Pagones - Well according to this survey the closest is 0.2 inches

Charles Doyle - Right

Tim Pagones - Which is the front corner of the big shed. The next one is .03, .04 and then you got .03 on the other one also. So nothing is showing over.

Charles Doyle - Right. Right. That's why we have not gone through the trouble of getting another survey. Because we don't believe there is anything over the line. There is no indication from Ms. Rost that anything is over.

Vincent Cestone - Any more comments from the board? Questions from the board? Comments from the audience? Anyone wish to speak on this? With that I will entertain a motion to close the public hearing.

Lenny Lim - I'll so move.

Bill Flaherty - I'll second.

Vincent Cestone - All in favor?

All Board Members - Aye

Vincent Cestone - I'll make a motion for a straw poll.

Lenny Lim - But the straw is for taking down the two and leaving one

Vincent Cestone - That's correct

Lenny Lim - Okay

Tim Pagones - Is there electric or anything in the big shed?

MaryAnn Albanese - Yes

Tim Pagones - Is there heat?

MaryAnn Albanese - No

Tim Pagones - Okay

Charles Doyle - There is just an electrical outlet.

Vincent Cestone - And I think we should get the dimensions of the shed so if you can, because it doesn't say it on the survey how big it is

Charles Doyle - Okay

Vincent Cestone - So that could be included in the resolution

Charles Doyle - Yes

Vincent Cestone - So that the next owner doesn't have any issue. Okay. Motion for a straw poll has been moved and seconded. Len?

Lenny Lim - I vote in favor as the way we want it. You know just one shed

Victor Carlson - I'll vote in favor

Bill Flaherty - I approve

Vincent Cestone - And so do I. That's it.

MaryAnn Albanese - Thank you

Tim Pagones – May 2nd

Vincent Cestone - Next item on the agenda is Novrello. Matthew A. Novrello. With that we will go on to review of minutes. I'll call him later. Okay review of minutes of March 7th. Are there any additions, deletions or corrections?

Bill Flaherty - I have one very very minor correction and that is on page 34 where the word is "bound" it is actually "found" on page 34. That's the only correction.

Vincent Cestone - Okay anyone else? I'll make the motion to accept the minutes as corrected. Do I have a second?

Bill Flaherty - I'll second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Do you want to do the resolutions Tim?

Tim Pagones - Sure. What are we doing with Novrello?

Vincent Cestone - I called them twice. I will call them again after we do the resolutions.

Tim Pagones - Okay first resolution I have is for Duke. Anyone here for the Duke one? A copy for you.

RE: DECISION AND FINDINGS OF THE
PHILIPSTOWN ZONING BOARD OF APPEALS
Appeal #760; Applicant: Paul J Kaye & Kathy Duke
Area Variance

Date: April 4, 2005

The Philipstown Zoning Board of Appeals conducted a Public Hearing on January 24 and March 7, 2005 to hear the appeal of Paul Kaye & Kathy Duke from the denial of a building permit for construction of an addition to the existing house having insufficient setbacks. The property is located on 21 Mountain Drive, Cold Spring, in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on April 4, 2005, upon all the discussion that preceded it, including the public hearings, site visits undertaken by individual Board Members, and a review of Applicant's submissions, _____ made the following motion, seconded by _____:

BE IT RESOLVED by the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, as follows:

THAT THE BALANCING OF EQUITIES WEIGHS IN FAVOR OF GRANTING THE APPEAL OF PAUL J KAYE & KATHY DUKE FROM A DENIAL OF A BUILDING PERMIT BY THE BUILDING INSPECTOR FOR CONSTRUCTION OF AN ADDITION TO THE EXISTING HOUSE HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS¹, FOR THE REASONS HEREIN STATED, WHICH REASONS ALSO CONSTITUTE FINDINGS BASED ON THE FACTORS SET FORTH IN TOWN LAW 267-b.

CONDITIONS OF THE VARIANCE:

1. The structures granted conditional variances by this decision shall not be further enlarged except in accordance with all provisions of the Philipstown Code and shall remain in the configuration as shown on Applicant's maps and plans. No further enlargement or reconfiguration of the structures, footprint or height is authorized without Zoning Board approval as needed.
2. The setback from the steps of the front porch shall not be less than 31.28 ft. (a variance of 17.72 ft.). The setback from the overhang of the addition and the actual wall of the addition in the rear of the property shall not be less than 7.19 ft. and 10.12 ft. respectively (a variance of 7.81 ft. and 4.88 ft. respectively)
3. The front porch shall not be further converted into living space, with either permanent or removable building materials, including but not limited to wood, canvas, metal, plastic or asphalt shingles.

Anything else?

4.

5.

¹ Town Law §267-b(4) specifically authorizes the Zoning Board of Appeals "to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property."

FINDINGS OF FACT:

1. The Applicant made this appeal (#760), dated December 6, 2004, to the Philipstown Zoning Board for an area variance based upon a denial of a building permit by the Building Inspector for construction of an addition to the existing house having insufficient setbacks. Applicants' exhibits, including those filed with the Appeal or offered at the public hearing were reviewed by the Zoning Board. A composite list of the Exhibits is attached as **Schedule "A"**.

And Kim will attach that.

2. The property, a 19,919 sq. ft. parcel on Mountain Drive, is located in a R-20 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the R-20 District requires a setback of 40 feet from the street line and 15 feet from side or rear property lines.
3. The Applicant acquired title by a deed dated June 24, 1982. The structures at the property, appear on a map dated May 9, 2000, as prepared for Paul J. Kaye & Kathy E. Duke by Badey & Watson Surveying & Engineering P.C. Cold Spring N.Y., last revised March 3, 2005, by Staikos Associates in Cornwall, N.Y.
4. The Board initially reviewed the Application materials at its regular monthly meeting on January 3, 2005 in order to determine sufficiency as a pre-requisite to scheduling a public hearing on the appeal. The Board determined the Application complete. A properly noticed public hearing was scheduled for January 24,2005. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as **Schedule "B"**.

And Kim will attach that

7. The Board met on January 24 and again on March 7th, for the purpose of conducting the public hearing. Except for the Board Members and the Applicant, no members of the public spoke at the hearing. The public hearing was duly conducted and closed. The

Board engaged in further deliberations and a straw poll motion was entertained to grant the requested variance with certain conditions.

FINDINGS AND CONCLUSIONS:

Adverse Effects on the Neighborhood

1. The applicants propose to renovate the existing house and place an addition onto it also. The addition will be placed in such a manner so as to keep the existing fireplace and maximize the view of the property and the way the sun shines through the house. Additionally the applicants have tried to minimize the amount of intrusion into the required setbacks as possible. The requested variance will not adversely affect property values but should increase them. The structure will not interfere with the enjoyment of the neighboring dwellings. Given the local topography and buffering, as well as the proximity of other structures in the neighborhood, the structure will not be obtrusive. No members of the public spoke at the hearing. The applicants supplied the Board with letters from the neighbors who were all in support of the proposed appeal. Opinions of neighboring property owners, whether supportive or in opposition, are welcomed but are not dispositive of the question of whether the neighborhood will be adversely affected. As always, the Board made an independent judgment of the impact of the requested variance on the neighborhood.

Feasible Alternatives

2. Due to the current position of the house and the desire to keep the existing fireplace and maximize the views the Applicant can not construct the addition without coming into conflict with the Philipstown Code. Given the relatively minor intrusion into the setbacks, denial of the variances would cause more hardship to the Applicant than benefit to the neighborhood or Town.

Extent of Variance

3. The Applicants request variances of 7.81 ft. and 4.88 ft. in the rear from a set back which should be 15 ft. and a variance of 8.72 ft. in the front from a variance that should be 40 ft.

Effects on Physical/Environmental Conditions

- 4. The proposed variance would not have an adverse impact on the more traditional "environmental" conditions in the neighborhood. The construction of an addition to an existing house is not an activity usually associated with such environmental concerns. No additional traffic will generated. Air quality is not disturbed. Water quality or quantity should not be affected. Additionally, no increase in runoff or change in the drainage should be experienced. The physical conditions in the neighborhood are discussed, as noted in item 1, above. As noted above, the structure will have very little effect on the physical conditions in the neighborhood.

Self-created Hardship

- 5. The need for this variance is self created². The Applicant wishes to construct the addition in a location that would require variances.

THE BALANCING TEST:

Based upon the above findings, and taking into consideration the benefit to the Applicant if the variance was granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Board finds that the balance weighs in favor of granting the variance with conditions.

THE ROLL CALL VOTE:

The question of the foregoing resolution calling for granting the requested variance with conditions was put to a vote on roll call on the 4th day of April, 2005, the results were as follows:

Vince Cestone, Chairman	Voting <u>for/against</u> granting the variance
Victor Carlson, Member	Voting _____ granting the variance
Leonard Lim, Member	Voting _____ granting the variance
Joan Turner, Member	Voting _____ granting the variance
Bill Flaherty, Member	Voting _____ granting the variance

ATTENTION APPLICANTS

² **While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.**

FURTHER COMPLIANCE WITH THE PHILIPSTOWN ZONING CODE REMAINS ENTIRELY YOUR RESPONSIBILITY. A VARIANCE IS NOT THE EQUIVALENT OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY. ALL NECESSARY PERMITS MUST BE SECURED THROUGH THE PHILIPSTOWN BUILDING DEPARTMENT. PLEASE SEEK THE ADVICE OF THE BUILDING DEPARTMENT FOR YOUR PARTICULAR CIRCUMSTANCES.

Vincent Cestone - I'll make a motion to accept the resolution as read. Do I have a second?

Bill Flaherty - I'll second.

Vincent Cestone - All in favor?

All Board Members – Aye

Vincent Cestone - Okay roll call vote. Vic?

Victor Carlson - I vote in favor

Vincent Cestone - Bill?

Bill Flaherty - I approve

Vincent Cestone - Len?

Lenny Lim - I'll vote in favor

Vincent Cestone - And so will I.

Tim Pagones - Okay

Vincent Cestone - On to the next one

(Turning tape over)

Tim Pagones –

**RE: DECISION AND FINDINGS OF THE
PHILIPSTOWN ZONING BOARD OF APPEALS
Appeal #759; Applicant: Timothy J. & Mary C. Donovan
Area Variance**

Date: April 4, 2005

The Philipstown Zoning Board of Appeals conducted a Public Hearing on February 7, 2005 to hear the appeal of Timothy & Mary Donovan from the denial of a building permit/certificate of occupancy for an addition built onto the pre-existing nonconforming house having insufficient side setbacks. The property is located on 362 Old West Point road, Garrison, in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on April 4, 2005, upon all the discussion that preceded it, including the public hearing, site visits undertaken by individual Board Members, and a review of Applicant's submissions, _____ made the following motion, seconded by _____:

BE IT RESOLVED by the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, as follows:

THAT THE BALANCING OF EQUITIES WEIGHS IN FAVOR OF GRANTING THE APPEAL OF TIMOTHY & MARY DONOVAN FROM A DENIAL OF A BUILDING PERMIT/CERTIFICATE OF OCCUPANCY BY THE BUILDING INSPECTOR FOR AN ADDITION BUILT ONTO THE PRE-EXISTING NONCONFORMING HOUSE HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS³, FOR THE REASONS HEREIN STATED, WHICH REASONS ALSO CONSTITUTE FINDINGS BASED ON THE FACTORS SET FORTH IN TOWN LAW 267-b.

CONDITIONS OF THE VARIANCE:

1. The structure granted conditional variances by this decision shall not be further enlarged except in accordance with all provisions of the Philipstown Code and shall remain in the configuration as shown on Applicant's maps and plans. No further enlargement or reconfiguration of the structures is authorized without Zoning Board approval as needed.

I didn't put down the limitations because the structure is up and there should not be any change to it. We are not talking about building a new structure. So they shouldn't change anything now.

³ Town Law §267-b(4) specifically authorizes the Zoning Board of Appeals "to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property."

2. The setback from the addition from the side yard shall not be less than 18.4 ft. (a variance of 1 ft. 8 in.).
3. The existing decks shall not be further enclosed, screened, covered or converted into living space, with either permanent or removable building materials, including but not limited to wood, canvas, metal, plastic or asphalt shingles.
4. A Certificate of Occupancy shall not be issued until the applicant has provided proof to the Building Inspector that the addition was built in compliance with all State and Local Codes and that a certificate from the Fire Underwriters is issued in regards to any electrical work installed.

That was for I think the one neighbor had a concern. Any other conditions?

5.

FINDINGS OF FACT:

1. The Applicant made this appeal (#759), to the Philipstown Zoning Board for an area variance based upon a denial of a building permit/certificate of occupancy by the Building Inspector for an addition onto a pre-existing, non-conforming structure⁴ having insufficient setbacks. Applicants' exhibits, including those filed with the Appeal or offered at the public hearing were reviewed by the Zoning Board. A composite list of the Exhibits is attached as **Schedule "A"**.

And Kim will attach that

2. The property, a 15,687 sq. ft. parcel on Old West Point Road, is located in a R-40 District in the Town of Philipstown, New York.

⁴ Philipstown Code §175-82 prohibits the enlargement, extension or alteration of any nonconforming structure except where the enlargement is itself conforming or the result of the change is to eliminate the nonconformity.

According to Schedule B of the Philipstown Zoning Code, the R-40 District requires a setback of 20 feet from side or rear property lines.

3. The Applicant acquired title by a deed dated April 5, 2002. The structures at the property, appear on a map dated November 5, 2004, last revised November 15, 2004, as prepared for Timothy J. & Mary C. Donovan by Badey & Watson Surveying & Engineering P.C. in Cold Spring N.Y.
4. The Board initially reviewed the Application materials at its regular monthly meeting on January 3, 2005 in order to determine sufficiency as a pre-requisite to scheduling a public hearing on the appeal. The Board determined the Application complete. A properly noticed public hearing was scheduled for February 7, 2005. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as **Schedule "B"**.

And Kim will attach that

7. The Board met on February 7th, for the purpose of conducting the public hearing. Besides the Board Members and the Applicants, Kathy Schuyler a neighbor, spoke at the hearing. Mrs. Schuyler informed the Board that she was not opposed to the variance but did not want anything granted until the applicant had provided proof that the addition had been built in compliance with all codes and the electrical work was done correctly. The Board assured her that there would be conditions reflecting the same. The public hearing was duly conducted and closed. The Board engaged in further deliberations and a straw poll motion was entertained to deny the requested variance with certain conditions. The appeal was adjourned until March 7th for further discussions. On March 7th, the Board discussed the appeal again and took another straw poll. The vote this time in favor of granting the appeal and the matter was adjourned until April 4th for final decision.

FINDINGS AND CONCLUSIONS:

Adverse Effects on the Neighborhood

1. The original house of the applicant has been in existence since around 1955. The applicant had this addition built onto the pre-existing nonconforming structure without obtaining any permits or

certificate of occupancy. Although it was built in violation of the Code, the original house was 6.2 ft. from the property line and the addition was placed 18.4 ft. from the side property line. The requested variance will not adversely affect property values because it is in character with the existing neighborhood and has been up for some time. There was no evidence on the record that would show the structure would interfere with the enjoyment of the neighboring dwellings. Given the local topography and buffering, as well as the proximity of other structures in the neighborhood, the structure is not obtrusive.

Kathy Schuyler, the applicants neighbor, spoke at the hearing on behalf of herself and her husband. Additionally letters from the Schuylers were sent to the Board. Mrs. Schuylers informed the Board that she was not against the granting of the Variance but was concerned that the structure was not built up to Code. The Board assured her that before any Certificate of Occupancy would be issued compliance with all applicable State and Local codes would have to be proven. Opinions of neighboring property owners, whether supportive or in opposition, are welcomed but are not dispositive of the question of whether the neighborhood will be adversely affected. As always, the Board made an independent judgment of the impact of the requested variance on the neighborhood.



Feasible Alternatives

2. Due to the fact that the structure is already in existence, the Applicant can not continue to keep it without coming into conflict with the Philipstown Code. The only alternative would be to tear down the structure which would be an extreme hardship on the applicants. Given the relatively minor intrusion into the setback, denial of the variance would cause more hardship to the Applicant than benefit to the neighborhood or Town.

Extent of Variance

3. The Applicants request a variance of 1.6 ft. from a set back which should be 20 ft. The reduction to the required setback is minimal

Effects on Physical/Environmental Conditions ●

4. The proposed variance would not have an adverse impact on the more traditional "environmental" conditions in the neighborhood. The continued placement of an addition to a pre-existing

nonconforming structure is not an activity usually associated with such environmental concerns. No additional traffic is generated. Air quality is not disturbed. Water quality or quantity is not affected. Additionally, no increase in runoff or change in the drainage has been experienced. The physical conditions in the neighborhood are discussed, as noted in item 1, above. As noted above, the structure will have very little effect on the physical conditions in the neighborhood.

Self-created Hardship

- 5. The need for this variance is self created⁵. The Applicant constructed the addition without application to the Building Department for permits. If the Applicant had made inquiry and/or sought a building permit, the Applicant would have been notified of the need for a variance.

THE BALANCING TEST:

Based upon the above findings, and taking into consideration the benefit to the Applicant if the variance was granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Board finds that the balance weighs in favor of granting the variance with conditions.

THE ROLL CALL VOTE:

The question of the foregoing resolution calling for granting the requested variance with conditions was put to a vote on roll call on the 4th day of April, 2005, the results were as follows:

Vince Cestone, Chairman	Voting <u>for/against</u> granting the variance
Victor Carlson, Member	Voting _____ granting the variance
Leonard Lim, Member	Voting _____ granting the variance
Joan Turner, Member	Voting _____ granting the variance
Bill Flaherty, Member	Voting _____ granting the variance

ATTENTION APPLICANTS

FURTHER COMPLIANCE WITH THE PHILIPSTOWN ZONING CODE

⁵ While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.

REMAINS ENTIRELY YOUR RESPONSIBILITY. A VARIANCE IS NOT THE EQUIVALENT OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY. ALL NECESSARY PERMITS MUST BE SECURED THROUGH THE PHILIPSTOWN BUILDING DEPARTMENT. PLEASE SEEK THE ADVICE OF THE BUILDING DEPARTMENT FOR YOUR PARTICULAR CIRCUMSTANCES.

Vincent Cestone - I'll make a motion to accept the resolution as read. Do I have a second?

Bill Flaherty - Second.

Vincent Cestone - All in favor?

All Board Members – aye

Vincent Cestone - Roll call vote. Vic?

Victor Carlson - I'll vote in favor

Bill Flaherty - I vote in favor

Lenny Lim - I'll vote in favor

Vincent Cestone - And so will I. Do you have Leuthner?

Tim Pagones - Leuthner I don't have. We can put Leuthner on for the 18th.

Vincent Cestone - Okay. As far as the discussion that we were supposed to have this evening. We are going to postpone that because Mrs. Turner wanted to be present and she is sick. So we will have that on the 18th.

Tim Pagones - That's for Pielmeier, O'Garden and Southard?

Vincent Cestone - Right

Tim Pagones - So that's on for the 18th for further discussion

Vincent Cestone - Right

Tim Pagones - Okay

Vincent Cestone - Now we are going back to the public hearings. Matthew A. Novrello.

Tim Pagones - If no one is here for Novrello

Vincent Cestone - Continue that on for the 18th.

Tim Pagones - I would put that on for the 18th this way you don't have to renote it again.

Vincent Cestone – Okay. Any old business?

Tim Pagones - Do you have, who is it? Hudson Highlands LLC. You can set that down. They put it down for the 16th. May 16th for a public hearing.

Glennon Watson - Garrison Highlands?

Tim Pagones - Yeah

Vincent Cestone - Any old business? Anyone here wish to speak?

Tim Pagones - Is anyone here for Hudson Design? I think we are just waiting for some plans. Under 175.36 he had to provide some further additional plans. We got the statement of use so I would say that the application is complete and you can refer it to the planning board.

Vincent Cestone - Okay

Tim Pagones - Because this is a special use permit

Vincent Cestone - We do that in a form of a motion right

Tim Pagones - Yeah

Vincent Cestone - I will make a motion to refer this to the planning board. Do I have a second?

Bill Flaherty - I'll second.

Vincent Cestone - All those in favor?

All Board Members – aye

Vincent Cestone - If there isn't any old business, I'll entertain a motion to close the meeting.

Tim Pagones - There is a lot of people here. Did we miss anything?

Glennon Watson - Morris?

Mr. Gagnon - What's going on with the Pielmeier case?

Tim Pagones - They just adjourned it to the 18th.

Mr. Gagnon - To the 18th. Why did they adjourn it to the 18th?

Vincent Cestone - Mrs. Turner wanted to be here.

Mr. Gagnon - I have a question for Mrs. Turner

Vincent Cestone - When she is here you can ask it

Mr. Gagnon - On the 18th?

Tim Pagones - yeah

Vincent Cestone - That's right

Mr. Gagnon - Okay

Tim Pagones - I mean if you have a question for her and she is not here

Mr. Gagnon - So this has been dismissed?

Tim Pagones - No it is still pending

Mr. Gagnon - But we can't discuss this case tonight

Tim Pagones - well, I mean it is on for discussion of the board. It is not a public hearing. So the board can discuss it among themselves. If they have questions for anybody, they can ask them something. But it is not a public hearing. The public hearing has been closed.

Mr. Gagnon - The public hearing has been closed

Tim Pagones - It was closed last time yeah

Mr. Gagnon - I can address the board though

Glennon Watson - Morris and Lippee

Vincent Cestone - Excuse me

Mr. Gagnon - Morris and Lippee number 14 on your agenda

Kim Shewmaker - May 2nd public hearing

Glennon Watson - Thank you

Vincent Cestone – okay

Tim Pagonos - Just for everyone's information, the board is starting at 7:30 now

Vincent Cestone - Meetings start at 7:30

Tim Pagonos - Since no one was here for the public hearing, they ran through quick.

Vincent Cestone - You wanted to ask us a question

Mr. Gagnon – yes. I am having a little bit of a problem here. I got my permits to build my barn. Obviously it has been a big problem for my neighbors. And I just recently I was sent a fax from my neighbor's lawyer directly to Joan Turner. And it says in this little fax "Joan, that was Tom Monroe _____. Attached are my notes plus two permits and applications." And in the discussion of the note it says no problem with the barn footprints and the coverage, improvements described accessory building. An application 2 story accessory building garage of storage. In building permit no mention of use. Tom Monroe has not seen main house and does not know it is derelict or unsafe condition has no CO maybe he should inspect and requires demolishing repair if building is unsafe. Old barn is approved as a single family dwelling with CO. If main house is improved and get CO, both can be used but one or either building would be a guest house. That could only be accompanied by a temporary and the other would be the principle dwelling. Building permit runs with land. Town policy purchaser from Gagnon will be allowed to build exactly that building in exactly that location. Tom says the estimated cost is \$120,000. On permit application _____. Why is their lawyer faxing Joan Turner, is this not a conflict of interest against me?

Vincent Cestone - First off, this is the first I am hearing of it. Secondly, I don't know what to tell you because I haven't seen that document

Mr. Gagnon - I have a copy and you are more that welcome to have it

Tim Pagonos - It is not a conflict. A board member can speak to, can speak to the applicant, can speak to the other people. But she should disclose it to the board.

Mr. Gagnon - The board has not been disclosed

Lenny Lim - She is not here

Tim Pagones - I don't know what Mrs. Turner was going to say tonight. For all I know Mrs. Turner was going to show up and say you know what I had a question and I spoke to the applicant's attorney and he provided me with some information. And certainly you have the right to refute any information that was said.

Mr. Gagnon - Absolutely

Tim Pagones - Yeah.

Mr. Gagnon - But I have been attacked on this issue and I find it highly suspicious that these people's lawyer is faxing directly to Joan Turner's house. Can this be addressed publicly or any faxes provided to all the board members not just exclusively Joan Turner?

Tim Pagones - Well she should, I don't know what she was going to do tonight. For all I know she was going to show up with a copy of everything and a copy for you. I don't know. I am hearing about this now. But legally she can talk to you, she can talk to them, she should disclose it though. She shouldn't sit there and keep anything hidden. So I guess you are going to have some questions for her and maybe some of the board members will have some questions for her on the 18th.

Vincent Cestone - Because I can't speak to it because I don't know. And it is not a conflict of interest

Mr. Gagnon - This is not an elected board by the people correct?

Vincent Cestone - Excuse me

Mr. Gagnon - Is this an elected board

Vincent Cestone - No

Mr. Gagnon - And you are chosen for your positions correct?

Vincent Cestone - What is your point

Mr. Gagnon - The point is I feel that there is a conflict of interest and everybody is siding on my neighbor's side. I am well within the guidelines of the law

Vincent Cestone - Wait a minute. What makes you think we are siding with the neighbors? Have we voted?

Mr. Gagnon - When I was here, I was attacked. You guys

Vincent Cestone - Enough

Mr. Gagnon - Really flipped out with the whole staircase issue and stuff.

Lenny Lim - Attacked sir?

Mr. Gagnon - Oh absolutely. Where is the staircase going?

Lenny Lim - How do feel that that is being attacked?

Mr. Gagnon - You don't know where the staircase is going?

Tim Pagones - It is not a public hearing. We are not going to go back and forth. It is on, right now this hasn't affected you. There is no stop work order

Mr. Gagnon - I realize that

Tim Pagones - So I guess if the board wanted to bust chops they would have said lets put a stop work order in. You can do what you want.

Mr. Gagnon - I just want to make sure that my rights are being protected

Tim Pagones - You're rights are being protected

Mr. Gagnon - They are viewing it 50/50?

Tim Pagones - Right now they haven't seen anything that you are talking about. So I would hope that on April 18th Mrs. Turner shows up and says, you know what I called I had a question and I called Mr. Whyatt and this is what he sent me. I mean I am glad that you have a copy of it because now if that is an issue the board raises, you can address that

Mr. Gagnon - Thank you

Tim Pagones - Okay

Mr. Gagnon - You guys answered my questions. Thank you very much.

Vincent Cestone - Anyone else wish to speak? Mr. Kelly?

Mike Kelly - I have a question regarding the special use permit that you issued to Verizon at the cell tower down there. We just became aware of this addition being put on to this cell tower when they started to construct it. There was no notification to adjacent property owners about the board's hearing regarding this. I went to town hall today to the building inspector and Tom looked at the file and it turns out that Verizon gave you list of adjacent property owners and

conveniently left our names off. Both mine and Pat. The two parties that are directly affected by their proposal. Something is wrong here when we are the only people that are directly affected by their proposal and they submit information that is incorrect and conveniently left our names off of that information

Vincent Cestone - Tim, how we would we handle something like that

Tim Pagones - Well, they provided the list, we put it in the paper

Vincent Cestone - In the situation where there is obviously an error. How do we handle this? Do we have recourse with Verizon?

Tim Pagones - I think that is long dead. I mean I don't know. I mean I would have to check. I don't what if any recourse the town has, what Mr. Kelly has. The code requires that we notify people within so many feet, they usually typically the applicant gives you a list. We send out the notices. A lot of times the applicant sends out a notice. We put it in the paper. One of the reasons you put it in the paper is because the law requires it but also so everyone knows. I mean everyone is supposed to read the paper.

Vincent Cestone - Can we get Verizon in here and give them a little talking to

Tim Pagones - You can bring them in

Mike Kelly - It is the applicant's mistake that left this stuff off and we didn't get a chance and now I am getting a metal box with air conditioning units put up in the middle of the field. Look when you guys did the stuff up at Gray Rock, you made them put stone fascia on this and peaked roofs. Now we are getting a metal box and air conditioning units. We weren't even here to address this

Tim Pagones - I know, I know they have to do a planting, a landscaping plan. They had to do certain things. I don't know if they are done. I mean that is the only thing that I can suggest is maybe they put the equipment up and maybe they are not done. I have to look at the file.

Vincent Cestone - They were supposed

Tim Pagones - I mean they are not going to plant in the middle of winter

Mike Kelly - That's not my point

Vincent Cestone - His point is that he didn't have a chance to comment on it

Tim Pagones - Well I understand that

Mike Kelly - They deliberately left us off the list. The two people who are going to be greatly affected by this proposal and we were deliberately left off the notification list.

Vincent Cestone - Have they been, Tom, have they been issued a C of O yet

Tom Monroe - No. They are not even close

Tim Pagones - So we can try and have them back and address some concerns maybe

Vincent Cestone - I think we should

Tim Pagones - I'll speak to them

Vincent Cestone - Can you call their attorney

Tim Pagones - Which Verizon was it?

Vincent Cestone - We are going to try and get them here for the 18th. And accept my apologies for leaving you off. I was surprised when you weren't here.

Mike Kelly - We were here for other meetings at the same time. And Verizon went on for two years

Vincent Cestone - I know. Let's try and get them here for the 18th

Mike Kelly - All right

Vincent Cestone - Do you have internet access

Mike Kelly - Sure

Vincent Cestone - If you go philipstown.com you can see if it is on for the 18th.

Mike Kelly - Okay. thank you

Vincent Cestone - Lenny has something he wishes to say

Lenny Lim - Just we all got a copy of this letter from Ms. Rost?

Vincent Cestone - Yes

Lenny Lim - What do you guys feel about it?

Vincent Cestone - I think it is irrelevant

Lenny Lim - I just want to make sure we are all on the same page

Bill Flaherty - I don't think we should take any action on it

Lenny Lim - No not even, we shouldn't even discuss it. I just wanted to make sure we were all on the same page on this one.

Bill Flaherty - It's inappropriate

Lenny Lim - It's funny how she said she mentioned somebody else's name on the road who came in and wanted certain things. See how quick they pick up precedent.

Vincent Cestone - With that unless anyone else wishes to speak, I will entertain a motion to close the meeting

Bill Flaherty - I'll so move

Lenny Lim - Second

Vincent Cestone - All in favor

All Board Members - aye

NOTE: These Minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation and approval thereupon.

DATE APPROVED: May 16, 2005

Respectfully submitted,

Kim Shewmaker
Secretary