

ZONING BOARD OF APPEALS

November 26, 2007

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, November 26, 2007, 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
	Bill Flaherty	-	Member
	Robert Dee	-	Member
	Paula Clair	-	Member
	Adam Rodd	-	Counsel

ABSENT:

Vincent Cestone - Nancy Carlucci asked for an adjournment. We will put her on the first meeting we have in January. And now we will address the public hearing of Arthur Lehman. Is there someone here to speak?

Sam Slawinski - Yes we are.

Vincent Cestone - Hi

Sam Slawinski - Hi. My name is Sam Slawinski and I am the builder and project manager for this project. I represent Arthur Lehman. We met with you guys at the meeting in October.

Vincent Cestone - Okay. I believe you.

Sam Slawinski - And we discussed the project very briefly at that point. Since then I understand that Mr. Lehman explained to me that one board member visited the site and reported that the topography up there which is a bit extreme but typical of East Mountain Road. What we are asking for is a variance on the front yard setback because if you take a look at the survey and the site plan which shows the proposed location of the building, you will see that we are very close to the front yard property line which is actually the property line by the Deed. 25 feet off the center line of the road. The actual property line as it stands, the road is not nearly that wide there and probably never will be to that point. But off the property line as per the Deed we are 6 feet off the property line. And we have done some pretty extensive work. We started this process in May.

And we have done some pretty extensive work having contractors up there, engineers up there trying to come in to better compliance with the set back regulation. And it is not an easy process. It is a very steep site. So we have already made some adjustments to the location of the building to the orientation of the building to the size of the building. We've done a lot of work, we put a lot of work into this already and we think this is about the best situation that we can come up with.

Vincent Cestone - How big is this garage? How many cars is it?

Sam Slawinski - It is a two car garage with some storage space above and work space on the garage floor

Vincent Cestone - How high is it in the storage area?

Sam Slawinski - It is 1 ½ stories. It is not a full second story. There will be knee walls. 25 feet to the top of the ridge.

Vincent Cestone - But from the half story. What is the height of the ceiling?

Sam Slawinski - There is no ceiling

Vincent Cestone - At it's highest point

Sam Slawinski - It would be 14 feet

Vincent Cestone - At it's highest point

Sam Slawinski - At its highest point

Adam Rodd – Maybe to clarify, how high at its highest point will the entire structure be?

Sam Slawinski - That's the first number I gave you, 25 feet.

Lenny Lim - When I was up there you had the stakes for the property line, but I didn't see any stakes for the size of the garage itself.

Sam Slawinski - There were stakes in the front. There were stakes designating the front line of the building.

Lenny Lim - You showed me the white stick

Arthur Lehman - That was the southwest corner

Lenny Lim - And the other stakes, where they the property line or where they the

Sam Slawinski - It is 6 feet off the property line.

Lenny Lim - I didn't see any stakes for the garage itself. I only saw the stakes, he told me they were the property line.

Arthur Lehman - Right. The one as I walked up the hill I pointed out where the property line. I just walked back 6 feet

Sam Slawinski - There was a stake there, it may have been buried by the leaves. But there is a stake there. I mean it is pretty clear on the site plan.

Lenny Lim - Now you are going to have to do an awful lot of excavation on this aren't you?

Sam Slawinski - Yes. We are into the mountain there. And that's one of the reasons why we didn't shove it any further back up the hill. For several reason, one is, to shove it back up the hill we would be elevating the floor level and therefore we would have a bit of an issue with getting a less than a 10 percent grade from the driveway from the front of the house and front of the road. Second issue is, the further we go back in from that property line the grade gets steeper so we exasperate the situation of how do we deal with maintaining back the hillside. At this point we've had engineering done, the foundation is going to be a foundation slash retaining wall to hold the mountain back so we can tuck this building back into the side. And again we did a lot of work. Many meetings with architects and engineers to get this worked out and minimize the impact on the environment

Lenny Lim - I realize that but this is going to be a huge amount of excavation.

Sam Slawinski - What's that?

Lenny Lim - There is going to be a huge amount of excavation in there. Is it possible to maybe turn the garage a little bit? So you are more than 6 feet away

Sam Slawinski - That's only going to make the excavation worse.

Vincent Cestone - How so

Lenny Lim - Because the way it looks here, the way you have that little work area coming out the back

Sam Slawinski - Storage area

Lenny Lim - I mean you are digging way into the mountain anyway.

Sam Slawinski - I understand. The issue is the change in grade from the front line of the building to the rear line of the building is approximately 20 feet. I mean we have to leave some separation, we have to excavate beyond the footprint of the building there in order to, and maintain the grade, in order that the roofline is not at grade level in the back.

Vincent Cestone - the roofline is at grade in the back

Sam Slawinski – yes exactly. If you take a look at that. The front, the closest point to the property line and we have our 6 feet separation, if you were to try and twist, and I understand what you are asking, if we were trying to twist that, it would almost make it impossible to get it in there

Lenny Lim - But you would have more of the garage, you might have to take up some of that gravel driveway if you oriented it differently

Vincent Cestone - Yeah because my issue is that you are closer, you are increasing the non-conformity because the house is 12 feet 3 inches and you are going down to 6 feet so that you are increasing the non-conformity by 6 feet. And I wouldn't feel comfortable with that. I would like to see not increasing the non-conformity.

Sam Slawinski - That is basically going to make the project undoable.

Vincent Cestone - 6 feet

Sam Slawinski - yeah exactly. I mean when we initially laid out this building, the building was larger and when we laid it out to take advantage of the some slight contours in there, we ended up directly on the property line with our first stake out. And that's when we brought our excavating contractor up there, Charlie Polhemus, and we met with Glen Watson up there to look at the site and see what we can do to reorient the building and we downsized the building

Lenny Lim - You said you downsized this. It is 46 by 34. How big was the original plan?

Vincent Cestone - The original plan had a larger work area.

Lenny Lim - I mean 46 by 34 is a big garage.

Sam Slawinski - It is two cars, it is a stairway access to the second floor so the storage area is usable and a small workshop on the side

Vincent Cestone - What is the surface of the dormer on the garage

Sam Slawinski - To stay in conformity with the house. The house was 10 years

ago there was a variance request for the house, they completely renovated the house.

Lenny Lim - Just going to go up on the foot print

Arthur Lehman - We went up on the footprint and extended it, the house I think 10 feet further back to the east

Lenny Lim - I don't think we let him come closer. I think we just let them build back

Sam Slawinski - And the house was increased in length

Lenny Lim - But not any closer

Sam Slawinski - Not further into the setbacks

Lenny Lim - And we let you have those

Arthur Lehman - Actually where the property line goes _____

Vincent Cestone - What is the pitch on this roof

Sam Slawinski - I'm pretty sure its 10/12 except for in the back. We are trying to keep the garage in character with the house so that it looks sort of like a carriage house. The house has a look of a colonial type farm house.

Vincent Cestone - Is it going to have electricity

Sam Slawinski - Yes it is going to have electricity

Vincent Cestone - Water

Sam Slawinski - No water. There is no intention of using this for any living space

Vincent Cestone - Things tend to happen

Sam Slawinski - Well there is no intention for that, we are just building additional _____. This intended to be a garage and a workshop and a storage area above

Robert Dee - Is it going to be heated

Sam Slawinski - We are considering heat in the slab in the garage but not on the second floor.

Robert Dee - On this south road side elevation is that a porch coming out, on the building itself. It would be on page A-2

Sam Slawinski - There is a small covered area where the entrance to the garage as if you were to walk from the house to the garage to get into the garage to get into your car, there is a small covered area there.

Robert Dee - No I'm talking about, it would be, it says South Road side elevation

Sam Slawinski - I see that

Robert Dee - Does that jet out from the house

Arthur Lehman - No

Sam Slawinski - No that's if you look at the footprint, it does stick out. That's the spot that is slated for a small workshop

Robert Dee - Oh

Sam Slawinski - I think it sticks out about 2 feet or something

Robert Dee - okay

Lenny Lim - If you moved your garage closer to the house you wouldn't have as much topography

Sam Slawinski - We have the well. The well is in between there. We can't get any closer because of the well.

Lenny Lim - Okay

Vincent Cestone - And it is also 25 feet deep

Lenny Lim - It's a big garage.

Sam Slawinski - The interior parking area is 24 feet and it will fit a pick up truck in there. That's what you need.

Vincent Cestone - Well.

Bill Flaherty - How many acres do you have

Arthur Lehman - 25

Bill Flaherty - 25 acres

Arthur Lehman - yeah. I talked to Charlie and he thinks that on the other side of the road there is a steep area that is not in very good shape. We can use the left over soil to level that area out

Bill Flaherty - you own the other side. And there is no way you can build the garage on the other side of the road

Sam Slawinski - it is too far away from the house. If you look at the site plan, we had Glen put the topography lines on there all the way down to the end of the property so that you can see that anywhere along the road frontage that Arthur has there is no better spot, no flat spot along there within a reasonable distance to the house. And those topo lines basically are unchanged right to the end of the property.

Lenny Lim - They left the old stone walls on the bottom

Arthur Lehman - We just built a new house on top of the cellar. That's probably part of the problem probably. To do it over again I would have had a basement for storage space.

Bill Flaherty - The variance here is significant

Sam Slawinski - We understand that. When we first laid this out it was more significant.

Bill Flaherty - It is right on the line

Sam Slawinski - It was right on the line. The way I started this process was when Arthur contacted me about the garage, I knew the site because I had done work on the house and the first thing I did was I called Tom Monroe. I said Tom can you come over here and look at this because it is a difficult site and my client wants to put a garage in here and I would like to get some input from you. And we looked at it and we discussed the approximate sizes of it, the garage and the location and you know, as we said when we first staked it out, we ended up directly on the property line. And then Glen Watson came and looked at it with us and we started laying things out on a site plan. We said we need to try and make this better than being right on the property line. And that's what we did. We downsized the building a bit, we did some reorienting

Vincent Cestone - I think you have to downsize it more because this is a huge garage. Most people this could be a house. And you know it is too close to the road, it is increasing the nonconformity and the second story could be turned into living space. It is huge. I don't feel comfortable with it.

Sam Slawinski - If you look at the blueprint, the usable space on the second

story is not that much because you have 5 foot knee walls.

Arthur Lehman - But you have 100 square feet total

Vincent Cestone - How much

Arthur Lehman - Then you've got knee walls

Lenny Lim - How many square feet

Arthur Lehman - I think it is 25 by 25

Lenny Lim - Upstairs doesn't look smaller than the downstairs

Sam Slawinski - You actually have, you lose space in the stairwell, you have 18 feet 9 by 35 feet. The edges of that are a 5 foot knee wall. There is no plumbing, this is built for dry storage. There is no basement storage in his house right now. He has old stone walls and a dirt floor.

Robert Dee - But that 18 foot 9 only goes for maybe 12 feet and then it becomes 24 foot

Sam Slawinski - Then it goes to 24 foot to match the house

Robert Dee - So 90 percent of that is 24.9 no? 89 percent?

Sam Slawinski - Maybe less than that

Robert Dee - 78 percent. I'll go with 78 percent. What I am saying is that most of it is that wide

Sam Slawinski - yes

Robert Dee - okay

Sam Slawinski - thank you

Bill Flaherty - well one of the contingencies could be in the event that we approve the plan as is, would be to prohibit any further construction to the interior of the place itself, to prohibit it to be used for living space.

Vincent Cestone - Well that is assuming we have Code Enforcement

Bill Flaherty - Well we would have to assume we have Code Enforcement in order to do that and you know, I don't see any

Vincent Cestone - We couldn't enforce that

Sam Slawinski - We have no issue with saying that this is not going to be used for living space. Because it is not. That is not the intention.

Arthur Lehman - It is a _____ bedroom house and I have one son and he is 16.

Sam Slawinski - Mr. Lehman is planning on retiring in this house and you know he wants a space to work on his vehicles if he wants and keep them out of the snow

Lenny Lim - Is it possible to move the garage to the other side of the house where there is a big flat area down here.

Arthur Lehman - The front door of the house is clear on the other side there is no walkway

Sam Slawinski - There is no real access to that yard area from the house

(dialogue too low to comprehend...inaudible)

Sam Slawinski - ...in that area there would be no way to meet the front yard setback as well

Vincent Cestone - but you wouldn't be increasing the non-conformity. I don't feel comfortable with this at its present

Lenny Lim - It's huge

Sam Slawinski - Can I see what you are proposing there, we have explored a lot of options with this and

Lenny Lim - Can we make this like this

Sam Slawinski - What that does, if you look at the topo lines here, the further you go up the hill the tighter they get together in here and what they will do for us is that, we already have a difference in elevation from the front

Lenny Lim - All the topo lines are, you are doing massive excavation anyway

Sam Slawinski - It is a lot of excavation but we are trying to minimize it. We are trying to lessen the impact here.

Lenny Lim - But you have to cut the whole mountain out then. Does any of this fit without cutting?

Sam Slawinski - No.

Lenny Lim - No it doesn't, so you have to cut the mountain anyway so I don't understand why you might not orient a slightly different way

Sam Slawinski - But I want you to understand here is the topo lines here. To move this corner here like you are saying another 6 feet back, it moves it 5 feet up the hill.

Lenny Lim - Yeah but it moves this part if you move this like this, it moves this part back a little bit doesn't it? Instead of orientating it like this, if you turned it like this, doesn't that bring this down a little bit?

Sam Slawinski - Not really that's not going to help us because this here is not within the set

Vincent Cestone - Well your other option is to cut this off here and make this the garage right here and have the garage doors here. Because this is unacceptable to me. You either have to decrease it or you have to work with us

Sam Slawinski - Well this is what I am saying, we have tried already to downsize this and to reorient it. You know, it is pointless for Mr. Lehman to build a garage that doesn't fit his purpose. You know what I mean? He wants to be able to store two cars in here and have a work shop area below and storage above

Vincent Cestone - Well maybe it's not just plausible on this land

Lenny Lim - 46 by 34 is not a small garage. I mean most two car garages are what? 24 by 24

Vincent Cestone - Yes

Sam Slawinski - A garage door, a standard garage door is 9 feet wide. So if you have a little space in between and a little space on each side, you need to have room for a staircase in there to get to the second floor to use the storage space

Lenny Lim - This is a massive building for a garage. If the average garage is 24 by 24

Sam Slawinski - I don't think the average garage would have access to the second floor for storage.

Vincent Cestone - Pull down ladders. We see it all the time. What it comes down to is you have to work with us or we have to make a decision based on what you are proposing

Arthur Lehman - What kind of setback should we work toward

Vincent Cestone - I don't want you increasing the non-conformity. And currently you are already, your house at its closest point is 12 feet 3. I don't want to see it any closer than 12 feet 3.

Sam Slawinski - So if we can reorient it to 12 foot 3, that's not going to be an easy thing to do

Lenny Lim - Either way you are going to have to excavate a huge amount no matter which way you do it

Sam Slawinski - We are. There is no doubt about that. I mean anywhere along that road

Vincent Cestone - It is a huge structure. You could easily knock 10 feet off the sides without coming

Arthur Lehman - It's not just a garage, it is a shop area

Vincent Cestone - It's a building. It is a full size building

Lenny Lim - Right

Vincent Cestone - Does anybody wish to speak on this? In the audience?

Sam Slawinski - We also have some letters from the neighbors who have seen the plans and have been at the site, neighbors who have also requested variances for the same type of thing in that area

Vincent Cestone - That's a tough area

Sam Slawinski - It is

Lenny Lim - I drove up and down the road. I don't think I remember any garage that close. There are buildings close to the road. Six feet is kind of close for a garage

Sam Slawinski - There are, within, I would say within a quarter mile of this property in either direction there is not a house that conforms for a front yard setback or a garage.

Lenny Lim - But no garage is 6 foot either.

Sam Slawinski - I am not so sure about that but I am sure they are not all

conforming.

Bill Flaherty - How close is your neighbor

Arthur Lehman - Which one

Bill Flaherty - The closest one

Arthur Lehman - Well the closest one is west. The neighbor's mailbox is actually on the survey. Right here. But he is way down the hill and he has a garage _____.

Adam Rodd -- So that the record is complete on the other side of East Mountain Road across from the proposed garage, what is there? Is there a residence there? Is it vacant land?

Arthur Lehman - There is a pond over there

Adam Rodd -- Is that property that you own

Arthur Lehman - Yes

Adam Rodd -- okay

Sam Slawinski - The garage won't be visible to any neighbors, any of the adjoining residences at all. I mean obviously if you drive on the road it will, from the existing residences it would not be

Lenny Lim - It is too close to the road

Vincent Cestone - Bob how do you feel

Robert Dee - I would like to see it a little further back, just by the sheer size of it. I understand what he is trying to do but it is a building

Vincent Cestone - Right it is not a garage it is a building

Robert Dee - I mean you have stairs going up and everything else like that. I mean, it's probably bigger than my house. It is a big garage, and I am not saying he is not entitled to build it but not at 6 feet away from the road.

Vincent Cestone - Bill?

Bill Flaherty - Well I have no problem with it and I am familiar with the territory up there on that road and I would agree with you if there were any homes up there or garages up there that conform I would be quite surprised. It is a rather

narrow road to begin with as well and I really feel that maybe it is larger than you really need for a two car garage, I would agree with that, I am in the process of building a garage myself and it is no where near that size and I don't need a variance for my garage. But I don't want to deny you the use of your property as a result of that. Something could possibly be worked out that we could grant you the necessary variance. If you want to go back to the drawing board somewhere and review it and come up with a different configuration for it, that would be fine with me.

Sam Slawinski - We have not done this wily nilly. I mean started working on this in May and we have done a lot of leg work on this and we think we have come up for this size building to get the use out of it that Arthur is looking for, we have come up with the best orientation but we don't want to be denied it because it is 6 feet

Vincent Cestone - We had a person with a 3 car garage that was smaller than that

Sam Slawinski - I've been a builder for 25 years and I would like to see you fit 3 cars in a space smaller than that. Maybe mini coopers or something but not a Chevy pick up truck.

Vincent Cestone - Well it seems like the board is not in support of this. What I am willing to do is let you go back and take a retry on this

Sam Slawinski - Leave the public hearing open

Vincent Cestone - Yes leave the public hearing open

Sam Slawinski - And we will see if we can do some reorienting on the site plan

Vincent Cestone - I don't want to do to you what we have done to other people where we denied them and they come back with what we were talking about and we approve it

Sam Slawinski - I understand

Vincent Cestone - We don't want to do that to you

Sam Slawinski - So if the consensus is that if we can get this oriented so that we don't increase the nonconformity that we would have a better outcome

Lenny Lim - Maybe a little downsizing wouldn't hurt either

Vincent Cestone - Right

Paula Clair - Can I ask a question

Vincent Cestone - Yes

Paula Clair - Is there any other use that this building is going to have besides a garage

Arthur Lehman - There is a small wood shop in there. Just a place to put tools and things like that

Sam Slawinski - And dry storage above. He has no usable basement storage space. It is a stone foundation on the existing house and part of it is slab on grade.

Vincent Cestone - So we will continue you over to our next meeting and we will discuss that. It will be the fourth Monday in January. We don't meet in December

Sam Slawinski - There is only going to be one meeting in January

Vincent Cestone - Yes. There is just not enough to justify two meetings.

Sam Slawinski - We got bumped a long time for this meeting because there was only one meeting in November. We were here in October and got bumped to November.

Lenny Lim - Do you want us to take a vote now

Sam Slawinski - No. Basically this is stopping us from starting this project this year

Vincent Cestone - Well you wouldn't break ground until April right?

Sam Slawinski - We had intentions of trying to get a foundation in this year and work on it over the winter. That was our hope

Vincent Cestone - That is probably unrealistic.

Arthur Lehman - Okay we will watch the papers to find out when your meetings is

Kim Shewmaker - It won't be in the paper

Vincent Cestone - What

Kim Shewmaker - It won't be in the paper since it is a continuation

Arthur Lehman - Will it be on the website

Kim Shewmaker - Yes it will be on the website.

Vincent Cestone - And I will call the town clerk and let her know when our meetings are. Because in this meeting we have to decide when are meetings are going to be for the next year.

Sam Slawinski - Okay. What we will do is we will get together with Glen Watson our surveyor and we will reorient the buildings.

Vincent Cestone - You don't have to go through the expense of having new drawings done.

Sam Slawinski - We don't?

Vincent Cestone - But for us to vote on it we will need new drawings. But if you want to come back with multiple proposals

Sam Slawinski - I don't think we are going to have multiple proposals. There is not a lot of options there

Vincent Cestone - What I mean is you don't have to go out and do engineering drawings for a proposal is what I am saying. When we are voting on it, then we will need an actual engineering drawing. Okay

Sam Slawinski - Okay. I think our intention is to come back to the next meeting with a site plan showing this building not increasing the nonconformance. If we can downsize it to help us get that and minimize some excavation, we will look into that as well

Vincent Cestone - Very good

Sam Slawinski - That's a bigger project than reorienting the building. We've done a lot of work on these blueprints already

Vincent Cestone - Okay

Sam Slawinski - Thank you very much

Vincent Cestone - Okay review of minutes of October 22nd. Do we have any corrections or changes? I will make a motion to accept the Minutes as submitted. Do I have a second

Bill Flaherty - Second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Adam you're on

Adam Rodd – Just read up to the decision. There are two resolutions. Rost and Mary Dawn. Reading Mary Dawn first. The Philipstown Zoning Board of Appeals conducted a public hearing on October 22, 2007 to hear the request of the applicant, Mary Dawn Inc., to extend its time to complete the reconstruction of a nonconforming structure located at 3154 Route 9, Cold Spring, New York 10516. Pursuant to Section 175-87(a) of the Zoning Ordinance, nonconforming structures, which have been damaged or destroyed by fire or other casualty, may be reconstructed on condition that such reconstruction is completed within two years of the date of loss. In this case, although the date of loss is September 6, 2005, the applicant did not complete reconstruction within two years of said date,. The applicant now seeks an extension of time, until October 31, 2008, to complete the reconstruction. At a public meeting of the Board on October 22, 2007, and upon all discussion and testimony that preceded it, site visits made by individual Board members and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion, seconded by Bill Flaherty as follows: Be it resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing of equities weighs in favor of granting the request of Mary Dawn Inc in order to extend its time until October 31, 2008 to reconstruct the nonconforming structure located at 3154 Route 9, Cold Spring, New York.

Vincent Cestone - The conditions?

Adam Rodd – You want me to read them out loud

Vincent Cestone - Yes

Adam Rodd – The reconstructed structure shall not in accordance with Section 175-87(a) extend the pre-existing nonconformity of the structure. (2) The reconstructed structure shall be built in accordance with the previously issued building permit (permit #2006-9765) dated September 8, 2006. (3) the extension granted by this Resolution shall not be further extended except in accordance with all provisions of the Philipstown Code. No further extension of the time to complete reconstruction is authorized without Zoning Board approval.

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

Bill Flaherty - I'll second.

Vincent Cestone - Okay roll call vote

Lenny Lim - I'll vote in favor

Robert Dee - Me too

Bill Flaherty - I vote in favor

Paula Clair - I vote in favor

Vincent Cestone - And so do I

Adam Rodd – You have the original. That's the one that has to be filed

Vincent Cestone - I'll sign them and give them to you.

Adam Rodd – Okay. The second resolution which I'll read is Kerstin Rost. The Philipstown Zoning Board of Appeals conducted a public hearing on October 22, 2007, to hear the request of the applicant, Kerstin Rost, to extend her time to complete the construction of a nonconforming residential structure located at 26 Hudson River Lane, Garrison, New York 10524. By resolution dated June 21, 2004, this Board approved the applicant's request to construct a single family dwelling on the subject parcel, despite the structure's insufficient setbacks. Pursuant to Section 175-18 of the Zoning Ordinance, construction authorized by a decision of this Board shall be completed within two years of said decision. Because the applicant has not completed the construction of the single family dwelling authorized by this Board's June 21, 2004 resolution, the applicant has requested an extension of time to complete said construction. At a public meeting of the Board on October 22, 2007, and upon all discussion and testimony that preceded it, site visits made by individual Board members and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion seconded by Bill Flaherty as follows: Be it resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing of equities weighs in favor of granting the request of Kerstin Rost in order to extend her time until October 31, 2008, to construct the nonconforming single family dwelling authorized by this Board's prior resolution dated June 21, 2004. Conditions of the Extension (1) The structure to be built on the subject property located at 26 Hudson River Lane in Garrison, New York shall conform with all requirements and conditions set forth in this Board's June 21, 2004 resolution which permitted the construction of the proposed dwelling despite insufficient setbacks. (2) The extension granted by this resolution shall not be further extended except in accordance with all provisions of the Philipstown Code. No further extension of the time to complete reconstruction is authorized without Zoning Board approval.

Vincent Cestone - Any additions by anyone? I'll make a motion to accept this. Do I have a second.

Bill Flaherty - I'll second

Vincent Cestone - Lenny?

Lenny Lim - Aye

Robert Dee - I'm against.

Paula Clair - I'm in favor

Bill Flaherty - I'm in favor

Vincent Cestone - And so am I. Okay, Review for Completeness County Line Equities. I didn't have a chance to look at it and I don't think Adam did either. But I was just going through it and it seems that we have a denial of a certificate of occupancy. I don't see a building permit here. Do you have a building permit?

Glennon Watson - No. We are before the Planning Board for Site Plan.

Adam Rodd - Why don't we have the applicant give a quick overview of what they are proposing.

Vincent Cestone - Very very brief

Glennon Watson - Very briefly. You are all familiar with the property, the service station that has existed since probably 1930's we are not absolutely certain. At the intersection of 403 and Route 9. The previous owner came into some hard times and over the years the building was added on to and increased in size and setbacks decreased. County Line Equities which Mr. Giachinta is a member, purchased the property and began reconstruction based on a building permit that was issued by the town correct

Mr. Giachinta - Yes

Glennon Watson - And what

Mr. Giachinta - Wet lands

Glennon Watson - And a wet lands permit which was issued by the town. We had several discussions of it, there is, the idea is to originally reopen the gas station. Several things look like they should happen to make the thing function better than it ever functioned particularly putting the gas pumps behind the station as opposed as to in front of the station so the traffic is away from the

intersection. Probably the most obvious of the changes. We have a very small undersized site. We are trying to reconstruct the use. And we are trying to do it in a way that improves it. We simply can't fit everything on this site that is supposed to be there without a series of variances. Parking too close to the road, the canopy over the gas pump which not only shelters people from the weather it also contains the fire compression system too close to the road. If you carefully look at the site plan you will see that there is very little conforming area on the very small triangle that is the property. So with all the things that are going on, we did the survey and found an error on the survey that increased some land that is no longer available. We put the site plan together for approval because of all these changes and we are presently before the board and we will have the public hearing this Thursday. And obviously they will have to reserve decision until we get the variances that we need. Because they are precluded from that. But we are relatively, recent changes in the State law eligible for processing these things parallel as opposed to consecutively. So we chose that option.

Adam Rodd – Now is this a referral from the Planning Board? Or an appeal from a denial of a building permit?

Glennon Watson - It is an appeal, an anticipated denial by the Planning Board. We went into the Planning Board knowing that they couldn't approve

Adam Rodd – Because of the variance issues?

Glennon Watson - Because of the variances that are required. And presently State Law allows us to run these parallel. It used to be that you would have to go and get denied and then come here and get this and then go back and start the process again. We are permitted to run these parallel.

Adam Rodd – Is the planning board going to be sending us a referral?

Glennon Watson - No. I mean you have their package

Adam Rodd – So you are before the planning board for what

Glennon Watson - Site plan approval. That decision will be withheld until you make your decision. And what that decision is will largely going to depend on what your decision is.

Adam Rodd – When did you submit to the planning board?

Vincent Cestone - Well I saw you at the last meeting

Glennon Watson - Yeah it was for the October meeting. So it would have been the first Thursday in October that we submitted but I will check the date. October

4th.

Vincent Cestone - Okay.

Adam Rodd – I will look into it. It is just kind of unusual that there is no referral and there is no appeal from denial by the building inspector. So I am not, procedurally I am not sure how you got here

Glennon Watson - Because the State Law regarding site plans, it is my understanding is is that it has been changed to when you have the situation where you are needing a variance to process the site plan, you can make parallel applications.

Adam Rodd – Okay

Vincent Cestone - We will put you on for the 4th Monday in January. That's our next meeting

Glennon Watson - Thank you

Vincent Cestone - Can I help you with something or are you just visiting? Okay. Any old business? I will make a motion to adjourn

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: 1/28/08

Respectfully submitted,

Kim Shewmaker
Secretary