

## **ZONING BOARD OF APPEALS**

**November 6, 2006**

### **MINUTES**

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, November 6, 2006, 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.

<b>PRESENT:</b>	Vincent Cestone	-	Chairman
	Lenny Lim	-	Member
	Bill Flaherty	-	Member
	Tim Pagones	-	Counsel

#### **ABSENT:**

**Vincent Cestone** - First item on the agenda is Roark Dunn. Is there someone for, is Mr. Dunn here? Is somebody representing Mr. Dunn? Well I'll hold off until the end of the public hearings and if not he is off the agenda until he contacts us.

**Tim Pagones** - Okay

**Vincent Cestone** - Next item on the agenda is Patricia Cottrell. Hi. How are you doing?

**Patricia Cottrell** - Good. How are you?

**Vincent Cestone** - So tell us what you are here for and what the issue

**Tim Pagones** - Finally what you are here for

**Patricia Cottrell** - right.

**Vincent Cestone** - I know you are here to modify a structure on Valley Lane. You want to change it.

**Patricia Cottrell** - I want to add a deck

**Vincent Cestone** - And you applied for a building permit and you were denied because of setback issues

**Lenny Lim** - Okay now. Is this the proposed deck here? This it?

**Patricia Cottrell** - That's it right there.

**Lenny Lim** - In other words you are just coming out to the building line

**Patricia Cottrell** - Going back 12 feet

**Lenny Lim** - So it is not the front setback

**Patricia Cottrell** - Just the side by Valley Lane

**Lenny Lim** - Side setback. And you are only building this new deck to come exactly to the edge of the building

**Patricia Cottrell** - To the house, right.

**Lenny Lim** - Are you going to enclose it

**Patricia Cottrell** - No. Open deck. There are already sliders there which I bought it that way not realizing, figuring I'd just put a deck up. I didn't realize. And as you can see the road is here and this is about 15' grassy area against the apron of the road then you have 20' more grass here and then the neighbors' property which is probably a good 50 feet

**Lenny Lim** - So this just faces the road

**Patricia Cottrell** - Yes

**Vincent Cestone** - So you are not going any closer to the road than the current house and you are only looking for a variance for the distance from the front of your house to the

**Patricia Cottrell** - Side of the house

**Vincent Cestone** - The side also?

**Lenny Lim** - No. It is the side. That's the side. Even though it's a road there she said this part of the house faces the

**Vincent Cestone** - So you are only looking for a variance for this distance right?

**Patricia Cottrell** - I want the stairs to come to the other side and that is just to allow

**Vincent Cestone** - But that won't be in violation because it is going the other way

**Lenny Lim** - That's a plus. That's a good move.

**Bill Flaherty** - And this is an R-20 District as well.

**Vincent Cestone** - So we are looking for 8 feet

**Tim Pagones** - R-20 is 15 feet. She needs like 9 foot 9 something variance

**Lenny Lim** - Okay

**Vincent Cestone** - Any more questions? Anyone in the audience wish to speak on this? I'll make a motion to close the public hearing. Do I have a second?

**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?

**Bill Flaherty** - Second

**Vincent Cestone** - All in favor?

**All Board members** - Aye

**Bill Flaherty** - I move to approve

**Lenny Lim** - I'd approve

**Vincent Cestone** - And so do I

**Tim Pagones** - I will have a resolution on the 20<sup>th</sup>.

**Patricia Cottrell** - Do I have to come back

**Tim Pagones** - You can come back but Mr. Monroe is here, he knows. Then you can build it and they will come.

**Patricia Cottrell** - Thank you very much

**Vincent Cestone** - You don't have to be here but if you want to be here you can

**Patricia Cottrell** - All right. Thanks again.

**Vincent Cestone** - Next item on the agenda is John Sussmeier. Hi. How are you doing?

**John Sussmeier** - Hi.

**Vincent Cestone** - Explain to us what you are here for.

**John Sussmeier** - Okay

**Tim Pagones** - Speak nice and loud

**John Sussmeier** - Okay. What I wish to do is get approval for a lot line adjustment so that this entire pond that I constructed is entirely on my lot. The adjoining lot was my father's and he passed away last year. So I am in the process of going through probate. So I very much wish to keep the entire pond which I constructed myself is on my lot. So that is why I am here. But it does not conform to the 250 foot square and the dotted line here is how much the square would have gone outside the boundary conditions.

**Tim Pagones** - By doing the lot lines it reduces the square. That's what it is. He is not here for a lot line realignment. He is here to reduce the square. It was sent to the Planning Board. The Planning Board reviewed it and they sent a letter back saying they don't have a problem with it, that it makes sense.

**Vincent Cestone** - So where is the lot line that you are adjusting?

**John Sussmeier** - Okay currently the boundary, this is my house here, the boundary goes this way and this way out to East Mountain Road North. And the proposed line is to be this shape

**Lenny Lim** - The solid line is the new proposal

**John Sussmeier** - Correct

**Lenny Lim** - And the dotted line the old line

**John Sussmeier** - Right

**Vincent Cestone** - Okay will this property be a legal lot

**John Sussmeier - Yes**

**Vincent Cestone - Other than the square issue**

**John Sussmeier - Yes.** It is a legal lot now. It satisfies all the other zoning requirements except for the 250 foot square

**Lenny Lim - How big is the lot**

**John Sussmeier - Right now it 5, roughly 5 acres.** It is going to be reduced to just shy of 3

**Lenny Lim - This one is going to be reduced to 3**

**John Sussmeier – Yes.** The total lot, the total size of both lots, my father's and mine is 9. Right now I have 3 and he has 5. After the conversion it will swap. I'll have 5 and he will have 3

**Lenny Lim - And this is the line you want for the 3**

**John Sussmeier - Correct**

**Lenny Lim - And the only thing is it doesn't fit the square**

**John Sussmeier - Right**

**Vincent Cestone - It actually looks like the square fits in that. Where doesn't it fit in?**

**John Sussmeier - This is 223 foot square.** I originally submitted the plan that Lenny has and this board requested that I resubmit the plan with the larger square. So 223 feet is the square that would fit within the boundaries. And the dash line is the attempt to put the 250 foot square and that is how much it would over hang

**Vincent Cestone - I see. Okay.**

**Lenny Lim - Which is, the dash is the 250**

**John Sussmeier - Correct.** And the solid line is what I drew in and it is 223 feet

**Vincent Cestone - What is the distance between here and here?**

**John Sussmeier - That is roughly 35 feet/** We played a lot with the geometries here. If you were to take the 250 foot square and slide it so that this angle fit on the line, the

**square would be in the water. I presently have a path around the pond that I was trying to retain the path and create a buffer zone**

**Vincent Cestone - And this is what the planning board proposed**

**John Sussmeier - Yes. This is what was presented at the planning board**

**Tim Pagones - There should be a letter in the file**

**Bill Flaherty - What are you going to use the pond for? Recreational purposes?**

**John Sussmeier - Yes**

**Tim Pagones - I think the whole reason is so that it is his and he can decide whatever he wants to do with it as opposed to sharing it**

**Bill Flaherty - Go swimming there**

**Tim Pagones - If he want to skinny dip in his pond, he can**

**Vincent Cestone - I just want to make sure that he doesn't put this house in violation of the code**

**John Sussmeier - The only thing we are seeking here is the 250 foot square. All the other codes, all the other requirements are satisfied**

**Lenny Lim - I have no more questions**

**Bill Flaherty - Are you going to build another home on that property**

**John Sussmeier - No. There is a structure there now that is dilapidated and it is falling apart**

**Vincent Cestone - What is this here**

**John Sussmeier - That is a concrete structure that my father started about 30 years ago and it is pretty much abandoned. There is a building permit still open for that 30 years later.**

**Lenny Lim - There is a 30 year old building permit on that**

**John Sussmeier – yes**

**Bill Flaherty - Are you in the process of selling this**

**John Sussmeier** - Yes. The whole intent is to sell the property. As the executor I have to go forward and distribute

**Bill Flaherty** - Will that mean that this concrete building will be developed

**John Sussmeier** - I would assume that the next owners would \_\_\_\_\_ the building and it would be another single family residence.

**Bill Flaherty** - I know your father did a lot of unique things with his property

**John Sussmeier** - He sure did. And he actually started the pond before I took over

**Vincent Cestone** - With a shovel right

**John Sussmeier** – close

**Vincent Cestone** - Lenny any more questions?

**Lenny Lim** - I have no questions

**Vincent Cestone** - Any comments from the audience on this?

**Mike Gibbons** - Mike Gibbons, Garrison. And speaking as myself not a member of the Planning Board, although I do remember the case coming before us, as a friend of John's this has no detrimental affect to the neighborhood. And what he is trying to do is really beneficial for the property. If you want to see something negative, all you have to do is go on Avery Road and the pond has a fence going right down the middle. Apparently there is a dispute between the two property owners. They put a fence in the middle of the pond to keep each other from going on the other person's property. This would certainly avoid that sort of activity and you know, my recollection is that the lines may not all add up but that is why he is here. It is really nothing that is going to affect the neighborhood at all. So I would be in full support of it.

**Vincent Cestone** - Anyone else wish to speak on this? I'll entertain 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**

**Bill Flaherty - I vote in favor**

**Vincent Cestone - Len?**

**Lenny Lim - I vote in favor**

**Vincent Cestone - And so do I**

**Tim Pagones - Okay. November 20<sup>th</sup>**

**Vincent Cestone - Next is a continuation of a public hearing of Jacob and Robin Bump.**

**Tim Pagones - I don't think there is anything new. I think last time you just wanted copies of everything**

**Jacob Bump - That's correct. At our last discussion I don't have anything else to present to the board other than the verbal statement that according to the Chairman's questions prior to our last visit to the board and I think we answered those sufficiently and your specific points were the overall height of the structure coming down to the 36 foot range which we have accommodated, no encroachment on the river which has been accommodated and I think just addressing the neighbors' concerns specifically those of the Sullivans.**

**Vincent Cestone - Len do you have anything that you wish to say?**

**Lenny Lim - Not right now**

**Bill Flaherty - I have nothing further**

**Vincent Cestone - My only concern is the covering on the second story deck. I don't have a problem with a second story deck, I have a problem with the roof over it. And if that were removed, I would be inclined to support this. So that, I mean a cloth canopy that can be rolled out and rolled back in but a permanent roof, I have an issue for a whole bunch of reasons. And I would be looking to have that brought down.**

**Jacob Bump - Remove**

**Vincent Cestone - Yeah**

**Jacob Bump** - This is the first time I've heard that. The issues of the architecture would be compromised by taking that away.

**Vincent Cestone** - I don't necessary know if that is true

**Jacob Bump** - It is subjective. I understand. But certainly the joy of being able to be out there shaded, be out there, my personal feeling is that the architectural value of the house is entirely compromised by doing that. It is definitely something that I would not like to lose and I think that in general we have made significant sacrifices per the board's concerns and really listened to them intently, come back with real compromise and in terms of hard dollar amounts for Robin and myself but it is still something we are willing to do. Considering that the first floor deck is covered, I don't really see a significant issue with the coverings on the second floor deck.

**Lenny Lim** - And that deck is heading towards the tracks right

**Jacob Bump** - No

**Lenny Lim** - That is the river side

**Jacob Bump** - We are not impairing, there is no view impairment because of it. I want to stress that again. We are in essence, there is a net negative encroachment towards the river. We are pulling back towards the tracks. The height has been lowered

**Lenny Lim** - Originally, how far are you pulling it back

**Jacob Bump** - We are pulling it back approximately 18 inches and towards the tracks which will force us to pour two new foundation walls at the east and west of the house. The foundation walls will not be usable.

**Lenny Lim** - I am confused because the front is

**Jacob Bump** - It is easiest to refer to it as the river side and the railroad side

**Lenny Lim** - Okay

**Jacob Bump** - The covered porch that the Chairman is speaking of is actually at the river side

**Tim Pagonis** - I just want to point out that everything has to be unanimous.

**Vincent Cestone** - I know

**Tim Pagones** - So if the chairman is going to say I am not giving this covered porch and the two of don't have a problem with the covered porch, there is no action. So I don't know if any of the neighbors have complained about

**Jacob Bump** - It is not something that has come up. I think the issues that have come up have been absolutely addressed and it is not a projection out, the whole deck, it is really \_\_\_\_\_ to the architecture.

**Vincent Cestone** - Anyone wish to speak on this?

**Bill Flaherty** - Well I think that the issues that were previously before the board where the height of the house and you have done something constructive about that, you've lowered it. Mrs. Sullivan has a garden next to this house, and I think that has been addressed so that Mrs. Sullivan will get more sunlight during the summertime. The bulk was another issue, you even addressed that. The attic space, you have lowered the ceiling. The porch was 36 foot long and 9 foot wide, and that was another issue that was discussed about 3 or 4 hearings ago,

**Vincent Cestone** - What's that Bill

**Bill Flaherty** - The porch. Which were 36 foot long by 9 feet wide and that has been addressed. Including the asbestos shingles that are on the house. Mrs. Sullivan was concerned about that. You've made provisions to ensure that the asbestos shingles will be removed in an environmental and safe way which was agreeable to Ms. Sullivan as well. And you did downsize the house a little bit. I really think that you really met all the criteria that I had in order to look at this and make a judgmental decision about whether or not to approve the plans that you have submitted to this board. You certainly acted in good faith in everything and in every respect and you obviously maintained a good neighbor relationships that you have with the other people down in that area and if I am not mistaken, if the audience would like to address these issues and see whether or not these have not been addressed, I am willing to hear that. But I, from my standpoint, where I am coming from, these revised drawings that I have looked at and the changes that Mr. Bump has made, is perfectly agreeable to me from an architectural standpoint, an aesthetic standpoint, it will certainly add additional value to the home in itself and it enhances the overall appearance of the area down there as well. These are some of the things that we on the zoning board have a responsibility to ensure that are met with the criteria of zoning. Some people say that aesthetics is not important and it may not be but to be perfectly honest with you, it is an important factor as far as I am concerned. It has to blend into the community and has to be aesthetically pleasing to the eye. I think you have done all of those things and I have to say to the board that I have no problem with the revised plans that were submitted.

**Jacob Bump** - Just by way of comment Mr. Chairman, taking off that porch would force

us to remove the columns. Obviously there would be no need for columns if there is no need for support there. It is a significant amount of rework and I think that the architectural value of the house is \_\_\_\_\_.

**Vincent Cestone** - Anyone wish to speak on this?

**Zshawn Sullivan** - Zshawn Sullivan, I have a couple of visuals. First I would like to comment on some things that I read in the September 18<sup>th</sup> public hearing minutes in terms \_\_\_\_\_. Jacob Bump indicated that he didn't see any negative impact on the neighbor's views. Well from where I sit, I beg to differ

**Vincent Cestone** - That's your opinion but I don't want to go into a long dissertation on it

**Zshawn Sullivan** - The enormous bulk of the proposed house would definitely impact my views in the amount of sun that my house will receive. He also stated that the rooms square footage was 2850. That might be true for the inside of the house but the outside is a little bit over 3800 square feet total with all the decks. He stated that the existing house is 1700 square feet and that is not actually true, it should be about 1866. I was down at the building inspector's today and here is a plan of his house and they stated that they were asking for a 36 percent increase in the square footage and it actually is about 100 percent.

**Vincent Cestone** - And how did you achieve that figure? Are you including the decks

**Zshawn Sullivan** - Absolutely

**Vincent Cestone** - Decks are not included

**Zshawn Sullivan** - You said that they were covered at the last board meeting, that if they were covered then they were included in the bulk number of the house

**Vincent Cestone** - Bulk number yes

**Zshawn Sullivan** - I am talking bulk

**Bill Flaherty** - Not living space

**Zshawn Sullivan** - No not living space. It doesn't matter what the inside is okay because on the outside, the outside measurements are for the assessment value, the measurements are taken from the outside of the house. That's what I am going to be looking at. On October 2<sup>nd</sup> they came back with a decrease in the height from 36.5 to 35 feet. And reducing the riverside decks from 9 foot wide to 8 foot wide. That really amounts to a drop in the bucket of the overall bulk of the house. The Bumps bought an

**1866 square foot home with a 273 square foot garage for a total of 2162 square feet on a 50 foot lot.** I can't imagine how much bigger they thought they could make it no matter what the realtor had told them. It is already as big as most of the homes on a 75 foot and 100 foot lots and here is what you have. Here is all the houses that are down there. And the two houses here I don't have their original number. This is a 50 foot lot and I am not positive that you gave them 200 square foot for a variance. I really don't think it was anything the way that they were just bumping out dormers. But for the sake of putting numbers down I put in 200 square feet to the Gish's 50 foot lot addition. This was mine. I started with 1080, I got this. I have a 75 foot lot. Schlick, they have a 100 foot lot and they were allowed to have 1849 square feet after they built on to their house. Brennan has done nothing. Doyle, started out with 1804 they got 2358.

**Tim Pagonos** - Is that interior or total

**Zshawn Sullivan** - These are total. These are numbers from the outside. These are from the property maps downstairs in the assessor's office where I got these numbers this morning. \_\_\_\_\_ I don't have the original number that Cronin started off with. They have a 50 foot lot and they were allowed to have 1476 square feet at their addition. Bracke have a 50 foot lot. They started off with 922 square feet and they were allowed to have 1340 on a 50 foot lot. And Lang started, this is a 75 foot lot, they had 720 and they were allowed 2380. So these are the 50 foot lots and what they were allowed to expand to and it is about 1810 on average. These are the 75 or 100 foot lots that have been expanded down there and the gross or the average is 2125 square foot and that includes, the bulk measurement and that includes garages. My number includes my garage and so does the Doyles and so does the Langs. So how I came up with these numbers of Jacob and Robin's house is I came to town hall today and they are being assessed at 1408 on the tax property map. But they don't have any of these porches included in that number. That gives you a total of them starting out with this. Their proposed house is this and you have an A and a B, this is the bulk of the house. It is 44 by 32.5. That's 1430. Times two that's 2860 square feet. These two decks are 288 each. So add that twice for a double deck there. This little deck is 72 square feet. And this side deck is 282 square feet. Which is a total of 3790 square feet and then they also have a 273 square foot garage still on the map for the new house. To paraphrase Joan Turner in a 2004 ZBA meeting the overall bulk of a lot in this neighborhood is a significant detriment to the community. Each application for a variance on Hudson River Lane is looked at with a scenic view, overall bulk, close proximity of the neighbors, the amount of square footage you start with and the common courtesy for the neighbors taken into consideration. I asked that you guys look at all those things before you make a decision and close the public hearing. They could develop a livable design, they might need to be a little bit more flexible, but it is the responsibility of the ZBA to grant them the smallest variance possible. I also, I will show you where I got these from. This is their house, that is the side of the house that faces me. And here is a mock up of that. This little bit down here is actually the 5 foot higher their lot is, on average their lot is 5 foot higher than my lot. So

**Tim Pagones** - What scale are these things?

**Zshawn Sullivan** - These are ¼ inch equals 1 foot. This is

**Tim Pagones** - And did you do these or did

**Zshawn Sullivan** - This is from downstairs

**Tim Pagones** - No I am saying your models

**Zshawn Sullivan** - My models. Yes, I did them

**Tim Pagones** - Okay. Just for the record whether you hired someone to do them or

**Zshawn Sullivan** - No. Kitchen table and an exacto knife. This is my house. And this is the north side which is how I made my what I brought to show you here. That measures up to my house. Even though the north side is what faces them. This side is what faces them. But it is kind of hard unless you look at it backwards to show that my model, that my thing is to scale which it is to scale. I just want to set this up. So here is the Bump's proposed addition. Here's the house that they are starting with. And this is drawn to scale too. This is the 7 foot that they have at the edge of their wall to their property line. It is not standing up that great. And here is my, here is the silhouette of my house on the south side. You can see that my house is a little bit taller than theirs. My house is 26 foot high. I have two floors on this section of the house. They have, this is 20 feet high and my house is a little bit taller than their house but, and this is on the 5 foot below what their property is on average. 5 foot higher than my property. So I am sorry but this looks like a lot a lot of house

**Tim Pagones** - If you raised yours up 5 feet, where would it be

**Zshawn Sullivan** - If I raised mine up 5 feet

**Tim Pagones** - Yeah

**Zshawn Sullivan** - But I am not raising mine up 5 feet

**Tim Pagones** - But they can't lower theirs 5 feet can they? Can they blast it out?

**Zshawn Sullivan** - Their foundation is up high

**Jacob Bump** - It is a natural grade. It is on bedrock.

**Lenny Lim** - If they were level

**Tim Pagones** - I mean her house is 5 feet or at least 5 feet lower right now. She is saying how high it is but his house is sitting on the bedrock

**Vincent Cestone** - Let her finish her presentation

**Zshawn Sullivan** - So I am just making a statement here that this is a really big house. This is a lot of bulk square footage that the Bumps are trying to put in within 7 feet of my property line. I mean if you look how I built on to my house the southern, the river side I didn't try to impede my neighbor's view. I brought back my second floor back 12 feet

**Tim Pagones** - Does that have his house moving back the

**Zshawn Sullivan** - This house is where his is

**Tim Pagones** - But I guess you are presenting the board some evidence and he changed his plans to move the house back and you are saying, right

**Jacob Bump** - Correct. The other thing, is it alright to speak on this particular, okay, the porch at the river side of the house is currently enclosed. I don't know if the board members have had a chance to go down there

**Zshawn Sullivan** - A very small, 12 feet on the south corner of it. 20 feet of the front of the property doesn't have anything there. This little section right here is 20 feet

**Lenny Lim** - It is only like half the building

**Zshawn Sullivan** - Less than half

**Lenny Lim** - Okay

**Jacob Bump** - It projects actually cross the front of the house and it is more than half of the building. The other thing it is enclosed. In other words, if you were to stand and look directly north or south, there is no transparent view. Now I don't have the neighbors to the south here or on the record, but verbally many times they have stated that it would be a dramatic improvement to have open porches there. It would increase everyones clear or through views.

**Vincent Cestone** - Are you finished with your presentation?

**Zshawn Sullivan** - Anybody have any other questions?

**Bill Flaherty** - How does this affect your view in any way

**Zshawn Sullivan** - Well the river is out here. The sun is this way. The sun runs this way on the property so considerable amount of sun is going to be lost. Not in the dead of summer but in fall and winter like at 1:00 yesterday, at 12:00 yesterday the top of their 20 foot house that sits right now was the shadows were all the way over to here at my patio right next to my house. So

**Bill Flaherty** - The height of this house is about 36 feet

**Jacob Bump** - Correct

**Robin Bump** - It was inevitable that someone was going to come in and build a two story house

**Bill Flaherty** - And your house is how many feet

**Zshawn Sullivan** - 26 foot high

**Bill Flaherty** - his is 10 foot higher

**Tim Pagones** - Here is the scenario. Legally he can build a three story house 40 feet high. That is what R-80 zone allows

**Vincent Cestone** - No he can't

**Tim Pagones** - Yes he can

**Mr. Schlick** - This is not R-80

**Tim Pagones** - What zone is it

**Zshawn Sullivan** - I have just one other thing that I would like to read and then I will be done.

**Tim Pagones** - It is an R-80 zone

**Zshawn Sullivan** - The Philipstown Comprehensive plan that was adopted on March 26<sup>th</sup> has in the section R1 immediate revisions to the zoning and land development regulations. R1.1 says reduce maximum residential lot coverage and establish maximum height foot print areas where necessary to control the sizes of houses and to ensure that they are in scale with the neighborhood. Neighbors. Require site plan reviews and or revise bulk standards above certain thresholds for house size and or lot coverage in order to ensure neighborhood compatibility for houses above these thresholds. Apply the same requirements to expansion of smaller houses when they exceed such thresholds. Then there is an explanation. There has been much concern

**about the construction of very large houses that are out of scale with their surroundings especially in scenic and historic areas. And has significant and environmental impacts due to their sheer size. There is also concern about homes that due to topographic conditions may comply with the height limits but still be 3 or 4 stories high on one side that is negatively affecting the view from roadways and neighbors. Restricting the size of such houses can be done in several ways including limiting the area of lot that can be covered by building. Limiting the square footage of buildings and requiring site plan reviews for houses above a certain size. Such measurements will have the additional advantage of discouraging tear downs thus reducing the speculative value of lots with small houses on them and helps them maintain the affordability of some of the existing houses. Thank you**

**Vincent Cestone - Anyone else wish to speak on this? Mr. Schlick**

**Mr. Schlick - I would just like to address the issue of R-80 zone and we have been down this road many times. If this was R-80, 50 foot lot that has to be 30 foot from each boundary would be -10. You couldn't build**

**Vincent Cestone - I know**

**Mr. Schlick - 30 foot from this side, 30 foot this, that is 60 foot. How can you build on a 50 foot lot?**

**Vincent Cestone - I know**

**Mr. Schlick - It's not a regular R-80 zone**

**Vincent Cestone - I know**

**Mr. Schlick - I have no problem with someone seeking a second story okay. But to put an attic on top of a second story, only gives way for another living space. The Fulfords house is one story. Now picture this one story on the south side, her house is 26 feet, how can you put a candle stick in the middle. It is going to look like New York City with a skyscraper in the middle. Look at it. One story, two and I will call it three stories when you have an attic because that is the potential for making a third story. And they're two or three feet apart. On a 50 foot lot. You've got to go down there and see it**

**Vincent Cestone - I've been there**

**Mr. Schlick - I have over 100 foot and I was never allowed more than 1 story and a loft is all I was allowed. No attic. You want a loft, you can have it. But no attic. And now to go to this and the idea is what we always flop back to, R-80, it has never been an R-80**

**Vincent Cestone - I didn't say that**

**Mr. Schlick - No no no. I am just making a point. It has been in the record I don't know how many times and agreed that this is what they call non-conforming. All right. To quote the poor gentleman that used to sit right there and has now passed away, a very astute individual and many times he made that point if you remember. He brought us all to the point hey wait a minute, we are not talking R-80 we are talking 50 foot lots. And he was entirely correct. The 36 foot really really bothers me. That you can have a third story on 50 foot. With one story here and barely a two story here and you put a candlestick in the middle. That's just for you to think about. My second point is that you can't, you can't say that a roof over a porch is not going to bother anybody's view. Of course it's going to block the view. How much view it blocks, that's subjective to the people that are on the other side. But to have that, we just got here last year that was an illegal porch. It was never allowed to be. We came to support the individual because it has been there for 30 years. I'm 30 years down there, 35 years. And let it be. But now you can take and build on top of that then put, fine you can put a porch on top of it but then have a roof over it. It just goes a little bit too far. And of course, my last point is percentage of lot. We have to look at the size of the lot. When I say percentage, you might say you have a 300 foot lot by 50 foot and that is X number of square feet. However, part of that lot is road. And the other part is the river. So when you come down you are not on 10 percent of the lot. You are probably on 60 or 70 percent of the lot. Take away that road and the river, you own the land under the water but you really can't count it as your lot. I think this has to have a real serious view of putting something this big in the middle of two small buildings. Thank you very much.**

**Mary Schlick - Mary Schlick. Just a quick thing. Certainly no one objects to the Bumps increasing their house and making it nicer. However, I think the board has to look at precedent and I think that the Cooper debacle was something no body ever wants to see happen again. And that was 38 feet tall and it is down a hill from this house which will be 36 so that will be much much higher looking at it that way, comparing it. The other thing is if you look at Mrs. Sullivan's percentages of size, square feet, that is the kind of precedent we have to look at. We have to go along with the rest of the neighborhood. Thank you.**

**Vincent Cestone - Anyone else wish to speak**

**Bill Flaherty - Will this become the largest house on that road as a result of this?**

**Vincent Cestone - We have the numbers here**

**Robin Bump - Realistically we are also at the peak of the road. The road is not flat. We are at the peak of the road. So it isn't realistic to think that ten 2-story homes are going to be flat when the road is going like this.**

**Bill Flaherty - That's a good point**

**Lenny Lim** - Bill had a good question, is this going to be the biggest house on the block?

**Jacob Bump** - It depends on whose math one uses to be perfectly honest with you. I mean I absolutely stand by my math and my take-offs and what I presented to the board at my last hearing. Whenever it is time to speak Mr. Chairman I will attempt to address the concerns the best I can.

**Bill Flaherty** - Well it is not the largest single house on the block in terms of cold square feet.

**Jacob Bump** - My understanding of the Code, and someone correct me if I am wrong here, total square footage or livable square footage as conditions states. Meaning there is heating at those spaces. Porches are not conditioned space

**Vincent Cestone** - Well for the purposes of the code that is true but as for the purposes of bulk we include the decks

**Jacob Bump** - My numbers then presented at the last meeting showing the

**(turning tape over...may have lost some dialogue)**

**Jacob Bump** - ...I want to address, as I recall them, let me address the point raised by members of the audience. Mr. Schlick, you mentioned first of all the overall house of the house

**Vincent Cestone** - address the board

**Jacob Bump** - okay. Now this is difficult because there is interpretations \_\_\_\_\_ and in essence when I make a substantial investment, purchase this piece of property and do my diligence, I go in I say what code applies. I clearly am told that it is R-80 code. These are the limits in terms of height at R-80 and these are the limits in terms of setbacks in R-80. I know from the get go that I am going to need variance setbacks. The Code as read interpreted and as I am informed allows me to build up to 40 feet high. Now that was never our intention. I am below it. I have lowered further still. I wish I could have a basement. I can't. It is bedrock and I would never be allowed to blast in such close proximity. It is an impossibility. There was a concern raised about a third floor. As I have said many many times it is not going to be finished space. It would be illegal to have a third floor without fire extinguishers, there will be access it is going to be almost entirely occupied by HVAC equipment. The septic approval is based on the condition that there only be bedrooms, the same count of bedrooms which there are in the new structure. It is not finished space. It would be illegal to do so. That's the bottom line. It is not going to happen. In terms of the overall height of the house and

the analogy made to a candlestick between two structures on either side, I understand that it is going to be a higher structure. The Sullivan's to the north at the property line, there is an approximate 5 foot difference in natural grade. That is not the house line. If I were to go down to their house my guess is that it jumps by 2 or 3 feet because the house difference in grade from zero zero at foundations and the property line differences in grade are two different things. The neighbors to the south, the Fulfords have again expressed no concern. They are very encouraging of the project. The additional points raised, I understand that one has to take into consideration the bigger precedent of maintaining the aesthetic and architectural quality of the entire road. The building that we have purchased is literally falling down. It needs dramatic improvement. What we are doing in my opinion, not impacting views, it is opening them up. Additionally, in terms of lot coverage, the lot coverage remains the exact same. It actually decreases slightly. The current footprint is being maintained. There is no increase in lot coverage except for the extension of the one porch I talked about. But in terms of the condition square footage. In terms of the size of the size of the increase and \_\_\_\_\_ of change, I mean I don't know, I haven't had a chance to sit here and review Zshawn's presentations. I have to do so. I would have to make sure everything is to scale. I stand by my figures presented which basically stated that the percentage of increase, the magnitude of growth is 36 percent over what we have. I believe that to be very accurate. And again over the last 20 years

**Vincent Cestone** - What is that based on?

**Jacob Bump** - The 36 percent takes the current house all enclosed space and the proposed house all enclosed space.

**Vincent Cestone** - Okay. Because you are going straight up how could it be 36 percent. Wouldn't it be double

**Jacob Bump** - No sir. Because if you remember correctly we are lobbing off an enclosed sunroom and it becomes an open porch and we are just going up with the second story. So it is not double. If we remove an enclosed area, it is open porch, and we add a second story. We are adding, I have to look at my math but we are adding approximately 1000 square feet. I think it's less

**Tim Pagones** - You have 900 plus or minus

**Jacob Bump** - 900 plus or minus

**Tim Pagones** - and your net living of 2225

**Lenny Lim** - what's that?

**Tim Pagones** - You have a gross of 2693, a net living 2225. He had an average

throughout all the \_\_\_\_\_ of 42.9 percent. He was getting 36 percent. And he had 900 plus or minus square feet of increase

**Jacob Bump** - I did my math, for the record, I did not count any porches of any of properties along Hudson River Lane

**Tim Pagones** - So when you had the 42.9 that did not include any porches

**Jacob Bump** - No sir. It did not include any porches. It is an apples to apples comparison of conditioned space. I think we've done a very substantial job of being considerate, listening to the neighbors concerns, the boards concerns, and addressing them properly. I remember when we started this process it was very clear to me that there was going to be some requirements for compromise on all parties and I think we certainly made a good faith effort to do that.

**Vincent Cestone** – Okay but you did your due diligence but you didn't study the history of this area. And what I am saying about that is there is a lot of history with this area

**Jacob Bump** - Sure

**Vincent Cestone** - So you came and you applied for to the zoning board for a variance I tried to give you a heads up

**Jacob Bump** - You did and in fact I think I've studied the history of the road and the issues in depth and thus the research. I understand that there has been lots of friction with projects along the road. That was never our intent. We've been think

**Vincent Cestone** - I know

**Jacob Bump** - And I mean I think you purchase a structure based on the information that is presented to you including what the zoning code is, you go and do your research and I see that over the last 20 years approximately that when people have renovated their homes, not including porches, not including garages, there is an average increase of 43 percent in their enclosed square footage. We are below that. I understand that the porch that is on the southwest corner of our house was given a C of O, it was built illegally at some point in time and given a C of O as a condition of the sale some years back. Sale prior to us. But with the C of O it is legal space. I can't change that. That's the information I had at hand. And it is inhabitable legal space. There is no further encroachment upon the river. That was certainly a concern. There has been no comment except by the Sullivans to date about view impairment. Certainly not from the neighbors to the south, the Fulfords. Certainly not from any neighbors that live up the hill or to the east of our property. You know the issue of sunlight, I understand it but the fact of the matter is there is almost, there is significant impairment now to the sunlight. I don't think there is going to be a net change there. Someone would have to go and pay

**a substantial amount of money to do sun diagrams to get that resolved. The other thing** frankly is that the direction of the roof line changes. The peak of the roof line right now is running north to south and so the property is at its highest peak adjacent to the Sullivans property line. That changes. The proposed roof line goes east to west in the proposed renovation.

**Vincent Cestone** - How tall is it in the center of your proposed attic?

**Jacob Bump** - How tall is it

**Vincent Cestone** - Yeah at the maximum height

**Jacob Bump** - I have to review the drawings. It is less that, it is approximately 6 feet. I would have to scale. I remember it was a concern and it was dropped. It was a concern

**Tim Pagones** - I thought you had 7 and then when you moved out a foot or two it went down to like 4

**Jacob Bump** - If I recall correctly, I would have to check the notes, the Chairman opened the last meeting by saying there is three things that I think need to happen to get this moving forward. You have to drop the roof height to a point where we have approximately I think the figure that you used was 6 or 6 ½ feet at the center line of the attic. It has been dropped. There was a verbal request for no further encroachment upon the river. That has been addressed. And there was a request for taking the neighbors concerns in the reconstruction process into account. That has been sufficiently addressed. Again, I think, my final point of it is architecture matters. I think it is a very desirable house architecturally. I think it is a dramatic improvement. I understand and this is a large part of my research, the, for the lack of a better word the debacle that is the ongoing Cooper project. That is to my research and knowledge of case of Plan A being submitted and Plan B being built. It is not what we are doing. We are building exactly what we submitted. And there is a process of checks and balances in place to ensure that.

**Vincent Cestone** - Any more questions from the board?

**Mr. Schlick** - 36 foot really bothers me. That was one of the biggest issues we had with the Cooper property. The Coopers said it was 38, then it was 36. Okay. And it was too big. And that is one of the reasons why it was knocked down to 36 feet. And that's a 70 foot piece of property. It is just too high. What reason would you need, I'll call it a third floor because it could be made into living space, why would you need that? If you want two stories, most of us had to go with two stories and no attic. You had a choice you want an attic or you want a second story. Why would you on a 50 foot piece of property need a third story? All it is going to do is make the two houses look like tool sheds on

**either side of it. 36 foot is the biggest issue we have with the Cooper project.**

**Robin Bump** - The answer is the following, there is very opportunity to put in any basement whatsoever. If I want to have any storage, that is clean dry storage for any HVAC equipment which I would like to have, it would be done at the attic. There is limited amount of space. It is a rough basement as presented to the board at our last hearing. 75 percent of the attic space is less than 4 feet high. It is all dirt floor with bedrock there. So I am looking for some \_\_\_\_\_ of storage space and a space in which to put mechanical equipment. Again, I would like to stress if I could put a basement in, I would. I just can't. Lastly, the attic is a factor of the architecture of the house. It is an integral component the design and the pitch of the roof \_\_\_\_\_ component to the architecture of the house. Again, I think overall is an absolute improvement on the property.

**Zshawn Sullivan** - Zshawn Sullivan. I just want, I forgot, I wrote myself a note and then I forgot. Bill and Jacob talked about the asbestos shingles. They are not roof shingles, they are the house shingles

**Vincent Cestone** - Yeah we know

**Zshawn Sullivan** - The outside of the house. Not the shingles that are on the roof that are asbestos.

**Vincent Cestone** - We know

**Zshawn Sullivan** - I just want to make that clear

**Bill Flaherty** - I observed that when I was there

**Jacob Bump** - Where ever the asbestos is, whether it be roof shingles or siding shingles, we have a baby on the way. No one wants to live around that. The sooner we get it out of there the better. That's the bottom line. Again, I presented what the OSHA requirements are for removal of that, I am happy to follow them. My family's business is in the high-end residential construction field, it is not going to be an issue to follow those guidelines

**Vincent Cestone** - So explain to me the 36 feet. Is it 36 feet from the ground or 36 feet from the top of the foundation

**Jacob Bump** - No it is from zero to zero.

**Vincent Cestone** - From the top of the foundation, how tall is it?

**Jacob Bump** - You would have to subtract 4 feet approximately, it depends on where

the dimension is taken from.

**Vincent Cestone** - How high are your ceilings in each floor

**Jacob Bump** - They are, I believe they are 9 feet, I would have to scale them

**Vincent Cestone** - So that's 20 feet

**Jacob Bump** - I would have to scale it

**Vincent Cestone** - And then there are 16 feet additional to that. Where does that come from? I mean 11 feet. Where does that come from?

**Jacob Bump** - Well my guess is that we have finished attic up to the top of the house internal and externals are going to be over 8 feet and then have 3 feet of framing material. From the foundation up and then joist at the first floor and then joist at the second floor

**Vincent Cestone** - Right

**Jacob Bump** - Probably be about 14 inch framing numbers at this point of time given the span. But something like that

**Vincent Cestone** - So what I am asking is if each floor is roughly 10 feet how come we are at, not including the foundation, 32 feet

**Lenny Lim** – 36

**Jacob Bump** - Okay so here are your answers sir. In scaling it from finished grade at the house so below the foundation to the peak of the house plus or minus 35 feet not 36 feet, in the revised drawings that we submitted to you. Okay. Let's see. Okay. From the first floor, finished floor to the second floor finished floor we are looking at 11 feet 2 inches. So first floor finished floor second floor finished floor. We are looking at 11 feet 2 inches. So that accounts for obviously for our internal finish to finish enclosed dimensions plus the framing members above it plus the floor

**Vincent Cestone** - So that brings us up to about 22 feet for two stories

**Jacob Bump** - That's approximately. That's correct

**Vincent Cestone** - From the top of the second story ceiling joist

**Jacob Bump** - From the top of the second floor finished floor to the bottom of the second floor framed members it is looking like 7'4" is what I have called out here.

**Framing members on top of that. And then we have our increase for our attic space. The top of the first floor finished floor to the attic floor 10 feet 8.5 inches. Again that is an overall height from the existing grade from bottom of foundation of 35 feet not 36.**

**Vincent Cestone - So from here to here it is approximately 11 feet 2**

**Jacob Bump - Yes it is 11 feet 2**

**Vincent Cestone - And from the top of here to top here is another 11 feet**

**Jacob Bump - That's correct**

**Vincent Cestone - So this is 22 feet**

**Jacob Bump - That's correct**

**Vincent Cestone - Then from here to the very very peak is**

**Jacob Bump - I don't have a scale. Does anybody have a scale?**

**Vincent Cestone - So this looks like it is roughly two-thirds the height of that if you look at it quickly.**

**Jacob Bump - Well from here to here if I remember dimensioning it it is slightly less than 7 feet and originally it was approaching 8 ½ and the boards request was that we bring it down. And I remember you opening our last meeting stating that you would like to see it come down to the, I think the number was 6 to 6 ½ foot range. It was a verbal statement on you part. Because I remember immediately be able to say it is a condition that we met and that we redesigned the house.**

**Vincent Cestone - So this space here from grade level to here is 8 feet**

**Jacob Bump - It depends on where it**

**Vincent Cestone - I know it depends on where**

**Jacob Bump - It is completely, it fluctuates.**

**Vincent Cestone - But this is**

**Jacob Bump - This is at the maximum**

**Vincent Cestone - So you take the 8 feet 6 from your total height of 35 feet that's**

**Jacob Bump** - Brings it down to 26.5

**Vincent Cestone** - 26 feet, 27 feet. All right.

**Tim Pagones** - He is down to 7 feet right. I think you were at 8.3

**Jacob Bump** - Again, I don't have a scale and it is not called out in the drawing. But I think it is actually high 6's. 6.6 or 6.8 and when you go out 4 feet it is less than 4 feet in height on either side

**Bill Flaherty** - I would like to refresh everyone's mind on the board here of the provisions of the very statute which we are dealing with here and one of the intentions of the zoning law is to and I will read this, is to ensure orderly growth and development of the town to preserve scenic value which makes the town a desirable place to live and which enhances property values to abide for an adequately tax base to support necessary municipal services to preserve and enhance property values to preserve and enhance the appearance and future of the community with enjoyment of the residences of town and the state. This is a very important provision that we have in the zoning law and in order for us, for me since I am speaking for myself, I try to be reasonable as reasonably and clear and equitable when reaching a decision that is going to be hopefully in tune with the zoning laws that we have to work and the guidelines that we have to work with to ensure that we have, that meet the provisions of this paragraph. Now I feel, what I see and what I've studied of the revisions that were made here that this particular home meets the provisions of this particular statute. Unless someone else in the audience or someone else on the board could tell me otherwise, I believe that we are in sync in terms of what we are talking about. Now there maybe a question of percentage, 36 percent, I don't really know. I didn't do the math. But certainly to implement this particular provision I feel that Mr. Bump has made reasonable and fair effort to placate many of the people down in that area and have shown good faith in terms of where he is going toward the board for us to make an informed and intelligent decision that is going to be fair and reasonable and equitable.

**Tim Pagones** - What section

**Bill Flaherty** - 175-2(b) article 1

**Jacob Bump** - I have to be honest with you, given the history of my research that is the following there were a lot of additions done prior to the adoption of building code. There were additions done subsequent to the adoption of building code for which COs were issued after the construction occurred. It is very difficult to get an apples to apples comparison. The best statement again I think this is what the code dictates is that I looked at the finished enclosed or conditioned space all the way along for projects that have happened within the last 20 years which was a period in which there was a formal building code in place. And when I looked at that, I realized that our project in its net,

**gives us an increase in living space of less than a 1000 square feet. 900 square feet**

**Lenny Lim - What is the total living space? What would be the total living space?**

**Tim Pagones - 2225 net living according to the applicant. 2693 gross**

**Jacob Bump - if you measure every single room on the plans length by width, in other words giving you your net livable space that is exactly what you will get**

**Vincent Cestone - So Lenny and Bill, what do you want to do. Do you want to close the public hearing or continue it? I will leave it up to you.**

**Tim Pagones - I guess before, see if anybody else wants to talk**

**Vincent Cestone - I want to get their opinion and I will allow one more question which will be Mr. Schlick**

**Tim Pagones - But I was just going to say I don't know if the Bumps want to respond to Ms. Sullivan's numbers. I don't know. I am assuming this is the first he is hearing it, this is the first he is seeing it, so we should probably give him a chance if, I think he is sticking by his numbers. If he wants to look at those**

**Jacob Bump - I don't know, the difficulty in that process is the following, unless there is some sort of independent arbitrator I don't know what apples to apples are. I am very confident that my numbers are my numbers. And it is taking, I did not include any porches because the code, my interpretation of what I've seen unless finished living space does not take the porches into account. And that is not what we are doing here. It is open space. It is absolutely, again it is opinion, but it absolutely increases the north to south view. There is no further encroachment upon the river. I think that traditionally the number one issue that I have seen in the hearings that have taken place, the ZBA hearings about construction was encroachment upon the river. There has been a significant effort and we will incur significant cost to move the proposed structure back towards the railroad tracks. It is a concession and I think it is a very fair one. We are willing to do it. There have been many properties that have actually encroached upon the river.**

**Vincent Cestone - Where**

**Jacob Bump - You are aware of the whole thing. I don't know what a comparison of the numbers what it gets us at this point in time. Because the other thing quite frankly here is that obviously this is the first time the Schlicks have attended a meeting and have spoken about this, is that it has been on going for some time and I realize that everyone has to do their due diligence and there is a public process and I understand and respect that, I am under the gun to get started. There is a baby on the way in the**

spring and it is not going to happen by then but I would like to get started with it and I can only stress the issues that are at preceding meetings which I have done all the way along as a matter of precedent

**Tim Pagones** - I guess, Ms. Sullivan is saying he has 3800 square feet. And he is at 2600 gross

**Jacob Bump** - We are talking apples to oranges

**Vincent Cestone** - We have the plans in the file. So if it gets that far, the plans are in the file. Your question

**Mr. Schlick** - Well let me first address the issue that Mr. Schlick is here for the first time. Unfortunately there is no way of knowing it. That building is only a 100 feet from me. I was never notified. Remember when we said once before out of courtesy because of how close the buildings are, they notified the one on either side but I am 100 feet from this building.

**Jacob Bump** - I respect that and

**Mr. Schlick** - I have no way of knowing

**Tim Pagones** - Well it was in the paper and other neighbors have been here

**Mr. Schlick** - Well it is not in the paper tonight

**Tim Pagones** - It is a continuing hearing

**Mr. Schlick** - Well then how would I know it. So I am just addressing that point why is he coming up now. Because we have no way of knowing. I am very very very concerned that we are setting ourselves up for a third story. We've been down this road before. You have a full attic and then you have a crawl space above that. If you want storage space and this is nothing personal, you have a garage being done. Then you have a crawl space. If an attic is for storage, it don't have to be stand up room because it only ends up another floor. And if anybody doesn't believe that, really it just doesn't make any sense. Now he might say and he might be the one person out of 100 that might not make it living space but when he sells the building, what has he got? He has three floors. Next owner goes in there and he is going to make it living space

**Robin Bump** - Mr. Schlick wasn't here when we addressed this at length at previous meetings.

**Jacob Bump** - It is not living space. It would be illegal. The plans do not

**Mr. Schlick** - It is not now but it can be

**Jacob Bump** - The point I would bring up that speaks directly to that is the following

**Mr. Schlick** - Can I finish my thoughts

**Vincent Cestone** - Go ahead

**Mr. Schlick** - The young lady just said that it goes to so many feet to 4 feet. My last house, I took the attic okay and it was 4 feet in the eaves and I made 2 or 3 bedrooms for all my kids. I had 5 kids. It is not hard. And you know what, then everybody else has to have it. If you are talking about a sprawling piece of property, go for it. But you see that spiral behind you? That is what that house is going to look like between the two houses on either side. Just like that Church spiral behind you. And you want crawl space for storage, the issue of storage fine have a crawl space not a sizable room that could be another story. It is just storage it doesn't have to be stand up room. Thank you

**Lenny Lim** - What did they bring the height of that down to

**Vincent Cestone** - 6 feet

**Lenny Lim** - that is just the center

**Jacob Bump** - that is just the center line. If you go out basically my wingspan from the center line here you are at 4 feet

**Lenny Lim** – okay

**Jacob Bump** - Again, there is, I have to make these points because they are significant ones. One, it is illegal to do it. Two, there is no provision for any fire suppressant there. There is no stairs in the plans. There would be a drop down stair for attic access. The biggest point is the following, the septic review and in fact the septic allowance which has been granted is based on maintaining the same bedroom count. Now, I understand that someone down the road who purchased the house and someone could live in the attic, but it would be illegal for them to do so. There is a set of checks and balances in place with the town to ensure that that does not happen. It is not what is going to happen. I understand Mr. Schlick's point that someone could do it. I am saying that that is not what is going to happen. It is not what is drawn on the required set of plans submitted. Lastly, in terms of the equipment there you require some vent space for air handlers, you require some vent space for ducting. It is only at the peak where it is 6 feet and it rapidly decreases from the peak outwards. And again, it is integral to the architecture of the house.

**Vincent Cestone - Lenny do you want to continue this or close**

**Bill Flaherty** - I would be in favor of closing the public hearing in as much as this is the fourth or fifth hearing that we had on this issue. And we have new participants at this particular meeting that we have not had before, I think it is very wholesome to understand where you are coming from and I certainly do and the comments you made here this evening, but I don't think we can add too much more to this by having the public hearing stay open unless there are some other view points that were missed here this evening and prior to that public hearings that we have had on the issue. So I would like to close the public hearing and get on with it.

**Lenny Lim** - Yep, I also would like to close it.

**Vincent Cestone** - Okay with that I am going to entertain a 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** - Next time discussion

**Tim Pagonis** - The 20<sup>th</sup> for discussion

**Mary Schlick** - Could I ask a question

**Vincent Cestone** - Sure

**Mary Schlick** - This has nothing to do with the Bump's house.

**Vincent Cestone** - Sure

**Mary Schlick** - The zoning in Philipstown you are allowed to build to 40 feet. But aren't you also supposed to have 3 acres

**Vincent Cestone** - When you come before the zoning board, all those rules go out and everything becomes negotiable

**Mary Schlick** - So it is not a rule if it is not 3 acres and if it is 2 acres you build this high

**Vincent Cestone - No**

**Mr. Schlick** - Remember the setback rule. Mrs. Calhoun, Betsy Calhoun did that with the Cooper building. That when they went up so many more feet, they had to go away from the

**Vincent Cestone** - Right but you are before the zoning board and everything is negotiable

**Mr. Schlick** - I know

**Vincent Cestone** - I am saying, that if you don't have to come to the zoning board, 40 feet is allowed

**Mr. Schlick** - But not for a nonconforming

**Vincent Cestone** - Right. Absolutely.

**Tim Pagones** - It is zoned R-80. It never meets the setbacks. That's how it is prior nonconforming. But you can have a 40 foot house there that is

**Vincent Cestone** - you won't have to apply for a variance for it

**Tim Pagones** - right.

**Vincent Cestone** - You come before the zoning board and that becomes negotiable

**Robin Bump** - My variance was denied based on the side setbacks. I only have code to go on. And I do my diligence and I looked at the code.

**Vincent Cestone** - We will discuss it at the next meeting. The board is going to discuss it

**Tim Pagones** - November 20<sup>th</sup> for discussion.

**Vincent Cestone** - Review minutes of October 2<sup>nd</sup>. Any corrections

**Bill Flaherty** - I had none

**Lenny Lim** - I had none

**Vincent Cestone** - Motion to accept the minutes as submitted

**Lenny Lim** - So moved

**Vincent Cestone - All in favor**

**All Board Members – aye**

**Vincent Cestone - Minutes of October 16<sup>th</sup>**

**Bill Flaherty - I have no corrections**

**Lenny Lim - I have none**

**Vincent Cestone - Motion to accept the minutes**

**Bill Flaherty - So move**

**Vincent Cestone - All in favor**

**All Board Members – aye**

**Vincent Cestone -** So we are going to discussion Jack and Alice Gish, they want to make some changes to the resolution. Is Mr. Gish here? Okay so we are talking about the window and the

**Jack Gish -** We talked about the window and the shape of the roof and I wanted to go ahead and add a peak on the back of the house. Originally the talk was to extend this out with some pillars and we made a motion to never never enclose it and we had a tie vote.

**Tim Pagones -** Last time he was here everybody, I think it was 3 to 1 or whatever, everyone agreed to give him his window. But I think it was 2 to 2 for his roof over the deck. So he came back to see if he can convince someone or somebody had changed. So everyone agreed, he got the window.

**Lenny Lim -** He wanted an awning

**Tim Pagones -** Well Vinnie had suggested an awning. He really didn't want to have an awning. So he is still here. He is here for discussion and did anyone change their mind?

**Lenny Lim -** Are you changing your mind

**Vincent Cestone -** No

**Lenny Lim -** So the vote stays

**Jack Gish** - Can I ask you this question, instead of enclosing the back by bringing the back of this and enclosing it, is there anyway I can just peak it for architectural purposes?

**Vincent Cestone** - You want to peak it and just have an overhang for rain

**Jack Gish** - Yes

**Vincent Cestone** - That's fine

**Jack Gish** - Thank you very much

**Lenny Lim** - Wait a minute. How much of an overhang? Let's get a number

**Jack Gish** - 12 inches

**Lenny Lim** - On the record, how high is this

**Jack Gish** - 23 feet 5 inches

**Vincent Cestone** - in other words you are going

**Jack Gish** - it is the same height as this

**Lenny Lim** - what's the height

**Jack Gish** - how high does this go above the roof?

**Lenny Lim** – Right

**Jack Gish** - I am going to say 3 foot 6 inches

**Vincent Cestone** - That's fine with me.

**Lenny Lim** - What's your overall height

**Jack Gish** - 23 feet 5 inches

**Vincent Cestone** - so the modification of 3 feet how much

**Jack Gish** - 3 feet 6 inches high

**Tim Pagones** - we have to have some quick plans drawn up and submit it

**Lenny Lim** - You have to submit plans. We just can't say it

**Vincent Cestone** - Have plans drawn up and submit it and bring

**Tim Pagones** - November 20<sup>th</sup> and we will have the resolution

**Jack Gish** - Consider it done

**Lenny Lim** - Have new plans drawn up with all the dimensions put in, the height

**Jack Gish** - Whose desk

**Vincent Cestone** - Bring it, can you have it to us by our next zoning board meeting on the 20<sup>th</sup>?

**Jack Gish** - Could I bring it before then?

**Vincent Cestone** - Sure. Bring it downstairs and we will get it in the mail

**Jack Gish** - Thank you very much

**Vincent Cestone** - Okay you are on Tim

**Tim Pagones** - Well why don't we do Weinpahl

**Vincent Cestone** - Okay

**Lenny Lim** - Is Tom here for Weinpahl too

**Tim Pagones** - No. He is here but he is not here for that

**Lenny Lim** - What is Weinpahl, what are we doing

**Vincent Cestone** - We don't have a denial of any

**Tim Pagones** - Let me ask you. We need a letter from the Building Department. I had spoken to Mr. Weinpahl about it. He was going to write Mr. Monroe a letter saying you know what that I think the thing was issued erroneously give me a response from Mr. Monroe.

**Applicant's Attorney** - We are appealing the building permits that were issued. That's what we are appealing

**Lenny Lim - Now I am getting more confused**

**Applicant's Attorney -** The building permits were issued without some provision

**Tim Pagones -** Right but don't you have to, shouldn't you have written Mr. Monroe saying that the building permit was issued erroneously

**David Weinpahl -** Yes I did that

**Tim Pagones -** And Mr. Monroe should have come back with I don't agree with that

**David Weinpahl -** He verbally said that.

**Tim Pagones -** I think I told you that we need a letter for that

**David Weinpahl -** From Tom

**Tim Pagones -** Yes. He can go write it right now if he wants

**David Weinpahl -** He didn't give me a letter but he said that he

**Tim Pagones -** You are appealing the issuance of the building permits and this is the section of the code. So assuming we get that

**Vincent Cestone -** I will put it on in January some time

**Tim Pagones -** The board does not meet in December

**Applicant's Attorney -** We are actually appealing the building permits that were issued and the construction has already commenced

**Vincent Cestone -** Then you would have an option of going to the Courts and getting a stop work order

**Tim Pagones -** A temporary restraining order

**Vincent Cestone -** Right

**Tim Pagones -** I don't think the board wants to be in the position of telling them

**Applicant's Attorney -** No we are just asking for the public hearing

**Tim Pagones -** I guess if you get a temporary restraining order then you don't have to worry, nothing is going to happen.

**Vincent Cestone - Right**

**Tim Pagones - So they don't meet in December and they will never get it in the paper for the 20<sup>th</sup> that's the problem**

**Applicant's Attorney - Is there any way to do that under the circumstances**

**Tim Pagones - No**

**Kim Shewmaker - The deadline 12:00 today**

**Tim Pagones - Yeah, there is nothing new getting set down. There last meeting this year is November 20<sup>th</sup>**

**Applicant's Attorney - And there is no meeting in December**

**Tim Pagones - The Planning Board and the Zoning Board does not meet in December. So then I would suggest if you want get your temporary restraining order and you will be the first, what is the first Monday in January?**

**Applicant's Attorney - The board couldn't act without a public hearing**

**Tim Pagones - No**

**Vincent Cestone - The first Monday in January is**

**Tim Pagones - The 8<sup>th</sup>. So have Mr. Monroe write that letter.**

**Applicant's Attorney - That he does not agree**

**Tim Pagones - Right that he does not agree with your client's interpretation or request that**

**Applicant's Attorney - We asked for an interpretation, we are actually appealing the building permits**

**Tim Pagones - But I believe that he has written to Mr. Monroe saying those building permits were issued in error. So right now how do I know that Tom Monroe doesn't agree with him? That's what I am saying**

**Applicant's Attorney - Well he is here tonight**

**Tim Pagones - I know that, but for the record I think if he just writes a letter saying I**

disagree with you so now you are appealing the issuance of the building permits. I am not going to rescind the building permits. Just a quick letter. And then the file we have

**Applicant's Attorney** - What date is the public hearing

**Tim Pagones** - January 8<sup>th</sup>. What happened is this is the first that the board is looking at it

**Vincent Cestone** - Under law we have to advertise it

**Tim Pagones** - It has to be in the paper

**Applicant's Attorney** - I thought it only had to be in the paper 5 days in advance

**Vincent Cestone** - It won't make the next paper

**Tim Pagones** - Not less than 10 not more than 20 I thought

**Applicant's Attorney** - For an appeal I think is 5

**Tim Pagones** - I have to check but I don't think we'll make it

**Applicant's Attorney** - If we could make it, could we schedule it for 2 weeks

**Lenny Lim** - No

**Vincent Cestone** - No

**Lenny Lim** - I mean, can they make it? No they missed the paper, the advertisement

**Applicant's Attorney** - Sometimes we had

**David Weinpahl** - Can we squeeze it in

**Lenny Lim** - I'm asking Kim. Can we make?

**Kim Shewmaker** - I've never had luck in the past. We always scheduled according to the deadline

**Tim Pagones** - That's up to the board. What do we have scheduled besides six or seven resolutions

**Vincent Cestone** - Nothing

**Bill Flaherty** - It would have to be in the paper by next Monday

**Kim Shewmaker** - No. It would have to be in today for the 20<sup>th</sup>

**Applicant's Attorney** - We have had luck in the past of convincing the paper to put something in a little short of their deadline

**Tim Pagones** - If not, it will be January 8<sup>th</sup>

**Applicant's Attorney** - Thank you. I appreciate that. Would the board like a presentation this evening on what the issue is

**Vincent Cestone** - No. It has to be done during the public hearing so the public can comment

**Applicant's Attorney** - I understand. There is just a number of residents here tonight.

**Vincent Cestone** - It would be inappropriate

**Bill Flaherty** - It would be illegal

**Applicant's Attorney** - Thank you very much

**Vincent Cestone** - You are on Tim.

**Tim Pagones** - Denise Enea is going to be on for the 20<sup>th</sup>. Number 8. I thought it was like 3 to 1. I thought Mr. Flaherty was in favor of it. Do you want to wait a minute and let people leave.

**Vincent Cestone** - yeah

**Tim Pagones** - This is Mr. Enea. Michael Enea

RE: DECISION AND FINDINGS OF THE  
PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #805; Applicant: Michael & Karen Enea  
**Area Variance**

Date: November 6<sup>th</sup>, 2006

The Philipstown Zoning Board of Appeals conducted a Public Hearing on July 24<sup>th</sup>,

**Sept. 18<sup>th</sup> and Oct. 2<sup>nd</sup>, 2006 to hear the appeal of Michael & Karen Enea from the denial of a building permit for construction of a two car garage (amended to a one car garage) having insufficient side setbacks. The property is located on 13 Valley Lane in the Town of Philipstown, Putnam County, New York.**

At a public meeting of the Board on November 6<sup>th</sup>, 2006, 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 MICHAEL & KAREN ENEA FROM A DENIAL OF A BUILDING PERMIT BY THE BUILDING INSPECTOR FOR CONSTRUCTION OF A TWO CAR GARAGE (AMENDED TO A ONE CAR GARAGE) HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS<sup>1</sup>, 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 variance 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 which were revised October 11, 2006. No further enlargement or reconfiguration of the structure is authorized without Zoning Board approval as needed.
2. The setback from the side yard for the garage shall not be less than 10.59 ft. (a variance of 4.41 ft.). ( the applicant shall be entitled to a 14 in. Overhang)

If you subtract the 14 inches, if Mr. Monroe can do that real quick, I will put the actual thing. The 10.59 I spoke to the architect Mr. Lentini, who also happened to be the guy

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<sup>1</sup> 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."

for Cooper, and the 10.59 is for the wall. So that's why I just put in parenthesis he gets a 14 inch overhang. So that there is no question.

- 3. The space above the garage shall not be converted into living space, with either permanent or removable building materials.

Vincent Cestone - No heat

Tim Pagones - Okay so 4 will be no heat shall be installed in the space above the garage

Lenny Lim - Or plumbing

Tim Pagones - Heat or plumbing

- 4. \_\_\_\_\_  
\_\_\_\_\_

- 5. \_\_\_\_\_  
\_\_\_\_\_

FINDINGS OF FACT:

- 1. The Applicant made this appeal (#805), dated June 8<sup>th</sup>, 2006, to the Philipstown Zoning Board for an area variance based upon a denial of a building permit by the Building Inspector for construction of a two car garage 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"**.

Kim will attach that

- 2. The property, a 0.279 acre parcel on Valley Lane, 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 15 feet from the side or rear property lines.
- 3. The Applicant acquired title by a deed dated October 5<sup>th</sup>, 2005. The

structures at the property, appear on a map dated August 18<sup>th</sup>, 2005, as prepared for Michael & Karen Enea by John Harris Decker L.S. in Red Hook N.Y. The proposed garage appears on a plan by John Lentini R.A. dated June 7<sup>th</sup>, 2006 last revised October 11<sup>th</sup>, 2006.

4. The Board initially reviewed the Application materials at its regular monthly meeting on June 26<sup>th</sup>, in order to determine sufficiency as a pre-requisite to scheduling a public hearing on the appeal. The Board requested a professionally executed map clearly indicating the heights of the proposed structure. The Board determined the Application "substantially complete". A properly noticed public hearing was scheduled for July 24<sup>th</sup>. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as **Schedule "B"**.

5. The Board met on July 24<sup>th</sup>, for the purpose of conducting the public hearing. Besides the Board Members and the Applicant, the applicants father spoke. The public hearing was continued on Sept. 18<sup>th</sup> and again on Oct. 2, 2006. During the public hearings it was agreed that the applicant was aware of the land restrictions and that a one car garage would be more appropriate. The applicant agreed to modify his appeal and plans to reflect the reduction to a one car garage. The public hearing on October 2<sup>nd</sup>, 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 originally were looking to build a two car garage. The board advised the applicants that by law the smallest variance needed had to be granted. The Board also advised the applicants that usually the buildings should fit the land and although they would like to have a 2 car garage, that request was a life stile issue. After much discussion it was agreed that the appeal would be amended to request a one car garage. The requested variance for the one car garage will not adversely affect property values because the many of the surrounding homes have one car garages. 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. Additionally, the garage will be built in such a manner so as to blend in with the existing house. Some members of the public attended the hearing. The next door neighbor of the applicants spoke in favor of the proposed garage. 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 location of the house and the applicants septic there really isn't any other feasible spot to build a garage. Unfortunately the house was built in a place that the Applicant can not build a garage without coming into conflict with the Philipstown Code. Given the amount of intrusion into the setback, denial of the variance would cause more hardship to the Applicant than benefit to the neighborhood or Town.

**Bill Flaherty - Excuse me Tim**

**Tim Pagones - Yes**

**Bill Flaherty - On that page I would like to make one correction**

**Tim Pagones - Okay. Where**

**Bill Flaherty - Life style**

**Kim Shewmaker - I already got it. I got it already**

**Bill Flaherty - You got it already?**

**Tim Pagones - How do you spell it**

**Kim Shewmaker - S T Y L E**

**Tim Pagones - And I spell checked too**

**Tim Pagones -**

Extent of Variance

3. The Applicants request a variance of 4.41 ft. from a set back which should be 15 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 a one car garage is not an activity usually associated with such environmental concerns. No additional traffic will be 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 created<sup>2</sup>. The Applicant wishes to construct the garage and was aware of the need for a variance when the house was purchased. The applicants contacted the Building Department for permits and were 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 6<sup>th</sup>, day of November, 2006, the results were as follows:

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

**ATTENTION APPLICANTS**

**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.**

**Tim Pagonis** - And I have to remind you that it has to be unanimous otherwise it is no action

**Vincent Cestone** - I make a motion to accept the resolution as read

**Bill Flaherty** - I'll second

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

**Vincent Cestone - All in favor**

**All Board Members - Aye**

**Vincent Cestone - Len?**

**Lenny Lim - I vote in favor**

**Bill Flaherty - I vote in favor**

**Vincent Cestone - And so do I**

**Tim Pagones - Okay. Brown.**

**RE: DECISION AND FINDINGS OF THE  
PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #808; Applicant: Roy & Maria Brown  
Area Variance**

Date: November 6<sup>th</sup>, 2006

The Philipstown Zoning Board of Appeals conducted a Public Hearing on September 18, 2006 to hear the appeal of Roy & Maria Brown from the denial of a building permit for construction of a screened porch addition to the existing house having insufficient setbacks. The property is located on 288 East Mountain Road in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on November 6<sup>th</sup>, 2006, 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 ROY & MARIA BROWN FROM A  
DENIAL OF A BUILDING PERMIT BY THE BUILDING  
INSPECTOR FOR CONSTRUCTION OF A SCREENED PORCH  
ADDITION TO THE EXISTING HOUSE HAVING INSUFFICIENT**

**SETBACKS, WITH THE FOLLOWING CONDITIONS<sup>3</sup>, 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.
2. The setback from the side yard for the screened porch addition shall not be less than 8ft. 3in.(a variance of 11ft. 9in.).
3. The screened porch 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.

**Tim Pagones - Any other conditions?**

**Lenny Lim - No heat**

**Vincent Cestone - No heat, no plumbing**

**Tim Pagones - Okay. No heat or plumbing shall be installed into the screened porch.**

**Lenny Lim – Right**

**Tim Pagones -**

4.

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<sup>3</sup> 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."

\_\_\_\_\_

5.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FINDINGS OF FACT:**

1. The Applicant made this appeal (#808), dated July 10<sup>th</sup>, 2006, to the Philipstown Zoning Board for an area variance based upon a denial of a building permit by the Building Inspector for construction of a screened porch 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"**.

Kim will attach that

2. The property, a 1.06 acre parcel on East Mountain Road, is located in a R-40 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the R-40 District requires a setback of 20 feet from the side or rear property lines.
3. The Applicant acquired title by a deed dated September 30<sup>th</sup>, 2005. The structures at the property, appear on a site plan dated February 16, 2006, as prepared for Dr. Roy & Ms. Maria Brown by Eva Bouhassira Architect P.C. in Hastings on the Hudson, N.Y.

monthly meeting on July 24, 2006 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 September 18<sup>th</sup>, 2006. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as Schedule "B"**.

Kim will attach that

5. The Board met on September 18<sup>th</sup>, for the purpose of conducting

the public hearing. Except for the Board Members, the Applicants and the Applicants' Architect, 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 applicant proposes to construct a screened porch addition to the existing house. The requested variance will not adversely affect property values because the house is screened and far enough from other homes so it will not be too visible. The structure does 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. 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 topography and lay out of the house, the Applicant can not build the screened porch in a different location without the need of a variance of the Philipstown Code. Given the amount of 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 11ft. 9in. from a set back which should be 20 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 a screened porch onto an existing house is not

an activity usually associated with such environmental concerns. No additional traffic was 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 created<sup>4</sup>. The Applicants wish to construct the proposed screened porch onto the existing house. The applicants made application to the Building Department for permits and were informed of the need of a variance.

#### THE BALANCING TEST:

Based upon the above findings, and taking into consideration the benefit to the Applicants 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 6<sup>th</sup>, day of November, 2006, the results were as follows:

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

#### ATTENTION APPLICANTS

**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**

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<sup>4</sup> While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.

**THE BUILDING DEPARTMENT FOR YOUR PARTICULAR CIRCUMSTANCES.**

**Tim Pagones** - Which needs to be unanimous.

**Vincent Cestone** - I will 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** - Len?

**Lenny Lim** - I'll vote in favor

**Vincent Cestone** - Bill?

**Bill Flaherty** - I vote in favor

**Vincent Cestone** - And so do I

**Tim Pagones** - That's two. Lastly,

RE: DECISION AND FINDINGS OF THE  
PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #809; Applicant: Patrick & Luisa Perkins  
**Area Variance**

Date: November 6<sup>th</sup>, 2006

The Philipstown Zoning Board of Appeals conducted a Public Hearing on September 18<sup>th</sup>, 2006 to hear the appeal of Patrick & Luisa Perkins from the denial of a building permit for a one story addition and a deck having insufficient front setbacks and legalize the existing front porch which had the C/O revoked. The property is located on 1711 Route 9D, Cold Spring, in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on November 6<sup>th</sup>, 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 PATRICK & LUISA PERKINS FROM A DENIAL OF A BUILDING PERMIT BY THE BUILDING INSPECTOR FOR CONSTRUCTION OF A ONE STORY ADDITION AND A DECK AND LEGALIZE THE EXISTING FRONT PORCH THAT HAD THE C/O REVOKED ALL HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS<sup>5</sup>, 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 is authorized without Zoning Board approval as needed.
2. The setback from the street line for the existing front porch shall not be less than 26.0 ft. (a variance of 24 ft.). The setback for the proposed addition from the street line shall not be less than 33.5 ft. ( a variance of 16.5 ft.). The setback for the proposed deck shall not be less than 49 ft. ( a variance of 1 ft.).
3. The existing front porch and proposed deck 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.

And we will put something no heat or plumbing will be installed in the front porch

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<sup>5</sup> 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."

or the back deck.

4.

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5.

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**FINDINGS OF FACT:**

1. The Applicant made this appeal (#809), dated July 12<sup>th</sup>, 2006, to the Philipstown Zoning Board for an area variance based upon a denial of a building permit by the Building Inspector for construction of a one story addition and a deck on the rear of the house as well as to legalize the existing front porch that had the C/O revoked. 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"**.

Kim will attach the composite list of exhibits

2. The property, a .360 acre parcel on Route 9D, is located in a B-1 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the B-1 District requires a setback of 50 feet from the street line.
3. The Applicant acquired title by a deed dated July 10, 2001. The structures at the property, appear on a site plan dated May 5<sup>th</sup>, 2006, by Michael P. Carr P.E. in Cold Spring N.Y.
4. **The Board initially reviewed the Application materials at its regular monthly meeting on July 24<sup>th</sup>, 2006 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 September 18<sup>th</sup>. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as Schedule "B".**

**Kim will attach that**

5. The Board met on September 18<sup>th</sup>, for the purpose of conducting the public hearing. Except for the Board Members and the Applicant, no members of the public attended 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 variances with certain conditions.

**FINDINGS AND CONCLUSIONS:**

**Adverse Effects on the Neighborhood**

1. The applicants seek to legalize the existing front porch that had its C/O revoked due to insufficient front setbacks as well as receive a variance for a proposed one story addition and wood deck. The requested variance will not adversely affect property values because the front porch is already there and the proposed addition will blend in with the existing house. The proposed deck will not be visible from the road since it is being built on the back of the house. The structures 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 attended the hearing. 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 house is a prior non-conforming structure, the Applicant can not build the addition and deck without coming into conflict with the Philipstown Code. The front porch to the house was already given a building permit and C/O which was revoked when it was determined that it did not comply with the setback requirements. Given the amount of intrusion into the setback, 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 a variance of 24ft. For the existing front

porch, 16.5 ft. for the proposed addition and 1 ft. for the proposed deck from a set back which should be 50 ft. from the street line.

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 a one story addition and wood deck and the legalization of the existing front porch are not an activities usually associated with such environmental concerns. No additional traffic should be generated. Air quality should not be disturbed. Water quality or quantity will 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 not self created<sup>6</sup>. The Applicant wishes to construct an addition and deck onto the prior non-conforming structure as well as legalize the front porch that had its C/O revoked. The applicants made application to the Building Department for permits and were 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 variances were 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 6<sup>th</sup>, day of November, 2006, the results were as follows:

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

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<sup>6</sup> **While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.**

**ATTENTION APPLICANTS**

**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 will 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** - Bill?

**Bill Flaherty** - I vote to approve

**Vincent Cestone** - I vote to approve. Len?

**Lenny Lim** - I vote to approve

**Tim Pagones** - Okay.

**Vincent Cestone** – old business? Dave, I have a resume of someone who is interesting in a position for the Zoning Board and it is Paula Clare and it is the board opinion that we all support her in the instance. I'll give it to you later.

**David Brower** - I'll bring it down.

**Tim Pagones** - Mr. Monroe?

**Mike Gibbons** - Can I get a clarification on the David Weinpahl DeVito situation. Did you accept the case or not?

**Tim Pagones** - Yes.

**Mike Gibbons** - Okay

**Tim Pagones** - We took it pending, I mean he is going to get a letter from Mr. Monroe saying that, when I spoke to Mr. Weinpahl, I told him that he needs to write Mr. Monroe and say I think you issue the permits erroneously. And then a letter from Mr. Monroe back to him saying no I did not

**Mike Gibbons** - Okay

**Tim Pagones** - So we know that Mr. Monroe didn't agree with him. So we are going to set it down for a public hearing and they are still going to get us a letter stating that.

**Mike Gibbons** - Okay

**Tim Pagones** - That's all

**Vincent Cestone** - Tom if you could be here for that one I'd appreciate it.

**Lenny Lim** – Weinpahl?

**Tim Pagones** - Number 11 Weinpahl.

**Kim Shewmaker** - It is on January 8<sup>th</sup>

**Vincent Cestone** - With that I'd

**Tim Pagones** - Mr. Monroe wants to speak

**Vincent Cestone** - You want to say something Tom

**Tom Monroe** - The reason I want to meet with the Board is that it keeps coming back to my office that the Board seems to have a problem with what I do, the way I do things, what happens

**Tim Pagones** - Do you want to close the meeting?

**Vincent Cestone** - Let's close the meeting. I will make a motion to close the meeting. Do I have a second?

**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:** 11/20/06

Respectfully submitted,

Kim Shewmaker  
Secretary