

ZONING BOARD OF APPEALS

February 23, 2009

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, February 23, 2009, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT: Vincent Cestone	-	Chairman
Lenny Lim	-	Member
Bill Flaherty	-	Member
Robert Dee	-	Member
Paula Clair	-	Member
Adam Rodd	-	Counsel

ABSENT:

explain to us exactly what the issue is

Robert Garramone - The issue is that we excavated our land which is on a hill

Vincent Cestone - Right

Robert Garramone - put in an above ground pool. I added like a walk way along the backside and a small sitting deck on the end. The deck I believe goes over the limit that you allow

Vincent Cestone - Right into the setback

Robert Garramone - The setback. Yes sir. Of course I didn't do it intentionally. It wasn't my, I know ignorance is not an excuse but

Vincent Cestone - Tell me a little bit about the land

Robert Garramone - Most of the land is steep. There is a flat part where my house is here, this is the driveway, and this all grades up. And so we cut out as much of the land to give us a backyard and allow

Vincent Cestone - Is your septic system here

Robert Garramone - That's the front yard

Vincent Cestone - But is your septic system in here

Robert Garramone - The septic system I think is over here

Vincent Cestone - And this must be your expansion area.

Robert Garramone - I am not familiar with that.

Vincent Cestone - So what you are looking for is a variance for here. And how much is it to the pool itself

Robert Garramone - I think from here to the pool is probably about 30 feet.

Vincent Cestone - So basically what you are doing is asking for the deck

Robert Garramone - Yes sir

Vincent Cestone - Okay.

Robert Garramone - You know how hard it is to sell a house. I just got an accepted offer today.

Vincent Cestone - Okay

Robert Garramone - So, I am hoping you are going to allow me to leave it. If not, I will follow your direction.

Vincent Cestone - Okay

Lenny Lim - Is it an above ground pool

Robert Garramone - Yes sir

Lenny Lim - How long has it been there

Robert Garramone - The pool has been there, well a tree fell on it. This is a pretty new pool about 2 years. But I have had a pool there I am going to say 10 years.

Lenny Lim - You never thought about going in for a permit for the deck

Robert Garramone - No sir. I didn't think it was necessary since it wasn't attached to the house. I was told if you attach a deck to the house I would need a permit.

Lenny Lim - Did you build this or did somebody else build it?

Robert Garramone - I built that section of the deck.

Vincent Cestone - Any questions?

Bill Flaherty - I have no further questions

Vincent Cestone - Bob do you have any questions

Robert Dee - No. no questions

Vincent Cestone - Anybody in the audience wish to speak on this?

Robert Garramone - I don't know if it means anything but my neighbor on the side has no problem with it

Lenny Lim - Do you have a letter from him

Robert Garramone - No but I can bring one in at the next meeting if that will help. I have spoken with him

Vincent Cestone - And how close is your neighbor. You don't see it on the drawing

Robert Garramone - Right. How many feet away?

Vincent Cestone - Like say right in here?

Robert Garramone - Oh no he is back in this area here. He must be about 40 feet away. There is a stone wall here and there are trees growing along the stone wall

Vincent Cestone - And on your deck next to the pool, can you see his house

Robert Garramone - Yes you can see it. In the winter time you can see his house

Vincent Cestone - But in the summer time you can't see his house

Robert Garramone - Well not as much. I had planted some like blue spruces in a horseshoe around the deck here so it kind of blocks the view of the deck

Vincent Cestone - Okay so you have it screened

Robert Garramone - Yeah, they are kind of big now. I planted them 10 years ago. But I did a horseshoe of spruces

Vincent Cestone - If there are no more questions, I would entertain a motion to close the public hearing

Bill Flaherty - I'll second

Vincent Cestone - I guess I'll make a motion. All those in favor

All Board Members - Aye

Vincent Cestone - Do we want to vote? We are not going to do straw polls under the recommendation of our attorney. Do we want to vote on this or do you want to think about it?

Lenny Lim - I can vote

Bill Flaherty - I'm ready

Vincent Cestone - Is everybody okay with the vote? Okay.

Bill Flaherty - I vote in favor

Paula Clair - I vote to approve

Vincent Cestone - Lenny?

Lenny Lim - I vote against

Robert Dee - I vote against

Vincent Cestone - I vote in favor

Robert Garramone - Thank you

Vincent Cestone - That's 3 to 2. It carries. So that means you've got it

Robert Garramone - So I can leave the deck?

Vincent Cestone - Yes

Robert Garramone - Thank you. Is there something that I need to do next.

Vincent Cestone - The resolution will happen at the next meeting. But, you need this for the sale of the house

Robert Garramone - I think there is a CO involved? My wife usually does this stuff

Vincent Cestone - Yes there would be a CO involved. But the building department cannot issue that until we have the actual resolution in hand

Robert Garramone - Okay

Vincent Cestone - So

Robert Garramone - How long would that be

Vincent Cestone - It could be as long as a month

Robert Garramone - I think the closing is in 2 months but the way the banks are working it might be longer. Thank you very much. I appreciate your time.

Vincent Cestone - Next on the agenda is Dominick LaForgia. Is there someone here to speak?

Audience Member - He was just here, he went outside

Vincent Cestone - So we will put that on hold and call him again at the end of the meeting. Review of Minutes of January 26th. We had a problem with the tape machine so it is incomplete

Kim Shewmaker - Does anybody have any additional notes they would like added to it?

Vincent Cestone - No. So what do we do in this instance when something like this happens. Do we vote on it incomplete like this?

Adam Rodd - Well these are the transcribed minutes and that's all there is. You can't create what is not there to the extend of what was transcribed was accurate, you can vote on that. Any corrects or additions as to what is in there

Vincent Cestone - Okay. So unless there is any additions or corrections, I will make a motion to accept them as submitted.

Bill Flaherty - I second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Okay. Next on the agenda is a vote on Ribeiros Construction. And I asked the members to stick with the five

Lenny Lim - Factors

Vincent Cestone - Factors and this is for the plans as submitted. Going through the five factors for myself I would say that the applicant probably couldn't achieve their goals in other ways because of all the limitations on the land and even though the application is a substantial application there have been substantial reduction in the initial site of the structure and it has moved further back so that you could park a few cars in the parking spaces in front of the house. Will the variance have an adverse affect on the physical environment or character of the neighbor? To a small degree in my opinion. Not a huge degree. And this is definitely a self created hardship but I would vote in favor of granting the variance.

Lenny Lim - What is the final square footage that he came up with

Vincent Cestone - What was the square footage

Applicant's Architect – 1492

Adam Rodd - One thing that I would just clarify just for the record. I know there were several revisions to the plans that were made. Can we get a date of the most recent

Applicant's Architect – It should be right on

Adam Rodd - I just want to confirm

Applicant's Architect – 1/21

Adam Rodd - that's the most recent

Applicant's Architect – that's the most recent

Adam Rodd - and these are the plans you are looking to get approved

Applicant's Architect – yes

Adam Rodd - okay 1/21/09

Vincent Cestone - So, Lenny? Your vote

Lenny Lim - I vote in favor

Vincent Cestone - Bob?

Robert Dee - I vote in favor

Vincent Cestone - Bill?

Bill Flaherty - I vote in favor

Vincent Cestone - Paula?

Paula Clair - I vote in favor

Vincent Cestone - And so do I. As far as conditions, I have asked each of the board members to have a say in conditions. If I remember correctly from the, from looking at the drawings, the basement is unimproved and I would like to have the basement maintained as unimproved as a condition. In addition it has a two car garage and two parking spaces in front, as a condition of the variance I would want that the two car garage be maintained as operable and not storage and that parking for four cars be maintained. 2 in the garage and 2 in the parking spaces to limit the amount of times people park in the street. Because of the narrowness of the street. Anyone else have anything else to add?

Paula Clair - Um yeah I do, I want to make a condition that the dead spaces on the second floor around the bedrooms not be made into livable space at a later date.

Adam Rodd - Okay

Bill Flaherty - I don't think it is do-able. I mean that is very common in any home that has dormers.

Vincent Cestone - But what you are saying is that these four spots cannot be turned into livable space

Paula Clair - yeah

Adam Rodd - Just so we are clear basically the proposal for construction is a two bedroom structure and that will be a condition express and implicit in that we are approving the plans as submitted which is only for two bedrooms

John Zarcone - Gentlemen and Ladies if I may

Vincent Cestone - I can't hear you

John Zarcone - I just say gentlemen and ladies we will follow whatever the final that is issued by the ZBA tonight. I know that it is on the record but whatever is

finalized and placed in writing, my client and I will be more than happy to follow what is issued by this board tonight. And I just want to thank you for the time and place and your efforts placed here with us. I know that it has taken quite a bit of time. I apologize for whatever delay that might have been on our part. And I am happy that it has come to a final and that it has come to a resolution at least in our favor, and I am happy that the board has worked with us on this.

Vincent Cestone - Any other conditions. If not, we will move on to the next item.

John Zarcone - Thank you. Ladies and gentlemen have a good evening. And I look forward to receiving the D and O

Vincent Cestone - At the next meeting we will have the resolution

John Zarcone - Sure, and I am, we will be in contact. Thank you very much. Have a good evening.

Vincent Cestone - Is Mr. LaForgia here? Okay we talked briefly at our last meeting. Just refresh me on what you are looking for and why you are here

Dominick LaForgia - I am looking for a variance on an enclosed porch that has been there at least since 1986 when I bought the house. And it has been there much longer than that. The property itself was, the property next door and this particular property was owned by one person years ago and apparently that owner had built another house, that's why they are so close to each other. But going back to when I bought the house, my attorney, my real estate agent, the title company, everyone, nobody picked up that there was no CO on this porch. I had no idea. I have lived there for years and years. Now when I sold the house, I was told that I need a CO on the porch. Which was very shocking and disappointing. Now if I were to not get the CO, it would certainly put a huge hardship on me. I can go into the details if you would like but

Vincent Cestone - No I can imagine

Dominick LaForgia - I am out of work, there are a lot of things going on, health problems, anyway the house itself aside from the porch is approximately

Vincent Cestone - 1.7 feet

Dominick LaForgia - the house not the porch. And the porch is approximately that distance too. So everything looks in line. I have pictures to show you what it looks like. This is looking towards the porch, the back of the porch

Vincent Cestone - This is the porch here

Dominick LaForgia - Yes.

Vincent Cestone - And this fence is the property line

Dominick LaForgia - Yes. That's another view of the porch, view from the back of the porch

Lenny Lim - How old is this house

Dominick LaForgia - From what I know 1947

Lenny Lim - So it is pre-existing nonconforming

Dominick LaForgia - Whatever that means

Vincent Cestone - It was before zoning code

Lenny Lim - Built before zoning code

Vincent Cestone - Zoning was 1957

Dominick LaForgia - Okay

Lenny Lim - So it was enlarged after

Dominick LaForgia - Well the porch was put on after. But I don't know when

Lenny Lim - Who closed in the porch

Robert Dee - You bought the home in 1986

Dominick LaForgia - Yes

Lenny Lim - It is enclosed. Is it living space

Dominick LaForgia - no

Robert Dee - Does it have heat

Dominick LaForgia - No heat

Adam Rodd - So that porch has been there since the time you purchased the property

Dominick LaForgia - Yes. This is a picture from the inside looking out. There is no heat. Actually it is more storage than anything. There is no basement. There is no attic. It is very vital to the house just to store things.

Bill Flaherty - I am very surprised that this wasn't picked up at the time

Dominick LaForgia - Exactly. You think the title company, my lawyer, real estate people, they must have knew something

Bill Flaherty - Generally the title company, the attorney may not necessarily know

Dominick LaForgia - The lawyer's sister was the title company. She recommended this company, for whatever, I don't know what's going on there but if you work for a title company

Bill Flaherty - Well the title company didn't do their job

Dominick LaForgia - Well obviously but what I am saying is that it was her sister

Robert Dee - Excuse me is there a foundation to this

Dominick LaForgia - Yes

Robert Dee - And you have electric in it

Dominick LaForgia - Yes. A couple of lights

Robert Dee - So you have electric

Dominick LaForgia - Yes

Robert Dee - Is there heat in it? A fireplace

Dominick LaForgia - No

Robert Dee - No fireplace?

Dominick LaForgia - In the porch itself?

Robert Dee - Yes

Dominick LaForgia - No

Robert Dee - Where is this fireplace then?

Dominick LaForgia - That's in the living room which is behind,

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

the audience? I make a motion to close the public hearing

Robert Dee - I second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Can I keep these (pictures)? Because I want to put them in the record

Dominick LaForgia - Yeah. Can I get them back one day down the line?

Vincent Cestone - It would be permanent

Dominick LaForgia - Okay keep them

Vincent Cestone - Do we want to take a vote on this or do we want to think about it for the next meeting?

Bill Flaherty - I can take a vote on it.

Vincent Cestone - Anyone else want to wait or do we want to vote

Robert Dee - I'll vote

Adam Rodd - Do you want more information?

Bill Flaherty - I vote in favor

Paula Clair - I vote in favor

Lenny Lim - I'm in favor

Adam Rodd - I was going to recommend that you go through the five factors but it is up to you. We should do that for all votes

Vincent Cestone - Okay.

Adam Rodd - The first factor is will the

Vincent Cestone - It is not an undesirable change to the neighborhood because it has been there since day one. The benefit sought by the applicant cannot be achieved in a different way because he would have to tear it down. So there is no feasible alternative to this. Is the requested variance substantial, yes but it has been there since we are guessing before zoning so it may be pre-existing

nonconforming. Will it have an adverse affect on the neighborhood, I don't think so because it has been there so long. And, is it self-created, the applicant said that he bought the house this way and his title company had missed this so it is not self-created. He is just dealing with the consequences of it. And because of that I would vote in favor.

Robert Dee - I vote against.

Vincent Cestone - 4 to 1. So it will be downstairs. We have 62 days to do this but we will do it before that. The attorney writes up the resolution and I have to sign it and then it goes down to the Town Clerk.

Dominick LaForgia – Okay. Will something be mailed to me?

Vincent Cestone - It is not mailed. You would have to go to Town Hall and pick it up.

Dominick LaForgia - If I come back in a month will it be done

Vincent Cestone - What you can do is call the building department, they would know

Dominick LaForgia - Okay. thank you

Vincent Cestone - Okay the next are reviews for completeness. Alfred and Kim Cinquina.

Adam Rodd - Are they here

Vincent Cestone – No. Kim, if we put this on the agenda what is the earliest we could have a public hearing? We couldn't do it on March 9th

Kim Shewmaker - No. The 23rd of March would be the earliest.

Vincent Cestone - So Monday, the 23rd of March

Kim Shewmaker - For new public hearings

Vincent Cestone - Yes

Bill Flaherty - I reviewed the application and I believe it is incomplete. It is not signed by the applicant

Kim Shewmaker - It is not notarized

Bill Flaherty - Nor is it notarized.

Adam Rodd - The other thing is and I don't have it in my packet is I did not see a C of O. Did anyone get a CO on this?

Kim Shewmaker - No.

Adam Rodd - I think we can as long as we advise him that they need to have this in our hands that is a signed and notarized application and a CO, I think we can set it down for a public hearing. Obviously, if they don't have it then we don't have to go forward.

Bill Flaherty - It is also missing the adjacent homeowners on the application

Vincent Cestone - Then it is incomplete. I am not even going to put it down for a public hearing

Adam Rodd - It is up to the board. Either we can schedule it or say we are not going to set it until we have these materials.

Bill Flaherty - I think we should notify them that we received their application and we necessary information before we go forward.

Kim Shewmaker - So we need it to be signed, notarized, a copy of CO and adjoiner list. Anything else?

Adam Rodd - Isn't that supplied by the building department

Kim Shewmaker - They help them with it through the assessor's office

feet from the property line

Vincent Cestone - Moving on to David Lant. This is a review for completeness not a public hearing so we really can't go into any details. We just want to make sure everything is here.

Adam Rodd - Which application are we on?

Robert Dee - Lant

Vincent Cestone - And is this the porch we are talking about over here

David Lant - Yep

Robert Dee - You are requesting a 23 foot variance

Applicant ? - Yes we are because we need 30 feet

Robert Dee - And you are asking to go 23 feet into it

Applicant ? - The porch is going to be 7 feet from the property line. The house as it is is already about 13 feet when we bought it

Robert Dee - It was a big variance I just wanted to check

Applicant ? – yes

Vincent Cestone - Do you have a CO for your property

David Lant - It should be in there

Adam Rodd - We have the CO

Vincent Cestone - Okay you are on for March 23rd for public hearing

David Lant - March 23rd

Vincent Cestone - That's our next meeting. At that time we will ask you a bunch of questions and your neighbors will have a chance to speak.

Applicant ? - Okay

David Lant - Do we need to bring anything

Vincent Cestone - No. If you have letters from your neighbors on that side

David Lant - Well the people, the piece of land next door just the way it is set up no one has ever built there because they have water all around the property

Vincent Cestone - But if the landowner says they have no problem with it, that is to your advantage. That's an advantage you would have if you have something from the adjacent landowner to what you are doing

Applicant ? - From the landowner. There is no house on the land

Adam Rodd - Photos would be helpful also in the area in which you want to build. If there is nothing near it or visible that would be very important for the board to be shown

Applicant ? - Okay

David Lant - Thanks

Vincent Cestone - You're welcome.

Adam Rodd - Just as a quick point of clarification, in terms of the list of adjoining property owners in general. I think that is something that is supplied by the building department. That they will give the applicant a list because obviously that is needed for the mailings. I don't think it is customary, correct me if I am wrong, that it is with the application itself. The building department provides that to the applicant

Vincent Cestone - But we run into Adam is we don't get it, we had more than one instance where the person said well I never knew. And when we have the proof that we mailed stuff out,

Adam Rodd - I am just saying that for application purposes they have to do a mailing and they have to do it by a certain period of time and they have to mail people within a certain distance of the property, that's a given. Because I was just thinking as I was thumbing through the other applications that we had and they didn't have mailing lists or who is within the 500 feet

Kim Shewmaker - It is on the first page of the application

Adam Rodd - But that is supplied by the building department

Bill Flaherty - Well generally you're right. The building department would provide them with that information but in this case I don't think that this application was reviewed by the building department. I think they would have picked that up

Kim Shewmaker - They would have signed it and notarized it as well

Bill Flaherty - Exactly

Vincent Cestone - But the building inspector received the check

Kim Shewmaker - You're right. It goes to the building department with a check and it is issued an appeal number and given to me

Vincent Cestone - Okay next review for completeness is Dong an Unjoo Yu.

Joe _____ - I am Joe _____, I am the architect representing Mr. Yu.

Vincent Cestone - This is just review for completeness to make sure we have everything that we need before we schedule you for a public hearing. And it looks complete to me. Anybody see anything that may be missing?

Bill Flaherty - I reviewed this and they have a map, a survey map here from 1969

Joe _____ - There is one on file with the Town that is dated 1993. And if you need one newer, we also have that

Bill Flaherty - Well if that's the case, we should have it here because I haven't seen it

Adam Rodd - Just so I am clear maybe the applicant can confirm this, my understanding is that you are before the Planning Board

Joe _____ - Yes

Adam Rodd - For a site plan approval. And in the course of their review they have determined that the proposal doesn't meet two setbacks

Joe _____ - Front setback and the right setback

Adam Rodd - Right. Just so we are clear. My understanding is is that the structure needs to be set back from a residential district

Joe _____ - 35 feet

Adam Rodd - by 35 feet and you are proposing on the right side 13.9 feet

Joe _____ - it may actually be a couple of inches less than that

Adam Rodd - okay. And on the street line setback the code requires 50 feet and you are proposing 35

Joe _____ - that's correct.

Adam Rodd - And those are the two variances

Joe _____ - That's it

Adam Rodd - Okay

Joe _____ - In a nut shell. There should be a survey drawn by John Romeo dated July 1, 1993 on file in the Town records. We have a new one.

Vincent Cestone - Here with the garage, I guess you are asking for a variance for this spot here

Joe _____ - Yes. What it is is there is a garage here and then there is 13 feet

Vincent Cestone - But it is not on the drawing.

Joe _____ - It is not on this drawing. We have a new one

Lenny Lim - But we don't have it

Joe _____ - We are giving it to you right now

Vincent Cestone – okay

Joe _____ - This has just been done. Mr. Yu just had this one done.

Vincent Cestone - We are going to put you on the 23rd of March for a public hearing

Joe _____ - March 23rd

Vincent Cestone - Yes. That's our next meeting.

Joe _____ - Thank you very much.

Vincent Cestone - Okay. Therapeutic Equestrian Center for a Special Use Permit. This has to be referred to the Planning Board. We have to do two things here. First, I make a motion to refer this to the Planning Board.

Bill Flaherty - Second

Vincent Cestone - All those in favor

All Board Members - Aye

Vincent Cestone - Secondly, I make a motion to declare us Lead Agency on the SEQR on this application. And what was the other thing

Adam Rodd - In an uncoordinated review

Vincent Cestone - In an uncoordinated review. I'll make that motion. Do I have a second?

Bill Flaherty - I'll second

Vincent Cestone - All those in favor?

All Board Members – aye

Vincent Cestone - So you are off to the Planning Board

Glennon Watson - Thank you

Vincent Cestone - As far as old and new business. I don't know how the other members feel but I really feel uncomfortable voting right after the public hearing.

(Cannot hear the conversation)

Vincent Cestone - I am discussing voting without a straw poll. I have a level of feeling uncomfortable with that and am looking for guidance from the other board members as to what we should do. Should we go back to straw polls, should we make it a policy that we don't vote until the resolution is done, what should we do?

Lenny Lim - Look at it from the applicant's point of view, we should tell them as soon _____(cannot hear conversation)

Vincent Cestone - I think my discomfort is because I don't have the ability to digest, you know how you go home and you think about it.

Paula Clair - Well it depends on the case too. Sometimes

Vincent Cestone - Little ones is not a problem

Adam Rodd - Well my suggestion is if you want to, if any board member wants to consider because the application, in other words you don't have to vote on the spot once it is closed. You might want to think about it, re-review the materials, there is no obligation for you to vote on the spot. My recommendation is that when you are ready to vote, and it doesn't have to be that night, you vote. Because the resolution that I prepare is going to be based on the vote of the board, the majority of the board. And it puts the zoning board in some difficulty if there is a straw poll vote to vote for example in favor with the direction that I write a resolution and then I have a resolution with all the wonderful reasons why the application or the variance should be granted and then if the board decides to go the other way, if it is challenged in court it makes it very very difficult because the Court is going to see this resolution with all these wonderful reasons for granting the variance or denying the variance, whatever the majority felt. So, for that reason straw polls don't make a lot of sense and it makes the zba's decision very vulnerable on appeal. So what I am saying is if you feel for example, tonight for example, if you felt uncomfortable voting because you want to think about it some more, then by all means hold it over until the next meeting so you can formulate your ideas. Or if you want more information, keep the public hearing open so you can get more information. More pictures or whatever it is that you need.

Robert Dee - I don't think a straw poll is a good idea. I never saw the sense in a straw poll to be honest with you. But let's say three people, four people vote yes and one vote person says I want to think about it

Adam Rodd - My recommendation is that, unless there is some very important reason why the thing has to be voted on, my practical advice is if one person wants the other two weeks until the next meeting to think about it, that's fine.

Vincent Cestone - What if I do this, before we do a vote I go to the members and I say do we want to vote on it, sort of like I did tonight but I make sure that everyone has an opportunity to say yes or no. And we can do, can we do it like this, I make a motion to vote on this resolution, nah nah, then we can have a two to three thing and then it is uncomfortable.

Adam Rodd - I am just saying as a practical matter there is no reason that someone says gee I would like some more time, we are only two weeks four weeks at the most away from the next meeting

Vincent Cestone - I don't want the members to feel that they are under pressure that we have to vote tonight

Robert Dee - I don't think anyone should be caught in the middle where three want to vote and someone says they want to think about it. If somebody wants to think about it, it has to be done before everyone votes

Lenny Lim - Before we vote we let you know

Vincent Cestone - Everyone should feel free to say I don't want to vote on it tonight. And when I ask do we want to vote on it tonight, if you feel that way, say I don't want to vote on it tonight and that's good enough for me. We'll do it that way.

Bill Flaherty - I don't know, we've taken straw polls and we have done it many many times

Vincent Cestone - But it has been cited in court on one occasion that Tim told me where we voted for something and then at the regular vote it went against them. And there was an Article 78 and we still won but it was brought up that we voted straw poll

Bill Flaherty - But I don't remember one ever changing their mind on a straw vote. I know that when I vote I think I have enough information to make a decision and I would probably not change that vote as a result of that unless somebody came up with some new information that I previously had not been privy to and then at that case maybe now I have new information here that I want to review.

Vincent Cestone - Like when we were doing the vote on the gas station down there at the corner of 403 and Route 9, I was on the edge right up until the vote. If someone doesn't feel comfortable voting that night, they should have the right to say I don't really want to vote tonight and we will put it on the next meeting. Unless there is some kind of time frame like if we delay it we are in violation, or a person loses his mortgage commitment

Bill Flaherty - Well with Ribeiros Construction, I mean this has been going on

Vincent Cestone - I was confident on how I was going to vote. But there

Bill Flaherty - When I first reviewed this particular application I had pretty much had made my mind up that I was going to vote to deny the variance. But as I got more and more information and I went down

Vincent Cestone - And they reduced the construction

Bill Flaherty - Yes and I went down and visited, I changed my mind completely

Vincent Cestone - Right

Bill Flaherty - And then I started looking at that from a stand point of it's a legal lot in a legal subdivision with all the necessary approvals. My thought process is really very simple, he really didn't need a variance to build a house on that. They could build a long skinny house and it would be in accordance with the neighborhood. It would have fit. And he could have done it legally.

Vincent Cestone - He could have built a very narrow house to 40 feet tall

Bill Flaherty - exactly

(Turning tape over...may have lost some dialogue)

Vincent Cestone - with that I make a motion to adjourn

Bill Flaherty - I 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: 3/23/09

Respectfully submitted,

Kim Shewmaker
Secretary