

ZONING BOARD OF APPEALS

March 23, 2009

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, March 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
	Robert Dee	-	Member
	Paula Clair	-	Member
	Adam Rodd	-	Counsel
ABSENT:	Bill Flaherty	-	Member
	Kim Shewmaker	-	Secretary

Vincent Cestone - With the review for completeness, did you have a chance to look at the new submission

Adam Rodd - Yes

Vincent Cestone - We are going to do the review for completeness first so that person doesn't have to sit through the whole meeting. So Gregory Whyte, Review for completeness. When I looked at it over the weekend, it was incomplete, but this new submission that we just got, let me just take a quick look

Adam Rodd - Is Mr. Whyte here

Vincent Cestone - Yes he is right there.

Adam Rodd - Basically as I understand it, I reviewed the file, it seems that the applicant is here before the board for a variance to the side yard setback requirement. As I understand it, the situation is that there is an existing porch in the area of the left side yard. That porch was enclosed without obtaining a permit. So he needs a Certificate of Occupancy for the enclosed porch. And looking at the most recent submission, just so you know that the zoning district by the property is located, a minimum side yard setback of 30 feet is required. Initially the materials that were submitted did not specifically indicate how far from the side yard lot line the porch is located. However, based upon a submission of a survey from Badey and Watson the setback is identified as

being, and correct me if I am wrong, 8.8 feet and 7.7 feet from the side yard lot line. So the applicant is basically here for a side yard setback, area variance and I think with this new submission it appears to be complete.

Vincent Cestone - Unless there are any objections, I will schedule it for a public hearing. Let's see, Kim always yells at me because we can never make the paper.

Robert Dee - Yeah so you have to put it after.

Lenny Lim - You need at least two weeks notice

Adam Rodd - I would probably suggest the fourth Monday so it gives us some wiggle room

Robert Dee - 20th?

Vincent Cestone - The 27th

Robert Dee - Right

Vincent Cestone - You will be on for a public hearing on the 27th of April. That's it

Gregory Whyte - Do I need any additional material

Vincent Cestone - There is no additional materials, if you had letters from your neighbors saying that they don't have issues, that is something that you should bring. But you have enough for a public hearing. If you have anything in support of your position, then you should bring that.

Gregory Whyte - Okay. Thank you very much.

Vincent Cestone - Next item on the agenda is a public hearing for David Lant. Is the applicant here? Explain to us what the issue is and what you are requesting.

Mrs. Lant ? - We would like to build a porch, an enclosed porch on the side, well it is going to end up being in the front of the house and it is going to the back of the house. And we need a side variance for the side of the house which **(inaudible)** _____ 8 feet from the property line. **(cannot hear the applicant)** It's not that we want to build a huge porch it is just that the

Vincent Cestone - So your current house is already within the setback and you wanted to increase the variance to

Robert Dee - You are looking to go within 7 foot of the property line

Mrs. Lant ? - Right

Robert Dee - So you are looking for 23 for a variance

Mrs. Lant ? - Right

Paula Clair - How close is the next house

Mrs. Lant ? - The next house is about 400 feet and the house towards the back is _____ which shows the closest house.

Lenny Lim - When was the house built?

Mrs. Lant ? - I think 1960. This is pictures which show, this is the closest house,

David Lant - We also have letters from the two house owners.

Vincent Cestone - So you have the entrance to your basement on the front of the house

David Lant - No that's the side

Vincent Cestone - Oh okay

David Lant - The porch will actually cover the entrance into the basement.

Vincent Cestone - Are you proposing a roof

David Lant - Yes

Adam Rodd - What is the size of the porch that you are proposing to construct?

Robert Dee - I see the CO here is dated October 2008

Mrs. Lant ? - Yes

Robert Dee - Is that when you got the CO? It says 10.2008 what is that for? It says two family complete structure and basement. It is dated 2008.

Lenny Lim - Is that the CO

Robert Dee - Yes. Did you do any work and then you got a CO on it?

Mrs. Lant ? - No we bought the house in 2006

David Lant - We had a surveyor come out and do, I don't know if that is from the surveyor or not

Robert Dee - No this is from the Town. I just found it strange that is dated October 2008

David Lant - And we bought it in like May or June 2006

Robert Dee - Do the addresses match up

Paula Clair - The view of the house that you showed us is that on the side where you want the variance

David Lant - Yes. The thing is the piece of land that, where this will be coming up against, it is just the way it is shaped. It's like wetland surrounding.

Paula Clair - The house that is in the back of it that will have a view of it through the woods and

David Lant - Just in the winter

Vincent Cestone - If this was denied, what would the consequences of that be other than not being able to get your deck

Mrs. Lant ? - Well, we would, the idea was having the deck there to also connect the, we have our laundry in the basement so we have it covered and easy access to it. Where now we have to go outside, just the convenience of it.

Vincent Cestone - Any more questions from the board?

Adam Rodd - Can I see the photos please and the letters that you have? I would need copies of those

Lenny Lim - How big is your property

Mrs. Lant ? - 1.8

Adam Rodd - Are there trees on the area of the boundary line? Is that your side yard lot line?

Mrs. Lant ? - Yes

Adam Rodd - So there is a good deal of trees that provide screenage

Mrs. Lant ? - Yes. You see this is the house and in the summer you don't even

see it. That is the closest, that is really the only building that we can see.

Lenny Lim - Basically you are building a wrap around porch

David Lant - Yes

Robert Dee - Is it going to be open

David Lant - Yes

Robert Dee - Could that porch be built just to the front of the house

David Lant - No

Robert Dee - You can't put a porch just in the front of the house

David Lant - Well we could. When we bought the house there was a French door to the back of the house. That was already there when we bought the house we just changed the door a little bit. So there was a door but it is a 2 ½ foot drop

Mrs. Lant ? - And it is awkward because this is off the kitchen and as you can see there are French doors there which just open now to nothing

Robert Dee - I understand

David Lant - The footings are already there when we bought it

Robert Dee - The footings are already there, the footings were already put in before you

David Lant - Yes. But the were never used

Robert Dee - Well my question is, you are already into the 30 foot setback. The house itself is into the 30 foot setback which there is nothing to do with that. So, my question is could you build the deck to where the end of the house is now so you wouldn't need to extend it any further, your porch? You could do that correct?

Mrs. Lant ? - That would just be in the front

Robert Dee - Because you are already extended into the 30 feet with the house, but now you are looking to extend 23 feet more. That's my concern

Paula Clair - No 14 feet

Robert Dee - No 23 feet. They want to go 7 foot to the end of the property

Paula Clair - Oh together

Robert Dee - That's my concern

David Lant - But it doesn't make any difference that the land that is next to it cannot be used?

Robert Dee - Any land can be used. The zoning codes are here for a reason okay. And we have to look at it, you know can you put a porch up there and end where that house is and the answer is yes

Mrs. Lant ? - We could, we probably won't do it because it won't serve us any

Robert Dee - It wouldn't serve your purpose

Mrs. Lant ? - Any needs because it would just be in the front of the house. Where we could use any use of a porch is on the backside of the house coming off the kitchen and we really wouldn't use a porch on the front side of the house

Robert Dee - I understand. But do you understand my concerns

Mrs. Lant ? - Yes

Paula Clair - So the French doors are on the side

David Lant - Yes. Which is how it was when we bought the house. But we changed the French doors but they lead to nowhere. It is just like a 2 ½ foot drop.

Vincent Cestone - Anybody in the audience wish to speak on this? Any more questions from the board? I make a motion to close the public hearing. Do I have a second

Paula Clair - Second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Do we wish to take a vote or do we want to think about it?

Lenny Lim - I think it might be in the best interest to wait for a full board

Paula Clair - I think so too

Vincent Cestone - Okay.

Adam Rodd - In that case you are going to leave the public hearing open until next time

Vincent Cestone - Okay. So we are going to keep the public hearing open until the next meeting because one of our members is not here and sometimes that is the deciding vote. It is not always 100 percent. And depending on how we go tonight, we may have a meeting in two weeks, not two weeks three weeks

Robert Dee - April 27th

Vincent Cestone - Yeah but the first meeting in April if we have it would be the 13th. We will see how this proceeds tonight and we may be able to continue it on the 13th. But lets see how the next public hearing goes. All right. We didn't vote tonight so there is no decision. Okay.

Mrs. Lant ? - Should we stay

Vincent Cestone - It is up to you or you can call the Town Clerk in the morning and I'll send the clerk an email and she'll know when our next meeting is. And the agenda gets posted about a week before the meeting. So you can go to Philipstown.com and it should be up there too.

Adam Rodd - I would like extra copies for my files of the photos and the letters from your neighbors.

Vincent Cestone - Here you take the photos and here are the letters

Mrs. Lant ? - Thanks

Vincent Cestone - Okay. Next item on the agenda is Dong and Unjoo Yu. Explain to us, I know the basics, but go right ahead

Applicant's Representative - The issue is fairly simple, there is pre-existing buildings and what Mr. Yu would like to do is in-fill between them and make it one big structure. Rehabilitate the existing structures and create a seafood restaurant. The issue before the Planning Board was that well, it is a pre-existing condition but the setback in front is only 35 feet and it is supposed to be 50. And on the side there is a little over 13 feet of setback and it is supposed to be 35 because it is a residential zone to the right of it. What we are suggesting is, there concern is that we might be increasing the non-conforming. And I would argue that we are not increasing it at all, we are not looking to change the setbacks as they are. We want to maintain the variance of the pre-existing nonconforming and the reason for that is fairly obviously, we want to rehabilitate the building and

change what is currently an eyesore and do something that is

Vincent Cestone - So you are keeping the present building. You are not razing it?

Applicant's Representative - We don't want to do that because of the expense that would be incurred

Lenny Lim - How about the garage

Applicant's Representative - That is going to be rehabilitated as well. And that is the whole idea, to rehabilitate those two buildings

Lenny Lim - So you are increasing the footprint

Applicant's Representative - We are increasing the footprint but we are not looking to get any closer to the street or the side yard

Lenny Lim - Yeah but you are increasing the pre-existing nonconforming

Applicant's Representative - Okay well I am not sure what your definition is. But what I am saying is that we are

Lenny Lim - Are you increasing the footprint?

Applicant's Representative - We are increasing the footprint

Lenny Lim - Then you are increasing it

Applicant's Representative - Okay. We are not trying to get any closer

Lenny Lim - I understand what you are saying. But you are increasing the size of the building

Applicant's Representative - We are not getting any closer to the setbacks. I might also argue that this neighboring property there is a right of way to a flag lot that is behind here. And there is a stone wall that is actually 35 feet away from this building and I am arguing that no one is ever going to build in that space. The reason we want to do this again is because of the expense to raze that building to conform to those setbacks would be an undue burden because we would have to obviously move the building further to the left of the site thereby increasing the parking lot. If we had to do that, if you look at the pictures you can see that as soon as you get to the back of the building the site goes up sharply. So if we were to have to raze that building and start from scratch, we would have the expense of tearing that down also the expense of reconnecting to the existing well, the existing septic and there is already some heating system there that can

be relocated and electric and so on. Also we would have to go into that slope we would have to change the drainage patterns radically. As it is now you can see the majority of the site up to the back of the building is flat. So to change that site in any way would require quite a bit of excavation, changing the drainage pattern and probably having to add more _____ and so on

Vincent Cestone - Where is your septic system

Applicant's Representative - The septic system is right in here

Vincent Cestone - It is in the gravel pat

Applicant's Representative - I believe it should be shown on the survey. That pretty much is it.

Robert Dee - The septic system going to be increased any or are you going to do anything with that

Applicant's Representative - No it is not. I've gotten all the information from the Department of Health and they have it on file and I've got all the calculations and find that actually it is way more than adequate. We are only proposing 40 to 44 seats in this restaurant.

Vincent Cestone - Will this be a sit in restaurant or

Applicant's Representative - Yes

Vincent Cestone - Okay. Is it plausible to, instead of rebuilding the garage to knock the garage down and build on the other side so you are not encroaching on your neighbor's property. Is that a reasonable thing or is that unreasonable?

Applicant's Representative - Again, if we were to take the same figuration and for example for my argument flip it and add it on to the other side, you see what happens is that we are now on top of part of the septic system and we are also encroaching on the existing parking lot which as it is, we are looking to extend that about 3 feet back so that we can get standard measurements, meet standard measurements for a parking lot

Vincent Cestone - The board of health knows that the parking lot is the septic system

Applicant's Representative - I would say they do because they signed off on it.

Lenny Lim - Do we have that in the packet?

Vincent Cestone - Because usually they don't do that. Usually you can't park on

the septic system. So, do you have the sign off, can we get a copy of the sign off

Applicant's Representative - I believe there is a copy in the file. If not, I can certainly get that and forward it to you.

Vincent Cestone – okay.

Applicant's Representative - I know the Planning Department has a copy of it.

Vincent Cestone - So the Planning Board is waiting on variances from us before they give you

Applicant's Representative - They are waiting for a variance from you in order to address the other issues. That was one concern that they raised, and there is a letter in the package.

Robert Dee - A new side walk would be going over the septic system too right? Or would it just be going over the pipe

Vincent Cestone - Do you have any questions? Does anyone in the audience wish to speak on this? Stand up and state your name please.

Robert _____ - Robert _____. Can I come up and show you

Vincent Cestone - Sure

Robert _____ - I am speaking a little bit for some of the neighbors here too. I don't want to assume too much. But there seems to be to us anyway, that this application has some holes or incomplete parts and needs to be up-dated. Probably the biggest hole for me anyway is the danger that this poses for people driving on Route 9D. When you come out of my property when I bought the property 10 years ago, I learned there is a dip in the road and I learned you have to wait 4 seconds and I tell all my friends wait 4 seconds because you can't see cars coming up. And if you don't wait for the dip to clear, you can find yourself with a car coming at you and having to jam on their brakes. (Cannot hear applicant). Anyway it is a very dangerous situation. I wouldn't want to have a restaurant there because people would be coming in and out of there at all hours of the day and night and they are not going to wait that 4 seconds. They are not going to know about it. And I just propose that it is a real danger.

Vincent Cestone - Was this structure a deli before

Robert _____ - It was a deli before and that was during the daytime

Vincent Cestone - It didn't have any evening or night hours

Robert _____ - No.

Vincent Cestone - You would be against it even though it would improve the look of the neighborhood.

Robert _____ - There are a number of other issues. There is a wetlands. Certainly I walked around them this morning and this afternoon and you can sink it and that's at the 35 feet. I don't know what they

Vincent Cestone - I don't think there is a designated wetlands there

Applicant's Representative - There are no wetlands there

Robert _____ - There is enough water that the State should build a storm drain to get it out of there

Vincent Cestone - But a wetland is a different definition. But go ahead

Robert _____ - There is water in the land and it is wet. And I have pictures. This is what we've got coming down here, there is the drain and that is the water coming down. And it is on each side. The berm that has actually be created by the rubble from the clearing out of property, they've put all the stones and stuff and created a berm and now the water sits.

Vincent Cestone - But they are proposing not changing the land, the lay of the land. So the drainage should not be an issue.

Susan Freeman - I am his wife and I walk that property too

Lenny Lim - You have to state your name for the record

Susan Freeman - Oh Susan Freeman. This pond overflows all the time and it seeps out all over

Vincent Cestone - That's this pond

Susan Freeman - Yes. And our property sits right next to that pond

Vincent Cestone - You are up here

Susan Freeman - Yeah. And we have moving water coming off our place down here and now it is filled in with a lot of rubble from cleaning out this place and it was thrown here to create a berm which keeps some of our water on this side but there is still, those pictures you have there is a very quite little stream right now. It gets big and it starts moving

Vincent Cestone - It runs good when the snow melts

Susan Freeman – yeah. And any kind of rain all summer

Applicant's Representative - Well probably also caused by a glick with his driveway, it re-routed water so that it now drains down here that wasn't coming off that hillside before.

Susan Freeman - And we even get material from his driveway way up at the top of the hill rushing down.

Vincent Cestone - All the water funnels down here and the big storm drain is here that goes to the Hudson

Paula Clair - Have there been any damage to your house

Robert _____ - You just have to go out there and clean it out and get rid of it. Try and re-route it.

Susan Freeman - And we have even consulted to try and get a French drain to try and move it around

Vincent Cestone - Water will always go where it wants to go.

Robert Dee - How do you feel that it will affect this variance? How is the variance going to affect the water? I am kind of at a loss. If we approve this variance, it is not going to change the water one way or the other

Susan Freeman - No we are just saying that there is water coming down and I guess

Robert Dee - Not from his property, from the property up above you

Susan Freeman - Our property next to his property. The water runs right down there. It will be running on his side too and that pond fills up

Robert Dee - Well that is going to be his issue, the water that runs on his property

Susan Freeman - Right

Robert Dee - What I am saying is if this variance is approved, would have no affect one way or the other on that water problem. Is that correct? The water would still be the same

Susan Freeman – yeah

Robert Dee - That was my question

Susan Freeman - The other thing is that and I don't know if, in 1986

Robert _____ - There was a septic upgrade

Susan Freeman - Through here. And the septic was approved by Putnam County DOH on October 11, 1986.

Vincent Cestone - Well that is outside of our control anyway. As long as we just make sure that they are looking at it. And they have full authority to approve or disapprove

Susan Freeman - Something else that I think would be, to have comments on, here that it was waived but there was the topographical map done. And it is very hilly and it is very steep. I think a topographical map might be very helpful

Applicant's Representative - This is an issue that is before the Planning Board. The reason that we are with waiver is because

Vincent Cestone - Anything else you wish to say

Robert _____ - I am also concerned you've got 44 seats, I don't know if that is 11 cars or more than that

Vincent Cestone - That would be a Planning Board issue. The Planning Board would do the site plan

Robert _____ - Right

Vincent Cestone - They can't do anything unless we approve a variance. But that is not the end of it. Then they have to go to the Planning Board and the Planning Board looks at the site and puts requirements as to the way the parking is laid out, where the structure is laid out, what kind of lighting they have, sometimes hours of operation, they make sure that everything is addressed as far as the lay out of the structure and how it is built. They are just looking for us to approve the 50 foot setback from Route 9D and the decrease of the 50 foot setback from here and the decrease of the side setback to your property here. And even if we did that or partially of that, that is not the end of it. Mr. Yu has to go to the Planning Board and the Planning Board has a whole review process where they look at the whole site and you know a perfect example of something that the Planning Board does it all the time, we make a determination on a zoning variance, the Planning Board goes through and they make sure that the site is aesthetically is correct, parking is correct, they would make sure that the

environmental issues are addressed, all that sort of stuff.

Robert _____ - Are their reviews like this during the course of

Vincent Cestone - Yes there would be public hearings. As far as the structure is concerned, we are not going to look at it on an architectural basis, we are looking at is it too close to the road which it is according to the Code. And is it too close to your property line which it is according to the Code.

Robert _____ - And this would be a driveway, a flag, that's my flag right there

Vincent Cestone - You have a right of way

Robert _____ - Right. And we are concerned that if we want to put a driveway there, how would this affect that.

Vincent Cestone - That's correct. That's a legitimate concern. Anyone else wish to speak? Does the board have any more issues or do we want to discuss it at our next meeting? Keep it open and discuss it at our next meeting

Paula Clair - Definitely

Vincent Cestone - Is there anything that you wish to continue to present or

Applicant's Representative - (Cannot hear applicant's representative)

Vincent Cestone - Yeah but you are getting close to his property line and it won't affect him building the driveway but it is closer to his property line so he has a legitimate concern as to how close you are to his property line. The Zoning Code is there for a reason.

Lenny Lim - Hold on. You are not going further than the garage right? And that's as close as you are getting to his property line right?

Applicant's Representative - We are not moving

Lenny Lim - You are not going closer

Applicant's Representative - Absolutely not.

Adam Rodd - You are not extending that no matter what.

Paula Clair - I guess the concern of the neighbors is that it would be

Adam Rodd - It is going to be part of the restaurant

Applicant's Representative - It is not going to be the sitting portion of the restaurant, it is going to be the kitchen

Vincent Cestone - So the garage is going to be the kitchen. Well we are going to keep the meeting open

Paula Clair - Is there any egress from the parking lot on that side, on the driveway side

Applicant's Representative - From the building

Paula Clair - In other words where the neighbor's property is, is there any egress from the parking lot next to the driveway

Applicant's Representative - If you look at the site plan, there is an existing curb cut here and a curb cut here

Paula Clair - Okay, so there is.

Applicant's Representative - Again, that is a DOT issue

Vincent Cestone - Well I think we are going to continue this on to our next meeting. And because we don't have, with our economic down turn there is very little work being done in Philipstown, so we've gone from two meetings a month to one meeting a month. So we will address this again at our next meeting on April 27th. So we will give the board a chance to digest what was discussed today and we can address it and hopefully close it at the next meeting and then you can go to the Planning Board if a variance is granted

Applicant's Representative - Thank you

Adam Rodd - Put David Lant

Vincent Cestone - We are going to put everybody on for the 27th. It doesn't make sense to come in for 15 minutes. Okay. Next on the agenda is review of Minutes for February 23rd. Are there any additions or corrections or deletions. If not, I will entertain a motion to accept the minutes as submitted.

Lenny Lim - I'll second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - All right. We are going to resolutions.

Adam Rodd - Did we do a review for completeness for Cinquina? #7

Vincent Cestone - I totally missed it. Is Alfred and Kim Cinquina here? No.

Robert Dee - They weren't here the last time either.

Adam Rodd - Let's adjourn them to the next meeting

Vincent Cestone - And Kim if you get this, send them a final notice. If they don't come to the next meeting, we are going to deem it withdrawn. Okay. If you want to do the Resolutions, that would be great.

Lenny Lim - I don't know if we can vote on them

Vincent Cestone - We already voted on them

Adam Rodd - Last month

Lenny Lim - Well Bill is not here and he voted on one that you and me voted against.

Vincent Cestone - People, can you take it outside please

Adam Rodd - Ribeiros. Okay. Just reading the resolution up through conditions. The Philipstown Zoning Board of Appeals conducted public hearings on March 24, 2008, April 28, 2008, June 9, 2008, July 14, 2008, September 8, 2008, October 27, 2008, November 24, 2008, January 12, 2009, January 26, 2009, and February 23, 2009, to hear the appeal of the applicant, Ribeiros Construction, from the denial of its request for a building permit to construct a single family home on a residential lot located at 65 Steuben Road, Philipstown, New York. The building permit was denied because the proposed construction did not comply with lot frontage and street line set back requirements of the Zoning Ordinance. Specifically, the applicant's lot has a lot frontage of 60.39' feet, whereas Section 175-32, Schedule B, Item 3 requires a minimum lot frontage of 80' feet. Further, the applicant proposes a street line set back of 18.1' feet, whereas Section 175-32, Schedule B, Item 6(b) requires a minimum setback from the street line of 35' feet. The applicant has filed an appeal from the denial of its request for a building permit, and now seek area variances from this Board. At a public meeting of the Board on February 23, 2009, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it Resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: that the balancing of equities weighs in favor of granting the appeal of Ribeiros Construction from the denial of its request for a building permit to construct a single family home located at 65

Steuben Road, Philipstown, New York, despite an insufficient lot frontage of 60.39' feet and despite an insufficient street line set back of 18.1' feet. The granting of the subject area variances, with the following conditions for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance. 1. The 65 Steuben Road location shall be maintained with a minimum lot frontage of 60.39' feet. 2. The proposed single family dwelling to be placed and constructed at the 65 Steuben Road location shall be set back from the street line by a distance of not less than 18.1' feet. 3. The subject single family dwelling to be placed and constructed at the 65 Steuben Road address shall be built, configured and located in accordance with building site plan submitted to this Board by SFV Design, Inc., last revised January 21, 2009. 4. The basement to be constructed at the subject location shall be and remain unimproved, and shall not constitute habitable bedroom space. 5. The subject home to be placed and constructed at the subject location shall have no more than two (2) bedrooms. 6. The maximum living area of the subject home, as per the plans of SFV Design, Inc., last revised on January 21, 2009, shall be 1492 square feet. 7. The two (2) car garage to be constructed on the subject dwelling unit shall be kept and maintained in an operable condition, and used for purposes of housing the vehicles which may be used by the occupants of the subject dwelling, so as to minimize any adverse impacts resulting from decreasing the minimum required street line set back. 8. The parking area in front of the two (2) car garage shall be maintained so as to minimize any adverse impacts resulting from decreasing the minimum required street line set back. 9. No enlargement, reconfiguration, or extension of the proposed construction of the subject single family dwelling, referenced above, for which the above-referenced variances have been granted, is authorized without Zoning Board approval.

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

Paula Clair - Second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Okay Garramone

Adam Rodd - Okay reading the Resolution on Garramone. The Philipstown Zoning Board of Appeals conducted a public hearing on February 23, 2009 to hear the appeal of the applicants, Robert and Anna Garramone, from the denial of their request for a certificate of occupancy to maintain an existing 15' x 30' above-ground pool and deck, which is set back 18.1 feet from the applicant's left side yard set back. Section 175-32, Schedule B, Item 7 requires, in the R-80 Zoning District, a minimum side yard set back of 30' feet. The applicants filed an appeal from the denial of their request for a certificate of occupancy to maintain

their existing 15' x 30' foot above-ground pool and deck in a non-conforming location, and seek an area variance from this Board. At a public meeting of the Board on February 23, 2009, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing and equities weighs in favor of granting the appeal of Robert and Anna Garramone from the denial of their request for a certificate of occupancy to maintain an existing 15' x 30' above-ground pool and deck located at 16 Old Albany Post Road, in the Town of Philipstown, despite an insufficient left side yard set back of 18.1' feet. The grant of the subject area variance, with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance.

1. The subject 15' x 30' above-ground pool and deck located at 16 Old Albany Post Road, shall be set back at a distance of not less than 18.1' feet from the left side yard set back.
2. The existing screenage of the subject above-ground pool and deck, which includes blue spruce trees and a stone wall, shall be maintained, and not reduced in order to mitigate any adverse impacts resulting from a reduction in the required side yard set back.
3. No enlargement, reconfiguration or extension of the subject above-ground pool and deck, for which the above-referenced variance has been granted, is authorized without Zoning Board approval.

Lenny Lim - I've got a question

Vincent Cestone - Yeah

Lenny Lim - Could one of the conditions be that they maintain the fence

Vincent Cestone - No because they can tear it down at any time. Unless we tell them that they have to maintain the fence

Lenny Lim - Do you know if the Code says that it has to have a fence? I think it does doesn't it?

Vincent Cestone - If there are no objections I would make a motion to accept the Resolution as read.

Lenny Lim - I second

Vincent Cestone - All in favor

All Board Members – aye

Vincent Cestone - Okay. LaForgia

Adam Rodd - Okay reading through conditions on LaForgia. The Philipstown Zoning Board of Appeals conducted a public hearing on February 23, 2009 to hear the appeal of the applicant, Dominick LaForgia, from the denial of his request for a certificate of occupancy for an enclosed porch which infringes upon the required left side yard set back. Section 175-32, Schedule B, Item 7 requires, in the R-10 Zoning District, a minimum side yard set back 10' feet. The applicant's request for a certificate of occupancy was denied because the subject enclosed porch is set back 1.7' feet from the left side yard lot line. The applicant has filed an appeal from the denial of his request for a certificate of occupancy for the subject enclosed porch, and now seeks an area variance from this Board. At a public meeting of the Board on February 23, 2009, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it resolved, that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing of equities weighs in favor of granting the appeal of Dominick LaForgia from the denial of his request for a certificate of occupancy for the enclosed 18' foot 2" inch by 12' foot porch located at 15 Steuben Road, Garrison, New York 10524, despite an insufficient side yard set back of 1.7' feet. The granting of the subject area variance, with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance. 1. The subject enclosed 18' foot 2" inch by 12' foot porch located at 15 Steuben Road, Garrison, New York shall be set back not less than 1.7' feet from the left side yard lot line. 2. The subject enclosed porch located at 15 Steuben Road, Garrison, New York shall not be used as bedroom space. 3. No enlargement, reconfiguration or extension of the enclosed subject porch, for which the above-referenced variance has been granted, is authorized without Zoning Board approval.

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

Paula Clair - Second

Vincent Cestone - All in favor?

All Board Members – aye

Vincent Cestone - As far as old business, we have another workshop on the Zoning Code on April 1st. Those who wish to attend it will be at 7:30 at the Community Center. Unless there is some more old business, I make a motion to adjourn

Lenny Lim - Second

Vincent Cestone - All in favor

All Board Members - aye

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

DATE APPROVED: 4/27/09

Respectfully submitted,

Kim Shewmaker
Secretary