

# ZONING BOARD OF APPEALS

July 10, 2006

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, July 10, 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.

**PRESENT:** Vincent Cestone - Chairman  
Lenny Lim - Member  
Bill Flaherty - Member  
Tim Pagonis - Counsel

**ABSENT:** Joan Turner - Member

**Vincent Cestone** - Okay. First item on the agenda is the continuation of a public hearing for Robert Dee II. Hi. We had a few things that we needed to clear up and I got some of the information that you sent.

**Robert Dee** - It's a revised building permit. I believe you got a new copy of the CO.

**Vincent Cestone** - Yes I did

**Robert Dee** - Clearly on top it shows that it is in accordance with \_\_\_\_\_ that I was issued and I had them put \_\_\_\_\_

**Vincent Cestone** - Okay. Very good. And the issue that was brought up about the septic is irrelevant.

**Robert Dee** - It is okay covered in this. Other than that I think we covered everything last time these were the only three things outstanding.

**Lenny Lim** - What are the dimensions for the height? We got that right?

**Robert Dee** - It is 35

**Lenny Lim** - I just got one question. On ground floor, what is the measurements on the ground floor?

**Robert Dee** - Total square footage sir?

**Lenny Lim** - Not the square footage. I got the total square footage. I am trying to connect, I mean your second, your first and second floor are going to be 36 by 24

**Robert Dee** - All three floors technically if you want to call it three floors, it is really 2 floors, the ground floor in everything I've seen doesn't count. It is a basement

**Lenny Lim** - I know I am just trying to figure out the differences in size.

**Robert Dee** - There wouldn't be a difference in size. It should be identical in everyway sir. Except unless they are looking at the deck that comes out in front of the house

**Lenny Lim** - No. Look at your existing. On you map. Look at your existing ground floor, finished area. I don't

**Robert Dee** - Well this is finished square footage sir. A large portion of the basement is not finished.

**Lenny Lim** - That's all I wanted to know.

**Robert Dee** - It is finished square footage.

**Lenny Lim** - It is the same size

**Robert Dee** - I have a large portion that is not heated and not sheet rocked.

**Lenny Lim** - Okay. That's all I wanted to know

**Robert Dee** - It's a laundry room and the boiler and well is in there

**Lenny Lim** - Okay. Because without the measurements on here on the ground floor, I was trying to figure out if that was 36 by 24

**Robert Dee** - That's the square footage. They are all identical

**Lenny Lim** - Thank you

**Vincent Cestone** - Any more questions

**Bill Flaherty** - Yeah. At the last meeting we asked you to supply us with a certificate from the Putnam County Board of Health

**Vincent Cestone** - That's not relevant because he has an official three bedroom

house and he is not changing that. It has nothing to do with the bathrooms

**Bill Flaherty** - Okay. But he is adding a bathroom

**Vincent Cestone** - Yes but that doesn't count towards the septic system

**Bill Flaherty** - Okay. Now also Joan had mentioned to you about the renewal of the certificate

**Robert Dee** - What it is is, I know you all got a copy in your box, the bottom part is the building permit and that is, what happened was they went in over a year so they went and renewed the building permit 525 sir. And that is the bottom part. And what you see on the top part is the Certificate of Occupancy that was issued after past inspection 1967 and the fee was paid and that is the docket number right there where it was placed in the \_\_\_\_\_. What caused the confusion, I realized that the copy you got sir, all it happened was the top where it says Certificate of Occupancy #777, this part was cut off. That's all it was sir. We didn't realize it until we went down and looked through the files.

**Bill Flaherty** - That's all the questions I have.

**Vincent Cestone** - Okay. Any comments from the audience?

**Peter Kelly** - Yes.

**Vincent Cestone** - Yes sir

**Peter Kelly** - My name is Peter Kelly. I am the neighbors of the Dees. There is a question about privacy you know. I can't see his house right now. If he goes up one level, it will be very visible you know.

**Vincent Cestone** - Okay

**Lenny Lim** - How close is your house to the property line?

**Peter Kelly** - It is probably about 100 feet would you say?

**Robert Dee** - You are about, you are two lots to the north. There is a house between myself and Mr. Kelly. He is not the adjacent house. Mr. Kelly is to the north of me. I am only seeking a variance for the south side. I have more than 30 feet on the north side. I don't need a variance on that side. So really, Mr. Kelly's argument is kind of a moot point because I don't need his side

**Lenny Lim** - Your property line is how far from his?

**Peter Kelly** - Our houses are about 100 feet apart. There is only a driveway that

separates

**Vincent Cestone** - Show me where you would be. Okay. This is Old Albany Post Road

**Peter Kelly** - This is the driveway for the new house being built here

**Robert Dee** - This is my house here. So this is Old Albany Post Road.

**Peter Kelly** - So this is the driveway to the new house

**Vincent Cestone** - And this is an existing house

**Peter Kelly** - This is Mr. Dees house. My house is situated right here

**Vincent Cestone** - Okay

**Peter Kelly** - And you know right now I can see the tip of his roof and once the story goes up

**Vincent Cestone** - And how tall is your house? What is your maximum height

**Peter Kelly** - 35 feet sir at the lowest point of the ground to the highest point of the house

**Vincent Cestone** - to the ridge

**Robert Dee** - to the ridge it is 35 feet

**Bill Flaherty** - now do you have a view from your house at the moment that is going to be obstructed

**Peter Kelly** - Absolutely

**Robert Dee** - No sir. His view would not be obstructed. He would have to look out

**Lenny Lim** - Let him answer that question

**Peter Kelly** - Absolutely I will see his house completely when he puts another floor on

**Vincent Cestone** - What he is asking is do you have a view of a scenic vista

**Peter Kelly** - Right now I see trees and bushes and I can barely see the tip of Mr. Dee's roof. It used to be even better before Mr. Dee's father bought, built a

place and took all the trees out. So now I can see the roof. I gave up a lot of privacy with the house being built there, and I can't really afford to \_\_\_\_\_ because all I've got left is a corner on my deck where I can see nobody. Because when I bought that property, I couldn't see nobody, any neighbor whatsoever. And I put a large investment into the property. And all has changed dramatically. If the law says he needs permission

**Vincent Cestone** - But he doesn't need permission on your side.

**Peter Kelly** - I understand that but at the same time

**Vincent Cestone** - And Mr. Dee to fair use of his property. Now if he is not obstructing your views and he is not encroaching on your side setback, the point that you are making is that you are going to see his house, I don't see how that is relevant

**Peter Kelly** - You don't think that is relevant? That's not the way that I bought that property

**Vincent Cestone** - So what you are saying is that nobody around you should build

**Peter Kelly** - No I am not saying that. Everybody builds but as long as it doesn't obstruct my, I don't have a problem with it. But at this point I see a level. Maybe you should take a trip out there to see it

**Vincent Cestone** - I've been there. I live in Continental Village myself.

**Peter Kelly** - Well maybe if come and stand on my deck and tell me that I've got no point.

**Lenny Lim** - Legal counsel, I believe wasn't there a ruling in New York State that nobody has a right to a view if somebody else wants to use that property. I think it was the windmills upstate

**Tim Pagones** - Right. I think it was some case in Ithaca

**Lenny Lim** - About the windmills

**Tim Pagones** - You are not, you can't just stop someone from building also I just want to point out that he is not looking for a height variance. He is within the Code for his height

**Lenny Lim** - right

**Tim Pagones** - So I mean you would have a stronger argument if he was looking

to build a three-story house going 50 feet up and he is over what the Code requires. But he is at 35 feet or something like that. I mean you might want to consider some kind of screening I don't know. That is up to the board.

**Peter Kelly** - I would like to think something could be done you know. Because if you came on my property and seen what has happened over the last 5 months you might be a little more sympathetic towards me

**Lenny Lim** – It happens all over Philipstown.

**Peter Kelly** - Well you know what, right now I could get better privacy in Peekskill. To be honest.

**Lenny Lim** – How big is your property

**Peter Kelly** - It's an acre

**Lenny Lim** – And yours is

**Robert Dee** -.016 sir

**Lenny Lim** – so you are all an acre

**Robert Dee** - we are all on an acre

**Lenny Lim** – I don't see a problem with this. He is building within Code

**Vincent Cestone** - And he is not expanding the noncompliance. And the problem, the variance on the side of the property that is not affecting you and it is not going above the maximum height in the Town which is 40 feet.

**Peter Kelly** - I think it is a problem

**Vincent Cestone** - Mr. Dee would you be willing to plant evergreen trees

**Robert Dee** - No sir I would not. I feel that I am more than amenable to, I haven't done anything wrong. I am building within Code. Mr. Kelly has a deck that is 4.2 feet from the property line. It is not to Code. I find that more not in keeping with the community values

**Vincent Cestone** - Any one else wish to speak on this

**Robert Dee Sr.** - Yes

**Vincent Cestone** - Yes sir. Introduce yourself

**Robert Dee Sr.** - My name is Robert Dee. I am building a house next to Mr. Kelly. Is he still standing here or

**Vincent Cestone** - No. If you're done.

**Robert Dee Sr.** - Okay. I had no intention to speak until I heard Mr. Kelly speak about my house. First of all, I find it a little ludicrous for Mr. Kelly to be up here complaining about setbacks and everything like that. Mr. Kelly has at this point in time a garage, a stone wall with patio, and a deck that was built on my property. They are all in violation. I have sent letters to the Town for the last 2 years. Here is a copy of the police report where Mr. Kelly has threatened to shoot me and my family

**Tim Pagonos** - I guess let's talk about this application. Because whether he is in violation, if he had a legal ground to stop your son

**Robert Dee Sr.** - I had no intention of speaking here at all. I am building a house and mine is all to Code, I have all the permits in the world.

**Robert Dee** - He is building the house being constructed and has taken away some of the trees. And I am sorry he took away the trees and I am certainly sorry he took away the trees also but I don't see what that has to do with my application.

**Lenny Lim** - Hold on. So you are building a house next to you and you are the third one up

**Robert Dee** - He is building the new house

**Lenny Lim** - He is building the new, you are renovating. But it is one, two and he is the third one

**Robert Dee Sr.** - I am in between them

**Lenny Lim** - I am just trying to get which way they are going

**Robert Dee Sr.** - I had to take down more trees than I wanted to take down because of the board of health

**Vincent Cestone** - So your house is in the middle

**Robert Dee Sr.** - Yes sir

**Vincent Cestone** - Then you really don't have an argument.

**Robert Dee** - That is my point. He is two lots away

**Vincent Cestone** - Okay.

**Robert Dee** - And I am looking for a south side variance

**Robert Dee Sr.** - And I will be putting up trees to try protect Mr. Kelly's privacy

**Vincent Cestone** - Anyone else wish to speak on this? With that I would entertain a motion to close the public hearing.

**Bill Flaherty** - I will so move

**Lenny Lim** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Vincent Cestone** - I will make a motion for a straw poll. Do I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – Aye

**Bill Flaherty** - I move to, I vote to approve

**Lenny Lim** - I vote to approve

**Vincent Cestone** - And so do I

**Robert Dee** - Do I come back in 2 weeks?

**Tim Pagonis** - Right hopefully I will have a resolution on the 24<sup>th</sup>

**Robert Dee** - Okay thanks

**Vincent Cestone** - Okay. Next item on the agenda is review of minutes of June 26<sup>th</sup>. Are there any corrections or changes to the minutes? If not, I will make a motion to accept the minutes as entered. All in favor?

**All Board Members** – Aye.

**Vincent Cestone** - Okay. You're on.



**Tim Pagones** - Okay. Let's see. The only resolutions I have tonight are number 5 and number 6. So OSI will be on for the 24<sup>th</sup>. And Ressa and Williams on the 24<sup>th</sup>. I hope I can get Mr. Dee done. I am wearing a bullet-proof vest that day. My back is there. If I see you guys duck. Do you want to do the resolutions or the completeness. Is anyone here for Cottrell? Okay, we'll do the resolutions since

**Vincent Cestone** - Cottrell

**Tim Pagones** - It was on for a survey for Cottrell now the only question I have is there is a survey and the survey is dated

**Vincent Cestone** - If I remember correctly there was a measurement missing

**Tim Pagones** - Well it didn't show, we didn't have a survey. But it looks like it is drawn in. I don't know if anyone from Badey and Watson drew in the proposed deck. Would you know?

**Kim Shewmaker** - I have the original right here and I can show you that it is drawn in.

**Tim Pagones** - It is a 12 by 12 deck but its

**Lenny Lim** - It is hand-drawn

**Tim Pagones** - So it is drawn in by hand. So I would suggest that Mr. Watson make some, well they should call Mr. Watson and have it updated to show the proposed deck and actually have it drawn in so we have a survey. It is incomplete.

**Vincent Cestone** - It is still incomplete

**Tim Pagones** - MCHP

**Vincent Cestone** - Okay

**Tim Pagones** - Since Mr. Watson is here. Okay.

RE: DECISION AND FINDINGS OF THE  
PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #796; Applicant: MHCP Realty, Inc.  
**Area Variance**

Date: July 10,2006

The Philipstown Zoning Board of Appeals conducted a Public Hearing on May 15<sup>th</sup> and June 5<sup>th</sup>, 2006 to hear the appeal of MHCP Realty Inc., from the denial of site plan approval for construction of a building having insufficient front setbacks. The property is located on 3504 Route 9, Cold Spring in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on July 10<sup>th</sup>, 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 MHCP REALTY INC. FROM A DENIAL OF SITE PLAN APPROVAL BY PLANNING BOARD FOR CONSTRUCTION OF A BUILDING 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.

I guess before I finish, there are three of you so it has to be unanimous. The straw poll vote was 3 to 1. And Bill had voted against it. So unless he is going to change his vote it is a nullity. It was 3 to 1 for it.

**Bill Flaherty** - My vote stands

**Tim Pagonis** - So I can read it but it will be a no action because you don't have the majority of the board voting for it. So I don't know, if you are not of mind to change your mind

**Vincent Cestone** - Next meeting

**Tim Pagonis** - So you want to put it on for the next meeting when Ms. Turner is here too. Okay. So we will do that. Okay next one is Appeal 794

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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."

RE: DECISION AND FINDINGS OF THE  
PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #794; Applicant: Ronald & Maria Palmer  
**Area Variance**

Date: July 10, 2006

The Philipstown Zoning Board of Appeals conducted a Public Hearing on April 17<sup>th</sup>, and June 5<sup>th</sup>, 2006 to hear the appeal of Ronald & Maria Palmer from the denial of a building permit for an existing addition, above ground pool and deck as well as an accessory building(shed) having insufficient side setbacks. The property is located on 490 Sprout Brook Road, in the Town of Philipstown, Putnam County, New York.

At a public meeting of the Board on July 10<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 RONALD & MARIA PALMER FROM A DENIAL OF A BUILDING PERMIT BY THE BUILDING INSPECTOR FOR THE EXISTING ADDITION, DECK AND ABOVE GROUND POOL AND DENY THE APPEAL FOR THE ACCESSORY BUILDING(SHED) ALL HAVING INSUFFICIENT SETBACKS, WITH THE FOLLOWING CONDITIONS<sup>2</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

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<sup>2</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."

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 pool shall not be less than 21.0 ft., for the deck not less than 26.3 ft. and for the addition not less than 19.0 ft. (a variance of 9.0 ft., 3.7 ft. and 11.0 ft. respectively).
3. The deck and pool 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.

Any other conditions?

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**FINDINGS OF FACT:**

1. The Applicant made this appeal (#794), dated February 6<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 an existing addition, above ground pool and deck as well as an accessory building(shed) having insufficient setbacks. Applicants' exhibits, including those filed with the Appeal or offered at the public hearing were reviewed by the Zoning Board. A composite list of the Exhibits is attached as **Schedule "A"**.

And Kim will attach that

2. The property, a 1.293 acre parcel on Sprout Brook Road, is located

in a R-80 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the R-80 District requires a setback of 30 feet from the side or rear property lines.

3. The Applicant acquired title by a deed dated November 6<sup>th</sup>, 1976. The structures at the property, appear on a map dated December 5<sup>th</sup>, 2005, last revised January 30<sup>th</sup>, 2006 as prepared for Maria A. & Ronald A. Palmer by Badey & Watson, Surveying & Engineering, P.C. in Cold Spring N.Y.
4. The Board initially reviewed the Application materials at its regular monthly meeting on March 20<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 April 17, 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 April 17<sup>th</sup> and again on June 5<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 hearings were 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 for the addition, pool and deck and deny the variance for the accessory building(shed).

#### FINDINGS AND CONCLUSIONS:

##### Adverse Effects on the Neighborhood

1. The applicants seek a variance or an existing addition, above ground pool and deck as well as an accessory building(shed)all having insufficient setbacks. The pool and deck were built with a permit and received a C/O. It was determined that the C/Os were issued in error and the applicants seek to remedy that. The addition has been in existence for over 30 years. The shed that is there presently replaced a prior shed. The applicants informed the Board that they replaced the original shed with the current shed and made larger. Both sheds were put up without receiving a permit or C/O. The requested variances will not adversely affect property values

because the structures have been in existence for quite a long time. Additionally, the pool and deck were built legally, but because of an error with the Building they now require a variance. The structures do 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 structures are not 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 nature of the structures; an above ground pool and deck, and addition to the house, the Applicant can not move them without incurring a substantial financial hardship. The shed on the other hand has been already enlarged once and can be moved to another part of the property to a location that would not be in conflict with the Philipstown Code. Given the amount of intrusion into the setback for structures other than the shed, 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 9 ft. for the pool, 3.7 ft. for the deck and 11 ft. for the addition from a set back which should be 30 ft. The reduction to the required setback is minor. If a variance was granted for the shed the amount would be a variance of 27.7 ft. from a set back that is 30 ft. This would be substantial considering that the shed could be moved.

#### Effects on Physical/Environmental Conditions

4. The proposed variances would not have an adverse impact on the more traditional "environmental" conditions in the neighborhood. The continued placement of an above ground pool and deck as well as an addition to the existing house which has been there for over 30 years is not an activity usually associated with such environmental concerns. No additional traffic is generated. Air

quality is not disturbed. Water quality or quantity is not affected. Additionally, no increase in runoff or change in the drainage will 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>3</sup> in regards to the shed and not self created in regards to the pool, deck and addition. The Applicant replaced the original shed that did not have any permit with an even larger shed without a permit. If the Applicant had made inquiry and/or sought a building permit, the Applicant would have been notified of the need for a variance. In regards to the addition this was present when the house was built. Concerning the pool and deck, the applicants applied for a permit and even received a certificate of occupancy. It was later determined that the zoning requirements had changed from a 10 ft. setback to a 30 ft. setback and that the certificates of occupancy were issued in error.

#### 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 for the pool, deck and addition and denying the variance for the accessory building(shed).

#### THE ROLL CALL VOTE:

The question of the foregoing resolution calling for granting the requested variances with conditions for the pool, deck and addition and denying the variance for the shed was put to a vote on roll call on the 10<sup>th</sup>, day of July, 2006, the results were as follows:

Vince Cestone, Chairman	Voting <u>for/against</u> the resolution
Victor Carlson, Member	Voting _____ the resolution
Leonard Lim, Member	Voting _____ the resolution

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<sup>3</sup> **While self-created hardship is not alone a reason to deny an area variance, it is a factor to be considered.**

Joan Turner, Member  
Bill Flaherty, Member

Voting \_\_\_\_\_ the resolution  
Voting \_\_\_\_\_ the resolution

### **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 Pagones** - And you are voting for the resolution which states that you are going to grant certain ones and deny the one for the shed.

**Vincent Cestone** – Can I have a motion to accept the resolution as read

**Lenny Lim** - I so move

**Vincent Cestone** – I'll second. All in favor

**All Board Members** - Aye

**Vincent Cestone** – Roll call vote. Bill?

**Bill Flaherty** - I vote in favor

**Lenny Lim** - I vote in favor

**Vincent Cestone** – And so will I. So that is basically it. Old business? At this week's Town Board meeting the Town is going to adopt a Resolution for Vic Carlson. I am asking the members if possible to attend. I won't be here. I will be out of the area. But I am going to send a letter to the Town basically saying you know expressing my feelings. And on the other, on another note, Omnipoint is still giving us trouble about the neg 84 reading on our application to that new cell tower. I am going to take the position like we took before if you don't want to give it, you are going to have to prove it. You are going to have to do the drive test, you are going to have to do the whole thing and if it takes months, it is going to take months. I don't think we are asking for anything unrealistic and the other carriers don't have a problem with it. If they have, if Omnipoint has a problem with it, they are going to have to prove. Any other old business?



**Tim Pagones** - I just got the one. We got the letter from Mr. Monroe in regards to that question we had with Struck. I mean it just came tonight.

**Vincent Cestone** - 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:** 7/24/06

Respectfully submitted,

Kim Shewmaker  
Secretary