

# ZONING BOARD OF APPEALS

September 18, 2006

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, September 18, 2006, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

<b>PRESENT:</b>	Vincent Cestone	-	Chairman
	Bill Flaherty	-	Member
	Joan Turner	-	Member
	Tim Pagones	-	Counsel
<b>ABSENT:</b>	Lenny Lim	-	Member
	Kim Shewmaker	-	Secretary

**Vincent Cestone** - Okay. Before we get to the public hearings we are going to take care of general business. First thing I am going to do is review minutes of July 24. Are there any corrections or additions?

**Bill Flaherty** - I have none

**Joan Turner** - I have none either

**Vincent Cestone** - With that I will entertain a motion to accept the minutes as

**Bill Flaherty** - I move

**Joan Turner** - I second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Vincent Cestone** - Okay. Dunn for completeness.

**Tim Pagones** - Roark Dunn we got a new survey so that is complete. So you can set that down for a public hearing. Anyone here for Mr. Dunn? So whenever you want for a public hearing. You want October 16<sup>th</sup>?

**Vincent Cestone** - Do you have enough

**Tim Pagones** - There will be enough time to get it in the paper for October 16<sup>th</sup>

**Vincent Cestone** - I am thinking about the October 2<sup>nd</sup> meeting. We don't have enough time.

**Tim Pagones** - If she gets it in

**Vincent Cestone** - She would have to get it in tomorrow

**Tim Pagones** - She will not get it in in time

**Vincent Cestone** - Okay then the 16<sup>th</sup>

**Tim Pagones** - Okay October 16<sup>th</sup> for public hearing

**Joan Turner** - I don't have a copy of that file. I was away so I will make a note on the tape I guess for Kim to get it to me.

**Vincent Cestone** - Okay. Cottrell for completeness.

**Tim Pagones** - I have not received anything new.

**Vincent Cestone** - I think I received a letter here. Let me see if I have it.

**Tim Pagones** - The last thing was for a survey. I haven't gotten a copy of the new survey, so

**Bill Flaherty** - The letter is from Kim

**Vincent Cestone** - Okay Harnett

**Gregory Harnett** - Here

**Tim Pagones** - Did you ever supply a survey and a deed

**Gregory Harnett** - Yes I did

**Tim Pagones** - Did you? Al right. I don't have a copy of it but I don't know. I'd swear him in if I were in Court.

**Joan Turner** - I have it

**Tim Pagones** - You have it? So that being here, it is complete and you can set it down for a public hearing. And I think the earliest would be the 16<sup>th</sup>

**Vincent Cestone - Yeah. October 16<sup>th</sup> and Sussmeier is already on for the 16<sup>th</sup>**

**Tim Pagones - So October 16<sup>th</sup> for a public hearing**

**Vincent Cestone - Okay. We have a resolution for Open Space Institute**

**Tim Pagones - Yep. I handed out a copy**

**RE: DECISION AND FINDINGS OF THE PHILIPSTOWN ZONING BOARD OF APPEALS  
Appeal #788; Applicant: Open Space Institute, Inc.  
**Special Use Permit** for location of a satellite office for its Mid-Hudson Land Steward and support staff if required & to conduct tours of the grist mill for educational purposes**

**Dated: September 18, 2006**

**The Philipstown Zoning Board of Appeals conducted a Public Hearing on June 5<sup>th</sup>, 2006, to hear the appeal of Open Space Institute, Inc. for a special use permit to allow for a satellite office for its Mid-Hudson Land Steward and support staff if required & to conduct tours of the grist mill for educational purposes. The property is located on 955 Route 9D in the Town of Philipstown, Putnam County, New York.**

**At the public meeting of the Board on September 18th, upon all the discussion that preceded it, including the public hearing, all prior public meetings, site visits undertaken by individual Board Members, and a review of all exhibits and 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:**

**THE APPEAL OF OPEN SPACE INSTITUTE, INC. (#788) FOR A SPECIAL USE PERMIT TO ALLOW FOR A SATELLITE OFFICE FOR ITS LAND STEWARD AND SUPPORT STAFF IF NEEDED & TO CONDUCT TOURS OF THE GRIST MILL FOR EDUCATIONAL PURPOSES, IS HEREBY GRANTED WITH THE FOLLOWING CONDITIONS, BASED ON AN EVALUATION OF THE APPLICATION IN LIGHT OF THE STANDARDS AND CONDITIONS ENUMERATED IN THE PHILIPSTOWN CODE FOR THE ISSUANCE OF SPECIAL USE PERMITS AND FOR THE REASONS HEREIN STATED, WHICH REASONS ALSO**

**CONSTITUTE THE FINDINGS OF THIS ZONING BOARD OF APPEALS.**

**THE CONDITIONS<sup>1</sup> OF THE SPECIAL USE PERMIT:**

The Board hereby finds that the following conditions are reasonable and imposed for the purpose of minimizing any adverse impacts on the neighborhood or community:

- A. The structures on the subject property granted conditional special use permit by this decision shall not be further enlarged except in accordance with all applicable provisions of the Philipstown Code and shall remain in the configuration as shown on the Applicants' maps and plans. No further enlargement or reconfiguration of the structures is authorized without the required approvals.
- B. The building shall be used only for the purposes enumerated in the application materials and information contained in the statement of use.
- C. The Applicant shall limit the amount of bus tours to one(1) per day. All tours shall consist of no more than 20 people and shall be by appointment only. Busses shall be allowed to drop off passengers at the end of the access road but not allowed to park there. The applicant shall increase the amount of parking spaces at the building to 7.
- D. The applicant agrees to install a guard-rail on the access road as per plans and agrees that the access road shall not be salted.

Any other conditions?

**FINDINGS OF FACT:**

- 1. The Applicant, Open Space Institute, Inc. made an appeal (#788), to the Philipstown Zoning Board for a special use permit. The appeal was filed with various exhibits and the Board accepted additional materials and revised submissions at public meetings and during the public hearing process, all of which were reviewed

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<sup>1</sup> Town Law 274-b (4) authorizes the Zoning Board to impose "reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit."

by the Zoning Board and made available to the public. A composite list of the Exhibits considered by the Board in reaching a determination is attached as **Exhibit "A"**.

2. The subject property is located in a R-80 District in the Town of Philipstown, New York. According to the Zoning Law of the Town of Philipstown at Section 175-25, Paragraph 12 of Schedule A; Permitted Uses, "...educational ... and charitable institutions" are permitted in a R-80 District subject to the securing of a special use permit from the Zoning Board of Appeals.
3. **The Board first reviewed the application materials for completeness on January 9<sup>th</sup>, 2006 and was deemed complete. The Zoning Board referred the Application to the Planning Board in accordance with Philipstown Code §175-52 for their input and report prior to scheduling the public hearing.**
4. Copies of the application materials were referred to Putnam County Planning Department in accordance with General Municipal Law §239-m. A copy of the Putnam County Planning Department response is attached as **Exhibit "B"**.
5. The action is subject to review pursuant to SEQR. The Zoning Board determined the project as unlisted based on a review of the Short Form EAF as prepared by the Applicant. The Zoning Board declared itself lead agency. No potential large impacts were identified. Therefore, no Part 3 was required.
6. The Planning Board report was received and reviewed. A copy of the Planning Board report is attached as **Exhibit "C"**.
7. A Public Hearing was convened and completed on June 5<sup>th</sup>, 2006. A copy of the Public Hearing Notice is attached as **Exhibit "D"**. The Hearing was completed and closed on June 5th.

8. \_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

**FINDINGS AND CONCLUSIONS (IN ACCORDANCE WITH THE STANDARDS**

**AND CONDITIONS ENUMERATED IN SECTION 175-53 OF THE CODE OF THE TOWN OF PHILIPSTOWN:**

The Zoning Board hereby finds that the Applicant has demonstrated compliance with the following standards and conditions:

- I. The location, type, character and size of the use and any buildings, structures or facilities in connection therewith will be harmonious with the character of the neighborhood, will not detract from the appearance and beauty of the neighborhood, will not hinder or discourage the appropriate and orderly development of the town and the neighborhood

*The site has been in existence for many years as part of the golf course property. Recently the building was redone to accommodate the proposed use. The proposed use will not affect the property or neighborhood since there is no change to the property. Although the use of the building is changing the amount of use will be small so the neighborhood will not be affected by the proposed change in use.*

- II. The nature and location of the use and of any building or structure in connection therewith will be such that there will be adequate access to it for fire and police protection purposes.

*The proposed use involves using the existing grist-mill building to house the land steward of OSI and allow tours of the grist-mill to be held. The nature of the use and the location of the building will not interfere with access for fire and emergency apparatus. The emergency access will be still be either through the existing main entrance to the property or through the access road used to get to the property involved in the appeal.*

prospective traffic, that provision is made for entering and leaving the property in such a manner that no undue hazard to traffic or undue traffic congestion is created and that adequate off-street parking and loading facilities are provided.

*The Applicant has provided for 7 parking spaces, in accordance with the requirements of the Philipstown Code for the proposed use. Although there was concern about the location of the access, the applicant has provided enough room for a bus to pull of the*

*roadway and let off passengers. Additionally, no parking of busses shall be allowed at the entrance and the busses will be instructed to park at another location. Further the applicant has agreed to limit the number of bus tours to one a day by appointment only.*

and adequate dimension to permit conduct of the special use and provision of buildings, structures and facilities in a manner that will not be detrimental to the neighborhood or adjacent property.

*The proposed change in use will affect only a small portion of the overall 43 acres site. Also the building and access road are already in place so there is no real change to the physical layout of the property.*

- V. The buildings, structures, facilities and site layout will be suitably landscaped and maintained and will have adequate land area, yards and setback area so as to maintain the character of the neighborhood.

*The Applicant is not changing the building or layout of the property. The existing building has been renovated to accommodate a satellite office for the land-steward and the grist-mill has been refurbished. The rest of the property is a golf course which is landscaped and maintained. The entire parcel is 43 acres and the part contained in the appeal is a small part of it only being \_\_\_ acres. The applicant complies with all the Zoning requirements and since there is no change to the buildings there should be no change to the character of the neighborhood.*

- VI. The proposed use and the buildings, structures, facilities and site layout will not be detrimental to the public health safety and property values in the neighborhood.

*The proposed use of the building as a satellite office for the land-steward and for educational tours of the grist-mill will not be detrimental to the public health, safety or property values. The site layout will be not be changed. The only addition will be some parking spaces and a guard rail that will be added for safety.*

**COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT<sup>2</sup>:**

The Zoning Board hereby adopts the Negative Declaration dated September 18<sup>th</sup>, 2006 as its notice of determination of non-significance [significance] pursuant to Article 8 of the Environmental Conservation Law. A copy of the Negative Declaration is attached as Exhibit "E".

**THE ROLL CALL VOTE:**

The question of the foregoing resolution calling for granting the requested variance with conditions was put to a vote on roll call on the 18th, day of September, 2006, the results were as follows:

Vincent Cestone, Chairman	Voting _____	the special use permit
Joan Turner, Member	Voting _____	the special use permit
Leonard Lim, Member	Voting _____	the special use permit
Bill Flaherty, Member	Voting _____	the special use permit
_____, Member	Voting _____	the special use permit

**ATTENTION APPLICANTS**

**FURTHER COMPLIANCE WITH THE PHILIPSTOWN ZONING CODE REMAINS YOUR RESPONSIBILITY. A VARIANCE OR A SPECIAL USE PERMIT ISSUED BY THE ZONING BOARD OF APPEALS IS NOT THE EQUIVALENT OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY, BOTH OF WHICH CAN ONLY BE SECURED THROUGH THE PHILIPSTOWN BUILDING DEPARTMENT. PLEASE SEEK THE ADVICE OF THE PHILIPSTOWN BUILDING DEPARTMENT FOR YOUR PARTICULAR CIRCUMSTANCES.**

**Tim Pagones** - So you need a motion to accept the negative dec

**Vincent Cestone** - Motion to accept the negative dec do I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor

<sup>2</sup> Town Law §274-b (8) requires compliance with the State Environmental Quality Review Act and its implementing regulations.



**All Board Members – Aye**

**Tim Pagones** - So you know, you have to be unanimous since there is only three of you

**Vincent Cestone** - Right

**Tim Pagones** - Just to let you know

**Vincent Cestone** - Motion to accept the resolution as read

**Bill Flaherty** - I'll so move

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

**All Board Members** - Aye

**Vincent Cestone** - Roll call vote

**Bill Flaherty** - I vote in favor

**Joan Turner** - I'll vote in favor

**Vincent Cestone** - And so will I

**Tim Pagones** – Okay.

**Vincent Cestone** - One thing on old business. Previously we had approved a variance for 4 Hudson River Lane to rebuild a structure. They have applied for some changes. They wanted to change, I'll read this. Originally the plan showed that the roof on the river side of the house above the loft would be dormer. We would like to change it to a peak that would mirror the front house previously approved thus allowing us to put full windows into the loft facing the Hudson River. We would not exceed the original footprint of the roof or the house. The second one we would like to extend the gable over the main portion of the house again on the river side to partially cover the deck off the master bedroom for protection against the weather. And I wanted to ask the board members their feelings on this.

**Bill Flaherty** - Well can we act on that tonight since we have not had an opportunity to review it thoroughly?

**Vincent Cestone** - We can make a decision not to act on it and say that either that we are not going to act on it tonight, we will look at it on a future date or we can say we are not acting on it and we are not granting it or we can grant pieces of it

**Bill Flaherty - Or we can deny it**

**Vincent Cestone - We can deny it in its entirety exactly**

**Bill Flaherty - And that would open the door then to future such requirements as this sometime down the road**

**Vincent Cestone - We've done this previously**

**Bill Flaherty - We have?**

**Vincent Cestone - Yes**

**Joan Turner - Well wait a minute**

**Vincent Cestone - And previously it was minor stuff. It was not something like extending the footprint to the house. It was like adding or changing windows or doors, changing the roof covering**

**Bill Flaherty - Something like that I think it is rather \_\_\_\_\_ but something such as this is a little bit more extensive than that and I would think, I believe we have neighbors down there that might want an opportunity to review that because that was not a part of the original application and would it therefore be incumbent upon us to have to re-advertise legally because of that additional change in the plans**

**Joan Turner - I think that we ought to get copies of the proposed expansion and we should go down and look at it. I think it is under construction now. We can check the overall bulk of the building, how does this addition add to that and then the other**

**Alice Gish - We just drawn this in. This is the proposed, these are the proposed changes, that is the extent of it. And this is what we had, so this is just what we propose. Just changing that back instead of a dormer over here, this roof line is in the front and it was approved by you prior to this and so we, in constructing we said geez we have a chance to put in a full window to maximize the view so it is really not changing the footprint at all.**

**Joan Turner - This is the river side**

**Alice Gish - Yes**

**Joan Turner - You're western elevation**

**Alice Gish - That's correct. And just simply also to just put this on the top**

**Joan Turner** - So this is drawn in here then

**Alice Gish** - That's correct

**Vincent Cestone** - Where is the section that you are extending the overhang

**Alice Gish** - Just a little bit over here, this is the deck off the master bedroom

**Vincent Cestone** - And you are coming outside the footprint

**Alice Gish** - No. we are staying well within the footprint

**Joan Turner** - So this photo corresponds to this view?

**Alice Gish** - That is the side elevation which

**Joan Turner** - I'd like to see that side elevation

**Alice Gish** - Okay, the gable extension

**Tim Pagones** - Do we have your name? Your name for the record

**Jack Gish** - Jack and Alice Gish

**Tim Pagones** - Okay

**Alice Gish** - Match this to this. This photograph to this

**Joan Turner** - That one I understand

**Jack Gish** - This one is the roofline was originally down here, we raised the top to here. Still within the same pillar that supported this roof it is going to support this roof as it extends over to here. So this comes out.

**Vincent Cestone** - Is there a change in square footage?

**Jack Gish** - No. This is open. There is no change in square footage. This roof just comes out to provide protection for the staircase under here. Originally the roof line came to over here and now we just raised it so it comes up over here.

**Bill Flaherty** - Well that would approve your view of the river

**Jack Gish** - Yes. Exactly. Big time.

**Bill Flaherty** - I was down there

**Joan Turner - How would this impede your neighbor's view**

**Jack Gish - I don't think it would impede at all the view, my neighbors are here**

**Joan Turner - Oh okay**

**Vincent Cestone - Tim do we need to re-advertise this and post this**

**Tim Pagones - I am just concerned it is not a window, it is not a door, you are changing the structure**

**Vincent Cestone - He is enlarging the window**

**Tim Pagones - But I mean you are changing the roof line**

**Jack Gish - Yes**

**Tim Pagones - And I don't know if all the neighbors are there, I don't know if, you really shouldn't be taking testimony from people this is not a public hearing. So we really don't have the input from the neighbors saying we don't care it doesn't affect our view. I am just concerned this is something, it is not just a window, it is something more major. If you don't do a public hearing the next thing you know the neighbor says you modified the variance and I didn't have my chance to say anything**

**Vincent Cestone - Right**

**Joan Turner - Then you are in court**

**Bill Flaherty - Has this been submitted to the building department**

**Jack Gish - The building department suggested we submit it to you**

**Tim Pagones - Well your resolution says you can't make any changes to the plans without coming before you**

**Joan Turner - So they are here before us**

**Tim Pagones - Right. But what I am saying is this is not just changing a single pane to a double pane window. This is changing the roof line. And I am just concerned if you go ahead and change it then the next thing you know you get an Article 78 against you because the neighbor says I didn't have the right to speak**

**Joan Turner - So can we expedite it and put it on for our next meeting**

**Tim Pagones** - I don't know. If Kim can get it into the paper for the 2<sup>nd</sup>

**Joan Turner** - Because you are in construction now

**Jack Gish** – yes

**Bill Flaherty** - Well I would feel much more comfortable if that were the case.

**Jack Gish** – Do you want to hold these documents?

**Joan Turner** - I would like to have one

**Vincent Cestone** - Everyone should have a copy

**Joan Turner** - We do

**Tim Pagones** - I'll give Kim a call first thing in the morning and tell her to get something in the paper.

**Joan Turner** - Right away so you are on the next meeting so it is only 2 weeks

**Alice Gish** - Thank you

**Tim Pagones** - You had another resolution

**Vincent Cestone** - Oh you do

**Tim Pagones** - Well MHCP is an old one that the applicant didn't have enough votes, then we had enough votes and Mr. Flaherty wanted to add some conditions and he wanted to have his client here, but I had spoken to Mr. Watson and I told him that I didn't think the conditions were major. I think there was stuff like with every chance put the vehicles in the building. Things to that nature. So I guess I can just ask the board if you are all going to vote in favor of it adding some conditions, I would read it. If it is not going to be unanimous, then I am sure the applicant would ask to put it on when we have a full board. So I guess Mr. Flaherty you were the one who was voting against it last time but I think you changed it with some conditions.

**Bill Flaherty** - I would have not objection to voting for it with the changes that I had suggested.

**Tim Pagones** - Do you want to hear what his changes were before we go forward

**Glennon Watson** - Sure

**Tim Pagones - Do you want to just tell Mr. Watson what your changes were**

**Bill Flaherty - Yes.** On paragraph 3 I am going to add no commercial vehicles or unlicensed vehicles of any kind shall be parked in front or on the side of the building during off business hours. Do you accept that?

**Glennon Watson - Yes**

**Bill Flaherty - Okay.** And then on paragraph 4 which originally read there is no additional traffic. I would like to add additional traffic will be generated and noise and air quality may be adversely affected and therefore should be monitored from time to time to ensure compliance with the town code on noise and air quality.

**Glennon Watson - That's acceptable**

**Tim Pagones - Okay.** So then I'll read the resolution then.

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

Date: September 18, 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>3</sup>, FOR THE REASONS HEREIN STATED, WHICH REASONS ALSO CONSTITUTE FINDINGS BASED ON THE FACTORS SET FORTH IN TOWN LAW 267-b.**

**CONDITIONS OF THE VARIANCE:**

1. The structure granted conditional variance by this decision shall not be further enlarged except in accordance with all provisions of the Philipstown Code and shall remain in the configuration as shown on Applicant's maps and plans. No further enlargement or reconfiguration of the structures is authorized without Zoning Board approval as needed.
2. The setback from the centerline of route 9 for the proposed building shall not be less than 79.9 ft. (a variance of 20.1 ft.).
3. The Applicant agrees to place the vehicles housed at the property inside the building whenever possible so as to lessen any visual impact to the neighbors and install bells on the trucks instead of the normal back up beep so as to lessen any potential noise impact.

**Bill Flaherty** - Excuse me

**Tim Pagones** - I'm going to add your things

**Bill Flaherty** - But I want to delete in that paragraph

**Tim Pagones** - What are we deleting

**Bill Flaherty** - The property inside the building, the vehicles housed at the property inside the building whenever possible to be deleted

**Tim Pagones** - And we are still going to put the bells on the trucks

4. The variance is conditioned on site plan approval by the Philipstown Planning Board.

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<sup>3</sup> Town Law §267-b(4) specifically authorizes the Zoning Board of Appeals "to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property."

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FINDINGS OF FACT:

1. The Applicant made this appeal (#796), dated March 21, 2006, to the Philipstown Zoning Board for an area variance based upon a denial of site plan approval by the Planning Board for construction of a building 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 1.160 acre parcel on Route 9, is located in a B-2 District in the Town of Philipstown, New York. According to Schedule B of the Philipstown Zoning Code, the B-2 District requires a setback of 100 feet from the centerline of Route 9.
3. The Applicant acquired title by a deed dated October 28<sup>th</sup>, 2003. The structures at the property, appear on a map dated October 6<sup>th</sup>, 2004, as prepared for M.H.C.P. Realty, LLC. 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 April 17, 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 May 15<sup>th</sup>, 2006. The public hearing was properly noticed in accordance with statutory mandates. A copy of the public hearing notice is attached as Schedule "B"**.
5. The Board met on May 15<sup>th</sup>, for the purpose of conducting the public hearing. Besides the Board Members and the Applicant, Sean Ricketts spoke at the hearing and expressed concern about visual and noise impacts. The public hearing was continued until June 5<sup>th</sup>, for further discussion. On June 5<sup>th</sup>, the hearing was again



duly conducted and closed. The Board engaged in further deliberations and a straw poll motion was entertained to grant the requested variance with certain conditions.

## FINDINGS AND CONCLUSIONS:

### Adverse Effects on the Neighborhood

1. The applicant proposes to construct a building to house vehicles used in its other business. The building will comply with all the setback requirements except the required 100 ft. setback from the centerline of Route 9. The requested variance will not adversely affect property values because the building will be screened to lessen any visual impact that the building might have on Route 9. The structure should not interfere with the enjoyment of the neighboring dwellings. Given the local topography and buffering, as well as the proximity of other structures in the neighborhood, the structure should not be obtrusive. Additionally, the applicant has agreed to store the vehicles inside the building as much as possible and to install bells on the wheels for backup alarms instead of the normal beeping alarms. Some members of the public attended the hearing. Opinions of neighboring property owners, whether supportive or in opposition, are welcomed but are not dispositive of the question of whether the neighborhood will be adversely affected. As always, the Board made an independent judgment of the impact of the requested variance on the neighborhood.

### Feasible Alternatives

2. Due to the design of the building and the configuration of the lot, the Applicant can not build the proposed building without coming into conflict with the Philipstown Code. Given the relatively minor intrusion into the setback, denial of the variance would cause more hardship to the Applicant than benefit to the neighborhood or Town.

### Extent of Variance

3. The Applicant requests a variance of 20.1 ft. from a set back which should be 100 ft.

### Effects on Physical/Environmental Conditions

4. The proposed variance would not have an adverse impact on the more traditional "environmental" conditions in the neighborhood. The construction of a building to house construction vehicles in a business district is not an activity usually associated with such environmental concerns. No additional traffic should be generated. Air quality should not be disturbed. Water quality or quantity should not be affected. Additionally, no increase in runoff or change in the drainage should be experienced. The physical conditions in the neighborhood are discussed, as noted in item 1, above. As noted above, the structure will have very little effect on the physical conditions in the neighborhood.

Self-created Hardship

5. The need for this variance is self created<sup>4</sup>. The Applicant wishes to construct the building in a location and size that would require a variance. The Applicant had made inquiry and/or sought a building permit, as well as site plan approval and was notified of the need for a variance.

THE BALANCING TEST:

Based upon the above findings, and taking into consideration the benefit to the Applicant if the variance was granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Board finds that the balance weighs in favor of granting the variance with conditions.

THE ROLL CALL VOTE:

The question of the foregoing resolution calling for granting the requested variance with conditions was put to a vote on roll call on the 18<sup>th</sup>, day of September, 2006, the results were as follows:

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

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

## **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** – Just want to remind you it has to be unanimous

**Vincent Cestone** - Okay. I'll make a motion to accept the resolution as amended. Do I have a second?

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** - Aye

**Vincent Cestone** - Roll call vote

**Bill Flaherty** - I vote to approve

**Joan Turner** - I vote to approve

**Vincent Cestone** - And so do I

**Tim Pagones** – okay

**Vincent Cestone** - Going to the public hearings. There was one public hearing that was not advertised in error last week so that was moved to this week. So I will take that one first. And then we will go into the rest of the public hearings.

**Tim Pagones** – That's Bump

**Vincent Cestone** - So this will be Jacob and Robin Bump Appeal #807. Someone to speak for the applicant?

**Jacob Bump** - I can. Okay I think there is a couple of things that the board is looking for after our initial meeting in July. The signage page of the application is notarized. So I have that. And I think that the application that the proposed finished height documented on the application, so I have that.

**Vincent Cestone** - Okay

**Jacob Bump** - So I submit both of those forms. So as you guys are probably well aware of we are looking for a variance to build up vertically on the existing footprint and to extend to enclose the porches on the western river facing side and the southern facing side which faces the neighbors. The mass height to the ridge line of the structure is 36 feet 6 inches. I checked with the building inspector's office several times and it is my understanding that the entire district \_\_\_\_\_ and I am below that. Given the existing footprint of the building we are actually decreasing the existing footprint because on the eastern or railroad facing side we are looking to lob off part of the structure that is there currently.

**Vincent Cestone** - Is that represented by the dotted line on your drawing

**Jacob Bump** - That's correct. This is the renovated structure and you will see that this is existing out here and this is currently the proposed renovation that would get lobbed off.

**Vincent Cestone** - Okay

**Jacob Bump** - So and I think that is basically the long and the short of it. I have spoken with our neighbors to the south and our neighbors to the north are here, the Sullivans. The neighbors to the south are asking one question and that question is simply whether or not the existing foundation would be used from which we build up and that's the case, they don't see any issue with the proposed renovation. In fact I think they're in favor of it from the prospective and I can show you this in some photos. The porch that they now look at from their northern view is enclosed. They cannot see through and by making it an open porch as we proposed their view would actually be extended to the north. It might actually be easier to show you these on a computer, I apologize for the print job. So this is from the south and you can see this is the extension and there is a little enclosed porch if you will. And this is what the neighbors currently see and this would all be open. An open porch. And this elevation which is the southern elevation what we are looking to do here is again you can see in the drawings and I will point them out for you, is this would be an extension again not extending any further out than it currently stands to the south and extension out for a covered open porch.

**Joan Turner** - That's along the south side

**Jacob Bump** - That's correct. And along the river facing side it would be a covered open porch. In speaking with \_\_\_\_\_ the concerns from the Sullivans to the north were one the construction debris and the demolition process and \_\_\_\_\_ and you had voiced concern about height of the proposed structure. And I think this is probably the opportunity to talk.

**Vincent Cestone** - I'll ask if there are any comments from the audience

**Joan Turner** - You said that those pictures are available on a website

**Jacob Bump** - They are on my computer. I have more

**Joan Turner** - I just would like to have copies of them for the file.

**Jacob Bump** - Absolutely

**Joan Turner** - I have a couple of questions about the plans themselves. There are no dimensions in terms of the rooms or the total square footage of the house. Am I missing that?

**Jacob Bump** - It is mentioned on the second, the room square footage, the proposed square footage in total is not pulled out. The final square footage is 2805

**Joan Turner** - And you are starting with

**Jacob Bump** - The current square footage is approximately 1700

**Joan Turner** - So 2805 and that's proposed

**Jacob Bump** - That's correct

**Joan Turner** - And you are starting

**Jacob Bump** - 2850, I'm sorry

**Joan Turner** - and now

**Jacob Bump** - it is slightly under 1700 square feet

**Joan Turner** - you are planning to raze the house completely

**Jacob Bump** - no

**Joan Turner** - down to the foundation

**Jacob Bump** - ideally not. That would be determined once I see what my existing condition on my exterior walls if they do not comply with the code. The walls are too narrow. Those exterior walls I will have to fir those walls out to 2 by 6 framing. It will, depending on the condition of the framing on the existing walls around the perimeter of the building, I would like to ideally not have to tear all the walls down. If the condition of the framing is such that I need to or if it is more cost effective to simply tear them down and reframe, then I

**Joan Turner - Then you will go down to the basement level**

**Jacob Bump - I will go down to the first floor, if that is the case, the first floor deck.**

**Joan Turner - So you are not going to build up on the foundation**

**Jacob Bump - No. I am not touching the foundation**

**Joan Turner - In the foundation part that you have here, are you excavating anything in there**

**Jacob Bump - There is one area underneath and I can show you on the plans where it is possible to get a little bit more clearance for storage. Let me just show you, okay here is the basement so on the river side where I have shaded in gray area here, I have presently an unfinished basement. Some portions have a poured concrete floor back here, roughly poured concrete and this is unfinished space. What I would like to do ideally, it is currently about 6 feet, I would like to if possible if I can even do it, hand excavate down here by another foot or so to give myself some increased storage space**

**Joan Turner - The next question I have for your, have you submitted these plans to the board of health**

**Jacob Bump - They were submitted in to the board of health and the gentleman's name is, I spoke to Joe Paravati**

**Joan Turner - Let me give you a set of these regulations because my understanding of these regulations is that the board of health has to approve your plans as is**

**Jacob Bump - Mr. Paravati**

**Joan Turner - I actually have another appeal here which I can show you what they did where they actually stamped potential**

**Jacob Bump - Okay**

**Joan Turner - And also in your plans I see that you have 3 bedrooms**

**Jacob Bump - That's correct**

**Joan Turner - And 4 baths**

**Jacob Bump - That's correct**

**Joan Turner -** And I thought your existing was for 2

**Jacob Bump -** The existing house 3 bedrooms. Very clearly. We are not changing the number of bedrooms.

**Joan Turner -** So you are not changing

**Jacob Bump -** And that was the discussion I had with Mr. Paravati and his words to me

**Joan Turner -** What was his name

**Jacob Bump -** P-a-r-a-v-a-t-i and Joe is his first name and that's the Putnam County Board of Health

**Joan Turner -** Right

**Jacob Bump -** And his words to me were if you are not changing the number of bedrooms, clearly not changing the number of bedrooms, we do not need to review it. The number of baths does not have any impact.

**Joan Turner -** Can you get a letter to that affect

**Jacob Bump -** Sure

**Joan Turner -** I feel that there is such inconsistency going on between plans that are for expansions and another man here had to send them in and get them stamped

**Jacob Bump -** I am happy to do it

**Joan Turner -** I would feel more comfortable about that. Given that particular area and the fact that septic are a problem there you don't have a lot of space

**Jacob Bump -** True. I'm happy to do it

**Vincent Cestone -** One thing I would like to see is actual representation of the drawings of what the house is going to look like

**Jacob Bump -** Okay

**Vincent Cestone -** Your plans don't have them

**Jacob Bump -** They don't? I had gone by the guidance of Mr. Monroe but I

would be happy to show you all the elevations and I have them right here. This is the, maybe we should start

**Vincent Cestone** - Was that submitted in the full record

**Jacob Bump** - I think I had originally, correct me if I am wrong here Mr. Monroe, your suggestion was just submitted the plan views and not the elevations, I don't know, I don't remember.

**Tom Monroe** - I don't recall

**Jacob Bump** - Okay. I am happy to show you the elevations. This is the, from the eastern or the railroad track side, this is the elevation. On the southern side facing the \_\_\_\_\_ residence.

**Joan Turner** - And your deck is where

**Jacob Bump** - The deck would extend here. This is the, from the picture I showed you I have an enclosed porch, sunroom, what ever you want to call it that

**Joan Turner** - So this is the exterior of your house

**Jacob Bump** - This is the exterior

**Joan Turner** - So in addition to that you are going to put on an enclosed deck along the

**Jacob Bump** - No no no no. I'm sorry, let me the elevation very clear. What you are seeing here is a metal roof that covers a deck, walkway and that, this is from the north facing the Sullivans.

**Vincent Cestone** - How high is your attic in the sunroom

**Jacob Bump** - Proposed or current

**Vincent Cestone** - Proposed

**Jacob Bump** - 36 feet 6 inches

**Vincent Cestone** - no no. When you go into the attic, if you were to stand up. What is it from the floor of the attic to the

**Jacob Bump** - I can get you that. I can get you that tonight. I have to figure it out in the plans here. I can scale it for you



**Vincent Cestone - It says 10 feet**

**Jacob Bump -** Let me give you an exact scale from the center here roughly. It's a quarter inch scale so from grade

**Vincent Cestone -** No I am looking for the height of this from the top of your second floor to the peak

**Jacob Bump -** You are looking at 11 feet 3 inches

**Vincent Cestone -** Why so high

**Jacob Bump -** Well my guess is that we have high storage through here and probably to accommodate an air handler for the building. And then my instructions to the architect was certainly to keep it below the mandated heights but architecturally I am sure that was also the balance that he like to achieve.

**Vincent Cestone -** Generally we don't like high attics because they have a tendency to turn into living space

**Jacob Bump -** Well I can assure you that it won't and

**Vincent Cestone -** And everybody ensures us that it won't

**Jacob Bump -** I understand that

**Joan Turner -** People cheat

**Jacob Bump -** Well I mean, that's the reason there is a code inspector in place

**Joan Turner -** But after it's done and you get your CO, who's there

**Jacob Bump -** No one is going to stay there, it's storage

**Joan Turner -** But it is an 11 foot high attic but conceivably

**Jacob Bump -** Well that's from outside up, I have to, bringing the height down and I am not an architect, but I can tell you that it would definitely interrupt the paladins, the architectural balance of the house. And that's

**Joan Turner -** It is a very compromised space also. Not only is your space compromised but the neighbors are compromised

**Jacob Bump -** I understand

**Joan Turner -** And you might need to have to compromise your plans

**Jacob Bump** - Let me give you, what I would like to do actually is look at it from top of my joist so in essence the sub floor of the attic to the inside peak of the attic and give you the dimension and it will just take me a minute to do that with the plans here. Maybe we can keep going and I will give you that number afterwards

**Vincent Cestone** - This is probably going to be continued so you don't have to do it right this very second

**Jacob Bump** - Okay

**Joan Turner** - And I think your elevations need to be part of the record

**Jacob Bump** - Okay

**Joan Turner** - I think your neighbors need to be able to come up, we can have it on file, we all certainly don't need a copy but I think it should be on file downstairs as part of our record

**Vincent Cestone** - Because when we should approve this, we will need a set of your building plans for approval

**Jacob Bump** - Let me ask you this question and in my real hope was that I would be able to proceed with construction after tonight's meeting. And the rationale is simply no

**Vincent Cestone** - I am telling you the residents have to speak, we need to see architectural changes and then we would have to continue this on to the next meeting and then we have to have a resolution that we vote on and say for example everyone comes to an agreement, we have 62 days to get the resolution, if it is approved it will be a spring time build. I don't want you to think that you are going to get it in

**Tim Pagones** - Your best

**Jacob Bump** - My concern simply is

**Tim Pagones** - Your best, I mean the neighbors are going to speak, they want more information, so I would think they would put it on because we don't have to renote it, for the 2<sup>nd</sup>

**Jacob Bump** - Right

**Tim Pagones** - If you can get all the information for the 2<sup>nd</sup>, the best case is that everyone is in favor of it, the vote has all their questions answered, they close the

public hearing the 2<sup>nd</sup> and if I can get a resolution done for October 16<sup>th</sup>. That is all goes great. The worst case is you know it keeps going because there is further questions tonight, further questions on the 2<sup>nd</sup> and then you could have another public hearing so it goes on

**Joan Turner** - And you don't even know how long the board of health is going hold you up

**Jacob Bump** - I mean I just followed Mr. Monroe's suggestions

**Joan Turner** - You should submit these plans to the board of health. I mean they may meet and ratify them right away. But based on my understanding of what their code is, you need to get their approval

**Jacob Bump** - I will be happy to do it. I've made the calls and Mr. Paravati has said that if we are not changing the number of bedrooms it is not a concern. But if you would like consistency in the applications and you have

**Vincent Cestone** - We need it for the record

**Jacob Bump** - Okay. That's fine

**Bill Flaherty** - My experience has been in dealing with the health department has been rather lengthy to say the very least. I have been through that and I have not been adding any bedrooms and Joe Paravati told me that since that I was not adding any bedrooms it would be \_\_\_\_\_ and let me tell you it took me about 4 months before I finally got approval from the Putnam County health department. They are not concerned with the number of bathrooms. They are concerned with the number of bedrooms.

**Joan Turner** - Potential bedrooms

**Jacob Bump** - Well I'll submit it and

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

**Joan Turner** - Do you have an existing board of health approval now for three bedrooms

**Jacob Bump** - I must

**Joan Turner** - It must be in the files somewhere. That would be good to submit to us as well.

**Jacob Bump** - If I don't, it is recently purchased so I must be able to get one somehow. Okay so my request of the board would be to do all that we can this

evening to advance the application so that if at all possible, I understand it might be a little \_\_\_\_\_ on my part

**Vincent Cestone** - We will do the best we can but we have to go through due process

**Jacob Bump** - I am not asking

**Vincent Cestone** - Under the law we have due process and the residents have the right to speak on any application. Any comments from the audience on this? Just stand up and introduce your self.

**Jim Oakley** – Jim Oakley, Hudson River Lane. How far are you extending the porch, the deck on the river side

**Jacob Bump** - How far am I extending it? In which direction?

**Jim Oakley** – Towards the river

**Jacob Bump** - One foot

**Joan Turner** - So you are not staying exactly on the footprint then?

**Jim Oakley** – The porch extends out

**Jacob Bump** - The porch goes one foot forward. It extends north, I am proposing that I extend it north the full length of the current structure

**Tim Pagoness**- Are you coming closer to the river

**Jim Oakley** – Yes

**Jacob Bump** - foot

**Tim Pagoness**- One foot closer to the river and the full length of the house

**Jacob Bump** - That's correct

**Vincent Cestone** - Any more comments from the audience? Sir?

**Owen Sullivan** - Yes. Owen Sullivan, 8 Hudson River Lane. Some of this stuff is kind of new to me as far, I haven't had a chance to look at the plans but I have a kind of prepared statement here that I would like to read. I rather not be here but unfortunately I have a daily reminder of what can happen if you don't speak up or if you speak up and no one listens to you. I have several concerns with the plan at 10 Hudson River Lane. The first, even though it is in within zoning the

height of the structure. I have 18 foot of property between my house and the property line. Very usable land. My wife has nurtured a garden there for the last 25 years. I am afraid that the proposed height will cover this area in shade. Also during the winter months when the sun is lower in the sky, I can possibly lose the valuable sunlight which I believe helps heat my house in the winter. I know Speracio had the same concerns when Bracke built their addition further down the road. Also I was wondering, Bill Schlick was denied adding a second floor to his house. I don't remember the reason why but his property is 100 foot wide. His property is only 50 foot wide. They are great people and I am really happy to have them as neighbors but I just can't understand a 3,000 square foot home on a lot that is 50 foot wide with 7 foot setbacks from the sides. I was kind of surprised to hear the 11 foot attic space. When we added a second floor in a portion of my house we wrestled with the same thing, height. Not because of concerns from any body but for aesthetic value. My house had originally had 10 foot ceilings

**(Turning tape over. May have lost some dialogue)**

**Owen Sullivan** - ...the original part of the house and then 2 by 10 joists above that which gave me a 14 inches of additional height to deal with. So we were looking at a very high structure. What we ended up doing was we ended up using a tray ceiling in the second floor bedroom basically coming up 7 foot following the roofline and then coming across where the columns tied which gave us basically no attic space whatsoever. But I request all matters be taken to minimize the height of that proposed structure. I also have a major concern about the continued encroachment towards the river. The house as it stands now had a porch added to the river side illegally. This board granted a variance for the sale. I think this porch should not become the new front boundary of acceptance for the \_\_\_\_\_. This \_\_\_\_\_ porch is only a small portion of the river side part of the house whereas the proposed porch will run the entire front of the new house. Like I said, I am against any encroachment towards the river. I had the opportunity to pull out some of my old paperwork from my original purchase from my house. I was looking at the original restrictions placed on all these properties. The most interesting one was the restriction of one story to lots 50 foot wide. The second was no house was to be built greater than 120 feet from the eastern boundary which is the railroad side, towards the river. I was amazed at the foresight somebody had over 50 years ago on issues still pertinent today. I also have a petition from 1973 signed by every property owner on Upper Station Road requesting this board to extend these restrictions past their expiration date which was in 1973. I can't help think how easy your job would be if this petition was \_\_\_\_\_. Thank you.

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

**Zshawn Sullivan** - Zshawn Sullivan, 8 Hudson River Lane. The better half. I had a good, if the length of the house east to west is 42 feet and the length of the

house south to north is 36 feet, That's about 1500 square feet. Is that correct? And then if you are going to totally, I mean that is your proposed addition. If you times that by 2 that's like 3000 square feet. Then that number doesn't include the 2 porches that you want to have

**Jacob Bump** - I think that if it is a concern, the square footage is very much a concern, then I should run through the elevations and do the actual calculations for the square footage. That's probably the prudent thing to do or else we are just talking about proposed or theoretical numbers here. So I think that is the prudent thing to do. I am happy to do that. The point I would simply make is that we are on the railroad track or eastern side taking a portion of the house off so there is a decrease there. I think we need to look at what we have currently and then I can give you take-offs for the proposed.

**Zshawn Sullivan** - Okay so we have two porches, a deck on the first floor and this is on the west the river side. You have two porches that are 36 feet long and 9 feet wide. That's about 650 square feet. So that adds up to a total of about 3675 square feet and that doesn't include the garage that's on the 50 foot lot. Right? You are going to keep the garage?

**Jacob Bump** - It is not determined whether or not, the current garage will be taken down at some point in time. I do not know whether we will rebuild the garage in its current shape. I don't know, I guess this is a question for the board, how you classify non-enclosed porch space. If it is counted towards the square footage of the house

**Vincent Cestone** - If you said you are putting a roof on it it would be in the bulk of the building.

**Jacob Bump** - Okay. It is open air with a roof over the top

**Vincent Cestone** - Right. And that becomes part of the bulk calculations

**Zshawn Sullivan** - And then I too have prepared something in writing but I am not good at public speaking. The applicant tells us about 7' 1" from my southern property line, the top of their foundation is about 5 feet above the top of the foundation of my house already. So a one story house as it exists now is about 19 feet high on the north side, that is the side that faces my property. It makes, it already makes it look like 24 feet or more higher from the patio around my garden. Adding a full second story plus attic space and roof lines will make it look like way too much house on a 50 foot lot. The second problem I have is the deck that they wish to add to the river side, the previous owners just got a CO for that small section of porch prior to the Bumps buying it. It was built without a building permit and it sticks out about 8 feet in front of all the other houses around it. \_\_\_\_\_ they position the new house to end at the existing back of the house instead of where they are saying they are taking off towards the road

side, then they could have their decks and still stay in line with all the other houses that are there. And, I mean Jacob and Robin they are wonderful people, they've been good neighbors, but quite honestly to the board and to all the other neighbors, it really means nothing when people say they we are going to take off on the road side down there. We all live there for the view of the river. That's why Jacob and Robin bought down there I am sure is because they like, they want to get up every morning and look out at the river. It also has that they are squaring up the south side of the house which would take that porch and add it all along that would mean that they would have 7 feet between their house and my property line and 7 feet from their house and the neighbors' property line. I mean that looks like alley to me quite honestly. To have two 7' alley ways between the houses. If they would need to get into the front to do work or whatever, I mean basically you couldn't even get a car through there. I don't understand, that's just my personal opinion. I do as Jacob mentioned have real concern about the removing of the asbestos shingles that are on the house. The house was built in 1955 and it had asbestos shingles and I have had an organic vegetable garden directly to the north of them for over 25 years that I have lived there and I would like to continue growing and eating vegetables and herbs from my garden without worry of asbestos being in the soil. The house should fully be \_\_\_\_\_ with shielding prior to the demolition taking place. And there should be oversight from this board to ensure that that happens. I hope that this board looks over thoroughly and recommends a smaller renovation for the 50 foot lot. As my husband said, we still go out into our yard everyday on the river side and look at Coopers and that was their dream house and I know Jacob and Robin perhaps have their dream house but their house also has to fit on the lot and fit into the neighborhood. And I do have concerns about the size of the house and what it is going to look like from my garden and the side of my house. Lastly, I want to say that I miss Mr. Carlson sitting up there. He was a good friend to me and his wisdom and knowledge and caring about Hudson River Lane is sorely missed by me and may he rest in peace.

**Vincent Cestone** - Thank you for that. Any more comments from the audience? Would you wish to add anything

**Jacob Bump** - I'd like to just respond to the points that Ms. Sullivan made. I don't know if I can recollect them all but I just would like the opportunity

**Vincent Cestone** - Direct it to the board

**Jacob Bump** - Absolutely. So taking Owen's comments. The first thing I just feel that for the record from attic floor to top of inside space in attic is 8 feet 3 inches. I want to \_\_\_\_\_ by saying that through discussions with the neighbors that I have met on Hudson River Lane I understand that there have been in the past difficult, perhaps amongst neighbors, perhaps with the aesthetic of structures that have been built and the aesthetic of structures that were proposed built and then stopped work orders were, I think the Coopers are the only one in

that condition, I understand all that. When I discussed this with my architect, I was very clear with my architect about what we wanted to achieve. That was adding a second floor to the house consistent with at least in my eyes what a lot of people have been able to do over the years. I understand there may have been significant steps in the variance process to get to the point where people can build a second floor. But simply stated I am looking to add a second floor to the structure to accommodate a future family. I think that aesthetically it is a vast improvement over what I have there. I think that in the discussions that I have had pre-sales, pre-purchase excuse me, subsequent to purchasing the construction planning period it was always envisioned that I would be able to extend the porches and make them open air porches and I understand that none of that is probably relevant to this board until you get the opportunity to look at the plans, it is all hearsay to this point but it was never \_\_\_\_\_ to me that that would be an issue to

**Vincent Cestone** - I tried to tell you

**Jacob Bump** - What's that

**Vincent Cestone** - When you came in for completeness I tried to tell you that there would be issues

**Jacob Bump** - No no I understand that there were concerns from neighbors but for the record and I can perhaps get a statement from them, but I have to tell you I am sought of reluctant to do so because it ends up in some ways pitting neighbor against neighbor and that's not what I want to do here at all. You know, I can get a statement perhaps that says from the neighbors to the south that they don't see any issue with it. But I am not interested in doing that, I don't think that helps out anyone in the end game here. I don't see any impact to views. I see an improvement to current views. I don't know, the question that Zshawn maintaining safe demolition through the construction process, my family's business is high end residential construction. This is what we do, I can assure you that we can put up the requisite drape tarps or whatever we need to do to fully shield that side. The question about light and the path of the sun, it seems to me that for the most part the sun comes over the mountain to the east and travels fairly consistently east to west. I understand that there would be shadow lines but the shadow lines currently exist. The elevation of the house that you mentioned from your side is approximately, the current peak of the house is approximately 23 feet depending on where you measure it. Because obviously we are at a higher natural grade then where you guys are. It ranges from 20 to approximately 25 feet depending on where that dimension is taken. So depending on prospective, we are looking to go from 16 to 10-16 feet. I also submit that I didn't have a chance to look at any of the information presented about the original, I don't know what you want to call it, original specifications for structures along Hudson River Lane in the 1950's and I could simply state that the needs of families and styles of living have changed dramatically.



**Joan Turner - But the land hasn't and that is the overall consideration**

**Jacob Bump - It is. It is.**

**Joan Turner - Overall consideration.** That whole lane is under or bound by non-conforming. It doesn't fit the R-80 standards so everything is nonconforming and then it has been a task of agreement that was worked out over the years with the neighbors, with this board, where the overall bulk of the house is kept as small as possible and still livable and modernized. And there are houses there as far as I know, that we have given approval for that are over 2500 or 2400 square feet. Now when you compare what is existing now and what you are proposing to do, you've got an enormous bulk that immediately raises a red flag for everyone down there. It is an immediate red flag for me and I think the other members of the board so the overall bulk is a problem. The height. So when I talk to you about compromise, land, neighbors, building site that also should say okay what can I do to scale down this project of mine. You might want to start thinking about that. Because it really is very hard to put in that, home in that place it is almost 2000 square feet. Maybe 2800 when you are talking about the living space. But wrap around porches like that add to the bulk. It was one of the major contentions, legal contentions in the Cooper lawsuit, bulk

**Jacob Bump - Well that's clear.** I have not been in the \_\_\_\_\_ and it is also to my eye again, no consideration in there to the aesthetic of the neighborhood, community. It was \_\_\_\_\_ in to the river all sorts of things

**Joan Turner - But, I hate to say all this because you are young and you are vital and you want to go forward with this dream house.** It really is hard to be driven by these other restrictions

**Jacob Bump - I understand them thoroughly and again, I don't want to understate that it is something I see regularly in the course of my work.** It happens in the communities and townships in which we build. I think there is an overall aesthetic improvement. I don't think it detracts at all. I think that when you speak to the, the willingness, the compromise, whatever that is, is going to be some form of structure, community and it is the laws that govern the area, we are absolutely willing to do that. That said, I specifically went to our designer and said do something that you know is aesthetically appealing, I mean the setbacks on either side currently, you can't get a car through them, you can't really do much there. So to me thinking about widening to the north or to the south was not a significant issue. Anyway

**Joan Turner - Your architect has made a site visit hasn't he?**

**Jacob Bump - Yes**

**Vincent Cestone** - One last comment and then we will continue on

(?) - Right now you have done a north south peak,

**Jacob Bump** - It will now go to an east west peak

(?) - So then the wall is facing me

**Jacob Bump** - Yes, it is an east west peak

(?) - Can you just get me the height of the eave

**Jacob Bump** - Sure

**Vincent Cestone** - Submit it to the board and it will become public record

**Jacob Bump** - Sure

**Vincent Cestone** - The sooner you submit it the better off because it will be downstairs and the residents can look at the records downstairs

**Jacob Bump** - Okay

**Vincent Cestone** - With that we will continue it on to October 2<sup>nd</sup>. Next item on the agenda is Michael and Karen Enea continuation of a public hearing. Refresh my memory, what are we looking for

**Michael Enea** - I'm sorry?

**Vincent Cestone** - Refresh my memory. What are the outstanding things that we had to have

**Michael Enea** - Well since the last meeting you made a visit to our house

**Joan Turner** - Your father was there

**Michael Enea** - He stood in for me last time.

**Vincent Cestone** - Bill do you have any questions that you wish to address?

**Bill Flaherty** - Well the only thing that I have, how many garages are on that road for the houses that are there

**Michael Enea** - Almost every single one

**Bill Flaherty** - Well that was a private road for years and just recently has been

taken over by the town. And therefore, there were some very significant restrictions applied to that area as a result of that it being a private road. I noticed that, I think that looking at the drawing that you submitted to us the garage you proposed to build are certainly an improvement, it's attractive looking. It will add certainly a resale value in time to your home over the course of the years. And I (I cannot hear him)

**Michael Enea** - Also if I may add, I've lived up here my entire life. I don't plan to move.

**Bill Flaherty** - And I spoke to your neighbor and I don't know if he is here or not

**Michael Enea** - No he is not. He wasn't able to make it.

**Bill Flaherty** - Well anyway we have a letter. He has no objection

**Michael Enea** - Not at all

**Bill Flaherty** - Now while I was there I noticed you have a storage shed in the back

**Michael Enea** - I have a permit and CO for it. Those were issued by Bob Emery

**Joan Turner** - I saw it, it is in the file

**Michael Enea** - You saw it good

**Joan Turner** - But my concern is is that it doesn't have any setbacks

**Michael Enea** - It is 5 feet from either side

**Bill Flaherty** - That doesn't conform

**Michael Enea** - What's that

**Bill Flaherty** - It doesn't conform

**Michael Enea** - Oh sure it does. I've checked with the building department

**Bill Flaherty** - You did

**Michael Enea** - Yeah. It is a 5 foot setback from the left and the back

**Bill Flaherty** - Well in that area it's an R-20. And the side let's see,

**Joan Turner** - I'll look it up

**Bill Flaherty - 30 feet**

**Joan Turner - no it is not 30 in an R-20**

**Bill Flaherty - what is the setback as well**

**Joan Turner - let me look it up. R-20 your setbacks**

**Michael Enea - All my neighbors are right on their property lines**

**Bill Flaherty - I noticed that**

**Michael Enea - Of course, I don't want to bring up my neighbors, but next door neighbor is right on his property line**

**Joan Turner - 15 feet. So you have shed that is right back here in this corner that doesn't meet the code. So you actually needed a variance to put**

**Tom Monroe (?) - R175-32 there is a special exception in R-10's and R-20's for accessory building**

**Joan Turner - I think you are right**

**Michael Enea - I know I definitely checked. I did not build this without checking**

**Joan Turner - What was it again**

**Tom Monroe (?) - 175-32**

**Michael Enea - I definitely did my research before building it.**

**Joan Turner - It looks good. It's a nice shed**

**Michael Enea - Thank you. I built it**

**Joan Turner - You built it?**

**Michael Enea - By myself, yes I did**

**Joan Turner - It looks like a little dollhouse**

**Michael Enea - Thank you. Same color as the house, same siding, gutters**

**Joan Turner - So you are okay. I do have another issue though**

**Michael Enea - Okay**

**Joan Turner -** This elevation doesn't really reflect the topography of the site because you really have to go down and so it is not even like this. There is no topographical indication of how this is setting

**Michael Enea -** Well the front from left to right is perfectly level, but it does drop down from the front of the garage right here to my backyard is probably a drop of about 4, 5 feet maybe

**Joan Turner -** I was there

**Michael Enea -** I do ride my tractor up there and mow that part of lawn with my riding tractor

**Joan Turner -** I understand that but do you have to go down to get into the garage? Or are you going to fill it in and bring it up

**Michael Enea -** Oh, it is going to be brought up and then it is going to be filled. Correct. So there is not going to be any storage underneath it if you are asking that also.

**Bill Flaherty -** It will be built on a slab

**Michael Enea -** Yes

**Joan Turner -** And what do you need this storage up here for?

**Michael Enea -** Well one is for the design of the house. We didn't want a real short roof on the garage

**Joan Turner -** You could make just the height of your garage. I mean this could be a potential room.

**Michael Enea -** Well it can't because there isn't enough height in the ceiling anyway. You want to add something? The reason for the height of the garage. He is much better at explaining things than me probably

**(?) -** Well if you notice the peaks on the front of his house are at the same pitch of the garage that he is trying to carry through. We are talking about why this has to be so high?

**Joan Turner -** Yes

**(?) -** Well it would look like a little box that you attached to the side of the house if you lower the height.

**Michael Enea** - Fortunately it is not obstructing anybody's view. My neighbor to the other side of the road is obviously much higher

**Joan Turner** - It is strictly just an issue of potential living space

**Michael Enea** - There is no way to get in there

**Joan Turner** - You could open up right through your house. It is going to be attached

**(?)** - This is way lower. The pitch of that roof being where the windows are, you'd have to

**Joan Turner** - I guess I'm just cautious

**Michael Enea** - Actually the only way you'd be able to get into this is to go through the center of that room and you would be right at the closet in my bedroom. It would be impossible.

**Joan Turner** - I guess my concern is you're, it's just that you have to fill in that, bring that up level

**Michael Enea** - Right

**Joan Turner** - And that will be street level, you will just go straight in

**Michael Enea** - Correct

**(?)** - This right here, this height, if you were to open up the wall would be eye level or a little bit below.

**Michael Enea** - You'd have to make a small 4' door and crawl into it. And if I did do that, I would be in violation. So of course, I am not going to do that.

**Joan Turner** - But you've already got a pretty big house

**Bill Flaherty** - Remove the dormer

**Michael Enea** - Well the dormer,

**Bill Flaherty** - They are aesthetically pleasing

**Michael Enea** - Exactly

**Joan Turner** - But we don't give variances on aesthetics

**Vincent Cestone - Just a hypothetical say you were denied, what would you do?**

**Michael Enea -** What would I do? Cry

**Vincent Cestone -** Seriously

**Michael Enea -** Well the reason for the two car garage was that I own 3 cars and right now family does come over to visit me and I can only accommodate one car in the driveway right now. All the other cars would have to park in the road and you guys already know that that road is very narrow, so the reason for the garage is to pull the cars off the road and allow space for my family to come visit. What would I do without a garage? I would have to fight to park my cars on the road. And that's tough.

**Joan Turner -** Well what's your feeling on this Vinnie? You live down there.

**Vincent Cestone -** Well I go through that entire area and I haven't seen one house exact raised ranches that have garages. On the way here, because I live in Continental Village

**Michael Enea -** Okay

**Vincent Cestone -** And I'm, even though this is a very nice house, I'm not sure if it is appropriate, especially a two car garage on that street because things seem to \_\_\_\_\_ through the neighborhood and my concern is not whether it is aesthetically pleasing it's whether it is precedent setting. Okay. And what I am afraid of is by setting the precedent a whole bunch of people on the street will come and ask for the same thing. It's happened

**Michael Enea -** Again, every other house, I believe almost every house has a garage

**Vincent Cestone -** I saw the ranches have the garages

**Michael Enea -** Yeah

**Vincent Cestone -** Because you drove right into them

**Michael Enea -** Yes

**Vincent Cestone -** The capes and the colonials didn't. What if a one car garage was approved?

**Michael Enea -** Obviously I have to take whatever you guys are going to approve but I would love to have a two car garage.

**Bill Flaherty - You still have to get a variance**

**Michael Enea - Yes of course**

**Joan Turner - It's over building the lot**

**Vincent Cestone - That's what I am concerned about because Continental Village is over built to begin with. That was all built by one builder and your area and the area down by the lake are always \_\_\_\_\_ up the hill and up Aqueduct Road where I live it is not as much an issue but in that area right off, there is a whole bunch of issues there**

**Joan Turner - You never thought when you were building the house to come down that hill and drive into your garage underneath the house**

**Michael Enea - I don't believe there would be enough room to make that turn. You mean to go underneath inside the house**

**Joan Turner - Yes**

**Michael Enea - Well the other reason is there is a retaining wall in the basement that takes up 8 feet of the basement's 4 feet tall and that was to keep the living space a certain distance from the septic**

**Joan Turner - Right**

**Michael Enea - So it would almost impossible. It would have to be in the front portion of the house and you couldn't make that turn. It is too steep the driveway. So that was thought about when the house was constructed**

**Joan Turner - You didn't go with a smaller house**

**Michael Enea - Well the house might appear to be large, the house is not a large house. It is only a two bedroom house. It really looks bigger**

**Vincent Cestone - You must have big bedrooms**

**Michael Enea - The two bedrooms on either side a decent size bedrooms 15 by 14 and then there is a small loft area which is just an open space that looks down at the center hall**

**Vincent Cestone - Was that all you were approved for**

**Michael Enea - What's that**

**Vincent Cestone - Board of Health. Two bedrooms as opposed to the normal**



**three or don't you know**

**Michael Enea** - I don't know. I didn't go before the Board of Health to try

**Vincent Cestone** - The builder got all the approvals

**Michael Enea** - Yeah. I might at a later date try to do that but no. Not at this moment. I am trying to keep it as a two bedroom house and just get a garage

**Vincent Cestone** - And you were aware of the limitations of the lot when you bought it correct?

**Michael Enea** - Yes

**Vincent Cestone** - And that's another reason why I tend to not be in support of this because you bought the land knowing. Because generally the rule of thumb here

**Michael Enea** - When you said that I know that's what you are saying. I didn't know the issue of not being able to build a garage on to it. I knew the setbacks were and I knew I had to come forward

**Vincent Cestone** - Generally the rule of thumb with the zoning board is you build the house to fit the land. And the only time we give variances is when there is no other

**Joan Turner** - Relief from this code

**Michael Enea** - I personally did not build the house. I bought it from the builder. But I did speak to the builder and it was too late already to try and add a garage to this house

**Vincent Cestone** - Oh I see

**Michael Enea** - It was already set in plans and everything else. That's why I said I would buy it and then of course come forward and request a variance to put a garage. I came from a house that had a two car garage only 5 houses away. So it is nice to have.

**Vincent Cestone** - Any other comments Bill?

**Bill Flaherty** - No

**Vincent Cestone** - Joan?

**Joan Turner** - I have no more. No.

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

(?) - Just here for a little moral support. \_\_\_\_\_ his neighbor right across the street decided he needs to protect his front area with big boulders, he has a car in the driveway and he is trying to pull out onto that road, you are probably going to crash into those boulders

**Michael Enea** - Did you notice those rocks over there

**Bill Flaherty** - Yes I saw those rocks

(?) - Why they are there I have no idea.

**Michael Enea** - I see no reason to have those rocks there

(?) - So I think that's what started and prompted this, to get those cars in and we don't have the issue of how hard it is to get out of the road. It's real tight.

**Michael Enea** - We have 3 cars and I have one car here, and one car here and one car there so for you to back out, you have to worry about the boulders and the back of the car. If you go the other direction \_\_\_\_\_

**Vincent Cestone** - Anybody else wish to speak?

**Tim Pagones** - Are you looking to see if he wants to come back with a proposal for a one car garage or are you looking to deny it?

**Joan Turner** - We would need to consider what his variance would be

**Tim Pagones** - That's what I am saying. I don't know if you came back with a one car garage if they would grant it

**Michael Enea** - Okay

**Tim Pagones** - But that is still an opportunity. If they close it now, then that means they are going to grant it or deny it the way it is. If you want to take a shot, it seems like the \_\_\_\_\_ of the board and there is not a full board here. We are still missing one person and they still have to appoint somebody. So if you wanted to wait fine. But I guess what I am just saying is if you want to come back with new plans and say okay I don't get a two car garage, here is my plan for a one car garage, now I need a setback of X

**Michael Enea** - Right

**Tim Pagones** - They still might deny it but you've got a shot as opposed to I

don't know if they are going to deny it right now. That's up to you. So you can ask instead of closing the public hearing you can ask that you can modify your plans and say now instead of a 10 foot I need a 2 foot variance for a one car garage, they might grant that.

**Bill Flaherty** - From our prospective regardless if it is one car garage or a two car garage you are going to need a variance. The variance for a one car garage would be less than a two

**Vincent Cestone** - That's correct

**Bill Flaherty** - But I don't think it is going to have any affect whatsoever on my thinking relative to either in approving or denying the right to build a garage. I will be perfectly honest with you. It won't make any difference as far as I am concerned.

**Vincent Cestone** - Joan what's your feeling?

**Tim Pagonos** - Well I guess, would you be voting in favor?

**Joan Turner** - Are you in favor of this?

**Bill Flaherty** - I would be voting in favor

**Joan Turner** - Okay

**Tim Pagonos** - So unless you are all going to deny it, or you are all going to grant it, right now you have a no decision. So you really

**Joan Turner** - Because I am voting to deny

**Bill Flaherty** - But since we don't have a full board it is rather an if-y issue

**Tim Pagonos** - I guess right now I would suggest keeping the public hearing open. When Mr. Lim comes and says he is going to vote no and Ms. Turner and Mr. Cestone say no, then you have a decision. If it is two and two it is still no action. Then you can wait for the Town Board to appoint a fifth member to the board. It is going to be time but there is no denial. Because right now there is a no action. There is not enough to sustain a vote you know to grant or deny.

**Bill Flaherty** - Well if it were denied then the other alternative would be to come back to us with a one car garage.

**Vincent Cestone** - But then he has to pay the fee again and I don't want him to spend the money. I know this is expensive. I don't want it to cost you more money if you don't have to.

**Michael Enea** - I don't think it is really going to change the neighborhood by adding a two car garage. I mean, if all my neighbors are in favor of it, I just had the neighbor that it would affect the most sign a letter, I will go around and have all the neighbors sign something. I have no problem with that. I mean they were all wishing me good luck when I was leaving the house.

**Tim Pagones** - Right now I guess the public hearing should stay open. Mr. Lim has to be here and maybe in the meantime you can present more evidence, more documentation from the neighbors and do it that way. Because right now it could be two to one and it would be a no action. So I would suggest keep it open

**Vincent Cestone** - I would have a tendency to vote against. One car garage depending on what the setback variance was, I might approve

**Michael Enea** - I would have to come back with another plan?

**Vincent Cestone** - We are doing it now so we can save you some money

**Michael Enea** - I like that

**Vincent Cestone** - We have had people come back multiple times but I know how much it costs

**Michael Enea** - We have just 25 feet right now to the property line on the side from the house

**Joan Turner** - What is the size of the variance that you are looking for now?

**Michael Enea** - 12 feet. Am I saying that correct

**Vincent Cestone** - yes. If you came back with a one car garage, more than likely you would barely need a variance or you would need a very small one

**Joan Turner** - he would hardly need one. If there is 12 feet now, what is the difference right here because it is not marked

**Michael Enea** - that's only 2 ½ feet right there

**Tim Pagones** - so you need a 12 foot variance.

**Joan Turner** - So if he takes 10 feet off the garage

**Tim Pagones** - He would need a 2 foot variance

**Joan Turner** - Because it is more in scale in terms of your property size

**Tim Pagones** - I don't know how big a one car garage is

**Michael Enea** - Yeah. A tight one car garage I would assume would be 12 feet.

**Tim Pagones** - I don't know. You might want to do a little bigger. By law they are supposed to give you the smallest variance they can. Right now it looks like it is going to be denied 2 to 1. So what I would suggest is that if you want to come back with new plans showing a one car garage, you try and get what you can get

**Michael Enea** - And that would request me doing this all over again and spending the \$200

**Tim Pagones** - No no. Right now it is still open. You can amend you plans. If they deny

**Vincent Cestone** - If we closed the public hearing, voted and had a resolution, then you would have to do this all over.

**Michael Enea** - Okay gotcha

**Tim Pagones** - Or you can just keep it the way it is and let the dice roll and hopefully Mr. Lim will vote yes. Mr. Flaherty is voting yes. And maybe, well that's up to you. So we are going to keep the public hearing open and continue it October 2<sup>nd</sup>

**Michael Enea** - Okay

**Vincent Cestone** - That's what we are going to do.

**Michael Enea** - Okay. Thank you

**Vincent Cestone** - All right. The other Mr. Enea. I think we had the same issue last time that some people wanted to pay a site visit

**Mr. Enea** - I think Mr. Flaherty

**Joan Turner** - I was there already

**Vincent Cestone** - And what was the variance that you wanted for the third garage

**Mr. Enea** - What we need is 18 ½ feet

**Vincent Cestone** - And you are in an R-80 District

**Joan Turner - No you are not**

**Mr. Enea -** It was an R-40 when I purchased the house and then it changed to an R-80. And there was some question about that and we checked with the building department and they said yes, I'm an R-80

**Joan Turner -** I went downstairs and checked with it and it is not. So there is some confusion

**Tom Monroe -** What

**Joan Turner -** An R-80

**Tom Monroe -** What map were you looking at?

**Joan Turner -** I'll show you

**Tom Monroe -** My map downstairs shows it better

**Joan Turner -** It looks like an R-40. Is this your boundary line here

**Tom Monroe -** Let me go downstairs and look at mine

**Vincent Cestone -** Is he going to get his

**Joan Turner -** yes

**Bill Flaherty -** Now at the last meeting you discussed you were going to close the carport and make that a garage rather than \_\_\_\_\_

**Mr. Enea -** Actually I am going to remove the carport roof and reframe that side of the garage and put a roof structure

**Bill Flaherty -** The actual foot print is not going to change

**Mr. Enea -** Correct the footprint is not changing at all

**Bill Flaherty -** Right. So we have 12 foot 2 inch

**Mr. Enea -** It exists that way now exactly. Instead of 2 cars in a carport, making it a 3 car

**Bill Flaherty -** And that carport was approved by the building department

**Mr. Enea -** That carport, okay, we will have to ask Tom when he comes back up

**because at one time it seemed like it was approved, then I got a violation notice on it and I went back up to the building department and said I had approval on this, what happened? And I think that's when that whole R-80 R-40 came to be. It's been very confusing.**

**Joan Turner - What about your taxes**

**Mr. Enea - One of the solutions is to do a way with this one structure and get it done once and for all**

**Joan Turner - What about your tax assessment. Do they tell you what district you are in. Whether you are R-80 or R-40**

**Mr. Enea - No**

**Tom Monroe - You see one thing right here, see these parentheses**

**Joan Turner - Yes**

**Tom Monroe - That means it used to was. It is R-80 now. It was an R-40**

**Joan Turner - So wait a minute. Wait a minute. Where this property, point out to where this property would be the best you can**

**Tom Monroe - It's property is**

**Joan Turner - So when you are in parenthesis it means it was, formerly was**

**Tom Monroe - When you drive down Winston Lane and you drive across, straight ahead that's his front porch.**

**Joan Turner - Okay so we both were right. Don't give me that look. So it is R-80**

**Mr. Enea - I don't know how many changed to R-80 but very little. If anybody else did change \_\_\_\_\_**

**Joan Turner - Setbacks for R-80 are 30**

**Vincent Cestone - Correct**

**Bill Flaherty - How large a lot do you have there?**

**Mr. Enea - Just about 1 acre**

**Bill Flaherty - 1 acre. You have a lot of room over on the right side**

**(cannot hear the conversation)**

**Joan Turner** - there is somebody that wants to build next to you. The man was here. He didn't have a problem with it as long as it did not interfere, but there is another letter

**Mr. Enea** - Mr. Bradley. His son is proposing and is trying to figure out what he can put in

**(Changing tape...may have lost some dialogue)**

**Joan Turner** - ...maybe I am in the wrong place

**Mr. Enea** - when we first did the application Mr. Bradley actually came with me to get the cable for the carport saying that he was born in that house, he is going to die in that house, he had no problem with it. So evidently that is sort of a family area.

**Joan Turner** - Anyway lets get back to the issue at hand. It is a 1 acre, a little over 1 acre you said.

**Mr. Enea** - 1 acre yeah

**Joan Turner** - and your proposal is to leave the breezeway and take one of these carports down and make a 3-car garage.

**Mr. Enea** - Yeah changing that carport structure that exists a 3-car garage

**Vincent Cestone** - What are you going to do with the existing 2 car garage? Add anything to it

**Mr. Enea** - I have to obviously position the garage doors over a little bit so I can reframe the front wall. Because I will now have 3 doors instead of two. So they have to shift a little bit. But other than that as I said the overall footprint will be the same. Aesthetically obviously it is going to improve dramatically. I think Mr. Flaherty was there. He knows exactly what I am talking about.

**Joan Turner** - Bill I think your feeling on this is that, I think a 2 car garage is considered an adequate use for a property. It is one acre zoning. If you give a variance for a 3 car garage it is really stretching the need for a variance.

**Bill Flaherty** - Well my thought on that was that fact that he already has a carport there.

**(cannot make out conversation...everyone talking at the same time)**



**Mr. Enea** - right. There concern basically that night was whatever happened here they just wanted to make sure it didn't affect if they wanted to build something on their property. I don't see how it would.

**Vincent Cestone** - Any other comments?

**Joan Turner** - No. I just once again that we are giving a variance for a three car garage is not keeping it to a minimum. And that's my view on it.

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

**Mr. Enea** - This is what I wanted to do to give you an idea. This is sort of the model of

**Joan Turner** - It sort of matches your house too

**Mr. Enea** - The shape. The garage that is there now was built in the early 1960's and was built roughly in a 22 foot square. So it is tight going in and out. What we are trying to do here is two things, obviously aesthetics which I know is not this board's issue but also to gets this off the driveway and create the roof line to go with the older house and get rid of that carport structure which is just a bunch of poles.

**Joan Turner** - But you can still do that with the two car garage couldn't you

**Mr. Enea** - Not really

**Joan Turner** - Why

**Mr. Enea** - We wouldn't be able to put 3 cars in it

**Joan Turner** - That's right

**Mr. Enea** - In other words

**Joan Turner** - I mean you can still make it aesthetically beautiful and match your house

**Mr. Enea** - I can change the roof line on the 2 car garage if that is what you are saying

**Joan Turner** - What we are getting into here is really a difficult position for the board because you are really getting into how life styles affect zoning regulations and that is not even encompassed in our regulations. So it is really a matter of lifestyle

**Mr. Enea** - I don't see it as a lifestyle. It is just a good sized house on one of the larger pieces of property in Continental Village. I don't know if you realize it but right down the street we have R-10s and R-20s so this is not there. This is a stand alone house. Kind of set almost on a 10 acre parcel when you look there is nothing around it. I don't have any houses close to me. So there is no impact on the neighborhood.

**Joan Turner** - So what do you do when someone goes hey look he has a 3 car garage why can't I get it

**Mr. Enea** - Does he have a piece of property that big, you might consider it. But these other houses and these other properties don't have a property that big. It would look ridiculous on a quarter acre lot. I agree. So I am trying to think it about that way and keep things in proportion

**Joan Turner** - And what is the size of the variance you are looking for

**Mr. Enea** - Now that it is R-80, it is 18 ½ feet. I guess it would have been 8 ½ feet or less when it was R-40. I don't know what the restriction was then. But somehow that changed through the years. So I have kind of become a victim of that.

**Joan Turner** - I hate doing it because I know we are going to regret it. I know it. But you are in favor

**Bill Flaherty** - I don't have a problem

**Mr. Enea** - He was there

**Joan Turner** - I was there too

**Mr. Enea** - You were there too? Okay

**Vincent Cestone** - I was too

**Joan Turner** - I try to see everything

**Mr. Enea** - Well that's good

**Vincent Cestone** - Any more comments from the audience? With that

**Tim Pagones** - Well unless it is unanimous you are going to have a no action. So I would

**Vincent Cestone** - Well I wasn't even going to do a straw poll. I was going to

**wait until Lenny came back.**

**Tim Pagones** - Okay. So right now nothing would happen. So keep the public hearing open. Mr. Lim should be here and I would suggest you put it on for the 2<sup>nd</sup> and we will continue the public hearing on the October 2<sup>nd</sup> and Mr. Lim will be here and maybe we will have a 3 to 1 all right? Okay

**Vincent Cestone** - Just to be safe when we have all 4 members of the board here then we will get a better read on what the board does

**Mr. Enea** - Okay

**Tim Pagones** - Okay October 2<sup>nd</sup>

**Mr. Enea** - Thanks

**Vincent Cestone** - Next item on the agenda is Tyjan Corporation.

**Glennon Watson** - Good evening. For the record I am Glennon Watson from Badey and Watson Surveying and Engineering representing Tyjan Corporation in this application with Mr. Gagnon who you all know who is president of Tyjan Corporation. The first thing I would like to do is start off with an apology and submit to you revised applications because Vinnie you tried to read the explanation for a couple of the reasons that we gave for asking for this variance or justifying the variance and it is unintelligible. So I corrected it and I submit it to you. It looks like my fingers got carried away with the cut and paste key. I pasted some stuff in that I shouldn't have. So I apologize. Tyjan Corporation owns about 1.7 acres on the easterly side of Route 9. It is about a mile and quarter south of the intersection of Route 301. It is approved with a two story frame multi-family residential commercial mix building that is located on the northerly portion of the property and Mr. Gagnon's other business Cold Spring Glass and Mirror is located within that building it is just about 500 feet north of Papa John's Pizza so I am sure you are familiar with. We have, Mr. Gagnon required some additional storage space on the site and it came to us with the idea of locating the storage on the site then we prepared a site plan for him. Our best effort at siting the building considering all the conditions that we had to encounter was to locate a building as you see on this plan. I also have some copies for you of, which is just reduced copies, I hope you can see it clearly. We made an application to the planning board knowing full well that they would have to deny it because the building that we are proposed is too close to the center of Route 9. It is setback sufficiently far from the edge of Route 9 but too close to the center. The planning board in lieu asked us to look at some alternatives. In doing so we took an even closer look at the building and I remembered from another application on this piece immediately to the south there might be some wetlands. So we had wetlands flagged by Steve Coleman, the wetlands boundary is right at the southern edge of the property but the wetlands buffer

extends all the way up to this blue line you see on the map. We are seeking a variance of 18 feet from 100 foot setback from Route 9. 82 feet setback from the center line of Route 9 and no other variance. When we went to the planning board, Tim Miller's office was critical of the plan and thought we could design that would be within the zoning and in fact we can. It may be a bad admission to make at this thing but in fact we can construct this but it is not without its problems. And in going back to the planning board and have this discussion with them, we talked about alternate approaches to this plan and ultimately that resulted in a recommendation to you which, I have a copy and I think you have a copy from the planning board to grant the variance. I would like to show you the alternates and describe it. The second alternate that we looked at, move the building back from Route 9 in order to provide the amount of parking that is required by this building it made us move, and retain a small retain further back and put our parking parallel along the edge of the wall. That is really very, it is almost unworkable. It is a very difficult situation to work with parking parallel to that to the wall. It makes us, the wall get higher, it makes us get closer to the neighbor and it makes us encroach into this darker gray area which is a steep slope. It also puts some of the parking out here facing the road and one of the goals of the plan is to present a finished front of the building rather than a garage door to the building. So we want to face it front to the building, we want to have our parking behind and hidden from Route 9, this accomplishes part of that in that some of the parking is hidden. Some of the parking is not. But it makes us push the building as I said back thus the wall back thus make us encroach further into the steep slope than we believe is necessary. We were asked to look at a circular route which would give us more flexibility but wetlands buffer situation makes that an impractical solution. We do have a grading situation in front here that has to be overcome. We are trying to use the existing driveway, I mean the existing curb cut to get into that driveway. We looked at a, alternate number 3, plan number 3, where we take the building and we push it right back to the setback line. And that, we can accomplish this again, we can accomplish this but it is not without its compromises. We think some serious compromises. First of all the building has to get higher because the building has to be a retaining a wall. It makes it an even greater encroachment into the steep slopes. It does not encroach into the rear setback but it is right up against it. It makes the wall much higher. It forces us to turn the building around and face the garages toward Route 9. It forces us to put parking in front of the building which from an aesthetic point of view is less desirable. It could work but it causes much more disturbance on the steep slopes. It causes much less aesthetically pleasing condition. The up shot as I am repeating myself, but the up shot of the meetings with the planning board was that the planning board felt that what had presented was the most workable solution with regard to the steep slopes, with regard to parking. I think they made the point with regard to steep slopes. To come back to the preferred alternative we were able to present the front of the building to the street, we were able to keep the parking well back and out of sight. It's, we were able to make the wall lower thus our approach now to the steep slopes are significantly different, significantly less. So that's, we have a fairly restricted

piece of property as you can see. We have a wetland buffer that covers I'm going to estimate that to be somewhere around 25 percent of the property to the south and that is must my eyeball estimate. We've got a fair amount of steep slope along the rear. This area where we want to build the building is up on a pedestal that was done with a permit. It was done to alleviate a significant wetlands water problem to allow some grading in here. And so we are trying to avoid behind the building. What will happen if you grant the variance we would be able to take some of the storage out here, this building right here would be strictly for storage and parking, a little bit of parking. It will give Cold Spring Mirror and Glass the opportunity to take some, to remove some of that storage, a couple of trailers that are out there and it will also give them the opportunity to take better advantage of their sales. Business has been successful and growing and they are trying to have more sales space. So again to recap we are trying to avoid wetlands, we are trying to minimize disturbance onto the wetlands, we are trying to present a finished front to the public, we are trying to hide parking and we thoroughly expect the planning board, should you grant the variance, well under any circumstances, the planning board will also impose on us significant landscaping. Which will enhance it and I hope you agree. I will be happy to try to answer any questions.

**Joan Turner** - The first question I have Glen is how when you say it is built on a pedestal how high an elevation would that be?

**Glennon Watson** - Well, about 16 feet above the undisturbed land

**Joan Turner** - So you come up the driveway and just come up a gentle slope

**Glennon Watson** - We could up this way and come around it and make the slope work. We do have that grade but there is a path there. If you go past there you see there is a part there that has rocks, and actually has a stockade fence that encloses some parking and stuff like that so it is not visible. So it is not visible from the road. But it is about 16 feet, let me check. No. I'm sorry. It's not that. I apologize. It is about 8 feet from the, the original ground out here by Route 9 to the pad that is there now. The building would go on top of that pad.

**Joan Turner** - And then, this is a driveway here, am I correct?

**Mr. Gagnon** - This? Yes that is a proposed driveway

**Glennon Watson** - This is actually \_\_\_\_\_

**Vincent Cestone** - And the orange area that, not the building, that represents the entire part that has been leveled

**Glennon Watson** - Yes. If you look at the contours that surround it, you can see this parallel contours that are going around. That is the bank of that fill

**Vincent Cestone** - I just wanted to make sure that that is the area that we are working with

**Glennon Watson** - Oh yes. We are not, we can fit all of this on top of that platform. But we do have to dig back.

**Vincent Cestone** - What is this area and this area used for? Because there are no parking spaces there

**Glennon Watson** - To tell you the truth we probably don't need this one side area, because there will be trucks that go up there

**Vincent Cestone** - Because I was wondering if you could move the structure farther away from the road like make it, instead of making it as deep as it is make it a little bit narrower and longer? Because what is that structure going to be used for? I am not sure

**Glennon Watson** - 2 bays are for parking and the rest is for commercial storage

**Mr. Gagnon** - stocks of windows and materials for the glass and mirror business

**Joan Turner** - It is almost the same design as the other one that was before us. You got the 2 big bays for the commercial trucks and then 3 cars right

**Mr. Gagnon** - Right

**Glennon Watson** - The building design actually, I don't know if you actually seen that before but this is the view we want to show you from the back and this is the view we don't want show from the street. To the front we are going to make it look like a front of a house, dormers. The depth of this building

**Joan Turner** - 30 feet

**Glennon Watson** - 30 feet. I guess it would be possible to take off some and add a bay.

**Vincent Cestone** - Because my thinking is \_\_\_\_\_ for setback variances

**Mr. Gagnon** - I actually need that for the building to keep stock in. We use a fork lift to move material and the reason for the depth of the building, it is going to be too shallow and it is not going to be usable space and then I am going to have issues once again with storage area. The whole purpose of a garage is to clean up the whole property. Get rid of all the stuff that is just sitting around and move it into the warm building and it will give just a better general appearance to the whole place. My goal is always to improve the appearance of the property. So I

**really do need the depth**

**Joan Turner** - So you have your materials there and you load your trucks in there. You back your trucks in and load

**Mr. Gagnon** - Well that is the whole idea yeah. We are trying to make it more of a safe situation. We have too much storage in the corner of the shop, we can start getting everything up over here, it is just a better situation all the way around.

**Vincent Cestone** - So you need the depth. You pull the truck in and close the door and then you would be using a forklift within the building to load the trucks

**Mr. Gagnon** - We are going to be really maximizing this space because there really is a lot of stuff all over the place which we are idealizing trying to get into the building. Even if we use cars in there, we still want to have space in front of the cars so we can continue to get stuff into the building. The whole idea is to stack this sucker but still access it and get to it. If we make it too narrow, it is going to be too difficult to get a lot of the material

**Vincent Cestone** - And you would have no exterior storage of any kind is that correct

**Mr. Gagnon** - Oh absolutely. I want it gone. It's ugly

**Bill Flaherty** - You have a couple of trailers there. You are going to eliminate those

**Mr. Gagnon** - Oh absolutely that's why they are rental units. Because it was always in my mind once I got my storage area I could give them back to the place and settle up

**Bill Flaherty** - My question is what are you going to do with them in the aftermath

**Mr. Gagnon** - Give them back

**Bill Flaherty** - A question I have talking about parking are you actually going to have parking spaces allocated

**Glennon Watson** - We did a parking calculation based on the entire building. All of the proposed building and the existing building and we needed 18 spaces and that is what we are proposing

**Bill Flaherty** - 18 parking spaces?

**Glennon Watson - Right**

**Bill Flaherty - For customers**

**Glennon Watson - There is residential units existing in there,**

**Bill Flaherty - How many spaces do you have now**

**Mr. Gagnon - Right now we don't have enough adequate parking. By the time the employees come in, the residents are home, and then customers coming in, we are jam packed**

**Bill Flaherty - But most of that parking is going to be in the rear of the building**

**Mr. Gagnon - There is existing parking here on either side of the existing building. There is back up parking behind this proposed building and there are two spaces inside the building**

**Bill Flaherty - Okay. Now how many commercial vehicles to you own?**

**Mr. Gagnon - Two**

**Bill Flaherty - And they are going to be parked inside**

**Mr. Gagnon - If it is possible. You see once again it depends on how much material we have in the building. It looks like a big building but once you start stocking 60, 100, 200 windows, that space goes quick. And it depends what is in the building at the time**

**Bill Flaherty - So then those trucks then will not necessarily be parked in the building 24 hours a day or whatever**

**Mr. Gagnon - Well the idea of the superspaces is to have the ability to put the trucks in there. Now it would be to my benefit to get them into the building because we have severe security issues. I have been robbed multiple times. I can't tell you how terrible it is keeping the trucks out and keep a surveillance camera on them all the time and it still doesn't stop them**

**Bill Flaherty - As you know, you were here when we grant variances to MCHP and one of the provisions I put in that resolution was to make sure that parking was not, parking was not in front of the building but in back of the building**

**Mr. Gagnon - Correct**

**Bill Flaherty - Now I would agree that the usage of that building, your use is significantly different, I mean cement trucks to me are not very pleasing. The**



trucks that you have are okay but anyway, I am trying to determine as much as I possibly can \_\_\_\_\_ the aesthetics of Route 9 change to make it more attractive looking than it is today

**Mr. Gagnon** - I definitely do think we can accomplish that with this construction

**Vincent Cestone** - Now one question about the structure. What is being put in the area above the bays

**Mr. Gagnon** - Once again cold storage

**Joan Turner** - So there will be no heating

**Mr. Gagnon** - No absolutely not

**Joan Turner** - No heating. No bathroom?

**Mr. Gagnon** - No. 100 percent cold storage. We have no reason to do anything out there. Everything functions in the main building

**Joan Turner** - Not even a call of nature

**Mr. Gagnon** - No. Business is not that far. But honest to God strictly cold storage

**Joan Turner** - I have no problem with it

**Glennon Watson** - To answer your question, it is our belief and I believe the consensus of the planning board that facing the building and putting the parking behind, I think that is sort of what you are saying, facing the front of the building to be made attractive toward the street is far more preferable, we certainly don't have, if it were required that the commercial trucks be parked up here at night where they are out of, whether they are behind the building or in the building we wouldn't have a problem with that as opposed to down here.

**Bill Flaherty** - Are you in as much as you said you had robberies, are you considering any type of fencing to enclose that area

**Mr. Gagnon** - I would actually like to keep the 6 foot stockade fence up

**Bill Flaherty** - That you have there now

**Mr. Gagnon** - Right. Unless you don't find that appropriate. I am trying to make it as attractive looking as possible because once again my goal is the appearance of the overall building

**Bill Flaherty - Well that in itself is not a security matter**

**Mr. Gagnon -** Yeah but it helps. I had a horrible time, we had the dumpster on the lower part, we had a guy robbing it and then he went into the tenant's truck who happens to be a carpenter and he stole his tools and we have all this on camera and the cops couldn't do anything about it. I moved the dumpster up to the higher lot and didn't have the fence and the guy was still driving up there picking through it. We finally put the fence up, gated it, he could no longer get his vehicle into it and it actually stopped him from going in there. So there is no guarantee it is going to keep him out 100 percent but it makes it more secure

**Bill Flaherty -** There is no guarantees at any time

**Mr. Gagnon -** But its helped

**Vincent Cestone -** Are you going to have external lighting

**Mr. Gagnon -** Absolutely

**Vincent Cestone -** And you are going to leave it on 24/7

**Mr. Gagnon -** No because it will probably annoy my neighbors

**Vincent Cestone -** Yeah

**Joan Turner -** So you could direct it down, the usual

**Mr. Gagnon -** Yes and I am willing to work with the neighbors

**Joan Turner -** After we approve this variance, say that we approve it, it goes back to the planning board for site plan approval

**Glennon Watson -** Yes

**Joan Turner -** So they

**Tim Pagonos -** What happened was they were before the planning board, they said you know what

**Joan Turner -** They are going to do all the lighting and the landscaping

**Tim Pagonos -** Right

**Glennon Watson -** We really went to the planning board simply because to get our ticket here

**Joan Turner - Well you can pass go**

**Vincent Cestone - Anyone wish to speak on this? I'll make a motion to close the public hearing do I have a second?**

**Bill Flaherty - I have one more question. The houses in back of you,**

**Mr. Gagnon - There is a row of them along the**

**Bill Flaherty - How close then is that to the nearest residential home in back of**

**Glennon Watson - At this point I would have to guess, probably 100 feet or so. Not a lot. Because those houses are fairly close to the road and I can check I just don't know absolutely just by looking at this map with just a scale.**

**Bill Flaherty - The residents can see that building from their home, looking down**

**Glennon Watson - They probably will be able to see it yes. But the parking, it will be lower, I am sure the planning board is going to make us screen along the top edge and there are some trees in there now.**

**Joan Turner - And it is on a rise going up like that isn't it**

**Glennon Watson - Yes the property from Route 9 comes in flat and goes up that manufactured slope and goes across the flat and then goes up quite steeply until it gets on the next property and then it flattens out.**

**Joan Turner - So screening would be fine**

**Glennon Watson - Screening should work.**

**Bill Flaherty - Well there apparently is no one here I don't think, the neighbors who would object to you having that building close to the residents to the back. Now you are going to have beepers on the trucks when you back up**

**Mr. Gagnon - By law I have to**

**Bill Flaherty - That was another issue we addressed here recently and they were going to change the beepers to bells. I don't know if that necessarily in accordance with rules and safety that OSHA requires but that would be an alternative in the event we have, because beepers are somewhat disturbing**

**Vincent Cestone - So I'll make a motion to close the public hearing. Do I have a second**

**Joan Turner - Second**

**Vincent Cestone - All in favor?**

**All board members - Aye**

**Vincent Cestone - I'll make a motion for a straw poll. Do I have a second?**

**Bill Flaherty - I'll second**

**Vincent Cestone - All in favor?**

**All board members - Aye**

**Bill Flaherty - I vote to approve**

**Joan Turner - I vote to approve**

**Vincent Cestone - So do I**

**Tim Pagonis - Okay.**

**Vincent Cestone - Next item on the agenda is Dr. Brown. Anybody here to speak for the applicant? So tell us what you are here for**

**Architect - Well, I am the architect. And we have a residential property, a contemporary home which is located on a long lot and we are putting on a screen porch. An unheated screened porch. Which is situated to the left of the main house. Currently the house is located \_\_\_\_\_ and 3 inches from the property line. The setback that is required is 20 feet. We are, the house has a kitchen and it has \_\_\_\_\_ (**cannot hear her with all the papers shuffling near the microphone**) this is where we are placing the screen porch. In doing so we are encroaching 8 feet 3 inches upon the required setback. This is a wooded area. The house is in an open space and we do not have any intermediate neighbors which would be \_\_\_\_\_. And there is a house approximately 200 – 250 feet away. There is a house 300 – 400 feet away at the very bottom of the \_\_\_\_\_. And then there is a property at 282 East Mountain Road South which is the closest property. However, they are also rather distant and in addition Dr. Brown reviewed the project with them and they do have a letter of support from them saying that they do not have any issue with the proposed porch. On paper this looks like we're there at the line but in reality there is some flood line, lots of trees and lots of \_\_\_\_\_ and it is an area that is not very**

**Vincent Cestone - Why can't you put it within the setback? Away from the setback?**

**Architect - It has to do with the balance of the area being used from the kitchen**

**and being an extension of the existing deck. If you look at the photographs**

**Joan Turner - Is there a topographical feature**

**Architect - Actually a large mature tree which we are preserving and we are trying to avoid cutting the tree so that is one reason. And the fall off of the land here**

**Joan Turner - Are you constrained by that topographical feature?**

**Architect - This is the site available to us. The more we go to the right**

**Joan Turner - Then it slopes down**

**Architect - It slopes farther**

**Joan Turner - That's an important factor for the board to consider**

**Architect - Here is the very beautiful tree which we are keeping. And we are getting the most sun and the nicest view beyond this side of the house**

**Joan Turner - Let me just go over some of these plans with you because I have some questions. You are just putting on a deck? Are you not changing the**

**Architect - We are putting, we are remodeling the master bedroom on the other side which does not require a variance.**

**Joan Turner - Okay here. So you are fine here. Here is your master bedroom**

**Architect - Here is the front of the house from the street. Here is the kitchen. Here is the living room. And the existing deck goes from here to there. So right now it is here. We are covering the existing the deck with a roof and putting the meshing and then we are providing a dining area which is easily accessible to the kitchen.**

**Joan Turner - Okay. So this becomes, this is now a porch or a deck isn't it**

**Architect - All of this now is a screened porch**

**Joan Turner - So you are going to enclose this and make a dining room out of it**

**Architect - It is a screened porch. When you say dining room it is almost like a heated space.**

**Joan Turner - Yeah and it's not. You used the word dining room that's why I was confused**

**Architect - Table area. Summer use. Right now this deck has no roof, it has nothing. It is just an open deck. And then it just becomes one roofed area. If you look at the elevations. You can see that is the new roof. And basically you can see the structure here. So it is on the level of the deck, the railing continues from the existing deck**

**Vincent Cestone - What are your options if this is not approved? What would you do in that instance?**

**Architect - Well we would have to go around the living room which would become more difficult to walk to because of the way the existing windows and doors are. And it would be less attractive. The roof of the living room right now comes, you can really see it on the picture, it slopes down towards the deck. There is already a problem with the water running onto the deck. And if we were to build in that area, the eave of the roof is really low and if we were to build in front of it, we really would have no where to put that water as it is coming down the roof.**

**Joan Turner - What is the second floor proposed**

**Architect - That is a storage area over the new master bedroom**

**Joan Turner - Did you have difficulty with the board of health in getting the approval**

**Architect - Yes. But we did get the approval in the end**

**Joan Turner - I know I see you got the approval.**

**Bill Flaherty - How old is this house**

**Architect - The house was built in 1982**

**Bill Flaherty - Okay**

**Architect - It is not very old**

**Joan Turner - Can I see those pictures again**

**Bill Flaherty - Are you the original owner of the house**

**Mrs. Brown - We just moved there**

**Bill Flaherty - I know the house, I live up in that area**

**Architect - It is very far from the road.**

**Joan Turner - The size of the variance you are seeking is**

**Architect - Technically it's 8 feet 3 inches into the side setback. I actually here I have 11'9" I suppose**

**Joan Turner - You need a variance of 11 feet 9 inches**

**Architect – right**

**Vincent Cestone - Any more questions from the board? Anyone from the audience wish to speak on this? I will entertain a motion to close the public hearing**

**Joan Turner - So moved**

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

**All board members - Aye**

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

**Bill Flaherty - Second. I approve**

**Joan Turner - Straw poll?**

**Vincent Cestone - Yeah**

**Joan Turner - I vote to approve**

**Vincent Cestone - And so would I. Final item on the agenda Mr. Perkins.**

**Patrick Perkins - Good evening**

**Joan Turner - We are just going to start the party now**

**Vincent Cestone - We are going to close the meeting and put you on for next time. Just a joke.**

**Joan Turner - Let me first ask you, did you ever find out whether the road is abandoned or if you still have to**

**Patrick Perkins - The abandoned road is not part of the denial. We only said that \_\_\_\_\_ the setback from 90 feet.**

**Joan Turner** - I got that all turned around. I thought it was the other way around. That maybe you wouldn't even need to come back to us

**Patrick Perkins** - Well I had hoped and try as I might and I got a lot of support from the building department but we just couldn't make it work. So there are three setbacks that are being, there are three variances that are being requested. I'll go with the easiest first. The first is the 1 foot variance for a deck that is being built on the south side of the house. It does not face Route 9D. The deck cannot be seen from 9D. I don't know what else to say about it. You can't make the deck any smaller, it wouldn't make a difference because

**Vincent Cestone** - Is it here?

**Patrick Perkins** - Yes. As you can see it is on an angle so at this corner it is more than 50 feet and here it is 49 feet. By the way, as you probably know, the entire house is nonconforming. So anyway, the only way to get around that would be make a deck plan that had a diagonal.

**Vincent Cestone** - So that sounds reasonable

**Patrick Perkins** - The second issue is the existing structure. Four years ago we built a new entry way. We received a C of O for that and when we went back we were told that it was nonconforming. Mr. Monroe is here and probably could \_\_\_\_\_. And so, short of ripping down our existing front entry that has been there for the last 4 years I wouldn't know what else to do about that. Which brings us to the last issue which is the new construction. Now the new construction that we are proposing is a 7 foot bump out of the front of the house that is on the other side of the existing entry way from 9D. And what the new structure will do is it will go flush with the entry way. So if you are looking at the side of the house from 9D, there is no change in the profile. This is the entry way, the front porch which was deemed to be nonconforming at this point, 9D is over here and so what's going to happen

**(Tape ended...turning over tape)**

**Patrick Perkins** - ...now we got a building permit for it and we got a C of O for it when the project was completed. It is only when we went back to get our permit for this project earlier this summer that the building department told us that in fact we need a variance for this. And so that is why this is part

**Joan Turner** - because this was a nonconforming

**Patrick Perkins** - yes. I suspect that at the time the building department agreed with my view of the code which is the street line is 9D and not my property line and we are well beyond 50 feet from the edge of 9D. But it appears that the new leadership doesn't take that position anymore.



**Bill Flaherty** - So it is safe to say that the CO is issued in error

**Patrick Perkins** - Apparently but you know relying on and receiving a building permit we built and spent the money and the whole nine yards. And so, as I mentioned the new construction is not on the 9D side, it is on the other side. From 9D the profile of the house doesn't change.

**Joan Turner** - And you have five children

**Patrick Perkins** - I have five children yes

**Vincent Cestone** - God bless you. I have three of my own and that's. Any more questions?

**Joan Turner** - There was one just on the

**Vincent Cestone** - How high is the structure?

**Patrick Perkins** - Well it is a one-story bump out where, so it is not the full height of the structure. To the 9D side there is a second story, it is not going to go higher

**Vincent Cestone** - That's what I wanted to know. So it is going to be a one story

**Patrick Perkins** - A one story structure

**Vincent Cestone** - Okay. Do you have anything? Joan do you have anything?

**Joan Turner** - I just didn't understand this and, what is this the new, the bump out

**Patrick Perkins** - This is the thing, this is the existing entry way and porch that we built four years ago

**Joan Turner** - Okay that's it.

**Patrick Perkins** - And so as you can see this is the existing wall and now this will become the new wall

**Joan Turner** - Okay. So it will come right up flush to your

**Patrick Perkins** - That's right

**Joan Turner** - I have no other questions

**Vincent Cestone** - Any comments from the audience? I will make a motion to close the public hearing.

**Joan Turner** - I so move.

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

**Bill Flaherty** - Second

**Vincent Cestone** - All in favor

**All board members** - Aye

**Bill Flaherty** - I vote to approve

**Joan Turner** - I vote to approve

**Vincent Cestone** - And so do I

**Patrick Perkins** - Thank you very much

**Vincent Cestone** - I will make a motion to adjourn

**Tim Pagones** - Whoa one more thing. I have a letter from Kristen Rost asking for an extension on her variance

**Vincent Cestone** - Oh

**Joan Turner** - Who?

**Tim Pagones** - Kristen Rost. Remember we had the one down on in our favorite part, by the Hatfield and McCoys

**Joan Turner** - Oh yes yes yes

**Tim Pagones** - She's been trying to sell the property. She hasn't sold it. So I don't know if she is going to build but the Code does require to give an extension on it. I think it is good for two years. And then you can give one year extensions. She is requesting a one year extension.

**Vincent Cestone** - Do we have to do that in a form of a motion?

**Tim Pagones** - She has to have her board of health approval. She has her variance but she does not have board of health approval she can't build. So the only thing you are doing is extending her variance for another year.

**Vincent Cestone - What is that**

**Tim Pagones - I could just do a letter or I can just draw up a resolution whereas whereas and we will have it for the 2<sup>nd</sup>. She went through enough pain.**

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

**Tim Pagones - The Bumps will feel her pain.**

**Joan Turner - I feel so sorry for them.**

**Tim Pagones - So I will draw up a resolution for the 2<sup>nd</sup> whereas, she got it, two years expired, we'll give her a one year extension.**

**Vincent Cestone - Okay. I'll make a motion to adjourn. Do I have a second**

**Bill Flaherty - 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: October 16, 2006**

Respectfully submitted,

**Kim Shewmaker**  
Secretary