

# ZONING BOARD OF APPEALS

October 3, 2005

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, October 3, 2005, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

|                 |                 |   |          |
|-----------------|-----------------|---|----------|
| <b>PRESENT:</b> | Vincent Cestone | - | Chairman |
|                 | Lenny Lim       | - | Member   |
|                 | Joan Turner     | - | Member   |
|                 | Victor Carlson  | - | Member   |
|                 | Bill Flaherty   | - | Member   |
|                 | Tim Pagones     | - | Counsel  |

### ABSENT:

**Vincent Cestone** - Okay we are down here to have a public hearing for Mr. Albertson Appeal #778. Is there someone to speak for Mr. Albertson?

**Tim Pagones** - Do you want to do the completeness' real quick and get them done?

**Vincent Cestone** - Let me just do this one first.

**Glennon Watson** - Glennon Watson from Badey & Watson. The application is for a variance seeking relief from the side line requirements for two portions of Mr. Albertson's building. The first portion is on the northeasterly side of the building. It is a second story deck that overhangs a concrete platform and has a set of stairs going up. The deck is within 21.9 feet of the side line and it should be 30 feet in the zone

**Vincent Cestone** - This one here?

**Glennon Watson** - Yes. That picture was with the application and the right side of that picture is the deck and it is the closest point. So we are seeking an 8.1 foot variance on that deck. This deck was in existence when Mr. Albertson bought the property. It actually undergone, did have undergone a review but it was there when the previous application for a variance was made on the property in 1976. Everyone thought that it was legally constructed. In fact I looked in one of the variances and that there was a misreading on one of the surveys that was

done back then. I think people let it slide and it was just there. Again it has been unintrusive, it's been no problem to the neighbors that we know of, it's part of the fabric of the house and we are seeking permission to have it remain. The second variance seeks a variance from the southwesterly line or the left side of the house where there is a concrete porch in the front of the house from which Mr. Albertson, many years ago I don't know how many, since covered an existing concrete patio with a metal roof. You also have pictures in your packages of that roof. We are seeking a variance from 30 feet to 16.1 feet which would be 13.9 feet. And if you notice on the survey that was attached to the application, there is actually building in the pre-existing building, non-conforming building in between this roof and the side line that it needs to be set back from. So we are not doing anything to get closer to the property line. We are simply asking that this roof which Mr. Albertson constructed be allowed to remain. I would be pleased to clarify anything I've missed, or I have not stated correctly or answer any questions you might have.

**Vincent Cestone** - With the structure here it appears that it doesn't stand out as far as the actual house. Is that correct?

**Glennon Watson** - No that's not correct. The deck, this is the house wall and it is coming out this way

**Vincent Cestone** - I was talking about the

**Glennon Watson** - I am sorry. It doesn't come out, it is flush with the front of the building

**Vincent Cestone** - Okay. Any questions from the board?

**Joan Turner** - Was Mrs. Albertson ill and you wanted to see her outside and sheltered from the sun and the elements? Could that be possibly be the reason for building the awning over the

**Larabee Albertson** - It was very definitely an element

**Glennon Watson** - And also it was just simply a protective thing as well

**Joan Turner** - In lieu of his wife's ill health

**Glennon Watson** - Right

**Joan Turner** - I just wanted to point that out

**Glennon Watson** - yes

**Bill Flaherty** - Now there was a variance granted for the original porch which this

roof was built on.

**Glennon Watson** - No. That's not correct. The variance is #224 I pulled it out today. That actually, there was a porch on the back of the building that if you look at your survey the building protrudes on the south part of the building and protrudes towards the river. That was the porch he was allowed in 1976, granted a variance to enclose that porch and also at the same time there was a variance to construct that brick \_\_\_\_\_.

**Bill Flaherty** - There were three variances granted by the board through the previous owner for various reasons. Going back to 1970

**Glennon Watson** - I only saw the one, when I researched it I went through all the file as a matter of fact today, and I only found one variance that was granted to Mr. Albertson. Do you know if there were others?

**(talking among themselves)**

**Joan Turner** - here is another one in 1976.

**Glennon Watson** - That's the one I found.

**Joan Turner** - And this one is for the variance for the extension and enclosure of the porch.

**Glennon Watson** - Right.

**Joan Turner** - And then we have a third one. That's the same one I guess.

**Vincent Cestone** - Anything else Joan? Glen, how old are these structures?

**Glennon Watson** - From what I can find out the porch was built around 1970, 1971 something like that. I don't know when the roof. When was the patio covered?

**Larabee Albertson** - I don't really recall.

**Glennon Watson** - I would say it has to be about 1989. It has to be just from looking at it. But I can't tell exactly.

**Vincent Cestone** - Does the board have any additional questions? Does anybody wish to speak on this?

**Zshawn Sullivan** - My name is Zshawn Sullivan and I've lived at 8 Hudson River Lane since 1979 and I always remember the awning on the porch and they had a Christmas star out on the deck at the top there. I can always remember it being

there since 1979.

**Bill Flaherty** - You live next door to Mr. Albertson?

**Zshawn Sullivan** - No I live at 8. He lives at 4.

**Bill Flaherty** - Oh okay. Now I was down to the house and I remember seeing the structure and it is not obstructing anyone's views that I could see at any rate from the angle that I was looking at the house. So I myself really have no problems. I think it would be more difficult to remove that roof than to retain it as is. The only problem that I can foresee, we had consistently given a tremendous number of variances for everything that goes on down in that area and I am sure the new owners will probably come back to this board within 90 days and say we need a variance for this, this and that. I think we have to look at it very seriously to determine whether or not we want to consistently give variances for a variety of different reasons. Like I said, I don't have a problem with this at all. It has been there for a long time and it is somewhat attractive and it doesn't obstruct anyone's views in the neighborhood.

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

**Victor Carlson** - There is one thing about the houses down there. They are on such small lots and the area is an R-80 which is large. So they can't do anything without getting a variance. It is almost impossible.

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

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

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

**All Board Members** - Aye.

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

**Bill Flaherty** - I'll second.

**Vincent Cestone** - All in favor?

**All Board Members** - Aye

**Vincent Cestone** - Bill?

**Bill Flaherty** - I so move. I move to approve the variance.

**Vincent Cestone - Vic?**

**Victor Carlson - I'm in favor**

**Vincent Cestone - Lenny?**

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

**Vincent Cestone - Joan?**

**Joan Turner - And I concur**

**Vincent Cestone - And so do I.**

**Glennon Watson - Thank you very much**

**Vincent Cestone - You're welcome**

**Kim Shewmaker - Resolution when**

**Tim Pagones - 1<sup>st</sup> Monday in November**

**Vincent Cestone - Okay before we adjourn and go back upstairs, I am just going to do the reviews for completeness. First thing I want to do is Tuana on for the 7<sup>th</sup>.**

**Kim Shewmaker - Okay. Also Wallis is on for the 7<sup>th</sup>. He was supposed to be on the next meeting but he called up in a panic because he can't make it so I put him on for the next meeting. So Wallis is off October 17<sup>th</sup> and is on for November 7<sup>th</sup>.**

**Vincent Cestone - And we can't put anybody else on for the 17<sup>th</sup> because we don't have any time.**

**Kim Shewmaker - Right**

**Vincent Cestone - Okay. Omnipoint we will put them on for November 17<sup>th</sup> also**

**Kim Shewmaker - The 7<sup>th</sup> right**

**Vincent Cestone - That's what I meant.**

**Tim Pagones - November 7<sup>th</sup>?**

**Vincent Cestone - yes**

**Attorney for Omnipoint** - Thank you very much. And we take care of the notices on that correct?

**Kim Shewmaker** - No. I do.

**Attorney for Omnipoint** - You take care of that?

**Kim Shewmaker** - You have nothing to do except show up.

**Attorney for Omnipoint** - Thank you. Have a good night

**Vincent Cestone** - Lerch. Tim?

**Tim Pagones** - Lerch. I do not have a resolution. So I will have the in two weeks. The 17<sup>th</sup>. And then we have Muscariello

**Vincent Cestone** - Yes

**Tim Pagones** - I have it as incomplete. The survey doesn't show the setbacks. Is there somebody here for Muscariello?

**Paul Muscariello** - Yes

**Tim Pagones** - Come on in. They are doing completeness

**Paul Muscariello** - Hello

**Vincent Cestone** - Hi

**Paul Muscariello** - Can we sit down?

**Vincent Cestone** - Yes. We are just doing completeness

**Tim Pagones** - You need to show on the survey where the proposed shed is going to go. Right now you have proposed site. You need to actually have someone site it and show it 12 by whatever

**Paul Muscariello** - Like a surveyor

**Tim Pagones** - A surveyor or engineer or an architect, someone who can stamp it has to show where the shed is going.

**Paul Muscariello** - Okay

**Tim Pagones** - Because what happens is they can't just say that you are putting it in that area

**Paul Muscariello - Right**

**Tim Pagones** - They have to give the smallest variance by law that you need. So if this shows that it is going to be 10 feet from the property line, that's what you are going to get. They don't want you moving it forward. So you need to have someone draw in the shed and stamp it that that is where the proposed shed is going.

**Paul Muscariello - Okay so whether it is an architect**

**Tim Pagones** - Someone has to stamp it. A lot of people don't want to change someone else's plans. You might want to see if this guy is around and he can just show proposed shed and show it on the plans and stamp it. And then he has to show the setbacks so they know the measurements and how far off the side line you are going to be so that they know that it is going to be 10.2 and that is exactly where it is going to be

**Paul Muscariello - Got it**

**Tim Pagones** - You can't have it moved. So what they do now is they don't put you back on the agenda until we get this

**Paul Muscariello - Oh okay and then we come here again**

**Tim Pagones** - For completeness and then we will set it for a public hearing. They used to just adjourn it for a couple of weeks and nothing happened

**Paul Muscariello - So it would be the first of the following month**

**Tim Pagones** - Well they meet the first and the third Monday of every month. So right now they are coming back on the 17<sup>th</sup>. If you can get someone to do this by the 17<sup>th</sup> we will review it for completeness. If it is complete, they will set it for a public hearing.

**Mrs. Muscariello - Do I bring this before the hearing**

**Tim Pagones** - Yes bring it before the meeting so that everyone can look at it.

**Vincent Cestone - As soon as you get it, bring it here.**

**Paul Muscariello - Is this the only thing we are missing?**

**Tim Pagones** - That is the only thing you are missing.

**Paul Muscariello - All our other paperwork is complete?**

**Tim Pagones** - Yes.

**Vincent Cestone** - The quicker you get it we can put you on for a public hearing. We don't meet in December so, if you get it to us by next week, we can maybe get you into November

**Paul Muscariello** - Oh okay

**Vincent Cestone** - Because we don't meet in December, if you miss November, January is our next meeting.

**Paul Muscariello** - Oh okay because they gave me like a schedule date of November 8<sup>th</sup> to build it and I told them you can't do anything until I get approvals

**Vincent Cestone** - If you build it before

**Paul Muscariello** - I'm in trouble

**Vincent Cestone** - And the building department will tell you to take it down

**Paul Muscariello** - I'll tell him we are going to have to postpone until whenever then

**Vincent Cestone** - If you can get it to us, bring the copies here and

**Paul Muscariello** - Then it will get attached to the original paperwork

**Vincent Cestone** - Exactly

**Mrs. Muscariello** - Okay. very good.

**Paul Muscariello** - And you would suggest the best thing to do is to contact the original surveyor

**Vincent Cestone** - If you can. But if you know an engineer or architect, they can do it for you also

**Paul Muscariello** - Okay. Thank you very much. Thank you for your time. Thank you.

**Vincent Cestone** - Okay. Dee

**Tim Pagones** - Dee. Are you Dee?

**Patty Smith** - Yes



**Tim Pagones** - The only thing I was not sure about it looks (cannot hear because he is in the hallway with the applicant)

**Tim Pagones** - Okay my question was on the survey she is not showing these walls, these retaining walls

**Joan Turner** - Who is this

**Tim Pagones** - Dee. If you look here on one map it shows the house. The setback from the house is 19 feet. I just didn't know are these going up or are these flat? I couldn't tell. So if they are raising up like a stairwell, then we should get a setback for these two things.

**Patty Smith** - The former owner excavated so it, there is a hole where the house is and so we need retaining walls right there and it is not part of the house, it is landscaping. To stabilize what's there. It's been cut into the side of the hill most of the house will be, the top of the house will be even with the grade behind it. This is the way it is right now,

**Tim Pagones** - And here is the grade and it goes up and cuts over

**Patty Smith** - That can change. It's really exterior landscaping, it is not part of the house

**Tim Pagones** - I realize that, the house is 19 feet or whatever, I just didn't know if the board wanted her to show what the setback is for these retaining walls now

**Vincent Cestone** - I'm really not sure

**Patty Smith** - If you look

**Tim Pagones** - Why don't we do this. We can say it is complete and the hearing won't be until November and you can still put, you can show what the setbacks are for those walls.

**Patty Smith** - Because it is already cut in. There is a hole in ground right now.

**Vincent Cestone** - The 7<sup>th</sup>

**Tim Pagones** - As opposed to a 20 foot house, they would like to move over closer to the son and he said it is not a problem so they are looking to put a 30 foot house with a variance.

**Vincent Cestone** - You are on for the 7<sup>th</sup>

**Tim Pagones** - November 7<sup>th</sup>

**Patty Smith** - Okay thank you.

**Vincent Cestone** - Okay finally

**Patty Smith** - This is Robert Dee

**Robert Dee** - I'm the son

**Vincent Cestone** - I know your father

**Robert Dee** - Yes, I wasn't sure who it was

**Vincent Cestone** - Yeah, it's me

**Patty Smith** - So we are on for November 7<sup>th</sup>

**Vincent Cestone** – yes. And then finally for completeness Wheaton-Zelnik.

**Tim Pagones** - What that is Wheaton-Zelnik is applying for a subdivision. They have everything. They have the 6,000 square feet that you need to build. I believe originally it was two lots, somehow it got combined. They are looking to split it again. The only thing they are missing is, the code requires that they show 60 feet

**Patty Smith** - You have to have a flat area that is less than 15% sloping. So I've got it on this lot and I've got it on this lot, however, this lot this lot doesn't have the width. I have one area, I can take this and lay it right on here

**Vincent Cestone** - Well this is for completeness this is not a public hearing

**Tim Pagones** - She is just explaining what it was. It is complete

**Vincent Cestone** - You are on for the 21<sup>st</sup>

**Patty Smith** - Thank you.

**Vincent Cestone** - Now we are going to adjourn and go upstairs.

**(Moving upstairs)**

**Vincent Cestone** - we are reconvening after having a public hearing for a handicapped individual that was downstairs in the Town Clerk's office. James Shelley has withdrawn his appeal. So we are moving on to Frank Diaz Appeal #776. Is there someone to speak for Mr. Diaz? Hi how are you doing? So tell

us exactly what you are going for. I read your application but explain to us what you are looking for?

**Charles Barone** - Do you want me to do it?

**Frank Diaz** - Yes

**Charles Barone** - Frank's house has two bedrooms. One of which is very small. It is 7 foot 6 by like 11 foot 6 and has a 6 foot ceiling. The house is really tiny and the dining room is right next to that which is right next to the 6 foot ceiling. So in order to make the house fit more with the houses in the area, and Frank wants to produce more room because his daughter lives with him. The most effective way to add on to the house I'm the building contractor cost-wise and then also where we are putting it there is ledge there so we won't take up any more property. We figured it stays in line with the property, with the road, a straight line with the house

**Vincent Cestone** - So show me on this drawing exactly where. This would be the proposed addition that you are talking about right here?

**Charles Barone** - Correct. This right here has one bedroom that's 7 by 11 and a dining room that is 7 by 11. It's got slope ceilings that go from like 8 foot to 6 foot. The staircase would be here.

**(Too much talking among members to hear the applicant's conversation)**

**Vincent Cestone** - So this house is prior to 1957

**Charles Barone** - Oh yeah.

**Lenny Lim** - It is a pre-existing nonconforming

**Charles Barone** - Correct

**Joan Turner** - I went down today to look at it and you are really on ledge rock and there is a great big giant boulder, and it is beautiful for landscaping but not for building. So your options are limited because of topographical features as to what you can do. And you have a brook running behind the house so you can't really go that way.

**Charles Barone** - And where that ledge rock was I figured that if we came out and went into that that was part of the property that wouldn't be used for septic

**Joan Turner** - Right. So you have septic issues too which I didn't even think about.

**Charles Barone** - The septic we had the Board of Health approval

**Lenny Lim** - Where is the septic

**Charles Barone** - It is 22 foot from the

**Vincent Cestone** - It's in this area here?

**Charles Barone** - I think it is more, you have it on one of your other pieces of paper.

**Lenny Lim** - Here it is

**Joan Turner** - Right there. So they don't really have any options. They have ledge rock here, they have a brook here, they have a huge outcrop of a boulder that they would have to blast if they wanted to go in that direction. Actually it is a fairly good design considering the constraints you have. What sections of the code are you asking relief from because you didn't fill them in in your application? Tim, do you know the side setbacks on 175

**Tim Pagones** - 32

**Joan Turner** - you just need to fill that in on the application because it is not there.

**Lenny Lim** - The only problem I am having is because it is pre-existing nonconforming. The addition will be slightly closer to the road than the original building. And normally we would never allow you to go closer

**Tim Pagones** - It lines right up

**Lenny Lim** - 15'7 and 16'2 I mean it is like 5 inches

**Charles Barone** - I think it got bigger. Didn't it?

**Lenny Lim** - I'm going by the numbers I have here. The original house is 16.2 the corner

**Charles Barone** - Right

**Lenny Lim** - The addition will be 15.7 it has a little extra more room

**Tim Pagones** - Well no because

**Lenny Lim** - All I am saying is he will be coming closer with this new addition and it is a pre0-existing nonconforming. It is not a lot. But that does bother me.

Normally we don't let pre-existing nonconforming come closer

**Vincent Cestone** - Vic, Bill do you have anything?

**Bill Flaherty** - No I have nothing

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

**Victor Carlson** - What are your setbacks from the road?

**Vincent Cestone** - 40 feet

**Victor Carlson** - Is there any reason why this addition can't be moved back further

**Charles Barone** - To set the line back

**Victor Carlson** - Yeah

**Charles Barone** - Just that it would look clean instead of having a jog of 5 inches in the house

**Joan Turner** - 175.81, 175.82 is the other one

**Bill Flaherty** - What's the addition consist of? Is there an additional bathroom as well?

**Charles Barone** - Yes there will be a bathroom upstairs and then the dining room and the bedroom is downstairs

**Tim Pagonos** - How big is the house now?

**Lenny Lim** - Do you have the exact square footage of this house?

**Charles Barone** - I can figure it out

**Joan Turner** - He's asking for an enlargement. It's a reasonable request

**Lenny Lim** - All the other corners are 9.6 from the road

**Vincent Cestone** - With the addition the total square footage is 1,050

**Charles Barone** - 650 square feet

**Lenny Lim** - right now the house is 650?

**Charles Barone** - Yeah

**Joan Turner** - And I think it is a reasonable even though this board is loathe to grant enlargements of non-conforming. This does seem like a reasonable request for the accepted family use of a property. That's my feeling.

**Vincent Cestone** - Any other questions? I will entertain a motion to close the public hearing

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

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

**All Board members** - Aye

**Vincent Cestone** - Can I have a motion for a straw poll

**Joan Turner** - So moved

**Vincent Cestone** - Can I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor?

**All board members** – aye

**Victor Carlson** - After looking at this and how all the other buildings are on the property I don't see any reason why we can't give him the variance

**Vincent Cestone** - Bill?

**Bill Flaherty** - I vote to approve

**Vincent Cestone** - Len? Do you want me to skip you?

**Lenny Lim** - Yes.

**Joan Turner** - I am going to vote in favor

**Lenny Lim** - I'm going to vote no. I don't like that pre-existing nonconforming coming closer

**Vincent Cestone** - I vote in favor. So it passes. That is the unofficial

**Tim Pagonis** - Okay November 7<sup>th</sup> for resolution. They took a straw poll to

grant it

**Frank Diaz** - Thank you

**Kim Shewmaker** - Can I have your name for the record

**Chuck Barone** - My name is Chuck Barone

**Tim Pagones** - November 7<sup>th</sup> they will have the final resolution and vote

**Chuck Barone** - Thank you very much

**Vincent Cestone** - Next item on the agenda is Mary Ann Langella. Tell us what you are here for and what you are asking for.

**Mr. Langella** - We have 2 sheds on our property. One has been there for about 17 years. Our house had originally burnt down and we used that to stage material when we were building the new house. The Town was aware of that building.

**Vincent Cestone** - It is these two sheds here we are talking about

**Mr. Langella** - Yes

**Mary Ann Langella** - The closest to the property line it has been there prior to the house when we moved in there.

**Vincent Cestone** - Okay. And when would that be

**(TOO MUCH NOISE AT DESK TO HEAR APPLICANTS)**

**Mr. Langella** - ...the other is 10 years or better the other one just kind of sits next to it. The original shed is on railroad ties and I am afraid that if I try to move it, it will probably break up. The other shed could possibly be moved but unfortunately the backyard slopes and there is a brook. If I move it into range it would have to be almost against the house or somewhere, it could be very

**Mary Ann Langella** - the second one would have to be in a spot that would be almost useless to get to in the winter. Because once you get snow, you try to walk down that hill. I know that two of you were out today looking at it. And that's where we store a lot of our tools and stuff in there.

**Vincent Cestone** - How are these constructed?

**Mr. Langella** - Well one was prefab, the new one. The original one we had built prior to the fire

**Vincent Cestone** - Okay. And you said one of them was on railroad ties

**Mr. Langella** - Yes. They both are. The railroad ties on the first one **(Cannot hear due to paper movement on desk)**

**Lenny Lim** - which is the new one? The back one?

**Mr. Langella** - The one closest to the house

**Mary Ann Langella** - The building department was around when we were rebuilding our house and they told us that it was in the proper place. It doesn't even show on the original survey but we were told it was fine to put the shed there.

**Joan Turner** - Then why are you here today

**Mr. Langella** - They told us it was in violation and it had to be moved

**Mary Ann Langella** - They knew it was there when we were building the house

**Bill Flaherty** - They probably didn't make an issue of it because it was not on a permanent slab. So therefore it is conceivable that it could be moved

**Mr. Langella** - They could. The original one that was there has been there like I said for around 18 years. If that were tried to be moved, it would probably, the bottom would fall out.

**Bill Flaherty** - So it is not well constructed

**Mr. Langella** - No it is solid. There is nothing wrong with the construction. The dirt has probably rotted

**Joan Turner** - They would probably have to put new footings, new concrete, I mean concrete blocks or railroad ties

**Mr. Langella** - It is pressure treated lumber. But the problem is we set it on railroad ties and after 15 years I am sure the railroad ties **(cannot hear due to conversation between board members)**

**Bill Flaherty** - And this is the shed here, it is 12 by 12 by 8

**Mr. Langella** - Yes. That is the shed we are talking about. That's the original one

**Bill Flaherty** - That's the original one and that is the one that is closest to the



road

**Mr. Langella** - Not the road

**Joan Turner** - What is the disadvantage to you to moving it over to the other side of your property

**Mr. Langella** - There is a swimming pool there

**Joan Turner** - I see the swimming pool and this

**Mary Ann Langella** - There is no access to the driveway

**Joan Turner** - So putting it right over here

**Mary Ann Langella** - To get a tractor in there. There is no flat area.

**Mr. Langella** - There is a swimming pool plus there is a patio that is kind of raised. It is about 12 inches high. So we would not be able to drive up the patio.

**Joan Turner** - And this is just lawn here? This part is just lawn

**Mary Ann Langella** - Yes

**Mr. Langella** - Yeah

**Joan Turner** - I understand about the access down here going down the hill because I saw the hill

**Mr. Langella** - Right

**Joan Turner** - But

**Lenny Lim** - Can they move it closer to this big paved area up here. Looks like a parking area

**Mary Ann Langella** - No we still have the property line

**Lenny Lim** - This is your property line here

**Mr. Langella** - Right

**Lenny Lim** - You need to move it back. But if you move it here, I am sure you have plenty of room

**Mr. Langella** - Towards the house you mean

**Lenny Lim** - Yeah. If you came back closer to the house, you would still have plenty of room from the side setback

**Mary Ann Langella** - There is a well there. Our well is there

**Mr. Langella** - Yeah our well just put in

**Mary Ann Langella** - There is a well right there

**Lenny Lim** - It's not on your map

**Joan Turner** - It's not on your survey yeah

**Mr. Langella** - Well it is covered. I have a little covering over the well. It is not a decorative well the well is underneath that

**Joan Turner** - May 12 that is this year and they don't have any sign of a well here

**Mr. Langella** - I have it, I have something covering the well head.

**Lenny Lim** - Normally they usually put a little thing that says well. We are saying we don't see it anywhere on your maps

**Mary Ann Langella** - No. They never asked where it was when they did the survey

**Mr. Langella** - That area has to have wells

**Lenny Lim** - We all have wells

**Bill Flaherty** - Now where is the septic

**Mr. Langella** - In the back

**Bill Flaherty** - In the back

**Joan Turner** - Are they looking for a variance for both sheds?

**Lenny Lim** - Both of them need it

**Joan Turner** - Well one of them has to go. I can understand giving them one but the one closest to the property line should be moved. Put it in alignment with this one. Bring this one up here and put it in alignment with here

**Mr. Langella** - You can't. Not enough room. The hill drops off very steep

**Joan Turner** - No over here. I am talking coming forward with it. Take this shed and swing it around here

**Mr. Langella** - Take the old shed or the new shed

**Joan Turner** - The old shed, bring it around here.

**Mr. Langella** - The end of the new shed, the property goes right down

**Joan Turner** - Right here. You have a shed here

**Mr. Langella** - On the property line

**Joan Turner** - Take this one and move it here.

**Mr. Langella** - That's where the well is

**Joan Turner** - Well you have a problem. How do you go out on your patio here?

**Mr. Langella** - The back stairs

**Joan Turner** - This is all flat all the way over here, where your pool is and everything

**Mr. Langella** - Yes. There is a little bit of a hill but yes it is basically flat

**Joan Turner** - You can put your shed over here

**Mr. Langella** - That would be too close to my neighbor then

**Joan Turner** - Move it up

**Mr. Langella** - It has to be 35 feet correct?

**Joan Turner** - 30 feet not 35

**Tim Pagones** - what's the zoning?

**Joan Turner** - What is it R-80 or R-40

**Mr. Langella** - I don't think you have 30 feet to my neighbor on that is the width of the shed and the pool deck

**Joan Turner** - Well here you have the same problem you are right on top of your

neighbor. Here is the property line. You are right on top. So if you came over here and put it over here and put it somehow part of the pool complex. You have alternatives on your property is what I am telling you. They may not suit you, you may not like them, but you have alternatives.

**Mr. Langella** - I don't know if you can get it along side of the end of the pool. In the front there is an alternative yes. In front of the house. That is an alternative.

**Tim Pagones** - Is this screened or anything

**Mr. Langella** - What's that?

**Tim Pagones** - What's around here?

**Joan Turner** - How did you get this? If you have a 30 foot setback, how did you get your deck 25 and 3? Did you get a variance for that?

**Mr. Langella** - What are you talking about

**Joan Turner** - The deck

**Mr. Langella** - The pool is above ground

**Joan Turner** - But you need a building permit for it. So did you get a variance for your deck? Or a building permit for your deck?

**Mr. Langella** - It is a free-standing deck

**Joan Turner** - But you need a building permit for it. Did you get one?

**Mr. Langella** - No I don't believe I did.

**Mary Ann Langella** - The deck has been there 25 years

**Joan Turner** - But you still need a building permit for it and you never got one

**Mary Ann Langella** - I came up here and told them what we were doing and I was told I did not need anything. As long as it was an above ground pool, it was not a problem

**Joan Turner** - That was the pool. But what about the deck? The deck is a structure

**Mary Ann Langella** - Yes I understand this

**Joan Turner** - So for a structure you need a building permit and that building

permit you would have needed to get a variance from the board to put it 25 feet.

**Mr. Langella** - So are you saying the deck has to come down?

**Joan Turner** - No. I am not going to give you a hard time about the deck. You are not here before us for that. That's not the issue.

**Vincent Cestone** - But he could have cited you for that

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

**Mr. Langella** - ... It's kind of like if I put it here it can be by my neighbor.

**Vincent Cestone** - What if you move the shed up here? Or put it next to the new shed

**Mr. Langella** - That's the hill

**Vincent Cestone** - Would you be willing to move this one up

**Mr. Langella** - That's the one that I think is going to break. That's the one that is the original.

**Vincent Cestone** - Well I don't know what the board feels

**Tim Pagones** - Okay, it's working

**Joan Turner** - I hear the pitter patter of little feet

**Tim Pagones** - I'm probably taping over something

**Victor Carlson** - Now you come

**Vincent Cestone** - He just flipped the tape. Is that a bad thing?

**Kim Shewmaker** - Yes. I already flipped it. Did you flip it?

**Tim Pagones** - No

**Kim Shewmaker** - You gave me a heart attack. It's working. Did you flip it?

**Tim Pagones - No**

**Kim Shewmaker - Okay**

**Vincent Cestone - Did you flip it**

**Tim Pagones - I did not flip the tape**

**Kim Shewmaker - If you don't have minutes, you'll know why**

**Victor Carlson - Suppose you move this shed back here and we give you a variance for this 19 feet**

**Tim Pagones - I think what he is saying the one closest to the property line if he moves it, it is coming down. It is going to fall apart. So now**

**Victor Carlson - But we are giving him the option that he can put up a shed in the same size along side when we give him the variance**

**Joan Turner - But he said there is no room there to do it**

**Tim Pagones - He can't move it behind the other shed because it drops down**

**Victor Carlson - I am saying putting it along the same distance the same side**

**Tim Pagones - The well is where it says 47.4. Right along there is the well and behind it it drops down according to the applicant. I think Ms. Turner was there also.**

**Victor Carlson - You don't have any running water in it**

**Mr. Langella - No**

**Lenny Lim - I seem to be in agreement with Joan and Vic. I think the one closest has to go. I will give the 19 foot but I won't go for the other one.**

**Vincent Cestone - Okay.**

**Victor Carlson - How deep is your well**

**Mr. Langella - 200 feet. It was just put in about 3 years ago**

**Vincent Cestone - Okay. Does anyone in the audience wish to speak on this. There is nobody back there but**

**Joan Turner** - David do you have something to say?

**Vincent Cestone** - Anymore questions from the board? I will make a motion to close the public hearing.

**Lenny Lim** - I'll second.

**Vincent Cestone** - All in favor?

**All board members** – aye

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

**Joan Turner** - What are we voting on?

**Tim Pagones** - It seems like the board is proposing to give you a variance for the one shed, the 19.4 feet. And the front one has got to go.

**Mr. Langella** - The one closest

**Joan Turner** - The one closest to the property line

**Tim Pagones** - The one that is going to fall apart if you have to move it

**Mr. Langella** - The one by the woods

**Tim Pagones** - Right. So they are saying that one has to go but we will let you keep that second shed that is 19.4 feet away

**Mr. Langella** - How much time do I have to get rid of it

**Tim Pagones** - It is up to Mr. Monroe. There won't even be a resolution depending on what they vote until November 7<sup>th</sup> so you've got time. Is that the board's

**Joan Turner** - So the resolution would be to grant a 10.6 variance for the shed closest to the house

**Lenny Lim** - For one shed

**Joan Turner** - For one shed

**Vincent Cestone** – right. And that is what I am asking. Do we want to take a straw poll on that? I made a motion

**Mary Ann Langella** - May I just ask what was the law for the footage 18 years

ago when that was originally put there?

**Joan Turner** - 30 foot

**Vincent Cestone** – it hasn't changed

**Joan Turner** - Maybe because your house burnt down they were letting you use that as a staging area

**Mary Ann Langella** - Whatever.

**Vincent Cestone** – Okay. So there is a motion on the floor for a straw poll. Do I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** – All in favor?

**All board members** - Aye

**Vincent Cestone** – Len?

**Lenny Lim** - I'll vote for keeping one and taking out the closer one

**Vincent Cestone** – Okay. Joan?

**Joan Turner** - I'll vote for the 10.6 variance for the shed closest to the house and removal of the other one

**Vincent Cestone** – Okay. Bill?

**Bill Flaherty** - I'll vote for approval of both sheds

**Victor Carlson** - Both sheds? What did he vote? Removal of both sheds?

as these sheds are there 17 years. It doesn't interfere with anyone's property next to you. It is not interfering with anyone's view in the woods. It has been there for 17 years and as I said from my view point at any rate that the sheds remain as is.

**Tim Pagonis** - So do you vote that he at least gets the variance for the 10.6 feet? But in your mind they should get both

**Bill Flaherty** - Yeah



**Tim Pagones - Right**

**Victor Carlson - I don't understand this. He says it stays**

**Vincent Cestone - No**

**Bill Flaherty - That's my vote. That's my view**

**Vincent Cestone - Once it has been granted, as long as you stay back at 19.4, you can put a second shed right next 19.4 feet from the property line**

**Lenny Lim - Wouldn't he have to come back if he put a second shed there?**

**Tim Pagones - Yeah**

**Lenny Lim - He would still have to come back. It is not automatic that you can put it there**

**Tim Pagones - Right**

**Joan Turner - But the difficulty is just not what happens to you now with your shed. It is when you sell your property, it is what somebody else will do with this variance which runs with the land and they can say oh we have a variance for a shed and the shed can turn into a mini-barn. And we've seen this happen with are variances where we grant a variance and they become enlarged with the next owner. Because the variance is permanent. It runs with the land. And it is that concern that I have. It has other consequences.**

**Mr. Langella - I understand what you are saying**

**Tim Pagones - And which is the one that is closest to the house, the 8 by 16 by 9 or the 12 by 12 by 8?**

**Mr. Langella - Closest to the house?**

**Tim Pagones - Yeah.**

**Mr. Langella - The 8 by 16 by 9**

**Tim Pagones - Okay. So the 8 x 16 x 9 will be the one that stays**

**Vincent Cestone - So what is your straw poll vote?**

**Victor Carlson - Just one shed**

**Vincent Cestone - And so would I**

**Tim Pagones** - Okay. So the one closest to the property line has got to go unless you want to move that around. And the smaller shed closest to your house stays. So they will take a final vote November 7<sup>th</sup>. They have 5 days after November 7<sup>th</sup> to get it downstairs.

**Mary Ann Langella** - If we have a quick winter like we did last year, and we attempt to move it

**Vincent Cestone** - He is not difficult

**Mary Ann Langella** - I'm not trying to be difficult

**Vincent Cestone** - No no. The building department will not be difficult.

**Mr. Langella** - Thank you

**Tim Pagones** - Take care

**Mary Ann Langella** - Thank you. Have a good night

**Vincent Cestone** - You too. Review of minutes. I don't think anybody

**Joan Turner** - Yeah I read them and there was just a minor gap in my sentences where I leave words out because my mind is racing so quickly. So there were just minor, not even enough to comment about. So fine. So you can move to accept the minutes if you want.

**Vincent Cestone** - Okay. Motion to accept the minutes of September 12<sup>th</sup> and September 19<sup>th</sup> as modified

**Lenny Lim** - Second

**Vincent Cestone** - All in favor

**All board members** - Aye

**Vincent Cestone** - Any old business?

**Joan Turner** - Yeah. I just want to bring up future business. I just want to speak quickly about it. Pass them down to everybody. I went and talked to Tom Monroe and we went over the Friedman-Kien file and in that file he found, just the one thing I want to point out to you is this is the 1970 resolution from the planning board which grants Friedman-Kein access. This was a subdivision of nine parcels for which there are existing buildings or permits issued for buildings but it is the third of such series. So this was the third in that subdivision. He is

entitled to access and there is no time limit on it. So he has access. The building permit however cannot be granted, you just need to look at section 62.2 permits required, you just can't enter, and I want you to check this to see if my reasoning is sound and legal, is that a building permit cannot be issued carte blanche. You need to have a set of plans. So when Friedman-Kien presents to Tom Monroe a set of plans and all the necessary requirements for a building permit, the building permit is issued. He has the right to a building permit. So the building permit should have been revoked but for the wrong reasons. But he does have a right to a building permit but this building permit should be held in abeyance and revoked until either Friedman-Kien sells the property and a buyer comes in with a set of plans. As of now, this represents nothing. You never give a building permit out for nothing. So he is entitled to a building permit but he can't have this piece of paper. He has to come back and go through the building permit criteria as in 62.2. So once you read that, I think that is the interpretation that we want to give.

**Tim Pagones** - I'll take a look at it

**Joan Turner** - This piece of paper that was granted him is like for what. It's a mythical house. So anyway, he has the right to a building permit it is undeniable, the access is granted, he doesn't have to go through the Planning Board, I think the problem had to do with the fact that he was clear cutting and he messed up the drainage. But those issues can't be decided by this board through revoking a building permit for which he is entitled eventually. The issue of drainage and clear cutting has to be dealt with by either the town or by the neighbors who can press a suit against him. Okay. That's all I have to say for once.

**Vincent Cestone** - Motion to adjourn?

**Bill Flaherty** - I would just like just ask briefly, there seems to be a lot of controversy relative to the Cooper issue down on Hudson River Lane. Several letters have been written to the editor on this matter and the most recent one was from \_\_\_\_\_ of the Town Board. Now I had not been privileged to attend that meeting between the zoning board and the town board and I really have no knowledge of what had transpired at that meeting. Was approval granted

**Vincent Cestone** - No. It was an agreement in principle that if it came, a set of building plans that had the reductions that were proposed that we would consider them as a settlement towards the lawsuit. Now they submitted, supposedly a set of plans to the town except that they weren't a set of plans. There were no measurements on them

**Joan Turner** - They were architectural sketches

**Vincent Cestone** - The town sent those plans back and said this is nice now send us a set of real plans.

**Bill Flaherty** - So the issue has not been resolved

**Vincent Cestone** - No not at all

**Bill Flaherty** - It is still an open issue

**Joan Turner** - But the first, let me just back track. The first meeting was you couldn't go, I went. They sketched out what they were going to do with the original house, reduce the roof size and take 4 feet off the foundation. Move the foundation block 4 feet so that it will be 4 feet this way shorter and reduce the overall size of the house by a third. We all said that sounded good then we had a joint meeting with our board and the town board and they presented the whole thing again. David you were there. And we all agreed that it sounded very good, it was reduced by a third. Let's see real plans as Vinnie said, real measurements, bring them back to us and we will vote on that. Now it is just talk.

**David Brower** - Two things surprised me. One, correct me if I am wrong, but you have not received any plans

**Vincent Cestone** - No

**David Brower** - That's the first surprise because it was agreed that we were all going to get plans. Now they only sent plans to the town board. Now the plans that were sent to the town board were a joke. All they were were blown up copies of the little drawings that were given to us that day. So the town board sent, Bill sent them a letter saying this is a joke. If you really want to be serious, send us plans and that's where it stands right now. But like I said, I am very surprised that they didn't send the zoning board the same copies that they sent us. Whether they are trying to divide and conquer the two boards, I don't know. But the games are going to stop.

**Joan Turner** - Someone also clued me into something else that the four feet that they are talking about reducing in the front is just the front entrance way which is just out

**David Brower** - Well that is what we want to see for real

**Joan Turner** - The four feet has to come off the foundation itself.

**Vincent Cestone** - At the request of the town we ask the planner to look at the original plans from that original submission and compare it to what they submit now and tell us what they changed. Because you know how they have been playing games with us all these years.

**David Brower** - The town board will not do anything without the zoning board.

Everybody will be in on this.

**Lenny Lim** - We basically agreed that is they brought it down a third and we liked the size of it. But we did tell them that we might tweak it a little bit like if the overhang is four feet we might tell them to take it back three feet. But the main size of it we all agreed on.

**David Brower** - One of the remarks that came up, they are talking about 31 feet. Now is that from the top of the foundation up or from ground up? Because you can have a four foot foundation. These are questions that have to be answered and believe me the town board is not going to take it upon themselves to deal with this it is going to be a collaboration between the two boards and either this is going to be straightened out or this is going to continue on for another ten years

**Bill Flaherty** - We obviously there has been some misunderstanding as a result of that meeting based on the letters that I have read\

**Joan Turner** - Can I say something about that? Both letters were by people, written by people to the best of my knowledge were never here at any meetings. This is, they are writing letters based on hearsay. Blake Roarke was never in attendance at any meeting nor was his wife, nor was Susie Gilbert. So they basically, their letters are based on something somebody is telling them. Not from direct factual experience. So they have to be treated with somewhat a grain of salt.

**Bill Flaherty** - Well what about Mrs. Sullivan? She was in attendance

**Joan Turner** - Her letter was the only valid letter. And she is very upset.

**Bill Flaherty** - But a decision had been made in unison with both boards to agree to the Coopers to build a structure on that property

**David Brower** - No that is not true

**Bill Flaherty** - I know that. But some people misunderstood what had taken place at that meeting

Like Joan said people through hearsay write a letter to the paper and they don't have a clue and they haven't been involved with something that has been going on for four or five years and \_\_\_\_\_ took exception to the fact that a person is insinuating that people in this town could be bought and all this other nonsense.

**(Everyone talking at once)**

**David Brower** - Personally I don't bother writing back because it doesn't do any

good and I'm not going to do anything public. We are just going to do what we have to do

**Joan Turner** - I mean I could have written back and said that neither Blake nor Susie Gilbert were in attendance

**David Brower** - A long time ago my father told me or somebody told me, that if everybody is mad at you, then you did the right thing. The bottom line is you take it with a grain of salt.

**Joan Turner** - I mean I feel badly for Zshawn. She is the one that really has the biggest gripe because she is facing that blank wall right out of her window it is there. I mean it is regrettable that they won't take the four feet off the back end of the house rather than the front end.

**David Brower** - After this joke of the so called set of plans, we have a long way to go. They didn't even bring any plans for the garage.

**Joan Turner** - What about setting a time limit for the plans. Say look if we don't have anything by November

**David Brower** - Well I don't think we can do that because we are dealing in something that is in the courts.

**Bill Flaherty** - It is still before the court, it is still be litigated

**(speaking at the same time)**

**David Brower** - We can go to the Judge and say look, we ask for plans and they give us this joke.

**Bill Flaherty** - I think the board should write a letter to the editor refuting all the previous letters written

**Vincent Cestone** - Not even worth while. Then there will be a counter letter and it will go back and forth

**David Brower** - If people really want to know what is going on, they can come here and sit.

**Vincent Cestone** - Motion to adjourn?

**Lenny Lim** - Second.

**Vincent Cestone** - All in favor

**All board members - aye**

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

**DATE APPROVED:** November 7, 2005

Respectfully submitted,

Kim Shewmaker  
Secretary