

# ZONING BOARD OF APPEALS

January 23, 2006

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, June 6, 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
	Joan Turner	-	Member
	Bill Flaherty	-	Member
	Tim Pagones	-	Counsel
<b>ABSENT:</b>	Lenny Lim	-	Member
	Victor Carlson	-	Member

**Vincent Cestone** - I'm going to take things out of order. I am going to do the reviews for completeness first so those people don't have to hang around through six public hearings. So, Omnipoint is not complete

**Tim Pagones** - Well 13, 14 and 15

**Vincent Cestone** - Right 13, 14 and 15 are not complete.

**Tim Pagones** - They are not complete. I know they spoke with Mr. Comi and he is going to get his report. It depends when you want to put it on in February.

**Vincent Cestone** - Right. We can review for completeness at the next meeting

**Tim Pagones** - The next meeting would be the 6<sup>th</sup>. Do you want to meet the 6<sup>th</sup>? I'm not going to be here. Normally you would have met the 6<sup>th</sup> and 20<sup>th</sup>. The 6<sup>th</sup> I won't be here and 20<sup>th</sup> is Presidents' Day. If you want to meet on a holiday, you can do that. We have done it in the past. So unless you want to meet the 13<sup>th</sup> and the 27<sup>th</sup>?

**Vincent Cestone** - What do you want to do the 13<sup>th</sup> and 27<sup>th</sup>? Yeah, that's when we will meet.

**Tim Pagones** - So you want to put this on for the 13<sup>th</sup> of February. Those three.

**Vincent Cestone** - Okay. Open Space Institute

**Tim Pagones** - That is Mr. Watson. I have reviewed it. It is complete. You can refer it to the Planning Board.

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

**Tim Pagones** - No. It's complete, it's complete and you can refer it. So that goes to the Planning Board

**Vincent Cestone** - Okay. Adam and Diane Hird

**Tim Pagones** - Anyone here for Adam and Diane Hird?

**Joan Turner** - I went and reviewed that. I think they need a building permit and certificate of occupancy in the file. I think it might be a non-conforming house.

**Tim Pagones** - I think it was a prior non-conforming and they are looking to tear it down and build it exactly the way is. So now it will be 2 stories as opposed to

**Joan Turner** - Don't we need a certificate of occupancy in the file

**Tim Pagones** - So you want to put it on for the 13<sup>th</sup> for completeness

**Joan Turner** - That's fine yes

**Vincent Cestone** - And that is it for completeness

**Tim Pagones** - That's it

**Vincent Cestone** - Also let's do the minutes of January 9<sup>th</sup>. Are there any corrections on the January 9<sup>th</sup> minutes?

**Joan Turner** - I didn't get them

**Kim Shewmaker** - I mailed them out

**Vincent Cestone** - They were very small. Motion to accept the minutes as submitted

**Bill Flaherty** - So moved

**Joan Turner** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Vincent Cestone** - Okay. Next thing on the agenda that I am going to deal with tonight is Omnipoint Communications. Is there someone to speak for the applicant?

**Robert Gaudio** - Thank you Chairman. Good evening. Robert Gaudio with the law firm of Snyder and Snyder on behalf of Omnipoint.

**Vincent Cestone** - Okay. I had asked you to get together with our consultant firm and work things out. Also I saw the emails going back and forth and where do we stand?

**Robert Gaudio** - With respect to the landscaping that came up since the last meeting, Omnipoint is more than willing to provide some reasonable landscaping towards the property line. We just have to obtain the landlord's permission for that

**Vincent Cestone** - Okay

**Robert Gaudio** - We just need some type of feedback from the board exactly what you would be looking for. What we had in mind was some 10 to 12 foot Norway Spruces which are a very nice tree. Putting that along the property line 10 foot on center would be approximately 100 feet screen

**Vincent Cestone** - And that's basically what we are looking for. If you could put that in the form of a plan that would be fine.

**Robert Gaudio** - 10 Norway Spruces along the property line

**Vincent Cestone** - that's correct

**Joan Turner** - 10 to 12 feet high

**Robert Gaudio** - yes. Which is a substantial tree.

**Joan Turner** - Yeah I know

**Robert Gaudio** - And our equipment is inside the compound and would not be visible. Nevertheless we are trying to

**Vincent Cestone** - Right

**Tim Pagones** - I would suggest that someone call Mr. Kelly

**Joan Turner** - He is here in the audience

**Vincent Cestone** - Did you hear that Mr. Kelly

**Mike Kelly** - I didn't hear what he said

**Vincent Cestone** - What Omnipoint is proposing is a series of 10 to 12 foot trees along the property line to screen your house from the facility

**Mike Kelly** - Okay

**Tim Pagones** - I think what they are saying first is though is they first have to obtain permission from the Owner

**Vincent Cestone** - Yes

**Tim Pagones** - Right now they have a lease agreement for that site. They have to get some kind of property rights to put on the other stuff. So assuming they can do that though

**Vincent Cestone** – right

**Mike Kelly** - If they have a problem with the property owner, it doesn't make a difference to me what side of the fence it is on.

**Robert Gaudio** - That may create some legal difficulties for us. We are not legally allowed to provide off site items. Let's see if we can work it out

**Vincent Cestone** – I'm sure the land owner would be more than helpful since this is not in the middle of his property it is along the property line I don't think

**Robert Gaudio** - It's not in the setback area. The second item was the signal level issue and I did some research on this. As you may recall Omnipoint is proposing negative 84. It is a similar signal level that was approved for Verizon at this exact site. The Board is concerned about setting some type of future precedent, we don't have a problem with a condition of approval that says just that, that it is not setting a precedent with respect this signal level that we believe based on the code provision we have shown coverage maps and **(Fire Alarm Sounding...holding all conversation)**

**Vincent Cestone** – Let's hope they don't do another sequence. So you were saying

**Robert Gaudio** - We were saying we are proposing a signal level that is nearly identical with the signal level that has been approved for Verizon. It is a co-location on an existing tower

**Vincent Cestone** – This is a no brainer.

**Robert Gaudio** - Exactly and I think there is a way that the board could draft an approval resolution that would satisfy all the parties with respect with any future concerns not relating to this application.

**Vincent Cestone** – Well, our concern is that you have two more applications before us and Verizon hasn't had a problem with the signal level that our consultant had asked for, neither has Sprint, neither has Cingular. And this is something that we need to feel comfortable with the application. Specifically you have a special use permit and it is required that you prove need. And this is one of the things that we need to prove need.

**Robert Gaudio** - I guess the first issue is that in your Code it is actually not a requirement for a special permit and I think that may have been something that has been said but in fact it is not actually the case under the letter of the law. More importantly, Verizon is the same signal level that we are proposing that Verizon proposed and that was approved for this site.

**Vincent Cestone** – Mr. Comi is that true?

**Mr. Comi** - I didn't bring the Verizon stuff with me but I can absolutely attest it is not true for Cingular. It is not true for \_\_\_\_\_. We also know that throughout the area Ominpoint has had the same issue but we believe that they are asking for in-vehicle coverage, the phone will work at -95. Now we are more than willing to go through and get two pieces of information that will ultimately prove that one way or another. First of all they didn't do a drive test. At least they didn't provide it to us which is normally information that would verify their propagation maps. The second issue is to physically do a call test. We've done this elsewhere with Omnipoint. It is proven whether or not it works or it doesn't work. If it doesn't work reliably 95 percent of the time at -95 dbm I will be very happy to agree with him. On the other hand I expect them to say that if it works 95 percent of the time in this area that the signal level of -95 is acceptable. The impact of the difference of the signal without getting extremely technical is it's 10 times as strong a signal and it has an impact on the number of sites and the heights of the sites. So our concern if they want it to say in-building and use -84 fine. But when they go in-building they want to use the 75 or something like that, an even stronger signal. So we believe there are those two items of information and those two items will definitively prove whether or not the modeling is correct or not correct. We've done it with Omnipoint in another community and we would just like to see it done here unless they are going to agree to what we are asking for.

**Vincent Cestone** – So the ball's in your court. If you agree with Mr. Comi we could probably put this to bed tonight. If not, and I can speak for the board on this, we are going to ask you to do the drive and the call test.

**Mr. Comi** - Is it the drive and the call test or one or the other?

**Vincent Cestone** – Both.

**Mr. Comi** - I don't understand why both are necessary.

**Tim Pagones** - Mr. Comi, do you want both?

**Mr. Comi** - Yes

**Tim Pagones** - Okay. And in the mean time what I will do, I think Mr. Comi can check and see what Verizon was approved at also.

**Mr. Comi** - I will go back and take a look.

**Robert Gaudio** - Now the call test, I have to speak to that. It's just not scientific methodology. It is anecdotal at best to drive around and make a number of calls.

**Vincent Cestone** – But it proves a point.

**Robert Gaudio** - Well it doesn't disapprove the point. And that is what Mr. Comi said that we would have to agree that if 95 percent of the calls went through then we didn't have any need for the site. And that is just not a scientific basis for

**Vincent Cestone** – I don't think the issue is whether you need the site. I think the issue is

**Tim Pagones** - You need neg 84

**Vincent Cestone** – Whether you need neg 84 or neg 95

**Robert Gaudio** - In either case whether we need the site, the site is the site. We are proposing to co-locate on an existing monopole

**Vincent Cestone** – No that's not an issue. Like I said, this is a no brainer

**Robert Gaudio** - The drive, the call test is just not something my client is willing to perform. If we had that data we would be happy to provide but the call test

**Vincent Cestone** – So are you saying that you would do that for us or not do that

**Robert Gaudio** - The call test is not something my client is willing to do. We would be happy to submit additional documentation this evening to support the

neg 84 standard on a scientific basis, we would be happy to do that. We have drive test data. I don't see any objections to providing drive test data. The call test is merely anecdotal. It's making a call with a random telephone and random locations throughout coverage area and it just scientifically doesn't prove anything.

**Vincent Cestone** – Mr. Comi, you have something to say?

**Mr. Comi** - Omnipoint had the same issue in another community in Westchester County. We went through and did between 200 and 300 calls. What I am looking to prove specifically from the perception of the individual is does the phone work or does not work. The propagation modeling, the drive test, are modeling information. They can very much be impacted by the parameters that were utilized and put into the model. However, from the other perspective we got an area. We want to know whether or not -95 dbm works or doesn't work. So anywhere there is a -95 dbm the phone will show you that either the call will work in the car or won't work. It's all we are asking for. We are asking to do it in the area they proposed. If the -95 signal is there and the call works, then I am right. If the -95 signal is there and the call doesn't work, then they are correct. But it is not a modeling piece of information. And it is extremely imperative going forward for what you've got facing you which is two other applications which are for towers in this community in terms of the signal strength. It doesn't sound like much between 84 and 95 but that is about 13 times the power. Every 3db it doubles. So the difference in 11 is more like 13 times as strong a signal.

**Robert Gaudio** - Well I think there are a couple of important points there and Mr. Comi suggests using the telephone to measure the signal level. And again, the telephone is going to have a 3 to 6 db imperfection measuring the signal. So say we are going to use a handheld \$100 device to measure the signal at random locations throughout a very large coverage area. Just scientifically it doesn't provide an accurate measurement. On top of that we have a situation right now that there are no leaves on trees. So even if you went out and measured a signal that situation is going to change drastically between now and July. Now the drive test that we do have data, we would be happy to provide it. That is at least with a specially equipped vehicle with a hundred thousand dollars worth of equipment, specialized antenna, specialized measuring device and show you what the signal level is in select locations up and down the highway. Again the amount of \_\_\_\_\_ of going out and making a few phone calls in a couple of different spots, even if we make 200 or 300 phone calls, that could be affected by the speed that the car is traveling, certainly affected by the trees. It is affected by the locations that I have chosen. And it just creates a formula for inaccuracy and it's just completely unscientific. And as you just mentioned Chairman, that it is not a question of whether we need the site, we need this site and if there are questions on other applications independently of this, that is fine for the board to look at that. Nextel had an application a number of years ago which was reviewed by Mr. Comi where the maps didn't show any signal level, and it was

accepted. It did show two future tower sites up and down Route 9 in the same locations. And it was challenged by Nextel. And again I can attest to the fact that the Verizon design criteria was for neg 85 which again is very similar to Omnipoint's design criteria.

**Vincent Cestone** – So you are refusing to do the call test. Is that what you are saying?

**Robert Gaudio** - I am saying that the call test is unscientific

**Vincent Cestone** – But if this board asks you specifically to do that, would you do that?

**Robert Gaudio** - Well I think the board would have to make the request and I will take it back to my client and the one thing I would ask is for the specific methodology. What exactly are we talking about.

**Mr. Comi** - I don't have any problem with coming up with a specific methodology in fact if they want to use in conjunction with the phone to make the call their one hundred thousand dollars worth of computer to know what the signal strength is outside the vehicle that we are making the call, I am very impressed that they are more than willing to do that. Don't use the \$100 phone to measure the signal strength. Use your technical equipment to measure the signal strength. That's fine by me. I'm simply talking about from a customer's perspective, in a very small area that we are talking about, at what level will the phone work for the customer reliably.

**Robert Gaudio** - And again it is impossible to do before there are leaves on the trees

**Vincent Cestone** – If you would like we can wait until leaves are on the trees

**Robert Gaudio** - No I think we are already at the stage of this application

**Vincent Cestone** – Because I think we started in July of last year

**Robert Gaudio** - July of last year right. We are already past that time frame for an item that is quite frankly not required by the code. In addition the

**Joan Turner** - Can I just interrupt you there for a moment. I think your client and you might review 175.52 on application review and approval procedures in which this board has the right to ask for the information that needs before it makes the decision.

**Robert Gaudio** - Mr. Chairman, let me comment on one other thing. That section does not fall under



**Vincent Cestone** – One second

**Joan Turner** - It's a special use permit and that's what you are here before us for

**Vincent Cestone** – Yes you are here for a special use permit

**Joan Turner** - And under the special use permit zoning code, you're are required to give us the information that we ask for

**Robert Gaudio** - Well I think that is limited by two things. One, that it is unreasonable and I just pointed out why. But more importantly than that, you are asking us for information and Mr. Comi just suggested that if we agree that if 95 percent of the phone calls randomly placed throughout this coverage area go through then we don't have any need for the site. And that's what was said and certainly we will not agree to that. I can tell you that tonight and if you want to use that as a basis to deny the application this evening and save us the trouble, that would be fine. On the other hand providing information, we provided the coverage maps and that's always been required by our competitors and in addition to that what I am saying is the methodology here cannot accurately be done until at least July and more over no matter what the methodology would be, it is still an anecdotal result. And if it were necessary to show the need, again I don't think that is in dispute. I think that has been stated on the record this evening that there is not a question of whether we have a need here it is a question of future applications and the board

**Vincent Cestone** – It has nothing to do with future applications. It is a matter of proving your need according to our code. Especially for a special use permit. You have to prove need. And I

**Mr. Comi** - They don't have to wait until July. The issue of whether there are leaves on the trees or not on the trees, whatever the signal strength is it is. All we are trying to prove is does the phone work in-vehicle when there is a 95 outside or does it need an 84 outside. The trees are not an issue. This test, and I didn't say that if it didn't get 95 percent of the calls they don't get their application. All we are here to prove is whether or not they need 95 or they need 84 for an in-vehicle call. That's the issue and whether there are leaves on trees or not, what difference does it make? Whatever the signal is right now, if it is less than 95 but more than 84, we expect that the phone will work. They are saying it won't. That's what we are out to prove

**Vincent Cestone** – He has a point. Leaves are irrelevant

**Robert Gaudio** - No they are not irrelevant. That point is not correct. But more importantly what you are saying to us is that Omnipoint is being limited to neg 95

**Vincent Cestone** – I am not saying that at all

**Robert Gaudio** - Based on this call test. Mr. Comi has agreed in the past and this board has agreed in the past that neg 84 and neg 95 is an acceptable design level. And that is what we are asking for. We are not asking for neg 76. We are not asking for something stronger than that. So I think the issue here is that Mr. Comi is informing the board that maybe in the future we may come back with a different signal level.

**Vincent Cestone** – It affects the height of the proposed towers, the signal strength

**Robert Gaudio** - It doesn't affect the height of this proposed facility on the existing tower. It had no affect on this particular facility with this particular application.

**Vincent Cestone** – So will you do the two tests that we requested

**Tim Pagones** - Well, let me say this. I guess you are agreeing to do a drive test. That's with your one hundred thousand dollar van. Right?

**Robert Gaudio** - What I said that if we have a drive test we would be happy to provide it.

**Tim Pagones** - Okay. So let's see if we have a drive test. I guess if they haven't done a drive test we would like you to do a drive test. If you can contact them, because you are concerned about their parameters or something for the drive test, so if you'll do a drive test and Mr. Comi can agree on some parameters, fine. The board is asking you to do the call test.

**Robert Gaudio** - I can't do a call test without even knowing what the methodology is

**Tim Pagones** - Okay

**Robert Gaudio** - It is not scientific

**Tim Pagones** - The first thing is you have to ask your client. Speak to your client to see if they will even agree to it. If they agree to do a call test, then we will come up with the parameters or if you want the parameters before you speak to your client, fine.

**Robert Gaudio** - Obviously they will need to know the parameters

**Tim Pagones** - Okay, so Mr. Comi can come up with the parameters and you

can ask your client if they will do a call test. If they won't, when you come back to the board, you say they are not going to do it. You've agreed to do the screening, so we will get a plan for next time. But I just think instead of sitting here fighting about what we are going to do or not going to do, let's move forward and try to keep the thing going. At the very least you are going to come back with your screening plan and maybe you will have a drive test, maybe you'll have a call test. The Board wants you to do those things.

**Vincent Cestone** – This board is asking you to do this. And if you decide not to do that, we want it in writing.

**Robert Gaudio** - We will be happy to put it in writing.

**Mr. Comi** - I will be very happy to get the parameters for phone and provide them the information very quickly and copy the board.

**Vincent Cestone** – How much time do you need to do what we have asked, talking to your client, things like that?

**Robert Gaudio** - I can talk to my client tomorrow

**Vincent Cestone** – The reason I am asking is I am trying to decide when to put you on next

**Robert Gaudio** - We would like to be on as quickly as possible

**Tim Pagones** - So the 13<sup>th</sup> would be the next one

**Vincent Cestone** – We will put you on for the 13<sup>th</sup>. If your client agrees to do the call test and you need more time, get in touch with Mr. Comi and he will get in touch me and we will move the agenda time for you.

**Tim Pagones** - And we will work on the screening plan and someone can give Mr. Kelley a call, see what trees he wants

**Robert Gaudio** - Norway spruces are

**Tim Pagones** - That's fine

**Bill Flaherty** - Isn't it a matter or course to provide us any testing at other locations

**Robert Gaudio** - No. And in fact, it is just not reasonable

**Bill Flaherty** - Well Mr. Comi said that you've done this

**Robert Gaudio** - Yes we've done it twice. We've done it twice. We did it once to settle a Federal litigation. And after the call test we proved our point and we received permits for four sites.

**Vincent Cestone** – And Mr. Comi

**Robert Gaudio** - And the other time we did it in New Rochelle and now it has been raised as to prove Mr. Comi's point and in fact it proves our point. It becomes very difficult to do an unscientific test and then argue reasonably why that test is irrelevant. And it proved the point that we needed the site. So it becomes a point where the code requires propagation maps and the industry standard is to run these propagation maps, we provided the propagation maps. Our competitors were asked to provide propagation maps, they did so and they were approved at the same signal levels \_\_\_\_\_.

**Tim Pagones** - We'll check on that too

**Vincent Cestone** – Would you like to say something in rebuttal to that?

**Mr. Comi** - Four or five years ago all the carriers were providing in-vehicle coverage at -95, in building at -84 and in tall buildings it is something stronger. As their facilities increased and everybody wanted usage for their phones, and I agree they do want to use the phones more and more, that the industry started changing what they called their design standards not their need. We go back to the phone, the specs we received, how the phone worked, and the true proof of does it work. The industry has changed and said we now need certain things that they never talked about five years ago and thus need a stronger signal. We believe that that is being presented for a couple of reasons. Number one, if you need a stronger signal the surrounding sites on a study don't cover as much and show more gaps in their coverage. A gap in coverage, a significant gap in coverage, under the telecommunications act is not supposed to be denied. However, if you were using the old signal levels, that gap might not be there. Item number two, in this area and especially south of here, a lot of the sites now are starting to become necessary for what's called capacity. There are so many customers that if I've got a site here and a site here and the coverage was fine, I now have to split them in half because I don't have enough frequency. We believe that the insistence of raising the signal strength is to show that they can still show those items as significant gaps when in reality they are capacity issues. So we are finding that the industry is changing the standards over the years. There is no technical reason on the phone side or the system side why that is necessary whatsoever. So we've had to go out and as these get in to more and more residential areas have to be insistent that what they are asking for is what they really need not the issue of what they want. Now there is a lot more technicalities to it and that was a long enough answer sir. But I wanted to give you a least some basis for where we are coming from on this whole issue. We've done this before, we've done it with Sprint, we've done it with T-Mobile,

we've done call tests, and in every case, and in fact the case where Mr. Gaudioso is quoting that they needed the site, it wasn't that they needed the site because of the in-vehicle coverage, it was because they had apartment store, apartments that went up ten, twelve, fourteen stories and they needed a much stronger signal to cover inside those buildings which is not what they are asking for here. And it is not what you have here. They have said they want in-vehicle coverage. This whole thing could go away if he said he wanted in building coverage. Then I agree with the signal. But he won't say that. If they are willing to say that in writing, then I, designing is for in-building coverage in this area, we don't have an argument. But they won't do that either.

**Robert Gaudioso** - We did it in the June affidavit of Mr. \_\_\_\_\_ we did say that this will provide some in building coverage typically closer to the site. So that we did put forth. That has been in the application for over seven months. There is a technical basis for our design guidelines and I would like to hand out an affidavit from our chief engineer on that issue. I don't expect the board to read it this evening, obviously, but it is our technical basis for that design guideline and if Mr. Comi has an alternative technical basis, we would be happy to look at that and comment accordingly but we believe there is no such technical basis and then there is Omnipoint's technical basis and scientific \_\_\_\_\_. Going back to the leaves on the trees because it did just strike me, it does make a significant difference. The leaves on the trees will decrease the signal level at the location

**Vincent Cestone** – The point is you are testing at negative 95. It doesn't matter if the leaves are on there. Negative 95 is negative 95 whether there are leaves are on the trees or not.

**Robert Gaudioso** - But we may have negative 85 in areas that we will not have that when the leaves are on the trees. And that is a significant difference

**Vincent Cestone** – The point is not to prove, the point is to prove whether the signal strength is connecting the phone not your coverage area

**Robert Gaudioso** - Well then that is irrelevant to this case. If there is no need to prove the need for the site, then I am beside myself as to why we would go through this time consuming and expensive exercise.

**Vincent Cestone** – Well. Is there anyone who wishes to speak on this? Do you have anything more to say Mr. Comi?

**Mr. Comi** - No. I'll make sure that I get some parameters out in terms of what we are talking about both for the drive test and the call test very quickly.

**Vincent Cestone** – Okay

**Mr. Comi** - I anticipate they will be out before the end of the week











**Vincent Cestone** – Okay. The quicker you get, don't send it to Tim, don't send it to the Town. Send it to Mr. Comi

**Robert Gaudio** - I will submit

**Vincent Cestone** – You can cc us but he, we are waiting for Mr. Comi's letter of recommendation. The quicker you get the information to Mr. Comi, the quicker we can put this to bed.

**Robert Gaudio** - Very well. Thank you

**Tim Pagonis** - February 13<sup>th</sup>. Take care.

**Vincent Cestone** – Next item on the agenda is Kerry Wallis. Is there someone to speak for the applicant please. Hi

**Kerry Wallis** - Good evening

**Vincent Cestone** – Your name sir

**Kerry Wallis** - Kerry Wallis.

**Vincent Cestone** – All righty. Can you please explain to us what you are here for

**Kerry Wallis** - A 19.5 foot variance to encircle a pool with a deck

**Vincent Cestone** – Give us a little bit more detail as to, this deck is already built?

**Kerry Wallis** - No

**Joan Turner** - The pool, you got the building permit for the pool

**Kerry Wallis** - Correct. If I had known that I needed two variances when I first submitted an application, but now here we are

**Joan Turner** - You have one of those long narrow lots. Can you describe the lot for us

**Kerry Wallis** - It is about 60 foot wide

**Joan Turner** - Right

**Kerry Wallis** - And about .96 of an acre. I don't know how many feet it is long

**Joan Turner** - The topography, the topographical features of the land? Could you just give a description. Is it hilly

**Kerry Wallis** - It is hilly

**Joan Turner** - Do you drive up a hill and do you slope down to a hill or is it on a hill?

**Kerry Wallis** - No it slopes up the hill, one small hill and then it goes, it flattens out at the top

**Joan Turner** - Which is approximately where the pool is and you home?

**Kerry Wallis** - The pool is in back of the house

**Joan Turner** - Right. I see that by the plans

**Kerry Wallis** - All the way up on top of the hill

**Joan Turner** - On the top of the hill. So you have flat area there

**Kerry Wallis** - The first area is the septic fields, so the pool couldn't be put there

**Joan Turner** - Right

**Kerry Wallis** - And putting the pool in the front of the house, the front of the property, wouldn't make sense. It wouldn't meet the setbacks from the front of the road

**Vincent Cestone** - So, it is all back here? Back here, this is all rocky, steep slopes, is that what you are saying?

**Kerry Wallis** - Lots of trees correct for the retaining wall in back

**Vincent Cestone** - And it is the same thing going down towards the front

**Kerry Wallis** - On the left side, there is a house on the right side

**Joan Turner** - And in front of the house, here, this is where your slope is, you come up here

**Kerry Wallis** - Correct. And that's where the leech field I think it's called

**Vincent Cestone** - Excuse me

**Kerry Wallis** - The leech field start at the end of the house there

**Joan Turner - Right**

**Kerry Wallis -** So the pool would have to be positioned behind the leech field behind the house

**Joan Turner -** Well what I am getting at that is because of the nature of your lot, you, this is really the only place you can put your pool and deck

**Kerry Wallis -** Absolutely. Yes

**Vincent Cestone -** Who is in the lot directly opposite your, on your map here it is 16, but who is over here?

**Kerry Wallis -** Number 11, I don't remember his name. It is in the original application

**Vincent Cestone -** And in relationship to the pool, where is the house

**Kerry Wallis -** About 50 feet

**Vincent Cestone -** 50 feet ahead of it or behind it

**Kerry Wallis -** 50 feet going down the hill

**Vincent Cestone -** so he would be down like in this area

**Kerry Wallis -** a little further down towards the road

**Vincent Cestone -** okay

**Kerry Wallis -** He is a good distance away from the end of my house to the end of the pool and it is close to the road. This house probably sits 12 or 15 feet from the edge of the road. So he is set all the way down

**Joan Turner -** So about 40 feet away in your estimation

**Kerry Wallis -** At least 40 feet

**Joan Turner -** just want to say, what I am thinking and perhaps you have considered that while it's a very nice feature to have a deck that surrounds the pool, you could have a three-quarter deck and not get a variance at all. You could building, actually you'd have an alternative of not putting the deck on the one side that you need the variance. So you would just have a three-quarter deck

**Kerry Wallis** - But the terrain at the edge of where you are referring to is all rocky and it needs covering

**Joan Turner** - So you are looking to protect the, I guess, the structure of the pool?

**Kerry Wallis** - Correct

**Joan Turner** - With the deck

**Kerry Wallis** - Yes. On both sides and then it goes down so I can have

**Vincent Cestone** - And how wide is this deck around the narrow part around the pool

**Kerry Wallis** - About 45 inches, 48 inches from the house

**Vincent Cestone** - The deck is about this wide is what you are saying

**Kerry Wallis** - Right. Close to 4 feet.

**Bill Flaherty** - This is in an R-80 zoning down there

**Vincent Cestone** - Right. But this isn't Continental Village and

**Bill Flaherty** - Exactly. And I think whatever would be done here you would have to get a variance for, except if you put the pool all the way back here but you said is terrain back there is not conducive to putting a pool there

**Kerry Wallis** - And it goes straight up

**Bill Flaherty** - And it goes straight up. It's rocky. The variance that you are asking for is rather, it's 10 feet, 10 and a half feet I guess from the edge of your pool here to the property line. Down there with an R-80 would be 40 feet

**Joan Turner** - He needs 19.5 foot variance

**Bill Flaherty** - Exactly

**Joan Turner** - He needs a large variance

**Bill Flaherty** - It is rather significant variance to accommodate the pool

**Kerry Wallis** - The pool is already in

**Bill Flaherty** - You could make a smaller deck I suppose and minimize the

amount of variance that is required.

**Kerry Wallis** - Well on the far side of it, on this side of the drawing is only going to be about 4 feet of deck on each side and then the major part of the deck is towards the back of the house.

**Vincent Cestone** - Is there going to be any fencing on the top of the deck

**Kerry Wallis** - Yeah and stairs as well

**Joan Turner** - Up here, you mean coming up the stairs, the stairs come up over here and then around the edge of the deck you have regulation railing

**Kerry Wallis** - Yes

**Tim Pagones** - Any lights

**Kerry Wallis** – yes. Lights are in place on both sides of the house

**Joan Turner** - So the lights are facing down and they are not a detraction for your neighbors

**Kerry Wallis** – Correct. They are focused down

**Vincent Cestone** - What kind of plantings are there along your property line, both sides

**Kerry Wallis** – They are all shrubs, trees

**Vincent Cestone** - Anything tall

**Kerry Wallis** – Towards the back, past my property line

**Vincent Cestone** - From where you propose the pool, can the neighbors see it

**Kerry Wallis** – No, they cannot. It is all the way up on the hill

**Vincent Cestone** - So you can look down and see his roof but he can't look up and see your pool?

**Kerry Wallis** – I can see his roof from where, from the edge of the pool you cannot see it. Because there is a big big huge oak tree on the left side of the property.

**Vincent Cestone** - Any more questions from the board? Any comments from the audience on this? I'll make a motion to close the public hearing, do I have a

second?

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

**Vincent Cestone** - All in favor

**All board members** - Aye

**Vincent Cestone** - Joan?

**Joan Turner** - I am going to vote in favor. I think it is a reasonable use of the property

**Vincent Cestone** - Bill?

**Bill Flaherty** - Likewise

**Vincent Cestone** - And so will I

**Tim Pagones** - February 13<sup>th</sup>

**Joan Turner** - Tim, can you make sure you mention the nature of that lot

**Tim Pagones** - Yeah

**Vincent Cestone** - You really can't do anything until the ground thaws anyway

**Kerry Wallis** - No I didn't plan to

**Tim Pagones** - February 13<sup>th</sup> I will have a resolution

**Vincent Cestone** - You don't have to be here

**Tim Pagones** - If you want to you can, but you don't have to be here

**Kerry Wallis** - Okay. Thank you very much

**Vincent Cestone** - Okay. Next item on the agenda is the continuation of a public

hearing for Janine and Matthew Mastrantone. Hi. How are you doing. Sorry about January 2<sup>nd</sup>. They didn't get to you is what I heard.

**Matthew Mastrantone** - No nobody called me. But when I looked it up, I think I was looking up the January 05 instead of the January 06

**Vincent Cestone** - Because I know we tried to get everybody on the agenda, to call them and let them know that it was being cancelled because of weather.

**Matthew Mastrantone** - It's okay. We are here now.

**Vincent Cestone** - Sorry.

**Joan Turner** - Refresh my memory, where did we leave this off? You were going to come back with a

**Matthew Mastrantone** - You wanted a preliminary plan about the height and also you wanted to,

**Larry Belluscio** - you were concerned about the distance from the property line because we were right up on the property line. We revised the drawing to show that the footprint will now be a minimum of 2 feet from the property line so

**Joan Turner** - Where this patched area is you moved it back

**Vincent Cestone** - That's right. If anybody has to do any kind of maintenance work there, they don't have to cross the property line. Also there was a portion that was in the 30 foot setback, I believe Mr. Cestone asked to remove that.

**Vincent Cestone** - Any questions from the board? Anyone in the audience wish to speak on this?

**Christopher Simone** - Yes sir.

**Vincent Cestone** - Introduce yourself please

**Christopher Simone** - Christopher Simone

**Vincent Cestone** - Yes

**Christopher Simone** - I am a neighbor to this gentleman for a while and, we are the house to the northerly end of it. I remember when the Cravens did their appeal to build their addition. Their addition never went over the property line of that property. I have a couple of interests to this. Number one, the property is owned by my sister. I was the executor of the estate of my father. This gentleman here knew that the house encroached on my property, my sister's



property

**Vincent Cestone** - Just for clarity sake, on this drawing, which, your property is right here

**Christopher Simone** - Yes, north. When I was the executor of the estate, I brought it to his attention that the property, that his house encroached on the property. His reaction to that thereafter was to dig out more of the property and put a retaining wall in. During the time that he owned the property, he did a number of different projects. He dug out underneath the house which requires I think structural planning and other things. My mother became concerned that the encroached on the property would \_\_\_\_\_ a new survey and a survey did prove that the house did come over the line. Again, about 2000 I brought that to the attention of the Building Department. The reason that no legal action was brought on the situation is that it didn't affect the fact of trying to transfer the property to my sister to the estate.

**Vincent Cestone** - What did the building department say?

**Christopher Simone** - They got the maps and he was busy and he would look into it. I didn't push any of the issues

**Vincent Cestone** - Okay

**Christopher Simone** - But when I came here the only minutes that I had to go on were your October 7<sup>th</sup> minutes which I saw a number of inconsistencies in how the property was used over the time that it was owned. My belief is that the only reason he is here now is because he reached a stone wall as to whatever he would like to do with the property and that he has now finally coming to straighten some things out

**Vincent Cestone** - Actually what he is here for is because he is proposing that addition off the back of the house and that is within the setbacks and the building department sent him to us because of that. It is not about the violations that you are talking about

**Christopher Simone** - What I am saying is, it has finally reached the point that now he wants to be in compliance. That part is fine. But as far as the other setback for the sheds or anything, I think they should be denied. He should be made to stay right in the rules of whatever happens with this.

**Vincent Cestone** - And how does the addition that he is proposing affect you?

**Christopher Simone** - Well it would affect my sister. I am just trying to bring some history to you of what has occurred on this property during the time that it was owned.

**Vincent Cestone** - Okay

**Christopher Simone** - Now we are here to say that all these things happened by accident. These things didn't happen by accident.

**Vincent Cestone** - You have recourse with the building department

**Christopher Simone** - Well I am here for what pertains to you and how the property is being \_\_\_\_\_ and I think that is relevant.

**Vincent Cestone** - Okay

**Joan Turner** - The original house, how did it get built into the setbacks? I mean originally

**Christopher Simone** - The original house was the corner, what would be the north east corner ended right on the property line. And there is the 74, 76 situation when the Cravens owned the house, they just built to the south. The encroachment occurred at a later date

**Joan Turner** - With the Cravens?

**Christopher Simone** - No

**Joan Turner** - After the current owner had it

**Christopher Simone** - Yes

**Joan Turner** - When he enlarged. This original building pre-existed zoning. It was there before zoning.

**Christopher Simone** - That pre-dates me

**Vincent Cestone** - I don't know I would have to look it up. I wish Vic was here, he would know

**Joan Turner** - When we asked you last time, if I remember correctly, since you are going to redesign the house, remodel it and add this extension, why you didn't bring the rear of the house, cut that section off. You said something about your kitchen. Am I correct? About your kitchen cabinets. They were new or something and you didn't want to change them

**Matthew Mastrantone** - It is the original part of the house. The original house is 50 years old

**Joan Turner - Right**

**Matthew Mastrantone -** that \_\_\_\_\_ from the property line that pre-existed zoning was probably the best room in the house which \_\_\_\_\_ as you requested

**Christopher Simone -** What's going to happen to the retaining wall that was built

**Matthew Mastrantone -** We can throw it out if that's what you want

**Vincent Cestone -** The retaining wall is yours, it's on your property

**Christopher Simone -** What I would like and I said this numerous times in the communications

**Matthew Mastrantone -** We've talked numerous times about doing

**Vincent Cestone -** Please please

**Christopher Simone -** So I wanted to bring you up on this and where it goes. At the moment my sister owns the property and can't be here tonight. And are opposed to the variances

**Tim Pagones -** Well let me say this, any variance that the board gives, they can't give a variance for that retaining wall. Legally that is not on his property

**Vincent Cestone -** We can't do that

**Tim Pagones -** So you have recourse with that. What he is proposing now is to come, he is going to knock down any part of the house that is encroaching. So he is pushing everything two feet back.

**Christopher Simone -** Like I said, I can only speak about part of the history and my total concerns of my sister I can't bring because I can't speak for her. I just wanted to bring the history

**Bill Flaherty -** Well it is unfortunate we can't do anything about what happened in the past and I believe all of these things

**Christopher Simone -** But from reading the minutes and the other things, it just didn't happen

**Bill Flaherty -** Well anyway, unfortunately like I said we can't do anything about what happened in the past but we can do something about what is proposed here, today

**(Turning tape over, may have lost some dialogue)**

**Bill Flaherty** - ...from my observation, anything that is done with this property is an improvement of the house itself and the property. There is construction equipment that you have parked there. What are you doing with that? You have a lot of different walls. You have a fence that is going up which is very unattractive and from my observation if I were to grant this variance, one of the things that I would want in the resolution that you properly landscape your property and particularly that fence that you have there. It is an eyesore to be perfectly honest with you. And I think anything you might have done to improve this property would certainly be an asset to the property itself and increase the overall aesthetic value as well as the market value of the property. I have no problem with that and I noticed that also that you have a lot of stone there and you are not planning to build any more stone walls I guess right. But as I said that would be one of my concerns, it is fairly unattractive piece of property. I hate to tell you that but that's in my judgment at any rate and how I feel about it. I would want that to be more pleasing to the eye. Without an imposition on your part and about increasing the overall cost of the overall improvement.

**Matthew Mastrantone** - Well as you can see by the plans, **(cannot hear him)**

**Vincent Cestone** - Are these the preliminary plans

**Matthew Mastrantone** - Yes. That's the floor plan there.

**Bill Flaherty** - Now you don't live in this house and you are not planning, you are going to have it as a rental unit

**Matthew Mastrantone** - That's right. I'm going to make it handicap accessible too

**Bill Flaherty** - Are you going to take that garage down

**Matthew Mastrantone** - Everything goes. A lot of the stone work, the shed, it all goes. It will be just that one house there

**Joan Turner** - The retaining wall that you have now that encroaches on your neighbor's property to the north, are you going to take that down and I assume you need it as a retaining wall since there is a hill right there. Will you then take that retaining wall and move it on to your property?

**Matthew Mastrantone** - I'm not sure which one you are talking about

**Vincent Cestone** - The one that runs over the property line

**Christopher Simone** - Mr. Chairman, one of my concerns is that there has been ample opportunity for discussion as far as between neighbors and it was more

than amicable to try and work out a solution. I've been easily findable when I was the executor and my sister is easily findable. My concern will probably have to do with that there is compliance with whatever you say has to be done gets done.

**Vincent Cestone** - Well the building inspector will make sure that it gets done. Do you have something to say sir?

**William Morthorst** - Yes.

**Vincent Cestone** - Introduce yourself

**William Morthorst** - My experiences have been very similar in the past. Arrangements were made and negotiations have been made and I would like to say that I support the application because it is an opportunity and you know, like it was discussed earlier there was a tomato patch that turned into a swimming pool with no C of O. There is now an opportunity to put conditions on the approval and make it that there are no more violations and no more exceptions, there are no more variances. That this is it. And that he has to be in compliance.

**Vincent Cestone** - It would be very difficult to bring anything into compliance without totally razing the property

**William Morthorst** - Well I think the variance that he is requesting I think seems to be small. 5 feet or something. I am saying well that's it. And then everything else has to be no more tomato patches that turn into a swimming pool and he comes here in 5 years and says I have a swimming pool that needs a variance and a C of O. The issue of compliance

**Tim Pagones** - Can we have your name sir?

**William Morthorst** - William Morthorst

**Bill Flaherty** - Well what bothers me is that he can't indiscriminately build a swimming pool unless he has a permit.

**William Morthorst** - Is there still a swimming pool on the property? Before the application, there was a swimming pool.

**Matthew Mastrantone** - It's down.

**Tim Pagones** - If he gets caught, he gets caught

**Bill Flaherty** - That's right. And that's been removed.

**Tim Pagones** - That's the problem. People have been building things and then

eventually get cited. The shed down?

**Matthew Mastrantone** - The shed in the back is coming down.

**Bill Flaherty** - You know there are a lot of cases that come before us from time to time that people are building additions to their home without permits, but it is a fact of life. We've got to deal with that and unfortunately the owner when they go to sell the property and they get cited for the property and get a clear deed, it comes up and all of a sudden you don't have a CO for that particular addition. Then it becomes our problem to rectify and correct that for the applicant.

**William Morthorst** - My thing is I support the application if it is done conditionally. Meaning that it is approved and no more additions, no more violations, no more

**Bill Flaherty** – exactly and we will write provisions in the approval process which will prohibit him from building anything without a permit. But we shouldn't really have to do that. This man is knowledgeable about the zoning laws in the town. He has been around here a long time and he knows the zoning laws, I know that. And of course, Larry does too. But I don't know, he can take the \_\_\_\_\_ of doing anything illegally on the property without a permit. But down there I would dare say in that area, there is probably not a house down there that compliances with the law. They are all predated.

**William Morthorst** - Whether they are pre-dated or not, when you live there, you should follow the rules. And the rules have not been followed at this point and the owner, the applicant, is throwing up his hands like I didn't know. I am trying to tell you he did know. And now he is here before you because that's as far as it can go and it needs to be brought into strict compliance and the rules need to be followed now and they need to be enforced.

**Vincent Cestone** - Any more comments from the audience? Tim, I think this board is going to want a preliminary building plan and landscaping. Can we close the public hearing and proceed with this?

**Tim Pagones** - Well, I would suggest let's get the plans. Because once you close it, you got 62 days to do your vote

**Vincent Cestone** - Okay. How quickly can you get us a preliminary set of building plans?

**Joan Turner** - These are not adequate

**Vincent Cestone** - Meaning like, not the as built plans but the plans that you would use to build the house

**Larry Belluscio** - A set of building plans

**Vincent Cestone** - Yes

**Tim Pagones** - They just don't want to say it's granted and then the next thing you know the plans have changed. They want to know these are the plans that you are going to use

**Joan Turner** - And this is what you are getting a variance for

**Vincent Cestone** - Right

**Joan Turner** - Exact measurements, height

**Larry Belluscio** - These plans obviously have to be expanded somewhat and different elevations and incorporate in some additional detail. But I think it can be done within 30 days.

**Vincent Cestone** - Because, we don't need the inside details, we are concerned about the outside details.

**Tim Pagones** - The dimensions, how high

**Vincent Cestone** - We are asking for plans when we give it to the building department, this is what they are going to hold you to.

**Tim Pagones** - February 27<sup>th</sup>

**Vincent Cestone** - Is that enough time for you

**Matthew Mastrantone** - Yes

**Vincent Cestone** - And then the other thing, if you can have a preliminary landscaping plan.

**Matthew Mastrantone** - Okay

**Vincent Cestone** - One thing for a little guidance, I'm going to do a nonbinding straw poll so that we are all on the same page. So I am not going to do a motion for a straw poll

**Tim Pagones** - no

**Joan Turner** - I will go ahead and grant the variance provided that we have the list of conditions. One the set of building plans. That the shed and retaining walls are brought into compliance and we will review that more closely I think.

So I would vote with stringent conditions

**Vincent Cestone** - Okay. Bill?

**Bill Flaherty** - I would also with those very same conditions. I want to make sure there is no deviation from any plans and that we are fairly covered by \_\_\_\_\_ to avoid any future \_\_\_\_\_

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**Vincent Cestone** - and I would vote to grant also with those conditions and a nice landscaping plan

**Tim Pagones** – okay the 27<sup>th</sup>

**Matthew Mastrantone** - thank you

**Vincent Cestone** - do you need these? Because I don't need them

**Larry Belluscio** - you can keep them

**Vincent Cestone** - I don't really need them. Okay next item on the agenda is Diane and John Uhle. If you would just tell us what you are here for and what you are requesting

**Diane Uhle** - It is for a variance for a deck

**Vincent Cestone** - And this deck is, is it already in existence

**Diane Uhle** - No it is not. We had a variance on the house to do improvements, it's a salt box, and we originally thought that there would be terracing but (cannot hear her)...but now we've changed our mind and want to put a deck there.

**Vincent Cestone** - This is an enclosed deck

**Diane Uhle** - Correct

**Vincent Cestone** - And the area that is at issue here. Point that out

**Diane Uhle** - This part right here

**Vincent Cestone** - This little corner

**Diane Uhle** - This area here. Well the whole house

**Vincent Cestone** - The house is already existing

**Diane Uhle** - Yes



**Vincent Cestone** - So you are looking for this section here

**Diane Uhle** - This is already in existence and it is going to be **(cannot hear her)**

**Joan Turner** - we need that exact measurement

**Vincent Cestone** - by law we are required to grant you the smallest variance

**Joan Turner** - and it has to be an exact measurement

**Tim Pagonos** - this one has it. I think we also have a letter from the neighbor supporting it

**Diane Uhle** - Right

**Joan Turner** - So describe, we don't have a picture or a plan, you come in this is the front entrance right here. So what is it a concrete slab there. These are retaining walls?

**Diane Uhle** - No. That is the proposed design of some new, just little blocks

**Joan Turner** - And this is your front entrance

**Diane Uhle** - That's right

**Joan Turner** - So here you need a 12 foot variance and here you need an 18 foot one? No you don't need that much variance

**Diane Uhle** - I think that is the setback line here and this is part of the deck that needs the setback

**Joan Turner** - You've already got a variance to build the house

**Diane Uhle** - No the house was existing

**Joan Turner** - It was there

**Diane Uhle** - Yes. The variance was to raise the roof up

**Joan Turner** - To enlarge it. Tim there are a number of different variances they need on that plan, there is

**Bill Flaherty** - 22 foot deck and a 28.5 for the steps

**Joan Turner** - are you in an R-40 or R-80 district

**Diane Uhle - R-40**

**Joan Turner -** So you need 20 feet. So she is going to need

**Tim Pagones -** You need 40 feet from the front

**Diane Uhle -** Well this slab is already existing. So the issue is the deck part here

**Tim Pagones -** And there is a proposed canopy, that was my one question. So if you are building something closer to the road

**Diane Uhle -** Yeah this is probably going to be some type of trellis, but there is nothing there

**Tim Pagones -** This proposed canopy

**Diane Uhle -** Right over the front door

**Vincent Cestone –** okay

**Joan Turner -** But it is a structure we don't have a plan for. Is it possible for you to get us a drawing

**Diane Uhle -** We hadn't really talked about this with the architect yet

**Joan Turner -** It is difficult for us to give you a variance for say 12 feet not knowing what's going to be built in that 12 feet. I mean you could build another room but if you just

**Vincent Cestone –** Actually I don't have a problem with the deck. I probably have a problem with building something else on the front of the house

**Joan Turner -** So if your architect could

**Diane Uhle -** Okay. We just haven't discussed, this was just ideas and they included it in the plan. We don't know what we are going to do.

**Joan Turner -** So what you are looking for now is the variance for the wood frame deck on the east side of the main building

**Vincent Cestone –** Because this would be denied also. When you went to the building department for this, they would deny you

**Joan Turner -** You should come back to us with all the variances you need if you are going to need a variance for this, if it is not just the deck

**Diane Uhle** - If we don't do the canopy

**Vincent Cestone** – That is actually not part of this variance. You are only asking for this deck here.

**Diane Uhle** - Right

**Joan Turner** - So you would really need to come back to us with the canopy and ask for that too

**Vincent Cestone** – Right. You would have to modify

**Joan Turner** - So you just combine the two variances into one

**Diane Uhle** - If we decide rather than do that, we just decide to forget the canopy

**Vincent Cestone** – Then you don't have to do anything

**Diane Uhle** - So can we just go ahead and talk about the deck

**Vincent Cestone** – Yes we can do that

**Tim Pagones** - You see right now if they give you a variance it is for the deck. So you can't build that proposed canopy unless you come back and ask for another variance.

**Vincent Cestone** – Right

**Tim Pagones** - So you need to decide do you want that canopy, if you do, then they will amend your application and you need the setbacks for the canopy. Then you've got it for both. So you can save some money and time

**Vincent Cestone** – I'm actually, my feeling is not to approve that. Personally. I can't speak for the other members.

**Joan Turner** - I would want to see what it entails.

**Diane Uhle** - I think our feeling is we are using this entrance now, the canopy is strictly so we can not get rained on. We were talking about something maybe this wide

**Vincent Cestone** – Do you have an overhang on your house now

**Joan Turner** - No

**Vincent Cestone** – Because if it were in the same plane then it is not an issue

**Joan Turner** - No. Just for comfort reasons in short. But I think we would like to get going on this thing

**Vincent Cestone** – Okay

**Joan Turner** - This is more important to us. We could come back another time, but with the deck we would really like to get on

**Bill Flaherty** - Is that canopy going to add aesthetically to the

**Vincent Cestone** – Well it is actually not part of this variance

**Joan Turner** - It is not part of this appeal

**Vincent Cestone** – The only advantage to amending the application is that you wouldn't have to pay again

**Diane Uhle** - Right

**Vincent Cestone** – But I know that I would probably be against it. But I can't speak for the other two members

**Diane Uhle** - I understand.

**Vincent Cestone** – I'm trying to save you money but I understand that you also want to proceed

**Diane Uhle** - Right

**Joan Turner** - But I am still confused at the amount of the variance that they are looking for Tim. What is the actual feet?

**Bill Flaherty** - I think it is 22 feet for the deck and 28 feet for the

**Joan Turner** - Where are you looking at. Okay

**Bill Flaherty** - Which is significant

**Diane Uhle** - These are old steps. They are going to be covered with the deck

**Joan Turner** - You just want to proceed with the deck at this time

**Diane Uhle** - Yes. Because we put this application in like last October

**Vincent Cestone** – And the letters of support, on this map, where would those neighbors be?

**Diane Uhle** - One of them is right here. The other one is here and the other one is right here

**Vincent Cestone** – Okay. Any more questions from the board?

**Joan Turner** - I have no more

**Vincent Cestone** – Any comments from the audience on this? I'll make a motion to close the public hearing.

**Bill Flaherty** - So moved

**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?

**Joan Turner** – I'll second

**Vincent Cestone** – All in favor

**All board members** - Aye

**Vincent Cestone** – Bill?

**Bill Flaherty** - I'll vote in favor

**Joan Turner** – I vote in favor

**Vincent Cestone** – And I would vote in favor

**Tim Pagones** - February 13<sup>th</sup>

**Vincent Cestone** – You don't have to be here

**Diane Uhle** - I don't have to be here

**Tim Pagones** - No. Take care

**Vincent Cestone** – Next item on the agenda is a continuation of Friedman-Kien.

Someone to speak for the applicant please.

**John Hirsch** - Mr. Chairman, John Hirsch from Peekskill. When we left off in November we provided you with a submission and as you will recall we received some comments from the audience and Councilman Brower thought this was best summed up as a grandfather issue because we produced minutes from 1982 from the Planning Board indicating that once the access use has been granted it was good in perpetuity. We ask you tonight having reviewed the documents that was provided by co-counsel that you give the interpretation that the permit should be reinstated and please direct the code enforcement officer to reinstate that building permit.

**Vincent Cestone** – Okay. Any comments

**Bill Flaherty** - Well I tell you, I had reservations about this matter coming before this board in as much as the building permit was issued back in 2001. And of that permit you should have begun and completed construction within 2 years of issuance of that permit. Now there is a footnote on the \_\_\_\_\_ that gives you an opportunity to renew that permit in the event that you didn't go forward with the building within the two year time frame. That wasn't done. There was also a \_\_\_\_\_ on that particular permit. It was supposed to be acted upon within two years however the date given on the permit was 2006

**John Hirsch** - Yes sir. The permit was renewed

**Bill Flaherty** - I think that was an error made by our building inspector. The code requires 175-1 requires us to take action on a building permit within 2 years after its issuance.

**Co-counsel** - That's correct if I can clarify and we had documented in Exhibit E of our submission that the building permit that was originally issued and each of the extensions of that permit, the extension, the last extension bringing it through 2006. So the notation that you see on those permits, it had occurred to me to be the convention in this municipality to note the extension so you can see it, it is all in handwriting and at the bottom of the permit. But that is not our handwriting, that was done by the administrative official in the town. So we did continuously renew those building permits and we included that in our submission to you so you can see that the building permit is still valid through 2006. The only issue was the access approval and that kind of came up out of nowhere when the Health Department had decided that we should revisit our septic design and asked us to go back and bring a new septic design and get the septic reapproved.

**Bill Flaherty** - Which you have done. There is documentation correct.

**John Hirsch** - The only issue really is the \_\_\_\_\_ board minutes here and

whether or not that site access is issued some 20 years ago is valid for this applicant and I believe the documentary evidence and the legal citations in the record confirm that and I ask that the building permit be reinstated and direct the code enforcement officer to reinstate that.

**Bill Flaherty** - Well I don't know if that is our objective here this evening to go back 1982

**Co-counsel** - The access

**Bill Flaherty** - But that is our responsibility here at the zoning board

**Co-counsel** - That's the application

**John Hirsch** - We are here because the code enforcement officer wrote a letter indicating there are two things that we had to do. One was to have the septic reapproved, which he did. The second was to go the Planning Board for access approval. Which we have proven to you is an issue of access was \_\_\_\_\_ by this board some 20 something years ago and is in perpetuity. Counsel can share that with you. Mr. Pagonos can share that with you again. But I would ask for direction for the code enforcement officer \_\_\_\_\_. We satisfied both preconditions

**Joan Turner** - You were here for an interpretation of that section of the code

**John Hirsch** - Correct

**Joan Turner** - Both in 1974 and again reaffirmed again in 1982 access was in perpetuity.

**John Hirsch** - Correct

**Joan Turner** - And so they have the right to a building permit which the documentary evidence shows was renewed. It seems to me cut and dry. Despite all the extenuating circumstances surrounding the ownership and the property itself what is on the record here, we cannot deny them the building permit or access to that building permit based on our own law and reaffirmation of that in 1982 I believe

**John Hirsch** - Correct

**Bill Flaherty** - Well I agree with you Joan and if that's the premise of making a decision here this evening, and it seems to me that, I had questions about the matter being brought before the board here. Because is it really a zoning issue or

**Tim Pagones** - Well it is an interpretation. You are interpreting whether Mr. Monroe was correct in saying they lost their access.

**Joan Turner** - That's correct

**Tim Pagones** - So you would rule either you did lose your access or you know what the access went in perpetuity. So if they continue their access, fine then they have access, the building permit is renewed and they don't have to go to the Planning Board. That's what it comes down to.

**Joan Turner** - Right. So we are interpreting the zoning administration office was in error in revoking

**Tim Pagones** - Well was he or wasn't he? Was he wrong by saying you lost your access or was he correct in saying you know what you didn't do anything, you lost your access? I think they have demonstrated with the minutes and their little flow of events what was written in the minutes of the Planning Board in 1972 and 1984. So you are here to decide that.

**Bill Flaherty** - Well I think it is appropriate too that our building inspector don't make erroneous interpretations of the law either. In some cases that has been done in the past. Which has caused us significant problems in going down the road and making decisions about the possibility of \_\_\_\_\_

**Tim Pagones** - I guess I would say was his good faith decision wrong? As opposed to erroneous

**Bill Flaherty** - I think I would have to agree with you Tim

**Joan Turner** - You are such a diplomat

**Tim Pagones** - So what's the board's, anyone else to comment?

**Vincent Cestone** - Any comments from the audience on this?

**Chris Marrison** - Yes

**Vincent Cestone** - Introduce yourself

**Chris Marrison** - My name is Chris Marrison. I live down the hill from this site. And I am concerned about flooding. About 2 years ago we started to get quite significant floods. It started to flood the house, they washed out the road. I've since got flood insurance and that has coincided with the clear cutting of this land. I am concerned that this construction will make it only worse and I would like to know that there is a plan, drainage. Not just for the site for the whole \_\_\_\_\_ and I understand that the town is acting against \_\_\_\_\_.



**Vincent Cestone** - As far as drainage is concerned, that is not before us right now. The issue is whether he has access or he doesn't have access. My suggestion is that you get in touch with the building department and who is also the code enforcement officer because there is a whole bunch of codes within the town pertaining to this that they need to be made, brought into compliance with. That is my suggestion.

**John Hirsch** - I will share the information I have with him when I leave tonight. I will tell him how to get in touch with Roger Chirico, he is the point man on this Cloud Bank Road

**Vincent Cestone** - Yeah because I've seen the land and I understand exactly what you are saying. But there is recourse for you

**Chris Marrison** - So it is the building department

**Vincent Cestone** - Yes the building department. Tom Monroe who is the building department person, he is also Code enforcement. So you bring your issues to him and he would inspect the land and if there is a violation, he will instruct the owners to bring their land into compliance and if they don't, there is legal recourse within the system.

**Chris Marrison** - And this will happen before the construction starts?

**Vincent Cestone** - That I can't say

**Joan Turner** - We have no way of saying that

**Bill Flaherty** - And another recourse as Vinnie said you have to notify Roger our Superintendent of Highways and bring that matter to his attention and maybe he can remedy that situation for you by making dry wells or whatever

**Chris Marrison** - I did that 2 years ago and had a number of conversations with Roger and Cloud Bank Road and nothing has happened

**Vincent Cestone** - My suggestion is the building department and the code enforcement officer

**Chris Marrison** - Okay

**Joan Turner** - Do you have a Cloud Bank Association?

**Chris Marrison** - Yes. But I am on Old Manitou Road.

**Joan Turner** - Maybe you ought to have a joint meeting. It might help.

**Vincent Cestone** - Anyone else? Sir?

**Pat O'Sullivan** - My name is Pat O'Sullivan and I live on Old Manitou Road and I understand and I think the people that are here from Manitou Road understand what the meeting is about that looking for access be returned to Dr. Kien. But I think what we have to establish, and what we are doing knowing how the board, is really establish a paper trail as far as what our opposition is to it. Not opposing Dr. Kien's building permit or anything else. It is just that for what he hasn't done and what he has done negatively to Cloud Bank Road to Manitou Road has caused angst amongst all the neighbors right there and we want to make sure that when he does get the permit to do this and he does start building that the planning board and the building department holds him to the codes that are out there rather than what he has done, or what his representatives have done in the past where he has clear cut, in clear violation of the steep slopes law. Caused flooding to Cloud Bank Road which is now the Town is trying to get the people on Cloud Bank Road to pay for the repair of Old Manitou Road because of the washout that was caused by the run off caused by Dr. Kien's representative clear cutting. So what I want to do and I think the people here want to establish a paper trail to the planning board that we voiced our opposition here to the planning board and also to the building department so that in the future if something is wrong with the construction, we have at least voiced our opinions and it was either taken or rejected. So that's really what it's about. And to Dr. Kien who is right here, I don't have anything and I don't think anyone here has any opposition to him building a home there because I feel the value of what he is doing will increase everybody's value. But the way he is going about it is totally wrong.

**Vincent Cestone** - Do you have to end up in planning or zoning?

**John Hirsch** - I don't think so.

**Vincent Cestone** - They are not going to be, they are not requiring any variances and they don't have to go before the planning board. So

**John Hirsch** - Mr. Monroe would have to keep a watchful eye

**Vincent Cestone** - It would have to be the building department that would enforce your concerns and if you have any additional concerns, my suggestion is that you bring them to the town board because the town board would instruct, write letters, and give instructions to the building department where they see fit.

**Pat O'Sullivan** - Contact David Brower at home

**David Brower** - You've got my number

**Vincent Cestone** - He's hearing what your saying and what I am saying. Does anyone else wish to speak on this? With that I entertain a motion to close the public hearing

**Bill Flaherty** - I so move

**Vincent Cestone** - And 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

**Vincent Cestone** - All in favor

**Joan Turner** - How are we going to phrase this

**Tim Pagones** - Well I guess your interpretation from the tenor of your conversations and discussions I am assuming that you would rule that Mr. Monroe was incorrect in taking away his access. As far as any building permit, I mean if he didn't have his board of health approval, he got it, he should not have said that his access was withdrawn

**Joan Turner** - I'll vote

**Tim Pagones** - So his access ran in perpetuity. So he still had his access no matter how long it went. And I will draft something to that affect

**Joan Turner** - And I will vote in favor of that draft

**Vincent Cestone** - Bill?

**Vincent Cestone** - I will also vote in favor

**Vincent Cestone** - And so will I

**John Hirsch** - Thank you

**Co-counsel** - Thank you very much. Will this be on for the February 13<sup>th</sup> meeting

**Tim Pagones** - I will try and get it for the 13<sup>th</sup>

**Vincent Cestone** - Next item on the agenda is a continuation of a public hearing for James M. Copeland Hudson Design. I didn't call but I did visit the site and

went up and down the street and strolled on your property.

**Joan Turner** - Kim did you drop a package off at my place?

**Kim Shewmaker** - No. I mailed it to you. I mailed it on Tuesday

**Vincent Cestone** - Yeah because I got the package like Thursday of last week.

**Joan Turner** - Can I just have a minute to review this. Okay. Do you want to do a presentation first?

**James Copeland** - I just wanted to take a moment to introduce the board. (cannot hear him) ... Don's in town and is here and available for questions from the public. But I did want to take the opportunity to provide some further clarification. The last time you asked for some dimensional answers on heights of building. You asked for a submission of a photo simulation of how the building sits on the ground. **(Cannot hear him due to the shuffling of papers)** There are quite a few people here from the public who have never heard of this project before. Some even received a flyer in their mailbox which says some things that are incorrect about the project and I wanted to just address some of the history

**Vincent Cestone** - Some resident put this into the mailboxes and it wasn't an official document

**James Copeland** - No. And I just wanted to explain some of the history of the application

**Vincent Cestone** - Briefly

**James Copeland** - Just so they understand that this is not a process that has been rushed through. That it had full review of the planning board and I would like to go through some of the issues that were addressed by the planning board so they understand that this was not something that was done in haste. The \_\_\_\_\_ process did start back in March. We were asked for more clarification about the use in detail, special events that were held. There were questions about water capacity, about well water flow rates, and they wanted to know more about the parking plan. There were issues about sprinklers, and we were asked to go to the fire department. We had two reviews. One with JP Spinelli and another with Chief Joe \_\_\_\_\_ and we received comments back from them and I incorporated those in our plans. We were asked about grading plans and more details on the grading plan. At that point our plans were sent to the Town Engineer, BIBO Associates. Their review, they asked for additional water demand and septic volume calculations. They also verified what Tim Miller had said about the steep slopes, that they are not an issue for the application. The larger plans were provided, a system of silt retention, additional catch basins were provided, spot \_\_\_\_ on the site plan, driveway curb details, and many more

construction details were added to them. Trash pick up was clarified. The entrance to the waste water plant were shown on the surveys. A planting plan was created, We had some discussions with Tim Miller Associates about the details of the planting plan, the size of the plants, locations. BIBO Associates came back with a list of requests about percolation galleys. We are providing not only percolation galleys but also velocity inhibitors. These are a fail safe method to make sure that the run off was even in the worst case scenario could be dealt with before it exited into the creek. At the October 6<sup>th</sup> meeting the Planning Board provided a letter saying that they had no objections with the application going forward. And I think part of the reason why it is important that the public know this is that this process, some people are upset that they didn't get notified until now. The process is important. The point of having the planning board be first involved is because if there is a technical issue, there is something that just knocks us out of the park, the project should not go ahead. And that is the wisdom of the process. And to date we have answered those issues and now we come to issues that are much more subjective and that's why I understand the process is Planning Board and technical issues first and then the notifications are given out. Just in answer to the flyer that went out, just so that any of you who received this, may make the mistake and think there is a commercial operation going here. This is a new dining hall and kitchen

**Vincent Cestone** - If you want to talk to the residents outside of the meeting about that. That is not an official document and it has not bases in fact with us. I would rather not address hearsay.

**James Copeland** - The parking areas, that was another issue. Questions about where they go and what we proposed to BIBO Associates which was well received by them was a grass pave system. It's a mesh that goes underneath the top soil and grass grows up between. So that any area that appear on our plan that are parking spaces, there are no curb, there is no asphalt. These are simply areas that if the vehicle drives over them, the shear pressure of the wheels will not create ruts

**Vincent Cestone** - We've used that before

**James Copeland** - It is a great product

**Joan Turner** - On your site plan, that was one of the questions I am going to ask, does that address that area where these extra 62 parking spaces are required. Do you have that marked out on your site plan

**James Copeland** - Yes. And that is where we are planting these in the grass. There is an improvement over what happened now when they have graduations, there are cars are on the grass. This is an effort to keep the grass looking its best. You had asked in our last meeting about a letter from the Department of Health concerning the waste management system. I spoke with them today and

unfortunately due to the snow, I don't have the letter in hand. But Mike Mazinski is writing the letter and qualifying that we are well under the capacity

**Joan Turner** - Well we are going to talk more about that so you go through it and go ahead

**James Copeland** - You asked that the image of the building be superimposed over the photograph of the site and that's been done. Both from Snake Hill and from Avery Road. And that's the, these are the two stone piers that are at the first driveway

**Joan Turner** - On Snake Hill Road

**James Copeland** - This is on Avery Road. In your packet you have a photograph from Avery Road. And the only building visible from there is one of the two housing units. You had asked about the height. We do have an elevation where the height exceeds 40 feet but because of the interpretation of the code, you have sides that are also well within 30 feet, so the medium in the way it is measured. The building is well within the qualifying height and if you notice in the elevation, it is actually shorter than the main house. I think many people confuse it being this massive building. This is, this gives you an idea of the scale.

**Vincent Cestone** - Can you orient us. Avery Road?

**James Copeland** - If you are, Avery Road,

? - You see this from Avery Road directly. This elevation here. This one faces Snake Hill Road

**Bill Flaherty** - Now is this the existing building?

**James Copeland** - This is, everything from here over is existing. We had offered last time to give anyone who would like it, to walk the site, tour the site. The drawings are also available in the office if anyone, it's kind of hard to see it in the front of the room, but I wanted to make that an open invitation to come to the office. We are at the top of Snake Hill Road. Our office

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

**Joan Turner** - I have a lot of points that I would like clarification. Your statement of use is for the expansion, addition of the dining room and the two staff housing. What were the numbers of girls or woman that would be admitted? What were your figures for that?

**James Copeland** - I am going to ask Beth. Beth is the director of the Walter

Hoving Home.

**Beth** - Currently we have 60 woman in the program and we have 10 staff members. With the expansion we are going to go to 90 woman in the program and 13 staff members. That would be capacity

**Joan Turner** - Thank you. Now the other question which is very elementary, on the application form itself you mention the section of the zoning code which was a permitted use A5 and when you look that up it's for farms, trucks, gardens and forestry. So I think there is an error there. And did you mean, so what section of the code were you looking at A22 which is restaurants, taverns and other food and beverage or where you looking up a cultural institutions of education, religious

**James Copeland** - I would have to check the number. It may be a typo. I'm sorry

**Joan Turner** - I think it might be a typo. On the application itself, just correct your code violation. In the review from Tim Miller or the Planning Board you were to get a review and advise from the Philipstown Conservation Advisory Board. Did you have a letter from them? You were to show them the plans and

**James Copeland** - I don't have a letter, that was part of the Planning Board's review

**Joan Turner** - I think that was requested of you to get that from them. I think Tim Miller's advice was that your plans should be sent to them for review and advice. So I didn't see that in the package so I am asking you if you have done that.

**James Copeland** - No

**Joan Turner** - Okay. So we need that then.

**James Copeland** - We figured that with the packages we submitted to the planning board that the planning board would then forward that to the Conservation

**Joan Turner** - Then it is probably a miscommunication. But it says we recommend referral. This is Tim Miller's memo dated May 19<sup>th</sup>. We recommend refer to the Philipstown Conservation Advisory and that is you. He is recommending that you go to them

**James Copeland** - No. We thought that was his recommendation to the planning board.

**Joan Turner** - If they did, they didn't do it. So I am asking for it. Now in the BIBO Associates' letter of June 15<sup>th</sup>, there was a point number 2 on the limits of regrading with \_\_\_\_\_ for the dining hall it is difficult to determine. I am sure you have corrected that but I don't understand it. So I am asking if you could elaborate on BIBO's point 2 on the regrading. And that was June 15<sup>th</sup>. And you probably have already done it on your plans and if you could just put those plans up and explain what they mean. Right here. Point #2.

**James Copeland** - What he was uncertain about is what is happening at this edge of the building. Our walkway actually is within the building line so the walkway doesn't create a need for additional grading. The dining room outside wall steps back and there is a column instead of steps that step down underneath the building. So what we are doing is instead of cutting out in the grade and having to regrade further down, this walkway which comes down around the Avery side building is under the building and that was what, he didn't realize that and was wondering why there was a lighter line. There is a lighter line if you are looking at the plans, it is not a section line it is a lighter line showing

**Joan Turner** - The reason I bring this, my major concerns about this project is the environmentally sensitive nature of the land itself. And if you go through the file and I'll bring some of these points out in my discussion as they come up. So the environment really is going to, the topographical map that you have in our package and for those of you who have not looked at the file, it comes down from the top of Route 9 all the way the descending hill. And this creates a bog in some parts, and when I was up there the other day where the dormitory is, the three story dormitory, that section right there is really a bog. So it is poorly drained soil and one hundred percent is poorly drained according to one of the reports in the file. Your special use permit for your septic. So this is the reason why I address this particular point. Anything that has to do with drainage and then of course finally the septic, the sewage treatment plant I am particularly concerned about. So that is why I raise these questions to you.

**James Copeland** - If I can just point out a couple of little things. On the staff housing as well, the buildings are actually tucked into the site. We are not making, we are not trying to cut the grade down which might be less expensive to build it. We are setting the buildings into the terrain. It is \_\_\_\_\_ keep the run off from being **(too many papers/maps shuffling around...I cannot hear him)** ...but it also allows us in this case to design a building \_\_\_\_\_ walk into the first level and then have lower level parking that we can conceal the cars in the lower level. That was done on this building to keep the building up higher and away from the meadow and allow the grade to be a natural grade on all sides so there is not an attempt to change or alter the grade, moving it around the side of the building. Same thing as the dining hall. Which is why in our plans BIBO found with Tim Miller Associates that were not at risk on the steep slopes ordinance.



**Joan Turner** - Speaking of the staff housing and garages underneath, when you come down Snake Hill Road where would the garages be as you come in the main driveway on Snake Hill or are they facing Snake Hill? While we are on the subject of topography.

**James Copeland** - This is Snake Hill, this is that bridge, the new houses are all along this road headed toward the main house.

**Joan Turner** - And where are the garages? You have to

**James Copeland** - You come in and you turn and you go in underneath the buildings

**Joan Turner** - So you are not coming in from the main driveway up to the house and going under. You are coming, you are building a driveway in and that driveway and the garages then would be visible on anyone coming down Snake Hill Road, am I correct?

**James Copeland** – well if you look at the photograph, the elevation is lower. There is no way to actually see this blacktop because you're down vertically probably about 20 feet from that roadway looking up to where these are.

**Joan Turner** - I am very familiar with that area because I live nearby and I walk it frequently. So from Avery Road you would be able to see. I was just curious as to how you were tucking the garage space in

**James Copeland** – Well these two parking spaces are running transverse to the ridge line. So as you come down, you turn and you into the garage and that is under each one of them.

**Joan Turner** - Okay. Well let me continue with my other questions. These are side tracks. On that same BIBO Associates memo that you have on point number 12 that they are making that, and I will read the point. The reference waste water flows on the plan appear to exceed the design capacity of 10,000 gallons per minute. What you have now, I guess what he is adding is your current usage which is 4700 gallons per day plus the proposed usage of 7100 so that you are getting a total of 11,821 gallons per day. Now that is almost 12,000 and your, based on your 1982 special use permit you were limited to 10,000 gallons and I wondered if you, that's why I think it is extremely important that we get a letter of approval from the Board of Health

? - When we did receive this from BIBO it was at the very beginning of this June 15<sup>th</sup>. There was a misunderstanding by BIBO, it says the applicant proposes to increase the population of the existing facility by 90 clients and 20 staff. He was assuming we were increasing the population by 100 when in essence what we were doing is increasing from 70 to 100. So we wrote a letter in response saying

no that's not correct. It is a misunderstanding so he may have assumed that they were increasing the population by 100 people, and that is not what the Walter Hoving Home wants to do. And after that, actually after BIBO comments we had actually asked to get some reasonable calculations by Engineers and we put it on our site plan for the waste water treatment facility and their capacities and Badey & Watson did an initial calculation here saying that we had enough capacity. And it is on the site plan that we submitted

**James Copeland** – and the \_\_\_\_\_ prepared the letter to show the margin that we had between the capacity and what we are using

**Joan Turner** - Okay. I understand that. And that is another. And this board will consider that. In 1980 in your Special Use Permit #266 one of the conditions on granting that special use permit was that there would be no more than 75 girls or young woman, that was a condition of that special use permit. Are you familiar with that? So you are capped off in 1980 at 75 woman and that was a condition of the special use permit and I think Tim, do we need to change that if we are going to do that

**Tim Pagonis** - We would modify it

**Joan Turner** - So we would modify that condition. So that is something that the board would want to think about. Also in the, going through the special use permits my understanding of what I read is that you are not to exceed 9,390 gallons, the maximum flow and that was by the Department of Health regulation. So there are discrepancies into waste water flow that I am particularly concerned about. All right, I'm just going to continue with my concerns and you can take note of them. Also the New York State Department Environmental Conservation should be aware of your expansion plans since they are also regulating the species permit

? - We have a copy of the species permit too and it has been

**Joan Turner** - I know I have a copy of it also and you were regulated at the existing system from 2004 to 2009. You have a permit in place now. But it is based on your prior population and plant facility. So if you are going to expand, I think that the correct department needs to be notified of your plans and that would be the New York State Department of Environmental Conservation. Then the other, if you would just show me where you propose to put the new parking spaces that you needed. If I can just see on the map where you are talking about. Your site plan. And that's Avery Road

? - This is Avery Road

**Joan Turner** - So as you come in Avery Road these would be temporary in nature or

**James Copeland** – Twice a year they have

? - It is just grass. It would be viewed as grass and driven over

**James Copeland** – it is a continuation of the greens, the meadow

? - we submitted a blown up version of that too in color in 11 by 17 in the last package just showing the basic layout in that area.

**Joan Turner** - Okay. And the total, I just want to see, the total square footage of the expansion plan with the dining facility and the two staff housing is equal to 14,360 square feet. That is the bulk, the actual bulk of the building that you plan to put in, am I correct in that figure? 9,000 for the dining room hall and then 2 staff housing of 1,340 square feet each.

**James Copeland** – The dining hall addition is first floor 5,350. The proposed basement is 3,360 so that's 8,710

**Joan Turner** - So almost 9,000 because in your statement of use you say 9,000. So roughly we are talking about 14,000 square feet of building, of new building space without any pavement, without any driveways

? - The staff housing you mentioned 2 units. There is actually 4 units. There are two buildings with 2 units per.

**Joan Turner** - Two staff housing, I knew that before. So we are talking about a little over 14,000 square feet of building space without any of the roadways etc that go to it. I think maybe, I just want to make sure I have that, oh, one other last point, in your schematics in your statement of use you say dining room would be 144 people but in your schematics you have seating for 180, is that just a design. I mean if you actually count your dining room and the chairs, it is 180. Is that just a design error

? - No we have to provide 150 seats for the dining hall

**Joan Turner** - Have to for a 150

? - 150 yes. And I believe in the plan we were showing 144

**Joan Turner** - so to recap, oh I'm sorry.

? - 144 seats the way we have it laid out in the first floor plan

**Joan Turner** - okay. So to recap, you want to go to 103 total population

? - total population

**Joan Turner** - with your 90 woman and 13 staff members

? - yes

**Joan Turner** - and then could you then on top of that tell me the number of people that would be visiting the site, approximately. You have graduation, you have visitors, about how many times people would be, I am trying to get a sense of traffic flow and so forth

**Beth** - The traffic flow wouldn't change from what we do right now. Graduation is once a year and during the event anywhere from 15 to 16 extra people. Picnics we have is down on the ground near the stream, maybe an addition 20 to 25 people, it depends on the picnic, maybe 30 extra people. But we don't hold large events there. So as far as traffic flow goes, none of our students can have vehicles and we are not going to increase the amount of vehicles on a day to day basis. Food deliveries would be the same, UPS, Federal Express, that wouldn't increase. So as far as increasing day to day traffic, there will not be an increase in that. Graduation might increase by 15 or 20 people but not an huge number

**Joan Turner** - What about weekend visitation

**Beth** - Maybe on a typical weekend, maybe 4 or 5 girls will have visitors. Most of our girls are not local. Their families don't come on weekends.

**Joan Turner** - And you have a Minister's Dinner or something with 30 to 40

**Beth** - We have a Pastor's Dinners and that has about, a lot of them travel together in big vans and as far as vehicles go maybe 30 or 40

**Joan Turner** - Couples or

**Beth** - Couples and they travel in vans together

**Joan Turner** - I am just thinking about in addition to your permanent population then what your visitors are going to do to your septic systems and its capacity. So those are things that need to be factored in. There is a great sensitivity with regard to that site because of Philips Brook and what effluents are being discharged into it. And as you know right above it is the, it is not your concern, but it is a concern certainly for the environment is the golf course expansion. And those effluents also treated before going into Philips Brook. So we really need to think about these environmental considerations when we are doing it.

? - May I respond.

**Joan Turner - Sure**

? - As far as the effluents are concerned, they don't reach the stream. It is rather unusual there but pure water that comes out of our sewage treatment plant doesn't reach the stream

**Joan Turner -** That would contradict something I read in my research that said 10,000 gallons of treated effluent goes into Philips Brook a day.

? - Into the stream?

**Joan Turner -** Into the stream

? - Well that's false

**Joan Turner -** I read that in

? - That may be the discharge out of the system. But by the time it flows down, and you can see it

**Joan Turner -** Oh the discharge, that's what I am talking about.

? - The discharge doesn't reach the stream anyway

**Joan Turner -** But you are putting cleaned water into the brook

? - Nope

**Joan Turner -** Nothing

? - It doesn't reach. It doesn't go down that far.

**Joan Turner -** In the report I read downstairs in the file it says that 10,000 gallons would be going into the

**Vincent Cestone -** A day

**Joan Turner -** A day and go into the brook

? - No that's not true. It never reaches the brook. You can look at yourself and you can see

**James Copeland -** but it is not runoff, it is actually

**Joan Turner -** no I understand, but it is percolating through and this

? - It doesn't reach the stream

**Vincent Cestone** - It has to reach the stream. Because water runs downhill

? - If you look at the site plan and see the design of the septic you can see sort of, what happens here is if I can explain it in a nut shell here is, everything flows down to a pump. The pump pumps it to the treatment center, the treatment plant. It is then treated and it runs down through these fields here and the fields end right here. This is the stream here. And this gray area is the 100 foot buffer that we have set off the stream. So even these fingers that sort of go out and allow this treated water to percolate, don't reach the stream

**Vincent Cestone** - I'm glad that water runs through dirt and eventually make it to the stream

? - But it is actually treated

**Vincent Cestone** - I know you are not dumping

**Joan Turner** - We are not saying that. Eventually it is going to that because it is going to go down there and it is going to go underground. If you read the 1982 Special Use Permit folder in the file down there, there was great concern about the nature of how things were going to percolate through. \_\_\_\_\_ was going to put in an artificial, I don't know if anyone in the audience can speak to this, they were going to put in an artificial wetland to help this percolation. Because of the drainage problem the Department of Transportation was going to put in swales that would sort of control the flow of water away from the residents along Avery Road. And in fact if you look at, walk along behind that row of shrubbery on Avery Road, you will see that there is a ditch or a swale I would imagine that is what it is, that does have running water in it. Now that water is coming from somewhere. Obviously, you've got a hill and it is coming down like that. It is going to discharge, maybe that is the wrong term, but it is going to flow eventually. I don't mean discharge in the sense that it is dirty. It is going to percolate into the brook. We also have the same problem going on up there. The only issue here is that eventually it finds its way into Philips Brook. If you are over your capacity, and there is a problem, then there is a bacterial problem, there is an odor problem, all of that

**James Copeland** - This is why capacity is very important

**Joan Turner** - Exactly

**James Copeland** - And I understand your request

**Joan Turner** - That's why we really need a clear statement from both the agencies, the New York Department of Environmental Conservation and the

Board of Health. I would hope that you would send your plans for expansion to them, a package similar to what we have received so that they can sign off on it. I mean for me that is a vital concern.

**James Copeland** - The Health Department is producing the letter that you asked for and we will follow up on that.

**Joan Turner** - And then I am going to yield the floor, I have other questions but we will come back to them later.

**Bill Flaherty** - I have some questions. At the last meeting Dottie Gilman who lives on Avery Road expressed at times her concern about water runoff coming down Avery Road and on to her property. I visited the property on a very very rainy day about 3 weeks ago and I observed that the water coming down that hill and across the driveway, and across the road into Dottie's property was new even though our Superintendent of Highways built a curbing. The water was almost splashing the curb and going into the property. But that was an unusual day, it was raining very very heavily. And my concern is that runoff is detrimental to Ms. Gilman's property as well as others along that particular route as well. And I would like to have our Highway Superintendent visit that road and make some recommendation as to how that particular problem can be mitigated and corrected to minimize the amount of water that is overflowing on to her property. My concern is that this addition may further exasperate the problem that already exists there and make it even worse.

**Vincent Cestone** - Plus the clearing of the land

**Bill Flaherty** - Yes plus the clearing of the land. That's a good point. And therefore I would like to Roger Chirico, our Highway Superintendent to go down and visit that particular site and a matter of fact, I would like to invite him to the next public hearing we have on this matter to give us his expert opinion as to how that situation can be corrected.

**James Copeland** - Can I ask you which of the two driveway, there are two driveways that

**Bill Flaherty** - The one on Indian Road, the one further down

**James Copeland** - The one that has the two stone pillars

**Bill Flaherty** - No no this one

**James Copeland** - That's the one where water was bridging the crown in the road

**Bill Flaherty** - That's right. Over the curbing that was built by our Highway

Superintendent, I don't remember when. But as I said this was an unusually heavy rain that I observed

**James Copeland** - Well Dottie did bring that up last time. I've never seen it but if happens, it happens and should be corrected. Water should not be leaving that driveway and spilling out on to Avery Road. Usually it is just a curtain drain that prevents the water from making it across so, we will look at that with Roger Chirico to see and come back to you with a solution.

**Joan Turner** - You know, I just want to comment on what you are saying Bill. In the engineer's report Patty Smith of McCormack and Smith were the engineers in 1982 and in their environmental assessment plan that they have to fill out, the soil quality is poorly drained is the category that you checked 100 percent is poorly drained in that site. So I don't know where that water is going to go. You are going to find this even when the Department of Highway goes down. It's a bad site and it is a water logged

**James Copeland** - You need to clarify that. 100 percent poorly drained. How can that be? We know we have a meadow

**Joan Turner** - I don't know how it can be I didn't write it, I didn't fill out the form

**James Copeland** - Can you cite where that comes from because that is just not the same property

**Joan Turner** - It is in the Environmental Assessment form and hold on a minute and I will give you

**James Copeland** - You should know that the soil classifications and the slopes were all part of BIBO's review. And in order for them to be able to

**Joan Turner** - This is from the 1982 McCormack and Smith Engineers report and they had to fill out an Environmental Assessment Form which is in the file under the 1982 Special Permit and I'll give it to you the number if I can find it. Anyway it's down there. And there is a classification where they give soil types and it says poorly drained and it is says 100 percent. So just for your own

**James Copeland** - We have not only did the percolations for the waste treatment plant, we all \_\_\_\_\_ we will look for it. But that 100 percent means that nothing gets absorbed and we know that can't be true

**Joan Turner** - Well that is why in sections of it you have a bog and when I went there last week to look at it right along Avery it was literally a bog. There was standing water there. It just doesn't get drained very quickly.

**James Copeland** - And this was a report from



**Joan Turner** - 1982 Special Use Permit and it was McCormack Smith were the Engineers on the sewage treatment plant and this was their environmental assessment form and I wish I had

**James Copeland** - We will look into it but I know for a fact that the site actually drains pretty well in many places. There is some places where it is boggy but you know

**Joan Turner** - I will look for the Special Use permit number and then you can just go down there. But if you want to go on with whatever you're doing, and I'll look through my notes

**Vincent Cestone** - Anything else Bill? Anyone in the audience wish to speak?  
Ms. Gilman

**Dorothy Gilman** - I'm Dorothy Gilman and I live at 31 Avery Road. I know Else and John \_\_\_\_\_ personally. My purchased my home on Avery Road in 1972 which means I've been there for 34 years.

**Joan Turner** - Could I just answer the point that...it is 1992 the Special Use Permit for the sewage treatment plant was 1992. The engineer's report was in March of 1992. McCormack and Smith Engineers. Page 3. Poor absorbance characteristics and they talk about blah blah blah I think that category check there.

**James Copeland** - We'll see what it is they are referring to. There are few places where the soil is not

**Joan Turner** - Sorry Dorothy

**Dorothy Gilman** - I had an opportunity to look at these plans up until these last ones that were submitted to the board, I haven't seen them personally. It was interesting for me to note that all of the renderings and the plans only show the adjoining property owners on the east side of Avery Road at the top of the hill. That would be people like the Tudors, \_\_\_\_\_ and the O'Rourke's. The renderings would lead you to believe that nothing was going on on the other side of Avery Road. There are six residences that have been there since well mine has been there for the past 50 years. All of those houses were present. There is no new construction except for one house down there. So there has been no change in the property, residential neighborhood. Also the topo shows that the high point on the property is 320 feet above sea level and the low grade on the road is 185. Which is a significant change in the topography of the land. The other point I would make is that I have been good friends with Bentons and I don't have any objection to the program that goes on at the Walter Hoving Home however, I sit directly across the road between the two driveways and my

comments are under three different topics. One is drainage and run off of storm water and throw water management. There are some existing conditions. Right now there is an 8 inch corrugated pipe about 120 feet north of the north driveway which perpetually drains water from under the dormitory into the field where there is proposed parking for 40 cars. That field has almost always \_\_\_\_\_ standing water. So it is questionable as to how that can be made into a parking area. In addition there are no drainage ditches on the driveway to the garage so the water comes over the top of the roadway, leeches into the fields in the subsurface of the road and then leeches across to the adjoining properties. The water that is in the northern most field often pools there at the Halama's entrance and seeps out onto the roadway and freezes in the wintertime causing some serious and dangerous driving conditions. There is no town drainage up there. There is no \_\_\_\_\_ that comes in at the garage driveway. There is riff raff between that driveway and the next driveway where there are stone pillars today. The land that comes into the culvert between those two driveways is sloping. Presently there is a bent pipe for the sewage treatment plant and I believe a manhole there. The piping from the sewage treatment plant goes under both driveways. I find it difficult to understand how you can park 22 more cars in that area which will be perpendicular to my front door and my picture window. Presently the equipment, the vans and the dump truck and the pick up truck are next to the driveway. The screening that was required for the sewage treatment plant has not prospered because I think of the wetness of the area. There is no, it is not viable for it. The drainage from the other driveway which is Walter Hoving Home Road, the drainage, the storm water jumps the ditches, jumps the culvert, there is a PCB pipe right now that is underground and apparently leeches drain water or some kind of water into the culvert. There is ongoing \_\_\_\_\_ from the treatment plant in where Joan described as the artificial wetlands, I've been there at various times of day and I see the water coming out and going, and it is intended to go towards the brook, it doesn't flow to the brook but that means that it stands in the soil and eventually should get to the brook. The reason the engineering report says that that is poor soil is because that is clay. I lived there for 34 years. It is like living in a bog however, it is not as productive as Ireland because it is not peat that we sell. I detailed some other concerns about the drainage which I will provide to the Walter Hoving Home and to the other board members. My other concern is the appropriateness on this proposed project to the community and surrounding neighborhood. The increase in the clientele is to go from 70 to 90 and a staff of 10 to 13. Some of the drawings indicated enough staffing for 16 people. However, when you take the parking area which added ultimately 89 parking spaces, if you estimate that two people come in each car, then it's about 178 people. You have 100 people on the property which is not 278. Most of the functions are family functions. So I am underscoring it a little by saying only 2 people come per car. I personally object to having a parking lot across from my home. I personally object to the idea of putting 45 new spaces in the field that I have witnessed to be wet almost constantly. I don't envision in any way that you could screen that from me to make it pleasant. There was a suggestions of rhododendrons or blueberry bushes. The neighbors \_\_\_\_\_ and the

turkeys are quite hardy and they are quite energetic and they will devour anything put in the land. As far as the BIBO report on the engineering, I don't think they walked the land. I don't think they have been outside their office. Because as several people have said if you walk the property at the Walter Hoving Home you find it wet. If you walk the property, my property, you walk Mr. Meyers' property, their land is wet. The culvert is not deep enough. The artificial wetlands on the other side of the hedge. The treatment plant was built because the land had to be lifted. The leech fields were not working. Polhemus' were there year after year trying to resolve that and the resolution was a treatment plant. The size of the house and the addition is going to be on the north side of the existing building. To me that is going to drain right down the roadway where the water is coming in the front door right now. I don't see this is going to be mitigated by catch basins. Catch basins are going to be submerged and eventually they are going to go to the lowest level. And I am the lowest level. This has been an existing condition, I brought this to the engineers attention, the corrugated pipe when the treatment plant was approved and I was told that it was not observed and I will walk with you, I cannot find the pipe a couple of weeks ago it is overgrown. There is also an exhaust for a well where the addition is planned on the north part of the existing building. I don't know what that's going to be. All the neighborhoods depend on their own wells on the front part of their properties and the septic system as part of the Health Law away usually on the other side of the building. The runoff is going to sit on top of those septic fields and we will have problems with our own lack of residential sewage treatment. Because the problems were very similar, addition to the main house and the staff house and the increase of clientele concern me. The numbers don't seem to jive. I have been there when there were events, even if it is once or twice a year, I would think it is appropriate to me to have a permanent parking area across from my home **(I cannot hear her)**. I am aware of the fact that the Superintendent of Highways went to the storm water management program is required by the Supervisor to be involved in projects of this nature to determine whether or not **(I cannot hear her)**. I think this project is going to add to it significantly. I also \_\_\_\_\_ the EPA and all those with the brook. **(I cannot hear her)** They have had oversight in the past. I don't know if there is an environmental impact study for this project. There is no mention in the plans for dormitory facilities for the increase number of clients **(I cannot hear her)** I was unable to determine where the sleeping areas would be. Also the nature of the program has changed over the last years. **(I cannot hear her)** ... many of the ladies are walking around. I am wondering how a bigger group will be kept busy. I know that they use them for the maintenance on the property and they have classroom activities. However, for exercise I see them walking the road. The Walter Hoving Road is a private road and it is not a town road. **(I cannot hear her)** And I also would encourage the fact that the Putnam County of Department of Health and New York State Department of Health need to have details, information about how this is going to change as far as the capacity for the treatment plant. There is a generator that supports the treatment plant and in case of an electrical failure, the staff at the Walter Hoving home is on a rotation

basis. They are volunteers not missionaries. **(I cannot hear her)** I would like to say that I do not have any objection to the program of the Walter Hoving Home, they have been wonderful neighbors, but I need to be able to maintain my house. **(I cannot hear her)**

**Vincent Cestone** – anyone else wish to speak on this?

**James Copeland** - Mr. Chairman

**Vincent Cestone** – Yes

**James Copeland** - Can I respond. Dottie I appreciate your input on this. You know better than anybody and the issues you brought up about the drainage, well, they need to be addressed. The Hoving Home has always been a good neighbor, they want to be a good neighbor. If you've got water coming in your yard and it is coming from the Hoving Home, it needs to be fixed. And it needs to be fixed. And we will look into that and the parking. If it needs to happen on our side of the driveway, either a curtain drain across the driveway, but that is something that I never seen. So I am glad to be made aware of it. As far as the parking goes in front of your window. That is probably, that area has the least impact. It is the area that can be kept green through the grass pave system. We do have a screen planting plan to continue that in. Which is now stops, it stops at a point along Avery Road. And the planting plan is to bring that screen all the way across. You asked where the new dorm rooms are, the way the layouts are when we renovate the dining hall, that building has more capacity to dorm if we move the kitchen out. There are rooms that are going to be used differently. So there was not a need to build a new dormitory but we definitely need a new kitchen, a new dining room and staff housing. They are consolidating rooms, it is not a matter of needing more square footage for dorms. Activities, actually having the dining hall frees up the inside of the main building so for the first time they are going to have activities rooms that can be indoors. Rec rooms that are not out in the open. Rec rooms that are enclosed inside. Yes in the good weather I am sure you will continue to see people walking about. It's a beautiful property and we all enjoy it for that reason. As far as the staff being rotational. That is really not true. \_\_\_\_\_ is in charge of maintenance and also oversees the monitoring of the system for the waste treatment plant. He is not a transitional person. You get many groups that want to come and help out. There is a group that comes from West Point. The Cadets come over and help with the fall clean up. There are a number of churches that believe in what they do and they do come over. But these are not rotational people. They are not in charge of those critical maintenance issues.

**Vincent Cestone** – Sir?

**Reverend Benton** - May I clarify something?

**Vincent Cestone – Please introduce yourself**

**Reverend Benton -** I am Reverend Benton. Dottie, the parking spaces, the reason for all these parking spaces where we park I understand by the Planning Board because of the number of people that would be in our dining room before the increase of 30 ladies. And as you know our ladies do not, they are not allowed to bring automobiles. And I need to tell you this right now, if the Zoning Board approves the project, you are not going to see any cars there

**(turning tape over...may have lost some dialogue)**

**Reverend Benton -**...so as we mentioned we are required to do that and we will go ahead and do that but I assure you that those parking spaces are not going to have cars in them.

**Vincent Cestone – Madam introduce yourself**

**Ms. Johnson -** My name is \_\_\_ Johnson and I live on Avery Road and I've been there for 16 years. And for 16 years no one has been able to fix the runoff problem and there is heavy heavy clay and I can personally contest to the fact that it is almost 100 percent \_\_\_\_\_ because we live on the same type of land. That's number one. Number two, your assumption about waste water was correct and your man says, he mentions a number of 4700 gallons going to 7100 gallon with the increase in population, he said that is wrong because the Board of Health assumed that they were increasing the population by 100. To me if you increase the population by 50 percent and now it is 4700 gallons add 50 percent and that is 7100 gallons. Right? So that is number two. The parking lot on Avery Road, you may think that they are going to be looking beautiful with grass. Go check them out. I don't care if cars are only going to be parked there twice, what is to say five years from now they become \_\_\_\_\_. Avery Road is a residential road. It is rural. We would like to keep it that way.

**Vincent Cestone –** Anyone else wish to speak? Sir can you please introduce yourself?

**Rodney Tudor -** How are you doing? My name is Rodney Tudor. Currently the Chief of the Garrison Volunteer Fire Company. And I came tonight because we had some questions as to safety factors. You had a meeting with the fire chiefs. They came up with some suggestions and I was wondering how many of them you followed.

**James Copeland -** We answered every item. Let me just go down, item one was additional, that all the new construction be sprinklered. That the driveways be not less than 20 feet. The elimination of the, the driveway that circles the main house is fine as long as there is a fire lane where the road will remain. That is this fire lane. A second means of egress should be added to the new dining

room. That was added to the plans. The length to a fire extinguisher should not be more than 75 feet. They have been labeled on the plan. And a knox box was added near the entrance. We know that if the project proceeds and we hope it will, there will be up as we get more details with any design there will be exit lighting, where do the sprinklers go, what kind of hardware goes on the doors, we expect that. But we want to make sure and we did answer this first round of questions.

**Rodney Tudor** - I was actually at one of the meetings, the one you had with Joe and we were concerned about the driveway that comes around the back part of the existing main building. Presently right now we cannot get any of our vehicles except for brush truck past there. Is that going to be widened to the point where we can fit a truck because the reason is is the back entrance off of Avery Road, if we have to in the winter time, if we have to use that as a main entrance saying God forbid the main building is actually on fire and we had to come up that way, that back entrance is awfully steep for winter travel and if there is, I think it is the classrooms which is the back building

**James Copeland** - Yes

**Rodney Tudor** - If we have to go through that way, with a winter storm, it can be very difficult if not impossible to make that turn from Avery Road. Is that going to be changed

**James Copeland** - If we can get the width that we have in the base between the building and the rock would that suffice?

**Rodney Tudor** - It would be better. I would hope it would be a little wider than that because if we do have to do operations close to that building, you know you have to work around the truck. You don't want 2 feet on each side of the truck.

**James Copeland** - Is there a width that you have in mind that a number of feet that we should

**Rodney Tudor** - I will get that for you. Another question, you had said that there was an additional egress was added to the building. I was told that the first drawing had it going through another part of the building and it should actually be going straight outside. Did that change

**James Copeland** - Can I show you that plan how it was worked out. Right now the dining hall you can exit through here, you can exit through here and you can also exit through the front. Basically the room has three ways to get out. This was the one that was added.

**Rodney Tudor** - I have a couple of more things. Before I go any further, I have been a neighbor of Walter Hoving Home for about 30 years and have never had

a problem with them so I don't want you thinking that they've been a problem. It is just life safety issues. I am not trying to put a monkey wrench into. I've brought up the part where we asked if the building was going to be sprinklered. Was that a yes or a no?

**James Copeland - Yes.**

**Rodney Tudor - And how is that going to be supplied**

**James Copeland -** Right now there is a reservoir on the property above the main house. It has a, right now it is only 20,000 gallons we are going to rebuild the reservoir into three 10,000 gallon containment vessels that will make for the 30,000 that we understand is the ideal

**Rodney Tudor -** Another concern of mine, go ahead

**James Copeland -** Well a part of that is to add a new hydrant or to add a hydrant which would be gravity fed from the reservoir and that hydrant we placed away from the building and I believe we have, the distance from the house to the hydrant was set at 50 feet which we understood was far enough away incase there was a collapse that it wouldn't involve the trucks

**Rodney Tudor -** As a secondary source of water, I don't think we would need more than 30,000 gallons of water, but if we do, the current level in the stream. It used to be a pool and now it is fill with silt. It is very unlikely we will be able to use that as a second source. Is there any plans on changing that

**James Copeland -** Yes. As a matter of fact they are further along with that application than we are with this one. The application to actually dredge the swimming hole. The collapse of the bridge up stream, the record rainfall, it just silted in. And that project they would like to take on as well. The goal is to get that in a swimming hole, but in order, that is the goal, to renovate the water hole so that is available.

**Rodney Tudor -** If you don't mind, I'll take the Chief's hat off and move into the neighbor mode here. Expanding the capacity for patients or residents as you call them I guess is from 70 to 90. That is almost like a 50 percent increase. Is the staff being increased by 50 percent to modify the 50 percent increase?

**James Copeland -** Just 3

**Rodney Tudor -** So you are almost doubling the capacity and only adding 3

**Reverend Benton –** May I respond to that. We use the ladies as \_\_\_\_\_.  
**(Shuffling papers cannot hear him)** We don't figure that's a problem

**Rodney Tudor** - As long as I've been around, we've never had a problem. And you know my family. But the 50 percent increase could lead to put a few problems

**Reverend Benton** – The systems don't really work that way. You have a classroom of ladies where they have 60 to 90 to a teacher. So there is a lot of group activities. They are not really monitored by one person. But the effectiveness or discipline of the program is not really \_\_\_\_\_.

**Rodney Tudor** - It concerns me because it is the type of center and it's the last leg of a treatment for a problem. If you are increasing them by 50 percent you are lending yourself to not enough managing

**Reverend Benton** – Let me say I will make sure there is enough managers there.

**Vincent Cestone** - One last question and we are going to continue this on. Someone who hasn't spoken? Madam?

**Sue Tudor** - My name is Sue Tudor and I am the mother of Rodney Tudor. And I have lived in Garrison since 1976 and Walter Hoving has been a wonderful neighbor. I am sure you all know that. I am sure that everyone on Avery \_\_\_\_\_ . The only concern I have and Mr. Copeland said they are going to look into it is the runoff. I travel Avery Road everyday Monday through Friday and I know sometimes early in the morning when there are many storms and rains the water just pours out. I think that would be a concern. And I think that Reverend Benton would want to make sure that it was taken care of. So that would be the only thing I would add.

**Vincent Cestone** - Okay we asked, with that we are going to continue the public hearing on to a future date. We asked you for several different things. How much time do you need to get the information that we requested.

**James Copeland** - Can we review that list again

**Vincent Cestone** - Sure

**Joan Turner** - I have it. The letters from the Putnam County Department of Health, also the New York State Department of Environmental Conservation, Philipstown Conservation Advisory Committee, they were going to review and advise you on the application,

**James Copeland** - What do you want from the New York State

**Joan Turner** - I want them to sign off on it, your species permit.



**James Copeland** - And the fourth

**Joan Turner** - The Philipstown Conservation Advisory Committee. And, you were going to correct your original appeal to the appropriate permitted use. And you were going to look up the 1992 special use permit. And I am going to give you the information it is under the Division of Planning and Development, it is number 3 on page 2 of the environmental assessment form.

**James Copeland** - Okay

**Vincent Cestone** - And with that, will this take some time to get? We can continue the public hearing and address other issues while you collect this information. What is your preference?

**James Copeland** - I would say in a week and a half out I will have a better idea of whether we can make next month's meeting. Can we do that? Can I get back to you?

**Tim Pagones** - Well we have to do it tonight. I mean we can put you on for February 13<sup>th</sup> and you are not ready

**Joan Turner** - Can we do it in March?

**James Copeland** - I think you are probably right. Some of these departments may take time.

**Vincent Cestone** - I know it is going to take you time.

**Joan Turner** - Is the 20<sup>th</sup> of March all right

**James Copeland** - Let me just ask. That's fine

**Tim Pagones** - Okay. March 20<sup>th</sup>

**James Copeland** - Thank you.

**Vincent Cestone** - With that, we are not going to do the resolutions

**Tim Pagones** - No. I didn't bring them. You told me not to bring them.

**Kim Shewmaker** - What day are we doing the resolutions

**Tim Pagones** - The 13<sup>th</sup>. The Tuana was on for the 6<sup>th</sup>. Do you want him on for the 13<sup>th</sup>

**Vincent Cestone** - Yes

**Tim Pagones** - Then you will have to renounce

**Kim Shewmaker** - Okay

**Vincent Cestone** - Any old business? If not, I will entertain a motion to adjourn

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

**Vincent Cestone** - And I'll second. 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: March 6, 2006**

Respectfully submitted,

Kim Shewmaker  
Secretary