

# ZONING BOARD OF APPEALS

June 20, 2005

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, June 6, 2005, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

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

### ABSENT:

**Vincent Cestone** - First item on the agenda is General Dynamics Network Services Nextel Communications. How are you doing?

**Anthony Gioffre** - Good evening Mr. Chairman and the board. My name is Anthony Gioffre and with the law firm of Cuddy & Feder (**cannot hear him**). ... since the last time we were last before you on this application. He were addressing some comments and \_\_\_\_\_ from your independent consultant who is here, Mr. Bogie. And Mr. Bogie requested additional documentation and materials which \_\_\_\_\_. We submitted some documentation, a letter

**Vincent Cestone** - I read it

**Anthony Gioffre** - Would you like me to go through it or

**Vincent Cestone** - Well paraphrase it

**Anthony Gioffre** - Effectively that this information was not required for our prior Nextel applications (**cannot hear him...too many papers shuffling on the bench**) ... solutions at that time co-locations services and Nextel had justified its need for the facility. I have also confirmed with Nextel RF, the radio frequency department, that the \_\_\_\_\_ change in the technology and no change since that 2000 application and we ask that this board stand by its prior precedent pursuant to \_\_\_\_\_ in my letter

**Vincent Cestone** - Which application are you talking about?

**Anthony Gioffre** - The documentation I submitted with my letter

**Vincent Cestone** - For the record, which application are you talking about that you didn't have to provide

**Anthony Gioffre** - It is the application from Graymoor. Also Mr. Comi did indicate in a subsequent follow-up letter and requested some documentation photo simulations

**Vincent Cestone** - Which are required

**Anthony Gioffre** - Actually I would like to point out to the point that it is discretionary at the Board's direction however I would like to add for the record photo simulations which I just handed to Mr. Bogie beforehand of a before and after view of Nextel's installation and what it would look like. And as indicated in Mr. Bogie's follow-up correspondence as well he did indicate that those antennas on Nextel's proposal would be the intent not to be more \_\_\_\_\_ tower than the proposed tower then prior applications.

**Vincent Cestone** - What about, we talked about putting additional branches on this tree

**Anthony Gioffre** - Well from my understanding at the site visit and we have reached out to Sprint to see, again this is beyond our jurisdiction, it is beyond our lease area. We don't have the authority to do that. We did reach out to Sprint and spoke with their counsel. We have not heard back on whether or not they would be willing to do that. I respectfully submit that's really beyond Nextel's application. We have a limited jurisdiction with respect to the space on the tower that we are

**Vincent Cestone** - But you have no problem asking that if they can do that

**Anthony Gioffre** - I have, at the direction of this board we heard you loud and clear, we asked, we have not received any direction whether or not they would be willing to undertake it

**Vincent Cestone** - I do want you to provide us with the proof of need, the document. I don't know how we missed it at the Graymoor site. I am taking your word for it but this board always asks for the proof of need

**Anthony Gioffre** - Well we submitted a radio frequency affidavit justifying our need for the facility. We also submitted propagation data. It was not requested at that time, it was not required, it is consistent with prior applications of this board and this board never that information. We justified our need that we have

a gap of service in this area of the town. That with co-location at this facility is exactly what the municipality encourages. Co-location which is consistent with the ordinance. All that is being requested by Mr. Bogie is signal level thresholds which we respectfully submit. They are not going to change. It is not like we can turn power up and down. I am representing to the board right now that effectively our technology has not changed since 2000. It is consistent. And we ask that you stand by your precedent.

**Vincent Cestone** - Well I am going to ask you \_\_\_\_\_ and it is not a precedent. That's what this board wants is for you to provide Mr. Comi with the proof of need so they can analyze the reports

**Anthony Gioffre** - We respectfully submit that our application is complete

**Vincent Cestone** - In my eyes it is not. Not until our engineer has provided us with a complete document and I just read this and it is not complete. You have the photo simulations, you were also supposed to provide us with some noise abatement

**Anthony Gioffre** - We did not receive anything in writing with respect to noise abatement. With respect to that issue I did submit a response to Mr. Comi or to Mr. Bogie as well indicating that your, I guess there was speculation on that there was a generator on site. It is my understanding that it was confirmed that there was no generator on site.

**Vincent Cestone** - There is a generator

**Russ Bogie** - But there is Tony. As of tonight, there is.

We are proposing fencing. We are proposing additional landscaping and as we previously submitted to the municipality from the \_\_\_\_\_ Company this is a noise abatement letter identifying that the existing facility on site as well as all proposed carriers that are on site and taken into consideration in this document and that the background noise levels exceeded the existing and proposed equipment of the carriers at the property line.

**Vincent Cestone** - Mr. Bogie?

**Russ Bogie** - I don't think I've seen that document. So Tony you can send me a copy of that. I stopped by there a little while ago and the 10 foot stockade fence is complete. That should help on the HVAC noise and that report should also tell us what the story is and the noise level. There is a generator. It was probably there originally but the exhaust pipe hadn't been installed. But now it is. So it is clear that there is a generator. That's Verizon's equipment and that is something that we need to take up with Verizon. Also on the issue of the additional branches, I agree with Tony that their part of that tower is not really an issue.

Here's a better picture that we took back in May and what you have here is Sprint at the top. You can't see their antennas. Then the next one is AT&T. And they are the most egregious they stick out the most beyond the branches and below that is Verizon. And they also protrude beyond the branches. Nextel's will not because they are mounted much closer to the pole. These two carriers are in violation of the conditions of their special use permits because I've checked both of those special use permit documents and a condition of both of those permits was that the antennas be mounted within and concealed by the branches. So that is an issue that needs to be taken up with those carriers. Hopefully they don't have their certificate of occupancy yet and they shouldn't get it until that's resolved. Other than that you now have their photo simulations and the only issue we still have with them is the proof of need and I submit that a map that shows their alleged gap coverage. This doesn't tell much because it is not in color but the biggest problem we have with that map is it does not say what those contours are. It doesn't say what that signal is. This map could have been prepared at a signal level 100 times what they need. We don't know that right because it doesn't say and there is an RF Engineer's affidavit that accompanies this that also doesn't say.

**Vincent Cestone - Okay**

**Russ Bogie -** It's possible that if they would just tell us what that is, that we might agree. And that's proof of need. But we do need that.

**Vincent Cestone - Okay.** So there you have it. And I am asking you for it.

**Tim Pagonos -** Do you know where it is? The RF whatever he is looking for?

**Anthony Gioffre -** It is proprietary information. I don't know if I can get that information

**Tim Pagonos -** What do you need the BB whatever

**Russ Bogie -** Yeah the DBM. The contour shown on that map might be -75 DBM or it might be -85 or -95. But unless we know that, if it was done at -65 than that's a hundred times the signal strength that they need.

**Vincent Cestone -** So the issues that we have here is the proof of need which is pretty much straight forward and some question about some additional branches and I would like to see you noise abatement plan. You made some things about additional landscaping and things of that sort. I would like to

**Anthony Gioffre -** It is not necessarily that identifying fencing and landscaping, it was more visual effect. But it can double as, I am sure as everyone is aware of as they drive along the highway you see the fencing up to abate noise. I submitted the letter from \_\_\_\_\_ Acoustics which has been submitted to this

municipality before for this site which identified that the existing and proposed equipment and noise levels are less than at the property line the background noise of the \_\_\_\_\_

**Vincent Cestone** - Right you made your statement about additional planting

**Anthony Gioffre** - Which is part of the plans that you have before you. That is all part of the plan that you have before you.

**Russ Bogie** - And it does appear that whoever has done it, the landscaping that's there now, complies with what the planning board asked them to do a couple of years ago. There is a new berm. There is a lot more vegetation and now there is a 10 foot stockade fence.

**Vincent Cestone** - Okay

**Russ Bogie** - First of all, you can't see any of the equipment anymore. All you see is the fence. It is probably going to help abate the noise

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

**Bill Flaherty** - I have a question relative to the noise abatement issue that you mentioned. Is there any actual decibel readings taken to determine what the noise decibel readings were

**Anthony Gioffre** - Yes. That's how they determine

**Russ Bogie** - \_\_\_\_\_ before. We did not see that.

**Anthony Gioffre** - The background noise level was four times the \_\_\_\_\_. Most of it was background neighborhood noise, Route 9 and the accumulative noise level from the existing and proposed equipment is 31 DBM

**Bill Flaherty** - Well I think that's in accordance with our zoning laws. Because I know that has been a factor before us before the noise. The noise is something that comes and goes. You take it at midnight and \_\_\_\_\_ and if you take it during the day there is a lot of traffic.

**Russ Bogie** - I am assuming that the noise, the neighbors were reporting was from the HVAC in the new Verizon building. Because the noise from the AT&T and Sprint is mounted outdoors on concrete pads it doesn't matter and it doesn't make very much noise. The HVAC in the Verizon building might be a different story. And I was there just this afternoon and it wasn't running so I couldn't hear it. But also the last time we were there it was about when we got the complaint \_\_\_\_\_ and now that it is it may very well be the \_\_\_\_\_.

**Vincent Cestone** - So once you address the needs what Mr.

**Anthony Gioffre** - Again I would like to submit for the record that we believe our application is complete. If I could just finish

**Vincent Cestone** - I am not going to argue with you about this. This is what I am asking for and this is what I want you to do

**Anthony Gioffre** - With all due respect if I can finish my comment for the record. We submitted radio frequency propagation data and a rate of frequency affidavit which are virtually the same that was submitted for the Graymoor water tank application. And if you do a comparison of both and which I did submit for you, the only thing that changed was the coverage area for this proposal.

**Vincent Cestone** - So are you saying that you are refusing to give us the data that we are asking for?

**Anthony Gioffre** - I am submitting right now that we believe our application is complete

**Vincent Cestone** - Are you refusing to give it to us

**Tim Pagonos** - Well I guess, it is on for a public hearing.

**Vincent Cestone** - I am asking are you refusing?

**Anthony Gioffre** - I respectfully submit that we believe our application is deemed complete. If this board

**Vincent Cestone** - Are you refusing yes or no

**Anthony Gioffre** - If you let me finish I will address your questions specifically. I believe that we submitted our application consistent with the wireless ordinance. Consistent with prior applications that Nextel submitted that were approved, that the center for municipal solutions has deemed that the record justifies the need for the facility.

**Vincent Cestone** - Now I am asking you, yes or no? Are you going to provide us with the information yes or no?

**Tim Pagonos** - Well, he is going to speak to his client. Because as I said before, you know what happens is you open up a door. Whether, right now they are making a record because it is his position he doesn't feel that they should have to do this. So, he has to speak to his client. I am sure that Mr. Gioffre would love to give you everything that you ask for but he takes his marching orders from Nextel and Nextel even if they want to do it for you then what happens is when they are

in Fishkill they are going to get well you did it for there. So they open up the floodgates. So I would ask that you not put him on the spot, he is going to speak to his

**Anthony Gioffre** - If this is incomplete, I would ask that you adjourn this matter to the next agenda at which time I should have direction from my client.

**Vincent Cestone** - What is the board's feeling

**Tim Pagones** - I am going to speak to Mr. Bogie about it to see, you know, to delve into a little further.

**Russ Bogie** - I would also add that we have gotten that information from Nextel in every other municipality that we've worked. Some of their ordinances may be clearer on what is required for proof of need

**Anthony Gioffre** - I would ask Mr. Bogie two questions. One is, does this ordinance simply require that information

**Russ Bogie** - Without studying it again, I cannot answer that question.

**Anthony Gioffre** - I would ask for a response from Mr. Bogie on that question and I would also, within the New York region, this area region Westchester, Putnam, Dutchess, I would ask Mr. Bogie to provide me with the list of municipalities that Nextel has provided that information.

**Russ Bogie** - Absolutely I can do that. Not right here now

**Anthony Gioffre** - I understand that

**Tim Pagones** - I would suggest that if there are any comments from the public, if not, I would continue the public hearing until the 18<sup>th</sup> and I can sit down with Mr. Gioffre and Mr. Bogie and we will go over the code again and if it clearly says they have to do, then they have to do it. But if there is a misinterpretation,

**Anthony Gioffre** - And any ambiguity in the code must be waived against the municipality \_\_\_\_\_ the applicants getting \_\_\_\_\_

**Vincent Cestone** - Why would they refuse to give this? Is it because they don't have a need? You've got to look at it from my perspective.

**Anthony Gioffre** - I respectfully submit that we met the ordinances mandate and it is consistent with this board's prior action

**Vincent Cestone** - Unless I am overruled by the other board members, this application is not complete

**Tim Pagones** - Well, you are not done. You are not going to close the public hearing?

**Vincent Cestone** - No of course not

**Tim Pagones** - You are looking for more information before you decide

**Vincent Cestone** - Right

**Tim Pagones** - So as far as completeness or not, before you grant his special use permit you are looking for additional information

**Vincent Cestone** - Right

**Tim Pagones** - It was complete when we sent it to the Planning Board. It was complete enough to go ahead and send it to Mr. Comi's office. The Board's opinion is you are looking for more information before you close the public hearing

**Vincent Cestone** - Right

**Tim Pagones** - We keep saying that it is not complete, you want more information. It was deemed complete a long time ago. We are looking for more information before you decide to grant or deny the special use permit and that is your position.

**Vincent Cestone** - Two things

**Joan Turner** - But that is part of the special use permit process that if you feel that the information that you have is insufficient, you have a right to ask

**Tim Pagones** - Oh absolutely, definitely. If you think there is any more information, that's what the board is supposed to do, ask for the information. You are asking for something. Mr. Gioffre is going to go back to speak with his client. Sometimes even if it is not required the applicant will give you something. Sometimes they have to put their foot down. So Mr. Gioffre is going to speak to his client. I am going to speak with Mr. Gioffre. I am going to speak to Mr. Bogie and Mr. Comi and we will see what if anything we can get and do.

**Vincent Cestone** - Two things. The RF information and the additional branches

**Tim Pagones** - Well I would just, Mr. Gioffre is correct you can't make,

**Vincent Cestone** - If they are willing to go to Sprint and ask them



**Tim Pagonos** - Well I think they've done that

**Anthony Gioffre** - We've done that already.

**Tim Pagonos** - And he hasn't heard back. And he is going to ask them again.

**Anthony Gioffre** - And I will ask again and as I am sure that this board may be aware, I am sure Mr. Bogie is more aware, that to get a response like that back from another wireless carrier, I submit it is going to take an absorbent amount of time

**Tim Pagonos** - I would suggest that Mr. Gioffre that you write a letter and this way when he comes back next time, here is a copy of the letter I wrote to Sprint. I haven't heard back but at least we know he's done it. He's covered. But legally you can't hold them back, I think there is that one tower were you have the bottom branches and the rest of it is, the other people didn't have to put branches up. But if he wants to put, if you want to make him put additional branches where his units are going to be, you can do that. Because that is his area. But you can't hold him back if Sprint or whoever else on the top does not want to put more branches, at least I think they are willing to try and if they can convince the other people to do it, they will do it.

**Anthony Gioffre** - I will write a letter to Sprint and I will copy the board.

another carrier on this tower. They own it.

**Tim Pagonos** - And I think the board should contact Mr. Monroe and let him know that if these antennas are outside of the branches, they are in violation of the special use permit. So if they have a CO, that CO should be withdrawn and they should be made to be in compliance with the resolution. Because I know the resolution said that everything had to be within the branches.

**Vincent Cestone** - Any comments from the board? Anyone from the audience wish to speak?

**Mike Kelly** - Mike Kelly. I live next to the facility. This is in regard to the noise. I am here to report that during the daytime you can't hear the equipment run up there. Before Verizon installed their equipment there was no noise during the daytime or nighttime. Now we are dealing with the fact that Verizon's air conditioning equipment is there and when it was 90 degrees out, that equipment ran all day and all night. And you hear the noise at 3:00 in the morning which is not the time that you want to hear noise. And I just ask that you require them to put some type of, ask the air conditioning manufacturer for some type of equipment to provide some kind of abatement, noise abatement equipment to go with their air conditioning units to eliminate that noise in the night. There was no

noise coming from that site before this equipment went in there. There should be no noise coming from this site once their equipment is in there. I don't think that is unreasonable.

**Vincent Cestone** - Now with the 10 foot fence, has it been running since the 10 foot fence has been completed?

**Mike Kelly** - Yes. The fence has reduced it the noise to the point where you can't hear it during the daytime. But at night, their equipment becomes the background noise. There is no traffic on Route 9 at 3:00 in the morning.

**Vincent Cestone** - Right.

**Tim Pagones** - Are you going to put like a similar system that's there? A generator?

**Anthony Gioffre** - I don't represent Verizon

**Tim Pagones** - No what I am saying, what are you putting in there

**Anthony Gioffre** - We are not proposing a generator

**Tim Pagones** - What AC units are you proposing

**Mike Kelly** - You use the same AC units that Verizon uses

**Anthony Gioffre** - I am not sure what Verizon uses. This is Anthony Boda(?), Engineer from \_\_\_\_\_ Tectonic Engineering.

**Russ Bogie** - Your building is smaller so that may make some difference

**Vincent Cestone** - There has got to be a way to screen the noise. You can't tell me that there isn't a way. There has got to be a way to screen the noise to a point where it is so minimal that you can't hear it. A 10 foot fence and all the shrubbery, there has got to be something that can be put inside there that can cover the noise

**Anthony Gioffre** - I can't speak to Verizon's but

**Tim Pagones** - I think the board's and Mr. Kelly's concern is you are going to go up there and you are going to have the same system that is there, or one of the systems, is your unit going to be running all night when it is warm out so now

**Anthony Gioffre** - I can speak to Nextel and I just found out from Mr. Boda that there is a damper that could be put on and I will speak to Nextel to see if they would be willing to do that.

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

**Anthony Gioffre** - Thank you for your time

**Vincent Cestone** - Do you wish, are you representing American Tower?

**Anthony Gioffre** - Yes

**Vincent Cestone** - Why don't we do that now

**Anthony Gioffre** - I appreciate the board's courtesy. We submitted an application on April 27<sup>th</sup>. It is my understanding that the site visit was taken place a few weeks ago. We are still waiting for the Center for Municipal Solutions review memorandum to determine if there are any additional documentation for this application. So we would ask that that be submitted and we did submit this application on April 27<sup>th</sup>. Also it is my understanding through discussion at the site visit that I was not at, my partner was there, with respect to alternatives. If there are any alternatives that the board would like us to look at, or staff, I would ask that you advise us as soon as possible.

**Vincent Cestone** - Okay because what we had done and Mr. Bogie was there along with Mr. Comi and a representative from your organization, off the top of my head I recommended the Garrison school, the Church that is right near the Garrison school

**Anthony Gioffre** - I would ask that rather than we just do this right now, if you would let Ms. Shewmaker know or Mr. Pagonos know and I can get correct addresses so that I can let the appropriate team investigate that

**Vincent Cestone** - Mr. Bogie can you handle that for me?

**Russ Bogie** - Yes

**Vincent Cestone** - The Garrison school

**Russ Bogie** - You suggested possibly the post office,

**Vincent Cestone** - Post office. There was a church.

**Russ Bogie** - There was a church across the street from the school and that has kind of like it was built like a fort. It has kind of like a parapet arrangement

**Vincent Cestone** - right

**Russ Bogie** - Which looks like it could well be used to conceal antennas. And

these properties are high in elevation.

**Vincent Cestone** - And they are closer to Route 9D

**Russ Bogie** - Closer to Route 9D. There are also a number according to an aerial photo that I looked at just today. There are a number of fairly large structures that are not over a mile, not even a mile from this site. So there are a lot of possible alternatives and Tony we'll try to get together and get you a list of them. We'll do the best we can. The Board feels and Vinnie feels, he knows the neighbors around this site. He does not expect them to just accept this without a struggle. He thinks that they will not like it and they will fight it to as far as they can. So it might not be a bad idea if there is a good alternative that we make that choice early on.

**Anthony Gioffre** - I will take these suggestions and I will send them on to my team and have them go back out to the field to investigate. We will report accordingly. And I would just ask for your report in the interim so that we can address

**Russ Bogie** - You will have your report. We told Chris that you would have it by the middle of this week and I can guarantee that it will not be later than the end of this week.

**Anthony Gioffre** - And I know that Mr. Bogie is always good for his word.

**Victor Carlson** - I will tell you one thing about the fire company, the fire house there. Any outside building would be very much opposed. If it can be like the one at the 9, where we have the other tree

**Vincent Cestone** - The stonehouse

**Victor Carlson** - The stonehouse. They have all their equipment in the cellar. They put the wireage there and up the pole. So there was no complaint of on site buildings. And after the one that we were talking about before, I am afraid if any new one goes up where we 4 or 5 buildings and it looks like a \_\_\_\_\_ at the bottom of the pole, there is going to be some objection.

**Russ Bogie** - There are two carriers on this application now are not proposing equipment shelters.

**Vincent Cestone** - But you know that Verizon

**Russ Bogie** - And some others might come along that might would want to put equipment shelters in there. What is proposed now is the same kind of equipment that like Sprint and AT&T has on the 9 site. It is just an equipment cabinets. It is a pretty good size fenced compact and they propose a chain link

fence with I think originally green slat inserts in the fence so you can't see through the fence. But they indicated a willingness to be flexible if the board or the neighbors have a better idea, they are willing to listen to it. We discussed other alternative stealth things. This is a stealth tower which is going to somewhat resemble a flagpole. There are other stealth technologies, not to mention pine trees but there are other things that can be done to \_\_\_\_\_. One positive thing on this site is that that firehouse has a very ugly communications tower on it now. And if this tower were to be built right next to the firehouse, those antennas could be moved to the tower and it would be less ugly than it is now. So that might be something

**Victor Carlson** - We have a member of the fire company here. He might want to say something.

**David Brower** - Well as far as outside buildings I seriously doubt there is any room for them to begin with. It is such a narrow lot and the septic system is in the back, so

**Tim Pagones** - They are looking for variances also

**Russ Bogie** - Yes

**David Brower** - There is very limited space around the

**Tim Pagones** - Side setback variances

**Vincent Cestone** - So if you can get together with Mr. Bogie and the next time we get together have some options for us that would be good. Then we can proceed

**Anthony Gioffre** - Sounds fine. Thank you for your time

**Lenny Lim** - When are they on for?

**Tim Pagones** - July 18<sup>th</sup>

**Vincent Cestone** - So our meetings next month are the 11<sup>th</sup> and the 18<sup>th</sup>?

**Kim Shewmaker** - That's what you wanted

**Vincent Cestone** - Did you send American Tower to the Planning Board yet?

**Kim Shewmaker** - No. I didn't send anything yet...it is still not deemed complete.

**Vincent Cestone** - Okay.

**Tim Pagones** - Explore some alternatives, I also want to speak to the applicant, I spoke to Mr. Gioffre outside and I wanted to say something again. Just for the record you have two people here. Someone is putting the tower up and someone is co-locating. So they sent one check for \$10,000.

**Vincent Cestone** - Right

**Tim Pagones** - I have to speak to Mr. Doyle. I mean should it be one check for \$10,000 for whoever is putting the tower up and then someone is co-locating they should pay \$5,000.

**Vincent Cestone** - Right

**Tim Pagones** - They kind of did a joint application

**Vincent Cestone** - Right

**Tim Pagones** - So I have to speak to Mr. Doyle and just see if

**Vincent Cestone** - And at the site visit I went to they agreed to pay \$10,000 for the tower and each one of the applicants would pay \$5,000. So we should be getting another check for \$10,000

**Tim Pagones** - If American Tower is putting the tower up, they pay \$10,000 to put the tower up. And then you have whoever and whoever needing co-locations

**Vincent Cestone** - Right. Exactly. Okay next item on the agenda is continuation of a public hearing for Dorothea Lang Appeal #767. So we wanted to look at the original variance that we granted and Joan you had concerns you wanted to look at

**Joan Turner** - I went through the original appeal. Fortunately Vic has a complete record and then I went down there this morning and went for another review of the house and what's going on. So my questions are going to concern the house now as it is now and with regard to the changes that were made that you made to these plans. And I want to clarify them. So, the first one I have is on the ground level where you come in and there is a daylight, this is the plan I am talking about, right here. Here is your ground level, your car, this is the car, and here is your file room

**Dorothea Lang** - Right

**Joan Turner** - Over here you have sliding glass doors

**Dorothea Lang** - I think that is sliding glass doors right

**Joan Turner** - And isn't there a deck above that?

**Dorothea Lang** - No

**Joan Turner** - Yes. On the side you have a deck with steps going down. Where is that?

**Dorothea Lang** - Right here. That's downstairs.

**Joan Turner** - Yeah, that's what I am saying. I am sorry then, excuse me, above the sliding glass door you have a deck with stairs going down

**Dorothea Lang** - No. No decks above

**Vincent Cestone** - The second story

**Dorothea Lang** - No

**Joan Turner** - okay

**Lenny Lim** - Where do the sliding glass doors go?

**Dorothea Lang** - This is downstairs, the daylight basement.

**Joan Turner** - You have a deck with stairs going down

**Dorothea Lang** - Right

**Joan Turner** - Towards the cove

**Dorothea Lang** - That's what I am requesting

**Joan Turner** - Okay. Now is that above the sliding glass doors, where is that deck on these plans?

**Dorothea Lang** - You step right out

**Joan Turner** - On the plans, just show me where you put the deck

**Dorothea Lang** - Right here

**Joan Turner** - It's right here. So you have sliding glass doors here, and you have the deck over

**Dorothea Lang** - These, they are like veranda doors. But it is essentially the

same.

**Joan Turner** - So you have a deck here

**Dorothea Lang** - Right

**Joan Turner** - And stairs going towards the cove

**Dorothea Lang** - Right

**Lenny Lim** - That's this deck right here

**Dorothea Lang** - Right and it is all measured

**Joan Turner** - And underneath it are these veranda doors that open under this deck

**Dorothea Lang** - No. This steps right, in other words, it is made for a wheelchair can go right to the deck. Right out to the deck. Here's the door, this is the deck

**Joan Turner** - But you are not on ground level

**Dorothea Lang** - Well nothing is on ground level

**Joan Turner** - Well it says this is the ground level

**Dorothea Lang** - Well you told me that I, all the whole house has to be at the high water mark

**Joan Turner** - Okay.

**Dorothea Lang** - That's why I am up. And that's why I need some kind of a platform. It is really not a deck, it is a platform so that if a wheelchair, it is made for senior citizens

**Joan Turner** - I understand that, fine, but on these plans that this board approved that deck was never here or those stairs

**Dorothea Lang** - Well we had no stairs, no nothing. I don't know

**Joan Turner** - Then you have a door over here

**Dorothea Lang** - Yes. That was done, that was the stairs, but the door was a requirement by the health department. They insisted. I bet you somewhere at the end of the statement, I don't have the stuff with me I didn't know we were going to discuss all of this, I don't have any stuff here with me today. But,



**Joan Turner** - Why would the board of health require a door here

**Dorothea Lang** - They insisted upon it

**Joan Turner** - Do you have a reason

**Vincent Cestone** - It might not be the board of health, it could be the building department for the code.

**Dorothea Lang** - It was the board of health that suggested it.

**Joan Turner** - Suggested it

**Dorothea Lang** - They forced me to do it

**Joan Turner** - I don't have a copy of that letter in my file, anyway, you have a door coming in for your main entrance

**Dorothea Lang** - This is the main entrance

**Joan Turner** - Right. So you have a door for your garage, a door that cuts you right through here, and so

**Dorothea Lang** - That's all exactly the same

**Joan Turner** - So you have, I know that we are talking about outside, so if you have a door here going out. Now you have a deck with steps going out towards the cove. And then the next change that I picked up from the drawings goes to the western elevation where you have a deck going off here

**Dorothea Lang** - No. Are you talking about the ground level deck?

**Joan Turner** - Now we are upstairs

**Dorothea Lang** - Oh upstairs okay.

**Joan Turner** - That's why I flipped the page

**Dorothea Lang** - Upstairs I have a deck here

**Joan Turner** - This is the western, this is your

**Dorothea Lang** - Yes, this is a deck here.

**Joan Turner** - This is the river side you are talking about

**Dorothea Lang – yes**

**Joan Turner -** Okay. Now the deck is here where you don't have any deck on this plan and steps coming down. I'm sorry there is a deck. The deck was there but it was built flush with the overhang as I remember in the plans. Now it exceeds the overhang and steps go down to the river that way.

**Dorothea Lang -** No the steps are here. I'm sorry. This is where the deck that you looked at today is right here. And this is the sliding glass door and

**Joan Turner -** Above this is an overhang

**Dorothea Lang -** Right

**Joan Turner -** But this deck comes out further toward the river than the overhang. It is not flush with the overhang. You extended the deck out

**Lenny Lim -** Towards the river

**Dorothea Lang -** I don't know exactly, I think it is exactly, I don't know. It's. You can probably tell by the drawing

**Joan Turner -** It comes past the overhang

**Dorothea Lang -** The overhang, are you talking about the roof?

**Tim Pagones -** The survey shows second floor deck with overhang going south

**Dorothea Lang -** There is no overhang above the second story

**Lenny Lim -** What she is saying is the deck comes past the overhang

**Tim Pagones -** Here

**Lenny Lim -** The deck and the steps

**Tim Pagones -** I guess here is your overhang, the deck comes out past that. I think what Ms. Turner is saying is that the original plans said the deck

**Dorothea Lang -** No, this is the entrance. This is not what she is talking about. She is talking about this one

**Tim Pagones -** Okay

**Dorothea Lang -** Towards the river the deck is exactly as the overhang and the

steps are beyond. The downstairs deck is exactly as the upstairs deck and the steps come out. I tried to point that out to you today when you were there. It is exactly the, the deck upstairs and the downstairs are exactly the same except the steps

**Lenny Lim - Steps**

**Dorothea Lang - This is steps and this is a concrete deck**

**Lenny Lim - It stops here and the steps come down**

**Dorothea Lang – exactly**

**Joan Turner - But when you look at it unless you have a tape measure, it looks like the deck comes out even further than the**

**Lenny Lim - The steps go further out**

**Vincent Cestone - But remember with the original resolution the maximum extend towards the river was the overhang**

**Lenny Lim - The overhang. Nothing was supposed to come past that overhang.**

**Vincent Cestone - Right**

**Joan Turner - Do you remember what the compelling reason the board of health insisted that you build that door?**

**Dorothea Lang - Because everyone in that area apparently can only replace the bedrooms that are there and I have two bedrooms and I don't understand. Some people get three bedrooms after two which it doesn't seem to be right. But that seemed to be the rule. And so he said you have to have a door there in order that it would not be used as a bedroom.**

**Joan Turner - Well because the plans themselves would lend one to believe that that is a full scale apartment downstairs**

**Dorothea Lang - No it is not**

**Joan Turner - Well look at, one could be led to that conclusion. I am not saying how you are going to use it. But anyone looking at the plan could assume that that is a full fledge apartment. You have a gas heater there, you have a daylight basement. It is very conducive to turning it into**

**Dorothea Lang - Well any basement could be turned into an apartment as you know**

**Joan Turner** - Exactly. That's why I am saying that is why the board of health was insistent

**Dorothea Lang** - It's a daylight basement and I just can't, at the time nobody seemed to have a dug in basement. Now lately the buildings apparently have a dug in basement

**Joan Turner** - Do you also have a basement or is this on a concrete slab

**Dorothea Lang** - It is a crawl space

**Joan Turner** - This is with a gas fireplace and the walk through

**Dorothea Lang** - There is no gas fireplace downstairs

**Joan Turner** - Well that's what it says here

**Dorothea Lang** - That was eliminated. It was too expensive I couldn't afford it.

**Joan Turner** - Those are my questions on that

**Vincent Cestone** - Any other questions from the board?

**Bill Flaherty** - Well I guess I am perplexed about the fact that the board of health has requested you to install a glass sliding door

**Dorothea Lang** - No. It is just a plain door

**Bill Flaherty** - A plain door. Whatever. I don't know what jurisdiction they have to do that

**Dorothea Lang** - Well it wasn't in my original plans

**Bill Flaherty** - I do know however that certainly the building inspector can make that request of you and for safety purposes as well we could have other jurisdictions in the Town

**Dorothea Lang** - I have never built a house before, so I don't know who is in charge of what. It was only approved for two bedrooms.

**Bill Flaherty** - I don't think that is in violation of any zoning laws that I am aware of. I think the question here is whether or not the upstairs deck

**(board members talking among themselves)**

**Bill Flaherty** - You were granted a variance before for this, is that correct?

**Dorothea Lang** - Not for the steps. The whole thing is I didn't realize that you needed to have a separate approval for the steps. And the builder

**Vincent Cestone** - What we granted you was the minimum amount of steps that are legal by law.

**Dorothea Lang** - Okay

**Vincent Cestone** - And that's, and you decided to build a deck. And we said we wanted to keep everything on this side of the overhang and you took it upon yourself to build past it. That's what it appears to me

**Dorothea Lang** - I didn't

**Lenny Lim** - What are these steps going north? Where do these steps go to, right here near the AC unit

**Dorothea Lang** - That is a door to the mechanical room. And that was always there. You see, you have to remember the whole building you told me to put it up. We need a little more fill because it is not doing it, a lot of it washed away. But I didn't, the ground is still this much

**Lenny Lim** - Okay

**Dorothea Lang** - So you can't step down. You have to have steps to be safe. I don't understand what the problem really is.

**Bill Flaherty** - In as much as these steps don't conform to our, property lines, what do these steps on the north side

**Dorothea Lang** - Well actually I did design it for both ways but then it got too expensive

**Bill Flaherty** - Well no. What I am saying is these steps over here could be over here. And then it would conform.

**Tim Pagones** - I think the board, in every concern the board has tried to not let anyone come closer to the river

**Dorothea Lang** - But everybody else has before

**Tim Pagones** - If someone got away with something, they got away with it. Okay. All I know is that you are here before the board, the board gave you certain perimeters to build. Now you are putting your steps closer to the river

and you are putting your steps on the side of the house closer to the side yard.  
So I don't know

**Dorothea Lang** - I am told by the Building Inspector that in order to have a door that is higher than the immediate ground you have to have, I thought he said 36 inches minimum as a requirement. And it is just

**Tim Pagones** - Ms. Lang I think what the board is asking you is why can't these steps go sideways? Why can't those steps go sideways? It might look nicer to come out but you know what, you've been at the hearings and you know how much fighting there was about coming closer to the river. So whether it is steps or a shed

**Dorothea Lang** - I just want you to look at the neighbor's house, how much

**Tim Pagones** - It doesn't matter. I guess you are here because the board approved plans and then you added something to the plans. Right or wrong you

**Dorothea Lang** - Right but I told the

**Tim Pagones** - Good intentions or bad intentions that's the problem. I think the Bracke's are here, all the neighbors are here, you knew everyone was fighting about getting closer to the river. So whether it is steps or not, I think the board has a concern. And I think one of the board members asked you, you know what get rid of the steps towards the river and come out to the side. Get rid of the steps toward the side property line and come towards the front of the property. You are going to have long narrow steps. I mean whether it looks better to have them the other way or not I think everyone was aware of the board's concerns when this was on before

**Dorothea Lang** - I appreciate your explaining that to me but it's

**Tim Pagones** - I guess right now you are in violation of your plans by putting those steps there. That's why you are here

**Dorothea Lang** - I humbly tell you that I told the builder to check first and he said there would be no problem at all. And now it is a major, it costs money to take it apart, it costs money to rebuild it and now I am very tight with funds and I'm fighting with my builder as it is and it is a major problem. So I

**Tim Pagones** - I think the board is willing to compromise. But they are saying that you can't come out further. I think Mr. Flaherty is saying come out to the side and come out the other way

**Bill Flaherty** – exactly

**Tim Pagones** - Because now you need an additional variance for that side setback. That is in violation, you need another variance. For the steps on the side of your house right? This deck here

**Joan Turner** - The cove side, the south side

**Tim Pagones** - They had to give you a variance for that. Now your steps are further intruding into the setback. So you need a variance for that

**Dorothea Lang** - May I also say that I have a 75 foot property and others only have 50 feet. Do I get no consideration for the extra 25 feet that I have?

**Tim Pagones** - You need a 30 foot setback.

**Dorothea Lang** - I know

**Tim Pagones** - Are your steps within the 30 foot setback?

**Vincent Cestone** - Right

**Joan Turner** - On the south side are you talking about

**Tim Pagones** - The cove side, yes. Are they? I don't know.

**Dorothea Lang** - I'm not sure. I have to look at the

**Tim Pagones** - The concern is

**Lenny Lim** - 20.6 they are within 30 feet

**Dorothea Lang** - I have an extra wide piece of property and should have

**Lenny Lim** - I have a problem with the one facing the river.

**Joan Turner** - This is 20 feet not 30 feet. She needs 30 feet from the property line

**Lenny Lim** - That's what I am saying is it 20.9

**Joan Turner** - So she needs a 10 foot variance here

**Lenny Lim** - Right

**Tim Pagones** - Realistically the cove side no one sees it. It is the back one that is a problem

**Joan Turner** - It is the west elevation. It is my feeling that those steps should be moved to the side to come down the side. But that is my feeling on the decks and the steps

**Vincent Cestone** - Anybody else want to talk on this? With that

**Lenny Lim** - The whole discussion we were pretty adamant about not going any further towards the river.

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

**Victor Carlson** - I think we were very lenient with giving her towards the river. We started off and we gave, it came down to about 13 feet. And they were supposed to be level coming across. But it is back a little bit. But we gave quite a bit there and now we have a deck going out.

**Dorothea Lang** - I thought I was, the builder wanted to put a larger, much larger deck and I said no no no. I was trying to be absolutely and I didn't realize the steps were going to be counted. I thought the platform was going to be counted. I didn't realize the steps were actually counted. I apologize but I really didn't

**Tim Pagonos** - Well I guess any one else from the public

**Dorothea Lang** - If I have to,

**Joan Turner** - That is just the deck. We still have the shed

**Tim Pagonos** - I am just saying you might want to take your comments lets deal with the decks and then we will deal with the shed

**Joan Turner** - Do we have on the south elevation with the deck and steps coming down, do we have measurements as to what the variance is that we have to grant on that?

**Tim Pagonos** - I think it is 13. well she has the concrete pad 20

**Dorothea Lang** - We can bury the concrete pad, it doesn't have to be visible

**Tim Pagonos** - Well if it is visible, that's 20.6 and 20.9

**Dorothea Lang** - I can bury that because I need a little

**Joan Turner** - South

**Dorothea Lang** - I didn't know there needed to be a concrete pad. Somebody put that in



**Joan Turner** - She needs about a 9.3

**Tim Pagones** - 9.1 and 9.4

**Joan Turner** - right

**Dorothea Lang** - feet?

**Tim Pagones** - Yeah on the cove side

**Joan Turner** - You need a variance for that

**Dorothea Lang** - I want to say that we moved the whole house over toward the cove in order to be more gracious to the neighbors. So that our machinery would not be right on top of the neighbors as theirs is on top of their neighbors. And I moved it over and now I guess it is to the detriment of myself. Because I did it and you will also notice that the fence is partially on my property. I am losing inches so there are more things.

**Vincent Cestone** - So if there

**Dorothea Lang** - I am trying to be gracious and I am being not recognized for that

**Tim Pagones** - Well I guess

**Lenny Lim** - Ms Lang we asked you to not go further toward the river.

**Tim Pagones** - The board is being very gracious.

**Dorothea Lang** - I didn't realize the steps were included

**Lenny Lim** - And you went further toward the river

**Dorothea Lang** - The steps. I didn't realize the steps would be counted

**Tim Pagones** - I think the board is willing to give you the variance for the cove side deck and steps but they are telling you that the deck and the steps that go toward the river. You've got to take them down and go towards the back of the house

**Dorothea Lang** - To the side of the house

**Tim Pagones** - Yeah. Instead of going out come to the side

**Joan Turner** - To the south. Run them south

**Tim Pagones** - Towards the cove. So you are not going any closer to the river

**Joan Turner** - I would put that in the form of a motion

**Tim Pagones** - Well do you want to see if anyone has any comments the public?

**Dorothea Lang** - If I have to, I have to. But it is just a tremendous expense

**Victor Carlson** - She has a motion on the floor

**Joan Turner** - I will retract

**Victor Carlson** - We gave, she built right to the edge leaving no space for a deck or anything and that was the last one. Now it comes back and she wants to have somewhere of getting out of the house.

**Dorothea Lang** - It's a platform.

**Victor Carlson** - She wants to have some way of getting out of the house. And by rights she should have a 4 foot as you go out the door, you are supposed to have a 4 foot

**Vincent Cestone** - I think it is 3 feet

**Dorothea Lang** - Some say 4 and some say 3.

**Victor Carlson** - Now, then the steps she wants to continue to the river

**Tim Pagones** - Which you are not going to give her

**Victor Carlson** - And that is way beyond what we gave, what the board gave last time. Now we have to give the 4 foot patio. Now the steps she wants to go that way or she can go along the building now that is what we have to decide. Whether we are going to let her have it going towards the river or let her build the deck the other way.

**Lenny Lim** - The deck itself comes right to the overhang. It is the steps coming out. Like you said, we can have it go south towards the cove. If it goes towards the cove then it stays right under the overhang itself.

**Joan Turner** - Exactly

**Bill Flaherty** - And a variance wouldn't be needed. I don't think.

**Tim Pagones** - You have to give her a variance for the cove side.

**Victor Carlson** - But that could be put along the building also

**Tim Pagones** - That's up to you. You gave her, she has that platform if you want her to have long narrow steps coming along the side of her house

**Dorothea Lang** - That's the part that someday I wanted to reserve that side in case I need a ramp. So that's why it is designed that way.

**Tim Pagones** - Well your ramp

**Dorothea Lang** - You can't have a ramp coming up from the river. If I ever need a ramp, it is going to be on this side

**Tim Pagones** - But right now

**Dorothea Lang** - If I have the steps there, then I would eliminate the steps

**Vincent Cestone** - Wouldn't you put a ramp at the front door?

**Dorothea Lang** - That would be okay too but that's also doesn't look good

**Lenny Lim** - I see what they are saying on the side

**Dorothea Lang** - But I would be glad to do anything. I am not asking for the ramp yet thank goodness

**Vincent Cestone** - Let's hope not. Let's hope you never have to get the ramp

**Dorothea Lang** - Well you know we are all older, all my brothers are older, my good man is older, I've had several heart attacks and I just want you to understand, the whole house is built for a senior citizen. Every door is wider

**Vincent Cestone** - Okay. Any more comments from the board? Any comments from the audience? Mr. Bracke

**Horst Bracke** - My name is Mr. Bracke and I am her neighbor

**Vincent Cestone** - I can't hear you. Can you speak up please

**Horst Bracke** - My name is Mr. Bracke and I am the neighbor of Mrs. Lang to the north side. First of all I would like to clarify one item what Mrs. Lang just said. She mentioned that she moved the house 2 feet away from us. I would like to clarify the architect moved the house originally 2 feet closer to our house then she moved it back the 2 feet and we complained so there is no gift from Mrs.

Lang. That is item number one. Now, being right now you are only talking about the

**Tim Pagones** - The decks

**Horst Bracke** - Deck

**Tim Pagones** - We will get to the shed in a minute

**Horst Bracke** - I believe in fairness in all the other neighbors you really should consider the west side, us. As you go \_\_\_\_\_ everybody else. There were two houses built after Mrs. Lang and all of us know what they went through. On the south side of course that is entirely up to, in your hands because there is no neighbor. So you would have the responsibility to look out for all of us and whether there is one person complaining, a thousand people complaining or nobody, it is still your responsibility. And I would like to point out that during all the meetings it was very carefully avoided all those patios for the simple reason it would have made a totally different picture of the whole house and we all know that Mrs. Lang wanted it for storage and as you see now it seems to be going and all of that should have been mentioned and put forth on the hearings and not after the public hearings, the closing of the public hearings. So I think you should very carefully think about that.

**Tim Pagones** - Mr. Bracke, if she put all glass in there and did nothing but store stuff, that would be okay right

**Horst Bracke** - That's what she said

**Tim Pagones** - I mean

**Horst Bracke** - I have nothing against

**Tim Pagones** - Right but as Ms. Turner said, you know what it looks like it could be an apartment

**Horst Bracke** - Right now it looks different

**Tim Pagones** - Right but I mean she could have put in all glass, as long as she stores stuff that's fine. But if it becomes living space, an apartment, then there is a big difference

**Horst Bracke** - That would be a violation of

**Tim Pagones** - I think the board understands your concern but right now she put the door in there and there is a chance that it might not be storage

**Horst Bracke** - Yeah and of course all those patios were added to it was very carefully avoided

**Tim Pagones** - I guess you don't see the cove side

**Horst Bracke** - No I don't see it

**Tim Pagones** - You don't see any of that

**Horst Bracke** - So that is why I am saying that it is your responsibility to say yes or no because I am sure you went to all the other houses and there is nobody that can say anything to the south side. It is in your hands. And you would have to make the decision and you would have the responsibility towards all the Garrison rights. That's how I look at it.

**Vincent Cestone** - Okay. Anyone else wish to speak? Let's talk about the shed.

**Joan Turner** - Do you want to grant them, finish the deck situation for this.

**Vincent Cestone** - The only way I would grant it is if the steps were along the side. I am very adamant about that

**Joan Turner** - Do you, should we conclude the deck first and the move on

**Tim Pagones** - You can, there is almost two appeals. You have the shed and you have these two decks, the steps on both patios or whatever. You can take a straw poll, you can discuss what you want to do on these steps

**Joan Turner** - Does the board feel they want to make a motion on the steps now or wait until after we discuss the shed

**Vincent Cestone** - I think we should close the public hearing and then discuss it among ourselves

**Tim Pagones** - Don't close the public hearing. You can kind of take a straw poll on the steps and then you are still going to have your public hearing dealing with that shed issue. Why don't you talk about the shed it is going to be very simple I think. All right Ms. Lang, they are going to talk about your shed. What are you looking for with this shed?

**Dorothea Lang** - I had an old shed when I bought the house. It broke with a big willow tree falling upon it. There is a picture of it. It smashed it completely and I waited to, I knew that I had very pretty wood under my shingles in my old bungalow and I wanted to replace the shed with the old wood. It is tongue and groove wood. It is one inch thick. It is kind of sentimental and I wanted to fix the shed with that wood and I had to wait until the bungalow was torn down in order

to replace the shed and it is replaced on exactly the same spot where the old one was. And there were remains of cinderblocks were still there. I have still have an electric outlet that was there from before and I showed it to Ms. Turner that the outlet is still there. So it is essentially on the same corner, the same place where the other shed was. And I think it is a pretty little, cute little shed. The reason it has no windows is because I had a stop work order and the builder was going to use it to put his saw in that shed for the time being and because it had no windows he used my garage and it looks a mess because of that.

**Vincent Cestone** - How big is the shed?

**Dorothea Lang** - It's

**Vincent Cestone** - Dimensions

**Tim Pagones** - Well according to the survey

**Dorothea Lang** - The survey was done very carefully

**Tim Pagones** - 9 ½ by 7 ½

**Vincent Cestone** - and how tall?

**Dorothea Lang** - So I could just barely get in

**Vincent Cestone** - I just wanted it for the record

**Tim Pagones** - When did you buy the property

**Dorothea Lang** – 1972. I've been paying taxes since 1972

**Tim Pagones** - And the shed was there?

**Dorothea Lang** - Yes sir

**Vincent Cestone** - How long was it down

**Dorothea Lang** - It was probably down, I'm not exactly sure, but maybe 10 years. But it was down from the moment I really wanted to rebuild it and I didn't want to buy just a tin shed and I wanted a prettier shed because people told me just go to the Home Depot and buy one and that's not what my intention was. And this is why I chose the wood from the old bungalow.

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

**Bill Flaherty** - Was the original, did you ever get a certificate of occupancy for

the original shed

**Dorothea Lang** - Everything was

**Bill Flaherty** - For the original shed?

**Dorothea Lang** - It was 1972

**Bill Flaherty** - But you don't know

**Dorothea Lang** - I never lived in it

**Bill Flaherty** - I would assume that the original shed was a violation of our zoning laws

**Dorothea Lang** - It was built in 1951

**Bill Flaherty** - So it was in violation. It pre-dated our zoning laws

**Dorothea Lang** - And I know that people told me that the shed was before the houses were there. I was the first house. The neighborhood was completely empty.

**Vincent Cestone** - You should have bought all the land

**Dorothea Lang** - If I would have been there in 1951, I could have

**Bill Flaherty** - The shed, you are building the shed in exactly the same dimensions that were there previously before the tree annihilated the original shed. Is that correct?

**Dorothea Lang** - I think so. Before it broke I didn't actually measure it but I was told that this shed is smaller than the average shed that you buy from the Home Depot

**Bill Flaherty** - That's irrelevant where you get the shed

**Dorothea Lang** - The builder said he thought it was smaller than the original but there is no way for me

**Bill Flaherty** - But the shed is right on the property line

**Dorothea Lang** - Yes.

**Bill Flaherty** - On the north side property line



**Dorothea Lang** - It is away from the property.

**Bill Flaherty** - The south side I'm sorry

**Dorothea Lang** - It's 11 feet. Remember I have 75 feet for my property.

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

**Joan Turner** - Just, so the variance for the shed you have to give her the variance for the side setback and the front setback as well.

**Tim Pagones** - Yes. Is that shed on a foundation?

**Dorothea Lang** - Yes. Cinderblock

**Joan Turner** - A concrete slab or cinderblock. I thought it was concrete slab

**Dorothea Lang** - It is cinderblocks and

**Joan Turner** - Concrete slab

**Tim Pagones** - I mean can you move it back?

**Dorothea Lang** - Closer to the property line?

**Tim Pagones** - No closer to your house

**Dorothea Lang** - Well I could but it would be expensive to redo it

**Tim Pagones** - Well I don't know. Well that's what I am saying. Is it moveable?

**Dorothea Lang** - It is wood, you could just saw it off

**Tim Pagones** - I am not saying saw it up. I mean

**Dorothea Lang** - It is done in sections.

**Bill Flaherty** - It is permanently affixed to a foundation

**Dorothea Lang** - Right now. But it can be moved. Anything could be moved

**Joan Turner** - There is no point to be gained. It was an alternative option that she might have.

**Tim Pagones** - I'm just thinking if the Bracke's said to move it back

**Bill Flaherty** - If it is permanently affixed to a foundation then the shed becomes a permanent part of the property therefore it becomes assessable and you have to pay taxes on the shed. Because it is permanently affixed. Are you paying taxes on the shed

**Dorothea Lang** - I don't know. I've been paying taxes on the whole property. They've come around to look at it. They've seen it.

**Bill Flaherty** - But you don't know whether or not you are paying taxes on the shed. If you look at the assessor's records you will find that the shed is on the assessors roll therefore assessable and therefore you would be paying taxes on the shed.

**Tim Pagonos** - They'll get you if you are supposed to don't worry

**Dorothea Lang** - Oh I'm sure they will. I mean they have already raised it considerably. So I am paying taxes for a long time

**Vincent Cestone** - Any comments from the audience on the shed? Mr. Bracke

**Horst Bracke** - We bought our house and it is next to Mrs. Lang 16 years ago. And in those 16 years I didn't see the shed. I didn't see any footings. The grass was always cut in that area. So of course it is a big surprise to me that now that a shed comes out. But my main question is how far back does, I believe it is under the grandfather law, that Mrs. Lang could ask for

**Vincent Cestone** - We are not even considering that

**Horst Bracke** - Oh okay because it is gone. We never saw it.

**Vincent Cestone** - I am not even considering that myself

**Horst Bracke** - Okay. So and our problem is only that we lost one side of the house when they added and now the shed of course makes it a solid piece for us when we look out the window. So it is quite disturbing to us especially being that we know that Mrs. Lang has of course all her storage down in the basement anyway. So I don't know why that all of a sudden it comes up that she needs an extra shed.

**Vincent Cestone** - What about your shed?

**Horst Bracke** - Well I would like to have a shed because it was taken away from me to be quite honest. And I have to leave my lawn mower out in the rain and so of course I would like to have, and actually that is the reason why I asked if the grandfather law can go in because I would have had it just as much as Mrs. Lang would. Thank you very much.

**Vincent Cestone** - Any more comments from the audience? Do we wish to close the public hearing

**Joan Turner** - So moved

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

**Bill Flaherty** - Second

**Vincent Cestone** - All in favor?

**All Board Members** -- aye

**Vincent Cestone** - All opposed? Okay. I'm not

**Victor Carlson** - I don't know if we should close the public hearing yet because it's, we haven't decided on this yet.

**Vincent Cestone** - We will decide that amongst ourselves

**Victor Carlson** - And Mrs. Lang will have to put up what we give her

**Vincent Cestone** - Exactly

**Victor Carlson** - All right

**Dorothea Lang** - May I say something for the audience sake

**Vincent Cestone** - Sure

**Dorothea Lang** - My shed is 54. something away from the northern property line.

**Vincent Cestone** - I am not even concerned about that

**Dorothea Lang** - And 70 feet from their house. If I had a 50 foot property like many of them have, it would literally would be on the neighbors property. I just want to point that out for the audience

**Vincent Cestone** - Okay.

**Tim Pagones** - So you are closing the public hearing

**Vincent Cestone** - Oh yes. It's closed. And I think we should mull this over and discuss it at the next meeting

**Dorothea Lang** - Should I come back

**Vincent Cestone** - If you would like. You won't be able to say anything unless we ask you. But you are more than welcome

**Victor Carlson** - The way it looks now we have already come to a conclusion on this and I think we all know what we are going to do

**Lenny Lim** - My feeling is that the board sort of knows what we want to do.

**Vincent Cestone** - So what are you saying?

**Victor Carlson** - What about you Joan?

**Joan Turner** - I am ready to move on it.

**Vincent Cestone** - Okay. I am overruled fine.

**Bill Flaherty** - That's fine with me. Let's move

**Vincent Cestone** - Do you want to do it officially or do you just want to talk about it?

**Joan Turner** - I think my feeling was expressed clearly is that I have no problem with the deck and stairs on the south elevation going toward the cove remain as it is. The western stairs should be moved so that they run southerly. I think we are all in agreement about that. And as far as the shed is concerned, I think it is fine. I don't think it is an issue at all. I would vote in favor of the shed.

**Vincent Cestone** - Len?

**Lenny Lim** - My main concern is that she went closer to the river. I have no problem with the shed. I have no problem with the south steps either. It is the back one

**Victor Carlson** - I would like, definitely, I can't see going any further to the river. And she has to have that patio to get out the glass. She can't just go out and have nothing. And I think by law you have to have a 4 foot as you come out and then your stairs can run down. And I would like to see the side here run off instead of running out. And I think when you get down to it, the septic system is right over the top of that.

**Lenny Lim** - So Vic you want the south side steps to come along the side also. In other words both those decks have the steps come off the side instead of the front.

**Victor Carlson** - Right. And as for the shed, I see no fault with that.

**Joan Turner** - But running the steps along

**Vincent Cestone** - Let Bill go

**Joan Turner** - Oh okay

**Vincent Cestone** - What are your feelings?

**Bill Flaherty** - Well my feelings is that I would go along with the shed. I had some reservations about the shed when I first went down there to look at it. I saw Mr. Bracke there and he had some concerns about it. I think the shed is attractive and an attractive addition to the property. But the stairs remain an issue with me because I feel that it would not impose a great deal of inconvenience on your part to move those stairs to the other side. And I am speaking for myself, that's the way I feel. But nevertheless the one on the west side I would be against that. There are a couple of issues here that I don't feel are as compelling as others. But you know one of the biggest, and I have only been on the board a short time but one of the biggest problems we have comes before this board is the residents down in that area which you live. This is the third or fourth issue that I have been involved with and I am sure everyone else on this board has been dealing with these issues longer than I have, but the acrimony that is expressed by the people, your neighbors down there is unbelievable to me. You are arguing about every little thing that takes place. There is not one house or one shed and there are a lot of sheds down there, that are in accordance with any zoning laws that we have in this town. Everyone is in violation. We just denied Mrs. Albanese the right to have two sheds, she had three sheds I think, and we denied the use of two sheds. Every house down there is in violation of the zoning law and I feel that we spend entirely too much time overlooking and discussing issues that are, that should \_\_\_\_\_, it's unfortunate but and you have every right to be where you are Mrs. Lang, I am not saying you don't. You have the right to come before this board and present your case. But every time like I said we have been encumbered with these issues with that little ten house subdivision down there that is mind boggling to say the very least. And I would like to see it cease to be perfectly honest with you. But I know that is not going to happen.

**Vincent Cestone** - So my opinion is that on the two decks if they ran them longitudinally along the side of the house I don't have a problem with them. And I don't have a problem with the shed.

**Lenny Lim** - Are you set Vic? All the steps going sideways instead of straight out

**Victor Carlson** - Yep. Exactly. There is one thing I would like to mention on the

last variance there was Vinnie and I were opposed to it. And you three were for it. Now we have a new member on the board now that could change the whole thing. So it depends on how he votes on it. But as it looks now we are all thinking along the same lines.

**Joan Turner - Right**

**Vincent Cestone -** Am I correct in assuming that the board's agreeing that the stairs are to run along the side of the house they are not a problem and the deck is okay

**Joan Turner - Right**

**Lenny Lim - Yes**

**Bill Flaherty - Yes**

**Vincent Cestone -** Is that the general consensus

**Tim Pagones -** On both of them

**Vincent Cestone - Yes**

**Tim Pagones -** The one on the west is going to go towards I guess southerly

**Vincent Cestone - Right**

**Tim Pagones -** And the one on the south is going to go easterly

**Lenny Lim - Right.** You got it

**Bill Flaherty – exactly**

**Tim Pagones -** Okay. And then the shed is going to stay right where it is. I will have it ready for the 18<sup>th</sup>.

**(Everyone talking among themselves)**

**Tim Pagones -** A quick motion to

**Vincent Cestone -** You don't need a straw poll on this. We basically

**Tim Pagones -** No do a straw poll because if you take a final vote you have five days

**Vincent Cestone -** I was saying that we don't even have to take a straw poll

**Tim Pagones** - No it's in your discussions. I mean the consensus of the board was you were okay with the shed and the deck and steps were going sideways on both

**Vincent Cestone** – right

**Tim Pagones** - The 18<sup>th</sup>.

**Joan Turner** - Do we have a motion to approve this

**Vincent Cestone** - You mean a straw poll

**Joan Turner** - Straw poll

**Vincent Cestone** - No no we don't need to do a straw poll. We already gave directions

**Joan Turner** - I understand what you are talking about. Sorry

**Vincent Cestone** - Next item on the agenda Stephen Smith. Hi

**Stephen Smith** - Hi

**Vincent Cestone** - So tell us what you are here for and what the issue is

**Stephen Smith** - What we have is a client I used to work for who bought the house in 2001. We built a garage and renovated a shed that he had already on the property. Okay and then at that time we went for a permit for the garage and to renovate the shed. He asked for a survey which the survey that this gentleman was given, Mr. Hruska, at his closing was the one that they had in the file here. It matched. So it shows where it was and everything fit. Well we went on and got the COs in December and find out that in 1999 the previous owner built the shed and come to find out that the previous owner was the one who actually had his property re-surveyed and never gave anybody the proper survey. To find out that when the gentleman did sell his house that the surveys are not even. He took a chunk of property out and gave it to his other piece that he sold off which then put his shed in violation

**Vincent Cestone** - Oh I see

**Stephen Smith** - And nobody had any idea of this until two months ago when the house went up for sale and the search went in and that is when they pulled up this new survey. So we are within 2 feet of the property line. So basically what we are looking for is just a variance to allow for that because it is

**Lenny Lim - 2.6**

**Vincent Cestone -** and describe the structure. Is it on a foundation?

**Stephen Smith -** It is on concrete piers. It is up on 2 by 6 or 2 by 8 structural floor which was then converted when we insulated the floor with Styrofoam re-plywooded it and got electric in it. It has electric heat in it. It's got large windows in the walls now because it was turned into an art studio. So it let more sunlight in. So that's

**Joan Turner -** Does it have a CO for being a studio

**Stephen Smith -** Yes

**Joan Turner -** Okay

**Stephen Smith -** That was with the garage on December 6, 2002 we were given the second CO

**Bill Flaherty -** When you said took a chunk of property out, was it a subdivision?

**Stephen Smith -** Well what he had, the previous owner had the lot that is now formerly Allen's okay. I guess Freidman owned both pieces and originally you can see the two pieces on it. The two pieces here, this was the original straight line that he had. He had it straight down and this is the shed. So it was 70 something feet. And then for whatever reason he took out this piece which then brought him within 17 feet

**Bill Flaherty -** Who took out that piece

**Stephen Smith -** The previous owner Mr. Friedman

**Joan Turner -** He subdivided

**Stephen Smith -** Because this was done in

**Bill Flaherty -** Who authorized the subdivision

**Stephen Smith -** I don't know who. He owned both pieces. I believe he just gave that little piece off to his other piece of property.

**Tim Pagones -** He did a lot line realignment. Under like 10 percent you can transfer property. It's not a real subdivision. Mr. Watson's clients do it all the time.

**Vincent Cestone -** Have you made any changes to it? You said that you



**Stephen Smith** - When we renovated it. It was just a regular shed. It was 2 by 4 walls. You know regular plywood floor. And that was it. When we renovated it we put in a double French door, big glass windows, triple units you know to let the day light in so he can also look out at the wooded areas when they were in the studio working

**Tim Pagones** - Here is the CO. 18 by 24 wood frame garage and conversion of existing shed to studio. So you have a copy of the CO there

**Lenny Lim** - What's the dimensions?

**Tim Pagones** - No. It was an 18 by 24 wood frame garage and conversion of existing shed to a studio

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

**Bill Flaherty** - Is the, is it on a permanent foundation?

**Stephen Smith** - It's on concrete piers

**Bill Flaherty** - is there electric there?

**Stephen Smith** - Yes. It's got its own meter

**Bill Flaherty** - It has it's own electric meter. Is there any plumbing?

**Stephen Smith** - No

**Bill Flaherty** - No one lives in the shed?

**Stephen Smith** - It is just an art studio. The previous owner had his kiln in there, they melted glass and did all kinds of, and I guess the new owner is she is an art designer of I guess like small commercial type things and designs studios and stuff like that

**Bill Flaherty** - And you previously had a CO for this shed?

**Stephen Smith** - Yes. We had a CO. The previous owner had one

**Lenny Lim** - There is one here for the 27<sup>th</sup> of September 1999 for a shed

**Stephen Smith** - And then we got a second one in December

**Joan Turner** - I make a motion to close the public hearing

**Vincent Cestone** - Any more comments from the board? Anybody in the audience wish to speak on this? Motion to close the public hearing?

**Bill Flaherty** - So moved

**Vincent Cestone** - Second. 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** - Second.

**Vincent Cestone** - All in favor?

**All Board Members** – Aye

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

**Vincent Cestone** - Joan?

**Joan Turner** - I vote in favor

**Victor Carlson** - I vote in favor

**Bill Flaherty** - In favor

**Vincent Cestone** - And so am I

**Stephen Smith** - Thank you

**Tim Pagones** - Put it on for the 11<sup>th</sup>

**Vincent Cestone** - Review of minutes of June 6<sup>th</sup>. Are there any changes, deletions or corrections of any kind?

**Joan Turner** - Not that I saw

**Vincent Cestone** - Motion to accept the minutes as entered

**Joan Turner** - So moved

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

**All Board Members** - Aye.

**Vincent Cestone** - Now Item 5 on the agenda. I have a letter saying that they are asking for a couple of weeks until, for discussions to continue between the two parties. And I don't have a problem with that

**Joan Turner** - Me either

**Vincent Cestone** - And I don't know if we have any discussion that we wish to do on this until we hear what the outcome of their

**Tim Pagones** - Put it on for the 18<sup>th</sup>

**Vincent Cestone** - I just want to move it on to the 18<sup>th</sup>. Is that okay?

**Joan Turner** - That's fine

**Mr. Gagnon** - Why can't you folks close on this?

**Vincent Cestone** - We are closed

**Mr. Gagnon** - There is no more discussion on it?

**Vincent Cestone** - Only amongst us. We are waiting to see what happens between you and the applicants

**Mr. Gagnon** - What's to see? I told Mrs. Pielmeier I am still building it. She told me that she would be here tonight

**Joan Turner** - That's new because we've got letters saying that you were in negotiations

**Mr. Gagnon** - I've got a copy of the letter in the mail today, I don't know what their attorney is getting at but

**Joan Turner** - There was some sort of settlement that you were going to build a smaller garage

**Mr. Gagnon** - I spoke to Mrs. Pielmeier on the phone Friday afternoon and I told her I was going forward and she said fine I'll see you at the meeting

**Tim Pagones** - Still building which? The original proposal

**Mr. Gagnon** - I am going to build what my permit is for. My barn.

**Joan Turner** - And something that the property was up for sale, wasn't there another letter about the property being for sale or sold

**Mr. Gagnon** - They have all sorts of letters going out.

**Joan Turner** - So none of this is accurate

**Mr. Gagnon** - I am still building the barn. I still have the permit and I am going to start building. I don't understand why this is still open for discussion.

**Tim Pagones** - It is not open for discussion. Just among the board.

**Joan Turner** - Well that's a horse of a different color as they say up north.

**Bill Flaherty** - Well we have a letter here from Mr. Whyatt relative to this matter and in the letter he indicates that he is still discussing modification of this proposed garage

**Mr. Gagnon** - No we were not discussing anything

**Bill Flaherty** - He has told my client that he may soon enter into contract to sell the property

**Mr. Gagnon** - We had a little discussion outside, I wanted to hear what their beef was. They told me. I told them I was building it anyway and that was the end of it.

**Tim Pagones** - I guess I would suggest to the board that if you want to put it on for July 18<sup>th</sup> fine. But July 18<sup>th</sup> whether they have reached an agreement or not, their interpretation pending. What happens is, he's stayed kind of. There is an appeal pending. So whether, he wants to build. So I think in all fairness to Mr. Gagnon you should have a resolution. I mean you should put this thing, you should put this puppy to bed.

**Joan Turner** – exactly

**Tim Pagones** - On the 18<sup>th</sup> or even if you want to put it on for the 11<sup>th</sup> or whatever it is, but lets vote on it and do a resolution. So we know, whether they reach a deal or not. So I would just say this way we can tell Mr. Whyatt there is going to be no further adjournment. If you guys reach a deal, great. If not, we are going to rule on the issue and go forward then.

**Vincent Cestone** - I am ready now how about you

**Lenny Lim** - I am sort of ready. I was just confused because of the two letters that we got.

**Tim Pagones** - In all fairness to the applicants' attorney, whether he was under the impression that you guys were going to reach a deal, I don't know. But you

have the owner saying you know what I spoke to them and I am not changing it. So in fairness to the applicant and their attorney, they are not here. The owner is here and in fairness to him we've got to put this puppy to bed. So I think on the 18<sup>th</sup>, let's vote and I will do a resolution

**Vincent Cestone** - I think we should do it on the 11<sup>th</sup> so that you can have a resolution for the 18<sup>th</sup>.

**Tim Pagones** - Okay put it on for July 11<sup>th</sup> and this way you can tell me how you want to do it and I'll have a resolution the following week.

**Vincent Cestone** - Fine. Okay

**Tim Pagones** - So we will put it on for the 11<sup>th</sup>. They'll vote. Whether they vote to deny or grant it, whether they say it is commercial or not. Then on the 18<sup>th</sup> we will have the written resolution.

**Mr. Gagnon** - Okay. July 11<sup>th</sup>

**Tim Pagones** - July 11<sup>th</sup> and then July 18<sup>th</sup> for the actual resolution

**Mr. Gagnon** - July 11<sup>th</sup>

**Tim Pagones** - July 11<sup>th</sup> they are going to discuss it and take a straw poll vote

**Mr. Gagnon** - Okay. And what happens on the 18<sup>th</sup>?

**Tim Pagones** - The 18<sup>th</sup> I am going to have a resolution written up, they take a final vote. If they vote that your thing is a commercial structure, then that means your permit is revoked and then you have 30 days to sue. You can bring an Article 78.

**Mr. Gagnon** - Okay

**Tim Pagones** - But this way we can put an end to it because you are sort of in limbo.

**Mr. Gagnon** - Yes I am

**Tim Pagones** - And it is not fair to you

**Mr. Gagnon** - Thank you

**Tim Pagones** - Okay. So I will let Mr. Whyatt or let the applicants know that it is on for the 11<sup>th</sup>. We will take a vote and then we will do a resolution on the 18<sup>th</sup>.

**Bill Flaherty** - May I ask you one question? How far along are you in the construction of

**Joan Turner** - Just the excavation I believe

**Mr. Gagnon** - I am ready to start building

**Bill Flaherty** - You are ready to start. You haven't begun building

**Mr. Gagnon** - I've got everything ready. I can have somebody there tomorrow and have that foundation in and I am building

**Bill Flaherty** - You are going to continue to build

**Mr. Gagnon** - Yes I am

**Bill Flaherty** - Irrespectful of what we

**Mr. Gagnon** – absolutely. I have every right to build that barn

**Bill Flaherty** - That is kind of risky on your part

**Tim Pagones** - Well that is the chance he takes

**Mr. Gagnon** - I could care less. I have a right to build that. I am building. I have the permit.

**Lenny Lim** - You have a commercial permit

**Mr. Gagnon** - What's that

**Tim Pagones** - Well I think, this is what we are going to do. Rather than go back and forth. In fairness to the owner, the 11<sup>th</sup> we will take our vote and the 18<sup>th</sup> we have a resolution. If by some miracle you work out a deal with your neighbors, let us know. If not, the 18<sup>th</sup> you will have the resolution. If they vote in your favor, then you have nothing to worry about. If they vote against you, it is a commercial structure, then you have to do what you have to do. But at least you know it is done and you can do whatever you have to do. Take care.

**Victor Carlson** - This is an interpretation

**Tim Pagones** - You are giving an interpretation

**Lenny Lim** - An interpretation

**Tim Pagones** - And based on that interpretation Mr. Monroe is either going to

revoke his permit or let him go.

**Vincent Cestone** - Okay we have Discussion of the Garrison Highlands.

**Tim Pagones** - Yes. You never, tonight for housekeeping, this is I guess, Mr. Watson is here, it is a coordinated review with the Department of Health I believe correct? Putnam County Health and Planning. So what we need you to do tonight is declare your intent to be lead agency. We've gotten responses from the only two departments that would be involved and they have no objection to you being lead agency. So it is a formality you are going to declare your intent and then declare yourself lead agency. Mr. Watson has prepared a Part 2 and a proposed Part 3.

**(Inserting New Tape)**

**Tim Pagones** - So I guess you need to make a motion to declare yourself lead agency, declare your intent to be lead agency, and after that has passed you can actually declare yourself lead agency because we have the responses from the only two agencies and they have no objection to your being lead agency.

**Vincent Cestone** - Okay. I need a motion to declare

**Tim Pagones** - Declare your intent to be lead agency

**Joan Turner** - So moved

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

**All Board Members** - Aye.

**Tim Pagones** - All right based upon the fact that we have responses from the Department of Planning and the Department of Health, right that's what it is?

**Joan Turner** - Wetlands

**Tim Pagones** - Whatever it is. Based upon the fact that we have those two responses saying they have no objection to you being lead agency, I would now ask that you make a motion actually declaring yourself lead agency.

**Vincent Cestone** - Okay. Can I have a motion please

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

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

**Joan Turner** - Second

**Vincent Cestone - All in favor?**

**All Board Members - Aye**

**Tim Pagones - Okay.** Now that you are lead agency you are can review the Part 2 which has been prepared by the applicant and should that Part 2 have any potential large impacts, then he will prepare a Part 3 which I think he has done. Mr. Watson do you want to take them through your proposed Part 2

**Glennon Watson - Yes.** Thank you. As you know, you have already seen Part 1 of this which is basically a list of objective questions. How big is the property, where is it located, what are you going to do and that kind of stuff. Part 2 is a more subjective set of questions that you need to compare against threshold items basically is there potential for this impact as compared to threshold items and the answers are either no or yes and if it is yes they are usually potentially large or potentially small. It is a pre-printed form that comes from the State. I know you don't get to do these very often. The general category Impact of Land, I went through and I checked a construction on land where the depth to the water table is less than 3 feet. I checked that as a small to moderate impact but I did discuss it as if it were a large impact in Part 3. Will there be an effect to any unique or unusual land forms I said no. Further Impacts on Water, potentially large impact would there be construction in a designated freshwater or tidal wetland and that brings the question of the water within 3 feet to a large impact, potentially large impact. The rest of it we are not going to dredge more than, it says a hundred yards there, we are not dredging that much. We are not dredging anything. Similarly there will be an increase and a decrease in the surface of water, water body, if you go down the page the next major category is proposed action affect surface or ground water quality or quantity. And I found that to be a yes answer because the proposed action is likely to cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions. There is some construction on the site within a short distance of the pond that is on the property and if it is not done properly you will have some siltation into that pond. On page 10 of 15 the proposed action will alter drainage flows or patterns or surface water run off. I checked that as a potential yes. And again, the action is likely to cause substantial erosion again here you will be disturbing the ground and if you don't protect it properly, there is potential for that erosion. I didn't see any, I didn't think there was any impact on Air quality, and if you look at some of these examples they are talking about will the proposed action produce 1,000 or more vehicle trips in any given hour. Those kinds of thresholds we don't come anywhere near. Impacts on Plants and Animals, I say we don't reach any of those standards. Either for endangered species or non-threatened or endangered species. Impact of Agricultural Land Resources I answered no because we obviously don't have an agricultural piece of property. Impact on Aesthetic Resources I answered the question yes. And found that the proposed



land uses or project components are visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource. As you all I am sure know, Route 9D is a scenic highway and you have to be concerned about everything that would damage the view from Route 9D. The next category Impact on Historic and Archaeological Resources, I checked that yes as well. The proposed action will occur in an area designated as sensitive for archaeological sites in the New York State Inventory. Part of this process in Part 1 we wrote the State and asked them whether or not they had any suspicions that there were archaeological resources to be concerned with. They wrote back that yes and it was suggested that we refer them and we have and we will answer that. So that is a potential impact that we have to address. Impact on Open Space and Recreation I said no. Impact on Critical Environmental Areas we do not have any critical environmental areas. That does not mean that an area could not be critical to the environment, a critical environmental area is a political thing. It is a boundary as an identified piece of property and has to be \_\_\_\_\_. Impact on Transportation I said no. Impact on Energy I said no. Noise and Odor Impact I said no. Impact on Public Health I said no. Impact on Growth and Character of Community or Neighborhood I also said no. And finally is there likely to be public controversy related to potential adverse environmental impacts, and I think the answer is clearly no. Following is Part 3. Well, you have to vote on Part 2. Do you have any questions about that or any concerns that I answered them incorrectly, I will be happy to talk to you about that.

**Vincent Cestone** - Motion to adopt Part 2 as our own

**Bill Flaherty** - May I ask one question

**Glennon Watson** - Sure

**Bill Flaherty** - Did you unilaterally make these decisions on your own or did you discuss them with someone else in your organization who might

**Glennon Watson** - I probably, generally speaking I did them on my own. I mean I might have leaned over to a colleague and ask a question or two here and there but I did not sit down with someone to do it. Essentially these things are really supposed to be designed for laymen. Getting through the Environmental Assessment form is something laymen are supposed to be able to do.

**Vincent Cestone** - Can I have a motion to accept Part 2 as ours

**Joan Turner** - So moved

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

**Vincent Cestone** - All in favor

**All Board Members - Aye.**

**Vincent Cestone -** Now do we have to go on to the Part 3?

**Tim Pagonos -** You are supposed to review Part 3. This is how, Part 3 deals with how they are going to address any of the items that were checked yes and potentially large. So it lists that. I mean it is more of a narrative than just checking the boxes. So I don't know, I mean I don't like holding up the applicant but you are getting this tonight and I got this today.

**Vincent Cestone -** What I would like to do is review it and then on the 11<sup>th</sup> just if we have any questions, ask questions and then vote to adopt it as our own.

**Lenny Lim -** Okay

**Vincent Cestone -** I don't think the board wants to sit here while you read through the whole thing

**Glennon Watson -** I don't disagree with that but if you give me a few minutes to go through the points of it so that you understand where I am coming from I think it will make your understanding of it easier. You have voted, you took a straw poll directing a positive response so I would like to get that cleaned up obviously you have to do this first. I hope you would be prepared to vote on this and perhaps Mr. Pagonos would have a resolution on the 11<sup>th</sup> that we

**Lenny Lim -** Didn't you just say you wanted to review it first?

**Tim Pagonos -** He is just going to go through it. Rather than have you just read it and not understanding something he is going to go through the points and then you are going to look at it and then on the 11<sup>th</sup> if there are no changes, you can either come back, we can put it on for the 11<sup>th</sup> and if there are changes, they would modify the Part 3. Because you are going to adopt this as your own. So if you think there should be something else that should be added, you let the applicant know, they add it and then you adopt it. If there are no changes, I mean I can try and have a resolution for the 11<sup>th</sup>, certainly if it is not the 11<sup>th</sup>, and you vote and you adopt this and you vote to grant the special use permit and neg dec, you have your resolution for the 18<sup>th</sup>. But the very least, why don't we have Mr. Watson go through and he can talk about the

**Vincent Cestone -** okay

**Glennon Watson -** Well essentially we are talking about those impacts that were identified in Part 2 and I've got a little bit of discussion on each one. If you look at Page 1, Page 1 is an introduction and background. It just gives you history and it is supposed to be strictly factual matters. SEQRA Processing I usually

identify a statement of how we got to the point where you are the lead agency and just again more history but goes specifically to SEQRA. And then I list, re-list the impacts just to sort of concentrate on them. That's on the bottom of page 2. On page 3 I discuss construction on where the depth to the water tables is less than 3 feet and those potential impacts relating to interference into the ground water, you know digging the drainage system, the possibility of you know, the reconstruction of the driveway where you could be excavating. Anything where you are digging into areas. And that whole area is in the wetland or in the wetland buffer and you are very likely to hit land, water within 3 feet of the surface. Well the driveways if you look at the plans, I am just synopsising, the driveways if you look at them, they are basically in fill. They are for the most part they are fill with a little bit of grading that is not going to get down 3 feet. The installation of landscaping obviously when you pick the landscaping you have to select the plants and we have agreed with the wetlands committee that we would consult with the wetlands inspector on the proper selection of plants that would be appropriate for that area. Installation of the drainage system I am going to skip over that but basically I readdress that a little later on when I talk about siltation. And installation of the storm water quality basins again I think I actually made the suggestion that the resolution, the mitigations here somewhere in there, if you are digging this thing in the ground water and one of the back hoes bursts a hose, you want to be prepared to deal with that. So there really should be, before the water gets away

**Tim Pagones** - You had said you wanted a what is it

**Glennon Watson** - Spill kit

**Tim Pagones** - Spill kit right

**Glennon Watson** - Spill kit on site. I am suggesting that that be a requirement in your resolution that a spill kit be kept on site in order to contain it if that sort of thing happens. Impact on water, again we really have the same impacts, it really is a repeat. We have the same things, when you are constructing the driveway you could have some erosion same thing with the landscaping and the drainage systems. The drainage system here we've got an erosion control plan we talk about where you are going to install an erosion control \_\_\_\_\_ before and after. We, there is a position that I've taken in here that what we are doing with regard to constructing the parking lots is really controlling that growth because what you have now is, as I call it adhoc parking, parking is on adhoc basis down there. Basically people come in and pull off the edge of the road and park anywhere they want. There is no edge to the lawn. Grass gets worn away. That causes erosion. This will correct that situation. And the drainage system that we are installing will carry the water off the parking lot to a place where the water can be treated before it goes into the pond. So ultimately I think we will improve that situation. Aesthetic resources is simply what I said before. You have views from Route 9D in the appendences you will see two photographs that were taken that

show the view and then same photograph which is photo enhanced to show the proposed buildings. I just call your attention to the fact that in a discussion the landscaping is not superimposed into these photographs so you are getting a bare view, worst case situation. With the landscaping we discussed that, as being further mitigations. And finally the impacts on historic and archaeological resources you will find that this is merely more history but you will find in the back of there that we did have an archaeologist come out and he did do a Phase 1 study and he has written a letter stating that he has found nothing and recommends no further work. He is an archaeologist recognized by the State. He is on their list of approved people. On the 11<sup>th</sup> I will have the Phase 1 report complete but I do have the letter and ultimately I conclude that what the plan has incorporated was those mitigations. And those mitigations have been incorporated into the plan so that you will be comfortable with those impacts that you will be able to give us a negative declaration.

**Vincent Cestone** - Very good. Thank you very much. Any old business? Kim, this is Jeffery and Nancy Lerch

**Tim Pagones** - They will be on for completeness on the 11<sup>th</sup>

**Kim Shewmaker** - I didn't want to mail it to you

**Vincent Cestone** - It just came in

**Joan Turner** - There is a question in the back

**Vincent Cestone** - Yes

**Mike Kelly** - Can you tell me how tall the tower is up there

**Vincent Cestone** - I think it is 110

**Mike Kelly** - And when is Nextel on

**Tim Pagones** - The 18th

**Zshawn Sullivan** - First of all I would like to ask about Coopers. I spoke to Tom Monroe today and he said he was going to be here tonight

**Vincent Cestone** - We haven't heard anything about the lawsuit

**Joan Turner** - Has there been another lawsuit filed?

**Tim Pagones** - The last I know the parties were still trying to negotiate and work out

**Joan Turner** - A compromise

**Tim Pagones** - I think the board just basically said you know what lower the structure and reduce the square footage. And I know it is still in litigation I don't even know which Judge it is in front of now since Hickman has retired but that litigation is still pending

**Zshawn Sullivan** - He didn't drop the Article 78

**Tim Pagones** - Not that I am aware of. I mean I haven't heard anything yet. Mr. Goldsand didn't, unless he contacted the Town Board, usually he notifies the Town Board and the Town Board sends us a letter saying here this is what has happened. But I believe nothing is going to be dropped unless they reach a resolution. As far as I know litigation is still pending. I don't think the Judge has ruled on anything yet. I think they are still trying to settle.

**Zshawn Sullivan** - Does the board settle it

**Tim Pagones** - Well no what happens is the Town, the applicants if they can reach a resolution

**Joan Turner** - Some sort of compromise

**Tim Pagones** - But I think the last position from the board was and I think Mr. Mazzuca was at the meeting was the square footage has got to be below the 2,000 square feet

**Vincent Cestone** - Because it is over 3 now

**Zshawn Sullivan** - More than that because of that floor space

**Vincent Cestone** - We know

**Zshawn Sullivan** - Secondly, I would like to comment on a meeting March 7<sup>th</sup> and I wasn't at that meeting and I understand by reading the minutes on the website that in the older new business whenever you would discuss it there was conversation about Doyle's property and there were some things said at that meeting that I guess Tom Monroe was at that meeting and at that meeting it was discussed by Tom Monroe and Doyle's builder was here

**Joan Turner** - Brennan

**Zshawn Sullivan** - Brennan and there was some discussion about you know changing windows and what should come back before the zoning board and what should you know be up to the building inspector to make decisions on and I personally don't have a problem with Doyle's house, it looks very nice on the lot.

You look at it from the road, you look at it from the river it is a beautiful little house not intrusive in any way. But in those minutes you talked about Tom Monroe making the decision on going from a crawl space to a full basement. And I don't want to step on his toes or be another thorn in the lion's paw but I think that the Town Board appointed five members to this zoning board because five heads are always better than one. And in giving Mr. Monroe the carte blanche of saying well that doesn't affect the variance. Well if you knew that Mr. Doyle was going to build a full basement, would you have given him

**Joan Turner** - Exactly

**Zshawn Sullivan** - Would you have given him a utilities space in the first floor and the second floor and let him add on 4 feet to the house and have a breezeway between that and the garage. So whether or not Mr. Monroe feels it makes a difference or it makes him feel good that he has carte blanche on saying it is okay, the Town Board appointed five members for a reason okay. And he has no right to say that a basement just because it doesn't affect the space that is built it may have affected your decision on the space that was above ground

**Vincent Cestone** - And that is why we changed our resolution to say with zoning board approval only.

**Zshawn Sullivan** - Okay. I mean Mr. Monroe makes a statement in here that there are issues that shouldn't even concern the zoning board

**Tim Pagones** - Which is true

**Zshawn Sullivan** - I'm sorry they do concern the zoning board

**Tim Pagones** - Well I think Mr. Monroe was saying that the way the resolution used to read was any changes to the plan had to come back to the zoning board. And I think what Mr. Monroe was saying if he changes a single window to a double window, something like that, doesn't affect the zoning board. And I agree with you as far as the basement and I think one of the things that the board had guided Mr. Monroe was anything that affects any of the variances, if it is going to be higher and certainly with the basement I agree with you, but if someone is putting a sliding door instead of French doors does that have to come back to the zoning board.

**Joan Turner** - Certainly notification by a letter to the zoning board

**Tim Pagones** - But I don't want you to think that the board, the board is not going giving Mr. Monroe carte blanche

**Vincent Cestone** - Not any more

**Tim Pagones** - And if he thinks that

**Zshawn Sullivan** - I will go back and read the minutes. The minutes are not always available in a timely fashion on the website so I will know what other minutes pertain to that. According to this, I mean, Mr. Lim talks about you are trying to walk a fine line about changing a window, he doesn't have a problem with that. But major structural changes, a roof going higher, or even a basement, that makes a difference.

**Vincent Cestone** - Yeah, he used to play the game with the average height of the roof

**Zshawn Sullivan** - They also didn't have it in their plans that they were having a full basement and now they did and obviously it was a thought from the beginning is what I am saying. And it was portrayed that they were having a crawl space and just because it is as cheap to put in waterproofing to a 6' 10 basement as a 5' 4 crawl space doesn't make it right or doesn't make it necessarily an automatic approval by you guys and I would like to take note with something that Mr. Pagones said and in, on page 34 it is about 5/6 down the page. He says I mean down there where the Hatfields and McCoys are

**Tim Pagones** - Do you dispute that?

**Zshawn Sullivan** - You know what sir, that might be your personal opinion and that is fine

**Tim Pagones** - Okay I should have said the Braches, the Sparacios, the Langs, the Schlichs, I should have named you by reference. You people, you're right, I'm not going to get into it.

**Joan Turner** - I think she is interpreting it as an insult

**Zshawn Sullivan** - I am definitely interpreting it as in insult. I built a house down there. There was not one when I built my house, I didn't change one window. I didn't go back to anybody, none of my neighbors complained, I built my house exactly as I turned in the plans to be built. There was no arguments whatsoever. Some of the arguments that have been created in front of the zoning board have been self-induced because it had been allowed to nickel and dime the Brackes for six years to get their house built. Okay. Quite honestly that never should have happened. And a lot of you weren't on the board at that time. I understand that. But you also have to understand the history that it was allowed to happen from the beginning and it never should have happened. So it is not, all of us are the Hatfields and McCoys and I take, I do feel insulted when that is made a public statement in a public record that everyone, it is putting all of us down there into one category and I think, I think I deserve an apology

**Tim Pagones** - I am not going to apologize because you know what the Hatfields and the McCoys are two people

**Zshawn Sullivan** - Sir I am from West Virginia. You don't have to tell me about the Hatfields and McCoys

**Vincent Cestone** - I will apologize for the Zoning Board and it should have never been said, I agree with you.

**Ande Merante** - The hearing on Gagnon. He seems adamant that he is going to go ahead and built it. Is that application not on hold

**Vincent Cestone** - It is on hold

**Ande Merante** - The way he is talking it sounds like

**Joan Turner** - What do you mean on hold Ande I don't I understand you

**Ande Merante** - Well he came, the applicants came here for an interpretation.

**Joan Turner** - Right

**Ande Merante** - And you have been debating now for a while. The way he is talking it sounds like that he has a valid building permit and he can go ahead and do it.

**Vincent Cestone** - Mr. Monroe has told me that he has him in a hold

**Tim Pagones** - The permit is stayed pending the interpretation. What I think he is feeling is that the neighbors are asking for an adjournment, an adjournment and adjournment and he is stayed. So in all fairness to him,

**Vincent Cestone** - Right, currently he is stayed

**Ande Merante** - What I am saying is that at this moment that building permit has been stayed

**Vincent Cestone** - Right

**Tim Pagones** - Should be stayed pending the interpretation

**Ande Merante** - He can't go out and start building tomorrow

**Joan Turner** - No. He has to wait until we vote.

**Vincent Cestone** - Yes Ms. Lang



**Dorothea Lang** - Thank you. I didn't realize that you were meeting on the 11<sup>th</sup> of July.

**Vincent Cestone** - Yes

**Dorothea Lang** - My hearing is going to be on the 18<sup>th</sup>. Is it possible to get it on the 11<sup>th</sup>

**Vincent Cestone** - I believe it is on the 11<sup>th</sup> already

**Tim Pagones** - It is on the 18<sup>th</sup> so I can get the minutes and the get it done

**Dorothea Lang** - Somebody said 18<sup>th</sup>

**Tim Pagones** - Your resolution is on for the 18<sup>th</sup>. I can call Mr. Monroe and let him know what has occurred. But I need to get the minutes and go over the resolution that's the problem

**Dorothea Lang** - Oh I see

**Tim Pagones** - But I just don't want to be in a position where we come the 11<sup>th</sup> and I didn't finish it and now it is adjourned. At least I have the other week.

**Dorothea Lang** - That's fine

**Tim Pagones** - I will let Mr. Monroe know what the vote was with the board

**Vincent Cestone** - All righty if there are no other questions, motion to adjourn

**Joan Turner** - So moved

**Vincent Cestone** - 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:** 7/11/05

Respectfully submitted,

Kim Shewmaker  
Secretary