

# ZONING BOARD OF APPEALS

May 16, 2005

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, May 16, 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
<b>ABSENT:</b>	Tim Pagones	-	Counsel

**Vincent Cestone** - If anybody is here to hear the reading of the Resolutions, we are not going to do those tonight because our attorney is not here. And he is the one that usually brings them with him so we are not going to address any resolutions tonight. First item on the agenda is General Dynamics Network Services. Someone here to speak for the applicant?

**Neil Alexander** - Yes. Good evening Chairman and members of the Board. My name is Neil Alexander and I am a partner in the law firm of Cuddy & Feder. I am here tonight on the behalf of General Dynamics

**Vincent Cestone** - Could you speak up

**Neil Alexander** - I'm sorry. I apologize. As I was leaning over to hand her my card I didn't want to scream during it. My name is Neil Alexander and I am a partner in the law firm of Cuddy & Feder. We know you are very familiar with this mono-pine. It is 110 feet tall on 1924 Route 9. You've looked at it several times. The first one was Sprint approved at 107 feet and Verizon was approved at 97 feet and more recently Cingular was approved at I believe 87 feet. Nextel is looking to go at 67 feet on its co-location and we have been in front of the Planning Board and they have asked for some additional materials. You should have received a letter from them from March 11<sup>th</sup> basically saying that they have no outstanding concerns and we are back here in front of you seeking our approval this evening.

**Vincent Cestone** - Okay. There is a lot of issues with this monopole. Right now

several of the other people who have located on it are trying to bring the facility up to the Planning Board's standards so they haven't completed their installation is what I am saying.

**Neil Alexander - Okay**

**Vincent Cestone -** So that is going to affect, that's going to affect this installation if they are not done by the time that we close the public hearing because we want to make sure that they finish the landscaping. Finish putting in the Planning Board's recommendations from the previous ones

**Neil Alexander - Right**

**Vincent Cestone -** And do some repairs on the monopole. Because the monopole branches are starting to fall off

**Neil Alexander - Okay.** Understood on the branch issue. Let's come back to that, let's see if you have any other concerns.

**Vincent Cestone -** Oh absolutely. We will continue this right now. But we haven't even gotten our review by our consultant back yet. So until we get that we can't make the final decision on this application anyway.

**Neil Alexander -** Understood. And without your attorney here tonight, I didn't think you would do more than close the public hearing and that's what we were hoping to accomplish here this evening.

**Vincent Cestone -** We probably won't close the public hearing. We will continue it. What we will do is we will ask the board if they have any questions and then we will open it up to the audience. You can do a presentation if you want.

**Neil Alexander -** I don't know if anyone from the public is even here for this

**Vincent Cestone -** Yes there is

**Neil Alexander -** Oh okay. Then I will gladly do a presentation. I wasn't sure seeing this was the fourth time around. Let me put some boards up.

**Vincent Cestone - Okay**

**Neil Alexander -** If you are here for this and want to come up closer, I can direct it more towards you if that would help. If you want to stay where you are, that's fine as well. I am not trying to single you out by any stretch. Essentially here is Route 9, you come into the existing gravel drive, there is an existing access drive, an existing fence compound. Nextel's base is proposed at grade. 10 foot by 20 foot equipment shelter and it will be surrounded by a combination of

\_\_\_\_\_ and \_\_\_\_\_ trees of varying height with a minimum of 8 foot. Those other two carriers put their equipment carriers on concrete so the visual impacts of that would be completely neutralized. The existing structure is as stated before is 110 foot tall monopine and minimizing the notion of having a tower in the area, this has been up for several years and as I said is 110 feet tall. At the 107 foot level you have Sprint's existing antennas. Then you drop down to 97 and you have Voice Stream and 77 you have Verizon I believe Cingular was recently approved by this board at 87 feet. Nextel is going at the bottom of the barrel so to speak at 67 feet. It is installed so the antennas would be hidden by the branches. There are 6 antennas. And that is the essence of the installation. There is no change to the access in any shape or fashion. There is one light proposed with it which is motion sensitive and only goes off in that situation so there is no glare or night lighting associated with it. That is the proposal.

**Vincent Cestone** - Why is the structure so big? 10 by 20?

**Neil Alexander** - Basically you have to put all the equipment inside. And then you have to be able to walk around it. That's the essence of it.

**Vincent Cestone** - But you know some of the other carriers, Sprint specifically, they just have a little cabinet that they mount on the wall. On a pole.

**Neil Alexander** - That is an extremely rare situation. A couple of places they have done that in the Northeast where they put in a cabinet hooked up to a site. Most of the standard installation is a concrete pad or a shelter. A concrete pad, the reason the footprint is smaller is because it is all externalized and the equipment is exposed to the elements and you can walk around the outside of the concrete pad. The shelter, you are preventing and protecting it from the elements as you need to walk around inside plus give them \_\_\_\_\_.

**Vincent Cestone** - Does Nextel have smaller structures?

**Neil Alexander** - My experience with Nextel over the past several years is this is their means of doing this. From personal statement I've never experienced where they have done it otherwise. I can find out

**Vincent Cestone** - Would you please.

**Victor Carlson** - I have one question.

**Neil Alexander** - I have Yvonne Joseph who is the radio frequency engineer with Nextel discuss that.

**Yvonne Joseph** - My name is Yvonne Joseph and I am a radio frequency engineer. The technology and equipment that Nextel uses is different than some of the other carriers. And what is provided to us from the vendor which is

Motorola tends to be larger than some of the newer equipment from Cingular or T-Mobile. The minimum requirement of 10 by 20 structure to be able to access all the radio cabinets and all the back up power and all the communication facilities inside of the cabinet. That's pretty much the standard. Anything smaller would prevent us from being able to expend the site in the future.

**Vincent Cestone** - So what you are saying is that Nextel doesn't make a smaller structure. Is that what you are saying? In your knowledge?

**Yvonne Joseph** - We actually don't make the shelters we purchase the shelters. And this is the size that is needed for our equipment in order to handle our capacity and our technology.

**Vincent Cestone** - So Nextel never uses a smaller shelter?

**Yvonne Joseph** - I've not come across that. I haven't designed any. Not in this general area. In an area like Manhattan where they may not be covering as much, might not need as much,

**Vincent Cestone** - They put them in the basement

**Yvonne Joseph** - They put them in the basement but they use smaller radios because they are only covering a couple of blocks. Our sites use larger radios because they are covering a larger area.

**Vincent Cestone** - Right.

**Neil Alexander** - Another aspect just to give reference to the board, and it is note worthy, our area is an expansion area but when we create the other area for another carrier, what you are looking at here is the trees for five carriers which the pole is designed for. So really if you are assuming and this is the way your law is written forcing everyone to co-locate, you are going to have 5 carriers on this pole.

**Vincent Cestone** - Right

**Neil Alexander** - So we are really not creating any additional major additional area if you think about it when the future person who is going to go in here anyway in order to have our facility in our standard way

**Vincent Cestone** - So what you are saying is you are not expanding to an enclosed area

**Neil Alexander** - Right. Any more than it would have to be for when this future carrier goes in.

**Victor Carlson** - How many carriers are there

**Neil Alexander** - Right now, it is designed for five.

**Victor Carlson** - How many shelters

**Neil Alexander** - I think you have a shelter out there in this, I think the only shelter you have out there is for Verizon is that correct? Everyone else is on cabinets. Two of the carriers are on equipment cabinets on concrete pads. And one of the carriers that is out there is

**Vincent Cestone** - Why is that?

**Yvonne Joseph** - Different vendors

**Neil Alexander** - Yeah. Different manufacturers handle it different ways and different carriers up-grade at different rates and different iterations of up-grades allow you to get to different levels of tolerance from heat and elements.

**Vincent Cestone** - Because now you are probably going to have to set air conditioning right?

**Neil Alexander** - I believe it does have, it is built into the shelter.

**Vincent Cestone** - Because if you had cabinets on the outside you don't need air conditioning.

**Neil Alexander** - Actually they are self air conditioned. They have fans built

**Vincent Cestone** - But you don't hear the Freon compressor going off because this is in a residential neighborhood. With the concern that it is a residential neighborhood

**Neil Alexander** - Has someone raised,

**Joan Turner** - Yes

**Neil Alexander** - Can I just. I just want to finish the question. Has someone raised a specific question from their experience in your building department and received a complaint in the past several years with regard to Verizon's installation?

**Vincent Cestone** - Absolutely

**Neil Alexander** - I just wanted to understand where the question is coming from

**Vincent Cestone** - And they are in the process of being investigated. They may even be cited for it.

**Neil Alexander** - Philipstown has an express noise ordinance

**Vincent Cestone** - Excuse me

**Neil Alexander** - Does Philipstown have an express noise ordinance or does it defer back to the State's noise ordinance?

**Vincent Cestone** - We have it

**Neil Alexander** - You have your own. We can get you the specs to show you that even with the shelter we will conform to your local noise ordinance

**Vincent Cestone** - Well what I want you to do when you come back, see if you can get a small shelter and as far as air conditioning is concerned, if it requires air conditioning I want you to demonstrate that this is going to be a quite air conditioner and not affect the neighbors because you are so close

**Neil Alexander** - Right. And what I will gladly do is prove that we are going to comply with your local noise ordinance.

**Vincent Cestone** - I am looking for more than that

**Neil Alexander** - But you know, I hear what you are saying but that's really what is incumbent upon us isn't it?

**Vincent Cestone** - Excuse me

**Neil Alexander** - Is that what is what is incumbent on us? If a neighbor next door can do activities, it has to comply with the local noise ordinance. So should we, correct?

**Vincent Cestone** - I am not going to argue the point. What I am telling you is that there are ways of having air conditioning in there and it doesn't affect the neighbors. I don't care if you affect the people that own the property. I don't want you to affect the neighbors around the property.

**Neil Alexander** - Which is how your noise ordinance is going to be standardized. It is going to say at the property line it is not going to exceed a certain amount

**Vincent Cestone** - You put the air conditioner on the back of the structure that sought of thing. Are there any more questions from the board? Anyone from the audience wish to speak?

**Mike Kelly** - Give me one good reason why I as an adjacent property owner living in a residential property have to listen to your commercial grade air conditioner cooling your commercial communications facility located on residential property. Tell me why I have to listen to your air conditioning units?

**Neil Alexander** - All questions go to the Chair. Would you like to answer the question so we don't

**Vincent Cestone** - Just address the question for him.

**Neil Alexander** - Yeah but I don't think that is the pertinent standard. I think the standard is you have to comply with the

**Mike Kelly** - The pertinent standard is you are putting your commercial telecommunications trailer in the middle of a residential neighborhood. You are going to affect the ability of me utilizing my property and you've got to give me a justifiable reason why you can do that.

**Neil Alexander** - I can understand it is a sensitive issue and we are going to comply with the code.

**Vincent Cestone** - And I am telling you that I want you to do better

**Neil Alexander** - I hear what you are saying. It is very clear. I hear you

**Vincent Cestone** - I want you to do better. Because of the fact that it is a residential neighborhood. Philipstown was sued on this installation because we denied this, we are going to enforce it.

**Neil Alexander** - And that is why I have already agreed. We are on the same page

**Vincent Cestone** - Okay

**Neil Alexander** - We are not talking any differently

**Vincent Cestone** - Okay. Any other questions?

**David Brower** - David Brower, Philipstown Town Board. I think the thing that is surprising to everybody is that these newer installations that you are putting in and if you have back up power in them. That has never been discussed at any of these meetings before. Like what was said, normally you are putting in cabinets and everything else now all of a sudden there are two large buildings there that have back up generators in them. Now what preparations are made for fuel spillage and other things involved in that? Because there is another noise issue, how much noise do they make if they turn on?

**Neil Alexander** - Right. Which again this all \_\_\_\_\_, I can get you some information on the generators, councilman. But it \_\_\_\_\_. By being in a shelter you are able to control the acoustical aspects much greater and being able to mitigate them. But I don't believe there is a generator being proposed at this

**David Brower** - But what is the back up power

**Neil Alexander** - It is a battery back up power to my understanding

**David Brower** - Battery?

**Neil Alexander** - It's a gel battery and it is a four hour

**Yvonne Joseph** - It allows the facility to operate between 2 hours of non usage.

**David Brower** - Because the other building that was placed up there I believe we saw a stack coming out of it so we are thinking that it is a diesel generator in there.

**Vincent Cestone** - Right.

**David Brower** - but there still is a noise issue with the outside air conditioning units.

**Neil Alexander** - I understand. I understand. I understand. But you also have to understand that you can't paint all the carriers with the same brush. You can't assume, let me just say it for the public, I'm not saying it to you as much, Verizon put an installation in several years ago. The standard, state of the art at that time may be different than the state of the art is now. As a result, the installation, that's why I've agreed to provide documentation to comply with the noise ordinance that exists locally. And I think it is important that just because one carrier in the industry acted a certain way, you have to give each one the opportunity to act the way they are going to act. It substantiates to and the board that we are complying.

**Vincent Cestone** - Verizon is a new installation by the way.

**Neil Alexander** - Okay. I can't, I'm not their counsel, I can't tell you why they did what they did

**Vincent Cestone** - I am not asking you to. I am not asking you to.

**David Brower** - You have to realize what is happening here with these cell towers. Everybody is coming in piecemeal one after the other and everybody is

a little bit different. When you add it all up, it's a pain in the neck. That's what it comes down to.

**Vincent Cestone - Mr. Kelly?**

**Mike Kelly -** Can I ask you a question regarding this storage. I think there are several different sites I know that Sprint does not currently use any type of trailer. I know that AT&T does not currently use any kind of trailer. T-Mobile doesn't use any kind of trailer. X-Satellite Radio doesn't use any type of trailer. Why can't you come up with an exterior storage carrier cabinet like these other companies, put it on a 4 x 5 or 4 x 9 piece of concrete this way we don't have to look at another brown building sticking up there in the middle of the field.

**Vincent Cestone -** Will you check to see if they offer that?

**Neil Alexander -** Do what?

**Vincent Cestone -** If it was one of the other cell towers out in the middle of a commercial district, I don't think we would be having this discussion.

**Neil Alexander -** I understand the past history and the sensitivity

**Vincent Cestone -** Okay

**Neil Alexander -** I hear you

**Vincent Cestone -** Because we may even ask you to not use a big steel shed. We may ask you to build something more attractive. But if you can in a situation get a smaller shed or cabinets that are mounted on a pole

**Neil Alexander -** My guess is that if I can't make the bridge higher, I can lower the river too is another aspect

**Vincent Cestone -** Yes exactly. Any more questions from the audience? Ma'am introduce yourself.

**Karen Southard -** Karen Southard from Garrison. I would just like to know would there be any impact a couple of years down the road because Nextel and Sprint are merging and the merger is expected to consummate sometime in September or October and they use two separate technologies EMA and \_\_\_\_\_. And at one point I guess you guys were considering switching over your technology. I mean if they go to CDMA would this structure be required?

**Neil Alexander -** Yes. It will still be required. The FCC even \_\_\_\_\_ and it sounds like you are very well informed. Check the FCC's website and you will see that with the Cingular AT&T merger both licenses will \_\_\_\_\_ and both

frequencies are being used by the carriers. So we would anticipate while we are not the FCC and so forth but we would anticipate that the past would inform the future as far how they handle themselves with both licenses.

**Karen Southard** - So if you switched, if Nextel switched over to the CDMA technology a couple of years down the road, then there wouldn't be any reason to shrink this thing or take it down and install something similar to Sprint?

**Vincent Cestone** - In the Code ma'am it says that if a facility become obsolete we take a bond, that if they don't take it down, the Town takes it down with their money

**Karen Southard** - Okay

**Vincent Cestone** - Any other questions from the audience or the board? With that we will continue it on

**Neil Alexander** - I have a couple of quick questions

**Vincent Cestone** - Sure

**Neil Alexander** - Because I was caught a little

**Vincent Cestone** - Go ahead

**Neil Alexander** - On the branches, can you just tell me a little more about what is going on with the other carriers?

**Vincent Cestone** - What is happening is that carriers always want to put the antennas on the outside of the canopy. We require that the antennas be mounted on the inside of the canopy to camouflage it for the residents. Several of the applicants did it anyway and during heavy wind storms the branches are blowing off. Sometimes making it as far as the neighbors' properties. So the Town, the owner of the tower which is Sprint has to do an engineering study every year. We are looking at the engineering study to see if they looked at the branches. And why are they decomposing. Maybe they need to be replaced.

**Neil Alexander** - Now as far as from a process standpoint, what you are saying, you are still processing this application to completion it is just that we are going to have a built in, we are going to have a \_\_\_\_\_ of the building permit process if for some reason

**Vincent Cestone** - That's right. That's exactly the point. Because we won't issue the building permit until that \_\_\_\_\_ is broken.

**Neil Alexander** - And similarly with the planting. It hasn't been to your

satisfaction.

**Vincent Cestone** - That's correct. The planning board did a site plan and did a lot of work on this and it wasn't completed by the previous applicant. So we don't want to process your application until that applicant does what they contracted with us to do.

**Neil Alexander** - Now I assume that if an unreasonable amount of time goes on where they other person is not complying

**Vincent Cestone** - We will cite them

**Neil Alexander** - You will cite them and finish the process

**Vincent Cestone** - We will cite them and turn them off. And that is usually the motivation for them to finish

**Neil Alexander** - Right. I just don't want them to make that part of their business plan. So at a reasonable point you will switch and finish us out if they are not playing right

**Vincent Cestone** - I can't give you any guarantees because

**Neil Alexander** - I understand

**Vincent Cestone** - But the carriers are generally, when we threaten to turn them off, usually do things very very quickly.

**Neil Alexander** - Something like walking softly and carrying a big stick right

**Vincent Cestone** - Well we don't like to do it but something

**Joan Turner** - Maybe a big branch

**Vincent Cestone** - Okay. June 6<sup>th</sup>.

**Neil Alexander** - If in the interim your consultant

**Vincent Cestone** - Have you been contacted by our consultant?

**Neil Alexander** - I haven't heard from Mr. Comi

**Vincent Cestone** - I will give him a call and you are more than welcome to give him a call

**Neil Alexander** - Then I will definitely will. If you authorize me to, then I will call.

**Vincent Cestone** - Because we won't complete this until Mr. Comi comes back with his recommendations.

**Neil Alexander** - Thank you very much. Have a good evening

**Vincent Cestone** - You too. Next item on the agenda is Matthew A. Noviello on behalf of Joseph Tuana

**Matthew Noviello** - Matt Noviello.

**Vincent Cestone** - Please tell us what you are here for and what you are asking for

**Matthew Noviello** - What we have is, Joe Tuana purchased a piece of property which was previously subdivided by deed. And at the time of the subdivision it was reviewed by the Town's Code Enforcement Department and I had prepared a survey map showing the area and showing the proposed subdivision and none of us realized that the one shed building would end up too close to the property line.

**Vincent Cestone** - Okay

**Matthew Noviello** - So subsequently when the property was sold to Joe Tuana he went to get a building permit and at that time it was noticed that the shed building is too close to the side property line.

**Vincent Cestone** - Okay

**Matthew Noviello** - Now Mr. Tuana acted properly to seek a variance to allow the building to stay there and not be torn down or moved or any other solution like that. We looked at any alternative of trying to adjust the property lines to relieve the deficiency and there is no way to keep the lots because you need road access. And the road access for the neighboring lot is the part of the lot that makes it too close to the line

**Vincent Cestone** - And how much variance are you asking for?

**Matthew Noviello** - We have 19.8 feet and I believe your code requires 30 if I am correct.

**Vincent Cestone** - That's an R-80 district

**Matthew Noviello** - Yes. The item labeled framed shed on the center bottom portion of the map is too close to the lot.

**Vincent Cestone** - This shed has electricity and heat?

**Matthew Noviello** - I believe it does. I'm not even sure

**Vincent Cestone** - So it is actually an auxiliary building and not a shed

**Matthew Noviello** – okay

**Vincent Cestone** - And what kind of foundation is it on?

**Matthew Noviello** - I think it slab on grade

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

**Bill Flaherty** - Yeah well I have some questions. Mr. Whyatt road a letter back in February about this matter and went into great detail about the variances that are needed.

**Matthew Noviello** - Variances?

**Bill Flaherty** - Not a variance sorry. About the property lines themselves and how they could be reconfigured in some way to maybe accommodate. More importantly than that there is a dispute in this property I understand

**Matthew Noviello** - No that is not correct. There is no dispute between the property line that we are talking about or the property that these two involve. There is no dispute there

**Bill Flaherty** - I am talking about Mr. Sorenson

**Matthew Noviello** - I don't know a Mr. Sorenson.

**Thomas Whyatt** - Ms. Sorenson

**Bill Flaherty** - There is a dispute between parties, the applicant and Ms. Sorenson?

**Matthew Noviello** - That is another property. That has nothing to do with this

**Bill Flaherty** - It is my understanding from Mr. Whyatt's letter that if they came to an agreement, that this issue relative to granting a variance would not be necessary

**Matthew Noviello** - That is totally not true. That is totally untrue.

**Bill Flaherty** - Well I am just paraphrasing the letter that Mr. Whyatt wrote to us

back in February of this year. And my point is simply this, that if some sort of an agreement could be made between the parties that would negate the necessity of our issuing a variance on the property

**Matthew Noviello** - This is Old Albany Post Road over here. The lot that is labeled 49 is owned by Ms. Sorenson. The property lines for that lot are up here. What we are talking about is over here. This property line is affected by this lot and this lot and it has nothing to do with the lot owned by Sorenson. The area that is in dispute between Sorenson and another owner is over here. It has nothing to do with this. It is just smoke

**Bill Flaherty** - Is that all it is

**Matthew Noviello** - Yes

**Joan Turner** - Well that might be smoke but the question I have about the subdivision, are you finished Bill? I'm sorry, I'll let you finish

**Bill Flaherty** - Well I would just like to read that for the reason discussed above we thus respectfully suggest that your board may wish to defer decision on this until the parties have resolved the boundary line dispute involving the boundaries of at least four of the six lots in the subdivision including the lot for which the variance is requested.

**Matthew Noviello** - Okay. And I am here to tell you as a matter of fact that that is smoke and what he is trying to do there is use you to pressure concessions out of the other owners. And it has nothing to do with the variance requested. It has nothing to do with the property lines along that variance that is requested and it is totally unreasonable and totally frivolous for him to bring that up at this hearing.

**Bill Flaherty** - Okay I am just stating what the letter

**Matthew Noviello** - I am sorry to be so firm and abrupt but there is no other way to say it

**Bill Flaherty** - Well so I agree with you then. You have a better understanding than I do certainly.

**Matthew Noviello** - I can see why you would be bothered with that on such a frivolous matter. But as you can see, there are six or seven, there are seven lots here. The only lot that is owned by anybody that Mr. Whyatt represents is the one labeled lot 49. That lot has nothing to do with areas here.

**Bill Flaherty** - Mr. Whyatt should not have written the letter.

**Matthew Noviello** - It's a completely separate issue. Whether or not his

argument about the lot line dispute or his client's argument with the lot line dispute is correct. This is completely irrelevant to this end. Because it has nothing to do with the property lines in question. Nothing to do with the lots in question. And nothing to do with the distance.

**Joan Turner** - I have a couple of questions about the subdivision itself

**Matthew Noviello** - Yes

**Joan Turner** - I was wondering if you can explain how it was done and the change in lines. Because when I went on a site visit and I spoke with Mr. Tuana and he said that prior this shed was in compliance. It was only when there were lot line changes and this easement was put in

**Matthew Noviello** - Not easement. Property line

**Joan Turner** - I thought there was an easement

**Matthew Noviello** - Well if he said that he was incorrect. I am sorry, go ahead

**Joan Turner** - I am quoting him that this easement to the property back here was put in he now comes into, well property line adjustment making way for an easement. So he now comes into conflict because there was a property line change

**Matthew Noviello** - That's correct

**Joan Turner** - One question I have is the nature of the subdivision itself. It wasn't filed with the Planning Board yet it meets the criteria, it initiates the trigger a subdivision before the planning board.

**Matthew Noviello** - I didn't think it did

**Joan Turner** - It is clear in our code that it does.

**Matthew Noviello** - I am not so sure about that

**Joan Turner** - Well if you get the code book, I will read it to you. And I am emphatic about that just as you are emphatic about

**Matthew Noviello** - You may be right and that question arose before we filed any deeds or sold any of the properties. And I prepared this survey map and I brought it to the Town, the Code Enforcement Department, and asked them to review it and let me know if it complies. On the map I showed the existing property lines which your map shows and I showed the proposed property lines. We took four lots and divided into seven lots by reconfiguring them with

overlapping lines and

**Joan Turner** - And you were advised by the Code Enforcement Officer that this was a legal subdivision?

**Matthew Noviello** - It was a legal subdivision by Deed, yes we could do it. In right. Okay. And you can see for example this is the old lot 48 here, these dotted lines, if you look carefully you can see them. And lot 47 used to come down to here and over here like that. Lot 49 used to come over to here and the only part that was somewhat unusual is these two houses were both on lot 50 and this house was on lot 49. Now originally when I divided this up, I tried to number the lots in a more logical manner. But then when it got to the County, for the tax lot assignments, they renumbered the tax lots in this map. Which surprised me. Because they label most of them 50. So I changed my map and this latest version of the map has the new numbers to conform with the way the County labeled the tax lots because I figured that would be easier for everybody to understand. But before we wrote any deeds or sold any of the properties, we went to your tax assessor and to your code enforcement officer and they both reviewed it, they both agreed that this was completely legal. Otherwise we would have come to the Planning Board. Because I was shocked that we could do this. I didn't know. As a matter of fact, the person who told me this was possible to do was Tom Whyatt. That's why it is kind of ironic that he is in here trying to oppose it.

**Joan Turner** - Is the existing, these are all conforming now your existing lots, they are all going into our

**Matthew Noviello** - Everything we could figure out with the code we put the 200 by 200 block, and we tried to do everything, the one thing we missed and made the mistake on is right there.

**Lenny Lim** - Is this the property line here also

**Matthew Noviello** - No this is the 200 by 200 rectangle

**Lenny Lim** - Right

**Matthew Noviello** - The property line is the double line here. Okay. And what happened was this line for this lot used to be over here

**Lenny Lim** - Right

**Matthew Noviello** - And then we wanted to get access to this

**Lenny Lim** - Okay. What is growth easement

**Matthew Noviello** - That is no longer

**Lenny Lim** - What is it

**Matthew Noviello** - That was a proposed easement to allow trees to grow that everybody could enjoy the trees. But when the parties couldn't come to an agreement on it the latest agreement was to leave the growth easement out

**Lenny Lim** - So this map is not going to have growth easement on it

**Matthew Noviello** - So far, these are proposed easements. So far, the current deed does not include those easements. But that was the idea, to allow trees to grow. You know to create more of a buffer between the properties

**Joan Turner** - See the section of the code that I have questioned is for the record 112-2 and it is the third one, division of three lots less than 10 acres. See that is a trigger for a subdivision.

**Matthew Noviello** - Sure

**Joan Turner** - Where you should have gone to the planning board

**Matthew Noviello** - If we divided one lot in to more than 3.

**Joan Turner** - That's not how, anyway

**Matthew Noviello** - Say again

**Joan Turner** - It's not how I read it. It is 3 or more lots each of which contains 10 acres or less

**Matthew Noviello** - Okay when I asked for an interpretation on that, because we started with 4 tax lots and we divided them, we could have showed it on separate maps but because we showed it on one map, it wasn't going to disavow the ability to use that section of the code. Because I asked that same question

**Joan Turner** - You asked the same question

**Matthew Noviello** - yeah

**Vic Carlson** - You are supposed to come to this board for an interpretation

**Matthew Noviello** - Depends on, from my understanding you can

**Vic Carlson** - The law says the interpretation have been given by this board

**Matthew Noviello** - If, with all due respect, it is my understanding that if there is an ambiguity between any of the town officers they are supposed to send me to your board. But if they have it clear in their mind either from a prior interpretation or from their knowledge, and they tell me that it is okay, am I not supposed to assume that? Am I supposed to tell them I don't care what you say I've got to go to the ZBA and check for myself? This may have been before you the year before, I wouldn't know that

**Joan Turner** - When was this done what year Matt?

**Matthew Noviello** - Last year or the year before I don't remember

**Joan Turner** - But we had a case in which this whole thing came before us with another case in which we talked about subdivision

**Matthew Noviello** - 2003

**Joan Turner** - prior to your coming, this was fully discussed and clarified we thought with the Vroomans and their whole issue on subdivision regulations. So it is not as if it hasn't been discussed and interpreted once before. So I am surprised that you could do this.

**Matthew Noviello** - Well I was too frankly. I didn't know about this. I have lived in the town for many years and never heard of this. And then I heard about it 2003 and I said you know what I have another property that may work for because at that time Mr. Houston was discussing with me whether or not to subdivide his property. And I explained to him that you would have to go to the planning board and prepare a subdivision plan and go through all of this and then I heard of this provision in your code which allows subdivision by deed. I said I don't know if it is going to work on your property so I called over here and I was told that it may. Better prepare the maps so I prepared the survey showing these lines, brought it over here and sat down and went over it very carefully. Went to the assessors and sat down and went over it very carefully. I went through everything I thought I reasonably could. I asked for a letter back in writing saying yes the thing has been reviewed. It complies. And then as soon as we found out that we needed the variance for that side line, we are back in here trying, every step of the way we tried to do what was right. It is not like we are trying to sneak anything by any of you people or avoiding coming here for an interpretation. If I come to your code enforcement officer and say does this comply, I think I should be entitled to assume his opinion. If he doesn't know he should tell me gotta go for a ZBA interpretation. If he knows from past experience, I should be able to rely on that.

**Vincent Cestone** - Any more questions Joan?

**Bill Flaherty** - What are the dimensions of this shed? How big a shed

**Matthew Noviello** - I didn't put the actual dimensions on here but scale 60 scale drawing, that is not very big. I have a scale with me, I could give you an estimate

**Bill Flaherty** - Yeah please

**Joan Turner** - It is actually not a shed now, it is actually a building

**Bill Flaherty** - Well that was my next question. What is the shed used for?

**Joan Turner** - The prior owners, and this is actually from a very nice interview or meeting with Mr. Tuana, who told us that the prior owners, Pita, and they used it as an office. So it was

**Vincent Cestone** - There is electric and heat

**Joan Turner** - Electric and heat, it was closed in, it might have been a shed far back

**Matthew Noviello** - When I did the survey, I never saw the inside and it looked like a framed building, it did look like a residence but they called it the shed. It is about 25 by 25

**Joan Turner** - But it was used as an office for these activities for the prior owners. So I think at some point it may have been a shed and then converted to their offices or whatever.

**Bill Flaherty** - Well that is a substantial size for an office or a shed whatever you want to call it

**Matthew Noviello** - As I said, at the time I did the survey, those two residences were in the same lot and I looked at this thing and it did not appear to be a residence so that's why I called it a shed.

**Bill Flaherty** - What problems if any would this cause if you were to eliminate the shed

**Matthew Noviello** - Loss of value

**Bill Flaherty** - Loss of value

**Matthew Noviello** - Loss of storage space and loss of value. The house on that lot, the one story dwelling, doesn't have a basement. So you lose your storage space.

**Vincent Cestone** - What if you move it?

**Bill Flaherty** - Could the shed be moved

**Matthew Noviello** - Anything could be moved.

**Bill Flaherty** - It's on a slab

**Matthew Noviello** - The plumbing and the electric go underground. You would have to deal with all

**Bill Flaherty** - Because there is certainly plenty of room here to move the shed

**Matthew Noviello** - Anything can be moved. It is just an extraordinary expense. I think, you know, with current technology you can move a house

**Bill Flaherty** - No question about that. That would be the worst scenario

**Matthew Noviello** - Yes. Sure because it will probably cost 20 or 30 thousand dollars

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

**Paul Houston** - Yes

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

**Paul Houston** - First of all I want to thank the board for bringing this issue

**Vincent Cestone** - Speak up please

**Paul Houston** - Paul Houston. I own the only lot impacted by this. I want to thank the board for your help and consideration in this matter. I would also like to make sure that the secretary has what I am about to say. The issue really affects Mr. Tuana who owns that building which by the way which was a video editing studio and office so and they did film processing in it and stuff. That's why there is water and heat and that kind of stuff. I owned it and I sold it to him in the course of trying to build it, a reasonable package of what I had on the side of the hill which I was trying to save the impact on the Town and keep the country look and the open fields and what not. And so, but I want you all to consider the fact that this only impacts my land. I am the 20 feet that is impinged on there. And I have no objection to this at all. And in fact Mr. Tuana had asked me if he could garden and put a patio on it and I said no problem. Take care of the legalities with that, you know, my liabilities whatever and we will deal with that. So I do not oppose this in any way. I also would like to make the board note that this is a

pattern with Sorenson. She went and opposed a driveway permit that is for a lot that Mr. Tuana owns on Lake Surprise Road which you can clearly see

**Vincent Cestone - Make your point please**

**Paul Houston - My point is that I consider this a hostile attack on Mr. Tuana conducted by Ms. Sorenson and I wanted to advise the board of that. Thank you for time.**

**Vincent Cestone - I want to ask you a question though.**

**Paul Houston - Yes**

**Vincent Cestone - Would you be willing to give 20 feet to make this shed come into compliance?**

**Paul Houston - Absolutely. But I can't give the land away because it affects the flag lot that I have 4 acres down the hill from.**

**Vincent Cestone - I am not sure**

**Paul Houston - I need a 20 foot right of way there.**

**Matthew Noviello - The problem is that Paul still owns the land east and downhill of this**

**Vincent Cestone - Right**

**Matthew Noviello - Paul's access to Old Albany Post Road is the part where we don't have enough land between Tuana's property and the neighbor**

**Vincent Cestone – okay.**

**Victor Carlson - I have one question**

**Vincent Cestone - Sure**

**Victor Carlson - How many houses, how many properties are running off of this right of way?**

**Matthew Noviello - There is no right of way**

**Victor Carlson - Driveway, whatever**

**Matthew Noviello - That driveway, currently and originally there were two houses on this driveway however, on this plan neither of these houses has to use**

that driveway. And in fact there is an application before the highway department to put their driveways on their own property. So there is an application for this house to have a driveway coming out on its own property over here and for this one to come in this way on its own property. So the idea is to move the driveways to their own properties. And everybody has their own driveway on their own property. Sought of clean this site up. And you can see it from the lot lines each of the existing houses is somewhat centered on their lot with the new plan. You know let you have your space around your house like that. That was the major change to lot 49 was to center the house on the lot.

**Victor Carlson** - So they are all going to be running off of flags then

**Matthew Noviello** - Not all. There will be this one and this one will have major access and the others will have long driveways and they have access towards the park. The beauty of those lots is the park and the stream. They border Fahnstock Park. People who buy those are going to want the seclusion and not the road frontage.

**Victor Carlson** - A driveway through a property should be 20 feet

**Matthew Noviello** - Part of the lot that access the road is 20 feet

**Victor Carlson** - The flag has to be 20 feet

**Matthew Noviello** - Yes. And they are on all the properties, the three properties that go in that way or four properties that go in that way they are

**Victor Carlson** - They each have a drive

**Matthew Noviello** - They each have their own 20 or 30

**Victor Carlson** - 20 is required by law

**Matthew Noviello** - yes. Minimum is 20 some of them have a little over 30.

**Victor Carlson** - Okay

**Vincent Cestone** - I want to talk to the town attorney about this so I am going to continue this on to our next meeting the 16<sup>th</sup>

**Matthew Noviello** - May I request that you reconsider that because if there is an issue as to whether or not we should have been to the planning board, wouldn't that be a planning board issue?

**Vincent Cestone** - I want to talk to the attorney and then it is not about that

**Matthew Noviello** - Okay. Would you like us to come back

**Vincent Cestone** - Yes on the 16th

**Kim Shewmaker** - The 6<sup>th</sup>. June 6<sup>th</sup>,

**Vincent Cestone** – What?

**Kim Shewmaker** - June 6<sup>th</sup> or June 20<sup>th</sup>?

**Vincent Cestone** - I'm cracking up here. Sorry. On the 6<sup>th</sup>

**Matthew Noviello** - On the 6<sup>th</sup>.

**Vincent Cestone** - June 6<sup>th</sup>. I'm sorry. I had the wrong month.

**Matthew Noviello** - All set?

**Joan Turner** - Matt just one question? How's your health?

**Matthew Noviello** - I can't hear you

**Joan Turner** - How's your health?

**Matthew Noviello** - Great

**Joan Turner** - Are you better

**Matthew Noviello** - Well, pretty good. Pretty good. Maybe we should talk sometime.

**Vincent Cestone** - Next item on the agenda is Garrison Highlands. Somebody to speak for the applicant please?

**(Turning Tape Over)**

**Glennon Watson** – Good evening. I'm Glennon Watson of Badey & Watson Surveying and Engineering and I am here with Mary Rice, \_\_\_\_\_ architect with our firm. We are here to talk about the Garrison Highlands Special Use Permit application. What I just handed you is a small version of the different drawings that you are going to see on the boards tonight and perhaps it will help you to get a little closer look. This application came before you a few months ago, since then we have been referred by you to the planning board and we have gone through essentially a site plan review with the planning board. And I believe you have a positive recommendation from the planning board with regard to this application. You also have in conjunction with this application an application for

a fresh water wetlands permit. And I only have a draft copy. I don't know if you have gotten the final copy but I have a draft copy of the report to you from the zoning board of appeals. I'm sorry not from the zoning board of appeals from the wetlands committee. Again with a positive recommendation with regard to this project. The applicant is the Garrison Highlands Corporation we are talking about the Highlands Golf Club and what you see before you is approximately a quarter of the property which is located on the west side of Route 9D immediately south of Route 403 and Lower Station Road. The existing buildings on the property are this towards the upper part of the map. The existing clubhouse facility, there is a small building we refer to as the ice house somewhat in disrepair, there is a Pro Shop on the building, there is a maintenance barn on the building and there are a couple of other outbuildings unrelated to this. There is a residential structure towards the north part of the property. There is an old \_\_\_\_\_ mill which we will be talking to you about with another application shortly. And there is a water treatment plant for the Garrison Water District. Those buildings have nothing to do with this application. Most of you I'm sure are familiar with and have been at the Highlands Country Club. Basically the Highlands Country Club was owned by the Osborne Family. A family corporation called the \_\_\_\_\_ Corporations since about 1890. The club was established some number of years ago, I really don't know how many years ago. The ownership of the property staying in \_\_\_\_\_ Corporation, the Highlands Country Club is a tenant. \_\_\_\_\_ Corporation was sold and or gifted to the Open Space Institute so now the stockholder of \_\_\_\_\_ Corporation that still owns the property is the Open Space Institute. Open Space Institute leases the golf club to the Highlands Country Club and in turn has a management agreement with the Garrison Highlands LLC for the operation maintenance of the club grounds. One of the terms of that agreement is that the Garrison Highlands LLC has the right to operate the restaurant which exists under a special use permit granted to the property a number of years ago by your board. So what we have going on there is a 9 hole golf club, we have a swimming pole located to the west of the club house, we have a kiddie pool located to the west of the club house, we have tennis courts, 4 tennis courts and this large green area and then one other tennis court just to the east of it. And we have a facility that has lacked maintenance and has lacked, operating frankly on a shoe string for many many years. Garrison Highlands came in with a promise to do some work on the property, bring it up to grade. The property as you will see in the application package is subject to a restricted conservation easement held by Scenic Hudson. The basic purpose of that conservation easement is to maintain the landscape is as much as possible the way it is today and puts that obligation on the owner and that obligation on the owner's tenant. So we are going through a parallel review with Scenic Hudson and we tried to design a facility that would bring the club back to an operational standard that is acceptable without doing any or without doing any disturbance that was not absolutely necessary. As you enter the club, you enter on a dirt drive that leads up to a circular turnaround in front of the main building past the existing Pro Shop and in between the Pro Shop and the club house and the tennis courts. There is parking to the east of the main building where you

see a swimming pool. And there is sought of ad hock parking along the driveway. People pull off and you can tell, there are no firm boundaries of property. If there are more cars they pull in further. The landscape has been victim of that parking. So what we did was design parking that tried to take advantage to the greatest possible degree of the existing parking and to neaten it up and to straighten it out. One major facility that's being moved is the swimming pool. I told you before the existing pool is on the property to the west of the clubhouse. It is being removed in favor of a new pool which will require a changing room and lockers and showers. And that building is to the north of the swimming pool. It is in approximately the same location as the Pro Shop which is being moved to the south of the proposed pool, immediately behind the first tee. There are no changes being planned in the golf club proper. We then decided whether or not, we then took a look at what needed to be paved in order to formalize this parking and really to control it and what didn't need to be paved. And what we decided was that the, what occurred to us is that during that during the summer is the time when the weddings happen and when the golfers are on there, the warmer parts of the season. So and during the winter, golf shuts down, tennis shuts down, so there is much less activities. So we took what would be the parking that would be necessary for a banquet that might happen in the winter, often are community Thanksgiving things happen there, weddings happen there, Christmas parties happen there, and we took enough parking to accommodate the billing in the winter time and decided to pave that. And so what we have done is design a formal parking driveway and parking that is paved and plowable and main reason for the paving. The remainder of the parking that which you come in at the beginning of the, at the initial entry to the property is turf stone. It is a porous material for those of you who don't know it. It is essentially a block with voids in it that is set so that the voids are vertical and you can fill it with soil and you can plant grass in it. And it is actually quite successful as you go over to the Garrison Institute and look at that special use permit that you approved there and you will see that the turf stone worked fairly well. So we have taken the first couple of hundred feet of that ad hock parking and we formalized it with a turf stone lots with spaces on either side of the driveway and then we built a new driveway, I'm sorry, a new parking lot to the south end of the driveway between the pool and just immediately to the east of the pool. That takes up a meadow and it does impact slightly, no it doesn't, just north of the putting green. We are calling for installation of erosion control measures where it is calling for the installation of a formal drainage structures that will capture the drainage that goes through the property. It will deliver it to the south of the driveway into two pools that are designed to capture and treat the storm water in accordance with the latest regulations. Then release that storm water that has been captured, after it has been treated, into this pond. Today, the storm water is running across the driveway and across the thing directly into the pond. And the only treatment it gets is by running across this lawn, it gets a little bit of filtering there. The landscaping has been created in a way that will screen the parking from the road to the greatest extent practical and hopefully minimize any change in the appearance from the road. For that end, we have had the

architects prepare, we took a number of photographs and we had an architect, and these are your second and third pages, take the two most visible points of the site one pretty much from the east where you can see the ice house and you can see the east side of the club house and they superimposed in to that photograph they brought in the new buildings so you will see it. This is the largest impact, the largest that you will see visually from 9D.

**Mary Rice** - It is shown without landscaping

**Glennon Watson** - Right. It is shown without landscaping so you will see it. And again another glimpse of it, and this is really the second most visible point as you drive up 9D from the south and you approach the golf course passing in front of the entrance to Glenclyffe you catch the south end of the club house and if you look carefully at the after picture to the right here that they have drawn in those buildings. Again without the benefit of any of the proposed landscaping. So we hope that you will find that we have accomplished our goal. I think we have convinced the wetlands people and the planning board that we have accomplished our goals and if you have any questions, I would be pleased to try and answer them and I would seek your positive findings with regard to our special use permit application.

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

**Bill Flaherty** - Yeah. I have seen in your application Glen that you proposed 123 new parking spaces

**Glennon Watson** - They are not new.

**Bill Flaherty** - There are 123 existing now?

**Glennon Watson** - There is an increase in the number of parking spaces for sure because we have put in about in one space 23. The best I can tell with what is there is a guess because it is by guess and by gosh it is ad hock people just kind of pull in and pull over. I think you can probably get 100 cars in there the way they do it now. So the increase will be, I am going to say approximately 100 to 123.

**Bill Flaherty** - You have 41 acres total

**Glennon Watson** - That's correct

**Bill Flaherty** - And you are using 34

**Glennon Watson** - I don't remember that number. But we are using most of it

**Bill Flaherty** - 34

**Glennon Watson** - that sounds about right

**Bill Flaherty** - do you anticipate increasing the usage of that property over and above

**Glennon Watson** - no we do not.

**Bill Flaherty** - So it will still remain rustic

**Glennon Watson** - Right. Yes. I will say that absolutely. Everything we have tried to do we tried to limit to the area that is already improved. There is no plan to do any other improvements with regard to this club. I mentioned before that you are going to get an application with regard to use of that mill house which is an historic building but that is for another discussion. The reason I am confident in saying that as I am is because Scenic Hudson is the holder of the conservation easement and they monitor it every year and before we could even go and talk to you or get anywhere with coming here, we had to show them this plan. We don't have their full approval yet. But we are confident we are going to get it at this point. And they made us inventory, photographically inventory the entire property to show them exactly what we are doing. We cannot be cutting down trees, we can't be doing any kind of undertaking that will change the view of this property from Route 9D

**Bill Flaherty** - What are you going to do with the existing swimming pool? How is that going to

**Glennon Watson** - Well, it will be removed. Whether they fill it or whatever they decide to do. But they are going to take out the swimming pool and the little kiddie pool that is next to it and the reason they are doing that is besides it is not up to code, but that's frankly, that's secondary to the real reasoning, but, there is a distinct operational problem between the banquet or in particularly an afternoon wedding and using the pool. They can't do both. They have to close it down. So they wanted to get it away from this side which is just the thickness of a glass between the kids jumping and screaming in the pool and people trying to have a wedding. So this will become a landscaped area where it will be an outside function, perhaps the cocktail hour for a wedding or that sort of thing. It is a very nice space, it is very quite and very private back there once you get rid of the swimming pool.

**Vincent Cestone** - Any more questions? Any comments from the audience? We need the final on the wetlands in order to close this Glen. Not the draft.

**Glennon Watson** - I would have thought that they would have forwarded it to you by now.

**Vincent Cestone** - I haven't seen it. Has anybody seen it? Have you seen it Kim?

**Kim Shewmaker** - I'll look in the file.

**Glennon Watson** - One of the things that we agreed to with the wetlands people, they have recommended that we do a planting plan along this stream and that David \_\_\_\_\_ assist us and approve the particular, if we do a planting plan for these retention ponds, treatment basins and that we submit our plan to him for approval of the plant material so that it is consistent with the wetland vegetation and with the wetlands and the wetlands' soil. So we would expect that any approval you might consider with condition you approval on that.

**Joan Turner** - Are the retention basins, treatment basins going to be filled with water as a decorative item or will they just be when there is not run off

**Glennon Watson** - I believe there will be water in them all the time. I will double check that but my belief is that there will be some water in them all time. It will go up and down.

**(Talking among themselves)**

**Glennon Watson** - Well they actually have 18 holes but they only have 9 greens

**Bill Flaherty** - Exactly

**Joan Turner** - I don't get that. That must be a golfing joke. Is that a golfing joke?

**Glennon Watson** - No. If you want to play 18

**Joan Turner** - Henry does

**Glennon Watson** - You play it a second time around

**Joan Turner** - Oh. I didn't know that.

**Vincent Cestone** - Well if you work with us, I am prepared to make a motion to close the public hearing. But we won't do a resolution until we get a final

**Glennon Watson** - That's fine

**Vincent Cestone** - I make a motion to close the public hearing

**Bill Flaherty** - Second

**Vincent Cestone - All in favor**

**All board members – aye**

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

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

**Vincent Cestone - All in favor?**

**All Board Members - Aye**

**Vincent Cestone - Len?**

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

**Vincent Cestone - Joan?**

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

**Victor Carlson - I vote in favor**

**Bill Flaherty - I vote in favor**

**Vincent Cestone - So do I**

**Glennon Watson - Thank you very much**

**Vincent Cestone - You're welcome. Next item on the agenda review of minutes April 4<sup>th</sup>. Any additions, corrections, changes?**

**Joan Turner - I have read them and submitted them. They were fine. A minor word. All of them I read and they are all fine.**

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

**Joan Turner - So moved**

**Lenny Lim - Second**

**Vincent Cestone - All in favor**

**All Board Members – aye**

**Vincent Cestone - Minutes of April 18<sup>th</sup>. Any additions or corrections**

**Joan Turner** - I submitted mine to Kim

**Vincent Cestone** - Okay. Motion to accept the minutes as corrected

**Joan Turner** - So moved

**Victor Carlson** - I'll second

**Vincent Cestone** - All in favor?

**All Board Members** – aye

**Vincent Cestone** - Minutes of May 2<sup>nd</sup>. Do we have any corrections? No corrections?

**Kim Shewmaker** - Joan gave me everything

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

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

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

**All Board Members** – Aye

**Vincent Cestone** - Okay. Going down. We are not going to do any of the draft resolutions as I said in the beginning because the attorney is not here. But going down to Item 8 on the agenda which is the discussion. Now I have some news, I've talked with Tim Miller, I mean Tim Pagonos and Ed Doyle will not comment on this because he has represented Cold Spring Glass in something but he did send the questions and literature on to another person who represents the town and we haven't gotten those comments back as yet. So my suggestion is is that we leave it on the agenda until we get the comments back from the other attorney. But we can discuss anything else that you would want to. Is that okay with the board that we keep it on until the other town attorney comes back to us.

**Joan Turner** - Who is it do you know?

**Vincent Cestone** - He told me but the name escapes me

**Lenny Lim** - Goldsand

**Vincent Cestone** - No it wasn't Goldsand. It was, I can't think of the name

**Lenny Lim** - Did the applicant okay us to extend this

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

**Lenny Lim** - Did we ask for an extension?

**Joan Turner** - He did. Tom Whyatt said they would extend our time

**Lenny Lim** - Okay

**Joan Turner** - We did that last time

**Vincent Cestone** - So if that is okay, we will continue it

**Bill Flaherty** - Number 8?

**Vincent Cestone** - Yeah

**Bill Flaherty** - Move that to

**Vincent Cestone** - Next meeting

**Bill Flaherty** - Next meeting which is what the 6<sup>th</sup>

**Vincent Cestone** – yes. Tom you wanted to say something?

**Tom Monroe** - I was just going to say that I would assume Mr. Doyle had referred that to Mr. Lisardi. I would assume.

**Vincent Cestone** - I'm sorry. I didn't hear you

**Tom Monroe** - To Bob Lisardi I would assume he referred it to

**Vincent Cestone** - That's not the name. But, whatever. So we will visit this again on the 6<sup>th</sup>. Hopefully the attorney will have an answer by then

**Joan Turner** - I am a little bit confused by your terminology, an answer for what? It is the board, you mean have some comments

**Vincent Cestone** - Comments

**Joan Turner** - But not an answer to

**Vincent Cestone** - Not an answer, comments for this board to work from

**Joan Turner** - Right

**Vincent Cestone** - I didn't mean the answer. Ours is the answer. Going down

to reviews for completeness. We did get some additional information for Dorothea Lang. Tim has not commented on this but I guess we can put it on. Okay, I am going to put it on the agenda for June 6<sup>th</sup>.

**Lenny Lim** - So we have 3 or 4 on for the 6<sup>th</sup> already

**Joan Turner** - We got Nextel, we've got one, two, three, that's four

**Kim Shewmaker** - No. We have two public hearings. You have Nextel and Noviello that's it so far.

**Joan Turner** - Right. Right. You're right.

**Vincent Cestone** - Next item for completeness is Stephen Smith. Now I've looked at that. The only thing that seemed to be missing were directions. But I know where this place is.

**Lenny Lim** - If it is in Continental Village, we need directions

**Joan Turner** - This is not Continental Village. It's up on Jaycox Road.

**Lenny Lim** - Then we don't need it

**Vincent Cestone** - So I am prepared to put it on the agenda for June 20<sup>th</sup>. The 6<sup>th</sup> is full, we will do it June 20<sup>th</sup>. Any old business? Motion to adjourn?

**Joan Turner** - So moved.

**Bill Flaherty** - Second.

**Mike Kelly** - I just want to ask a question. I would like to find out what the status is for the resolution and the problems with Verizon in moving their trailer. Have they changed the location with regard to the screening and \_\_\_\_\_ and the fact that they have fuel storage inside the trailer. Is there any movement on that? Are they coming back to the board

**Vincent Cestone** - I was just talking with the Building Inspector afterwards. Tom do you want to comment on that?

**Tom Monroe** - Yes Mr. Kelly. As far as the screening and plantings go it is (**I cannot hear him**) As far as fuel in the building, I don't have access to that building so I don't have any idea. But we do have a contact with Verizon so I can get in that building if I need to which I will do. I asked the Chairman prior to the meeting on the location of the building. The building was moved about 4 feet and on the site plan itself it shows the location of 3 feet plus or minus. The problem is what is the definition of plus or minus. I don't know the definition of that. I mean

is it one foot, 3 feet or ten feet? The reason that it was moved over is because they ran into some ledge and they moved it over 4 feet so that could get the fittings that they need for the building. Quite honestly I don't know if that 4 feet made a significant difference. I also had a couple (Cannot hear)...height of the fence that was approved. Yeah we had to put the equipment cabinets for AT&T and Sprint and which surrounded those with a \_\_\_\_\_ fence but we put in 11 foot high buildings and a 6 foot fence. That's kind of questioning as I said to \_\_\_\_\_ if I just went to Verizon and said we would like you to (Cannot hear) I don't know if that would help you.

**Mike Kelly** - The question is not the movement of the trailer from the east to west. The question is the decrease in height. The site plan that they showed you had the base of the trailer being at the same height as the concrete pad that the tree is on. The base of the trailer is now 2 and a half feet higher than it was supposed to be.

**Tom Monroe** - What it says is the height of the building is 10.9 feet from grade is what it says.

**Mike Kelly** - Well the trailer is 10 foot 6

**Tom Monroe** - That's what it shows and again that is 10.9 feet plus or minus. One end of the trailer is I mean I didn't measure it with a laser but just measuring it with a tape it is pretty much 10.9 feet. But because of the grade, the opposite end of it, the north end of it is about a foot higher. So again what is, I don't know, I am asking for clarification, what is plus or minus? When I see a site plan and I says 10.9 feet plus or minus, is one fit within that plus or minus?

**Lenny Lim** - Hold on. Did we ever put plus or minus in anything?

**Vincent Cestone** - No

**Tom Monroe** - It is on the site plan Len

**Vincent Cestone** - That is on their site plan but not on the planning board design

**Lenny Lim** - I didn't think so

**Vincent Cestone** - On the planning board design it didn't say that

**Lenny Lim** - So we went by the planning board design

**Vincent Cestone** - That's what we went by. We went by the planning board design.

**Lenny Lim** - Hold on now. I'm a little bit confused. There is a planning board

design and there is a site plan design

**Vincent Cestone - Right**

**Lenny Lim - Which one are they going by?**

**Vincent Cestone - Tom I believe is going with the site plan that Verizon submitted while we were going, even though in our resolution it said we adopt the planning board site plan, I think that is where the confusion is coming up**

**Lenny Lim - There is 2 site plans**

**Tom Monroe - I'll look at what the planning board had and if the planning board just says this high period then that's**

**Lenny Lim - That's what I thought. During the discussions somehow I don't remember when we were discussing it plus or minus. I really don't Tom. I am not saying it was on the paperwork originally but I don't remember any discussion where we said plus or minus, left or right. I really don't remember any of that coming into it**

**Tom Monroe - I will review the planning board paperwork to see what that specifically says and whatever that specifically says that's what we will go by**

**Lenny Lim - Okay**

**Tom Monroe - And if they have to lower it or move it, then that's what they will do**

**Lenny Lim - I just, no where do I remember conversations saying plus or minus though**

**Vincent Cestone - Neither do I**

**Tom Monroe - I also as I said to Chairman Cestone one of the questions I have is that we required a 10 foot fence around equipment cabinets and a 6 foot fence around an 11 foot high building**

**Vincent Cestone - If I remember the planning board design, it had a 10 foot fence. So again, I think that is where the issue is**

**Tom Monroe - Okay. I will pull that out and if it is a 10 foot fence, then they will have a 10 foot fence**

**Vincent Cestone - One way or the other Verizon is agreeable you know. We should have a 10 foot fence. It would be much appreciated if you could ask**

Verizon if they

**Tom Monroe** - I think that if there is nothing that shows anything other than a 6 foot fence, we will ask them to put up a 10 foot

**Vincent Cestone** - That would be great

**Tom Monroe** - That should help with the noise and the neighbors. And the issue of the generator, I have to get into the building to see it.

**Vincent Cestone** - That would be great. Do you have anything else Mr. Kelly? And then you are next.

**Paul Houston** - Mr. Cestone back when the cell tower started I brought a ton of material into the town board. In my wanderings I found a place in New Jersey that builds these equipment sheds and it is called Coleman Industries and they build prefabricated buildings. These are available in brick, field stone, shingle, just about anything you want

**Vincent Cestone** - Exactly

**Paul Houston** - And there is no reason, and I think the cost of them was almost exactly the same design to design. So, and at the time I said to them you mean I could have a field stone house here and they said no problem

**Vincent Cestone** - Thank you. If there is nothing else, motion to adjourn?

**Lenny Lim** - Second.

**Vincent Cestone** - All in favor?

**All Board Members** - Aye

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

**DATE APPROVED:** 6/6/05

Respectfully submitted,

Kim Shewmaker  
Secretary