

# ZONING BOARD OF APPEALS

July 14, 2008

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, July 14, 2008, 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
	Bill Flaherty	-	Member
	Robert Dee	-	Member
	Paula Clair	-	Member
	Adam Rodd	-	Counsel

### ABSENT:

**Vincent Cestone** - I am going to take things a little out of order tonight. Is Gisser here by any chance? This doesn't really need a variance. It was a mistake in the application and I just wanted to tell them that. There is no variance required because their structure was built before the road was moved.

**Lenny Lim** - Who?

**Vincent Cestone** - Gisser. Charles Christopher Micaud?

**Charles Christopher Micaud** - Here I am.

**Vincent Cestone** - This is a review for completeness. And I looked at your application and it was complete. Adam, do you have any issues with this?

**Adam Rodd** - No. The application looks complete. I think it might be appropriate if the applicant gave us a very brief overview of what he is proposing so if there is anything you need for the public hearing you can let him know now.

**Charles Christopher Micaud** - Should I come up there

**Vincent Cestone** - Either at the microphone or here at the desk, where ever you feel more comfortable because it is being set down on tape

**Charles Christopher Micaud** - Well essentially last April during a rain storm our pool left the ground from all the hydrostatic pressure from the vast amounts of

rain we had. And upon reviewing that situation, I had engineers come take a look at it and all that. The drainage was really the issue. It can't be repaired. It is too far in the ground and there is structural damage to it. So various pool companies have suggested if we could move it towards the west a little bit it would be better. And I need a variance in order to do that. Which borders a fence that Mrs. Healy, who is sitting over there, owns. That property is in the Hudson Highland Land Trust and is perpetually not supposed to be touched. It is not affecting any of the other neighbors. They are not going to see it or be affected by it. I do also have a second letter that she wrote because somehow we got off the agenda for several weeks and it just sort of reiterates her not opposing

**Vincent Cestone** - Well we will do that during the public hearing

**Charles Christopher Micaud** - Okay

**Vincent Cestone** - Kim, can we get him on for the 28<sup>th</sup>?

**Kim Shewmaker** - I am going to fax it to the Putnam County News and Recorder tonight and I will call them tomorrow to follow up. I will call you tomorrow

**Vincent Cestone** - So you are on for a public hearing on July 28<sup>th</sup> where you present all your information. The engineering reports that you have that suggest that you move the pool would be good if you had that

**Charles Christopher Micaud** - Yes.

**Vincent Cestone** - So during that meeting you will present

**Charles Christopher Micaud** - Okay

**Vincent Cestone** - And anyone in the audience would have an opportunity to speak and then you could, and then usually if there isn't any questions, we can take a straw poll

**Charles Christopher Micaud** - Okay. Thank you very much

**Vincent Cestone** - I am doing this so you don't have to sit through the public hearings

**Charles Christopher Micaud** - Okay thank you very much

**Adam Rodd** - Just to clarify a couple of numbers. As I understand the application, you are proposing to relocate the pool with the result that you will have a 15 foot right yard setback

**Charles Christopher Micaud** - I believe so

**Adam Rodd** - And a 15 foot from the front yard lot.

**Charles Christopher Micaud** - Yes. Basically moving it to the west and slightly to the north. In doing that I encroach her property line a little bit.

**Adam Rodd** - Okay. I just wanted to confirm what the proposed setbacks were

**Charles Christopher Micaud** - They are on the blueprints from Badey and Watson

**Adam Rodd** - Okay. The other thing is, I noticed that there were some discrepancies as to the size of your lot. I see some reference to 2.8 acres; other references to 3.1; others to 3.4. If you could just clarify just for the record

**Charles Christopher Micaud** - Well we purchased a little portion of land so you might have seen an older survey of the property. I will make sure the newest one is with you.

**Adam Rodd** - Just so we have an indication of how large your current property is

**Charles Christopher Micaud** - Okay. Thank you very much

**Vincent Cestone** - Is Tower Resource Management here? Is Lee Balter here? No. Okay, review of minutes of June 9<sup>th</sup>. Do we have any corrections?

**Paula Clair** - On page 4, it says that Paula is voting but I already voted, that is someone else

**Kim Shewmaker** – okay

**Vincent Cestone** - Any other corrections?

**Bill Flaherty** - I have none

**Vincent Cestone** - I make a motion to accept the minutes as corrected. Do I have a second?

**Bill Flaherty** - Second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Vincent Cestone** - First public hearing I want to do tonight is Hugh James

Rossouw. Hello Mr. Rossouw, how are you doing?

**Hugh James Rossouw - Good.**

**Vincent Cestone -** So here we are again. Let's hope that we can get this done tonight. Tell us a little bit about what this is. I know it is a deck and shed. Can you tell me what type of shed that is

**(too many papers shuffling to hear)**

**Vincent Cestone -** do you have anything in writing or is anybody from the neighborhood speaking on your behalf?

**Hugh James Rossouw -** I believe you sent a letter

**Lenny Lim -** Decks and shed right

**(I cannot hear the applicant)**

**Vincent Cestone -** why couldn't you put the shed underneath the deck?

**Hugh James Rossouw -** One deck \_\_\_\_\_ and the other deck \_\_\_\_\_ **(shuffling papers and applicant speaking too low to hear dialogue)**

**Vincent Cestone -** Is there a door or anything

**Hugh James Rossouw -** Window

**Vincent Cestone -** There is a window

**Hugh James Rossouw -** And to break that concrete floor up \_\_\_\_\_

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

**Lenny Lim -** He has plenty other room that he could turn into sites for the shed. There are plenty of places on his property.

**Robert Dee -** What is the depth of that concrete base? Do you know how thick it is? Is it 4 inches? 6 inches?

**Hugh James Rossouw -** I did it with a rotor-tiller. It is probably at least 8 inches

**Robert Dee -** okay

**Vincent Cestone -** For the record, your land does have a pitch to it but it is not an extreme pitch. I drove by it, I live in Continental Village, and I drove by your

place on the way to the train. There is a slight down grade

**Lenny Lim** - What are you storing in that shed?

**Hugh James Rossouw** - Welding gear, lawn mower, I have \_\_\_\_\_ in there (I cannot hear the applicant)

**Lenny Lim** - How big is your property

**Hugh James Rossouw** - \_\_\_\_\_ by 100

**Robert Dee** - And you have a boat outside there too

**Hugh James Rossouw** - Yes

**Vincent Cestone** - So what we are looking at here is a side setback from the road for the deck on the left and a side setback for the deck on the right

**Lenny Lim** - And the shed needs two variances and one for each deck

**Vincent Cestone** – Yes. Does anyone have any comments from the board

**Robert Dee** - Is there a reason for two decks

**Hugh James Rossouw** - I have a dining room and one out the kitchen door. So for a fire stand point I think I have to have at least one exit

**Robert Dee** - From a fire stand point?

**Hugh James Rossouw** - Yeah. By code I need at least one

**Robert Dee** - You have a building permit to build these decks

**Vincent Cestone** - There is no building permits in here

**Hugh James Rossouw** - I beg your pardon

**Vincent Cestone** - There wasn't a building permit in here for the decks. For the house yes. Not for the decks

**Hugh James Rossouw** - The plans were submitted with the building permit application.

**Vincent Cestone** - Are you saying that the building department approved these variances

**Hugh James Rossouw** - Everything was inspected

**Robert Dee** - The decks were there when the building department inspected

**Hugh James Rossouw** - The decks have been there for 20 years

**Robert Dee** - Was it there when the building department, you have a CO for this house

**Hugh James Rossouw** - Pardon

**Robert Dee** - Do you have a CO

**Hugh James Rossouw** - No

**Robert Dee** - There is no CO

**Hugh James Rossouw** - I am waiting for \_\_\_\_\_

**Vincent Cestone** - There is a CO for the residence

**Lenny Lim** - But not for the decks

**Vincent Cestone** - Not for the decks

**Adam Rodd** - There is a CO for the residence but not for the decks. What I would suggest at some point I think before we do a straw poll on this, I recommend, if it is okay with you, that we go into a closed session to discuss some issues with counsel

**Vincent Cestone** - Okay. Any more questions

**Bill Flaherty** - I have a couple of concerns and I would like to say that the problem is self created by the applicant.

**Hugh James Rossouw** - The gentleman who did the survey and, yeah, I am guilty. At the time my wife was serving on this board here and she was saying we should get approval on that and we didn't do anything about it. **(Cannot hear the applicant)**

**Bill Flaherty** - After reviewing the application I find that the variances that you are asking for are not specific. You say just a few feet.

**Hugh James Rossouw** - It is on the survey.

**Bill Flaherty** - I haven't seen that.

**Hugh James Rossouw** - Do you have the survey

**Bill Flaherty** - Yes I have the survey

**Adam Rodd** - Just to clarify the record. He is in an R-20 zoning district. And the zoning ordinance requires in that district that there be a minimum side yard and rear yard setback of 15 feet. He has two decks. One deck is going to be set back, this is on the right side, from the right side yard lot line a setback of 10.9 feet. That's what it is. It is existing decks. The other deck, deck number 2 is 14.4 feet from the rear yard lot line. So the decks do not meet the 15 foot setback. The metal shed is 1.5 feet from the rear yard lot line and 2.75 feet from the left side yard lot line. So that doesn't meet the 15 foot set back requirement either. So it is a 15 foot setback requirement. This is what he has. He is asking for variances.

**Vincent Cestone** - Variances that are required

**Hugh James Rossouw** - It is only like 6 inches

**Robert Dee** - Where is the 6 inches? You are saying one deck is 6 inches, I don't understand that.

**Adam Rodd** - In other words it doesn't meet the 15 feet. It is short 6 inches

**Robert Dee** - Oh the 14.4 okay

**Bill Flaherty** - I noticed that on the application as well you indicated that the variances you seek are in Chapter 62 and I don't know what that is. I think you meant to indicate that it should be Chapter 75 Paragraph 32 for setbacks. I don't know where you got that number from

**Hugh James Rossouw** - From the department of building

**Bill Flaherty** - I don't think so. I couldn't find it. In any of our books.

**Vincent Cestone** - Any more questions from the board? Any comments from the audience on this? I would entertain a motion to close the public hearing.

**Bill Flaherty** - I'll second

**Lenny Lim** - Do you want to close it or do you want to go into executive session?

**Adam Rodd** - I'll tell you what. Why don't we go into closed session at some point. We can do it at the end of the meeting and then at that point if you deem it appropriate to close it, you can close it or if you want additional stuff that would

be the appropriate time to ask.

**Vincent Cestone** - How long do you think this closed session will be?

**Adam Rodd** - A few minutes

**Vincent Cestone** - Why don't we just do it now and get it over with

**Adam Rodd** - Okay

**Vincent Cestone** - I make a motion to go into closed session to discuss issues with our attorney. Do I have a second

**Bill Flaherty** - Second

**Vincent Cestone** - All in favor

**All Board Members** - Aye

## **CLOSED SESSION**

**Vincent Cestone** - Are there any more questions from the board on this application? Does anyone in the audience wish to talk on this application? Does anyone on the board wish to apply any conditions to this?

**Bill Flaherty** - I may like to add that in the event that we approve these variances, that one condition that we apply to that would have some assurance that you are going to clean up that lot down there

**Hugh James Rossouw** - Well that's what I am waiting for. I am waiting

**Bill Flaherty** - But you agree to that provision

**Hugh James Rossouw** - Yeah.

**Bill Flaherty** - How would you go about cleaning up the lot

**Hugh James Rossouw** – (Cannot hear applicant)

**Lenny Lim** - Build a bigger shed?

**Hugh James Rossouw** - No. I will conform to the footprint

**Lenny Lim** - Okay

**Robert Dee** - What shed



**Hugh James Rossouw** - The existing shed there is \_\_\_\_\_. I am going to frame shed on the same footprint if I get your guys approval.

**Robert Dee** - So you are going to take that down and put up a new shed. Is that what you are saying? You are going to take the old one down and put up a new one

**Hugh James Rossouw** - Yes the metal shed is falling down.

**Robert Dee** - And you are going to put what into that shed? What are you going to put into it? That's on the property now.

**Hugh James Rossouw** - Lawn mowers, windows,

**Robert Dee** - Snow mobiles

**Hugh James Rossouw** - No

**Robert Dee** - No snow mobiles

**Hugh James Rossouw** - No

**Robert Dee** - Boat

**Hugh James Rossouw** - That's in front of the house

**Robert Dee** - How big is that boat

**Hugh James Rossouw** - 20

**Robert Dee** - I think it is a little bigger than 20

**Vincent Cestone** - Any other comments from the board? I make a motion to close the public hearing. Do I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – aye

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

**Bill Flaherty** - I'll second

**Vincent Cestone** - All those in favor

**All Board Members** – aye

**Lenny Lim** - Straw poll on each deck separately and the shed

**Vincent Cestone** - Yes

**Lenny Lim** - Okay

**Vincent Cestone** - First would be looking at the property the deck on the left that only requires a few inches of variance. I vote in favor of granting that variance. Len?

**Lenny Lim** - I vote in favor.

**Vincent Cestone** - Bob?

**Robert Dee** - I vote in favor of it. It is the deck on the other side I have a problem with.

**Bill Flaherty** - I vote in favor

**Paula Clair** - I vote in favor.

**Vincent Cestone** - Now the second deck. This is the one that requires just about 5 feet the one on the right.

**Vincent Cestone** - Bill?

**Adam Rodd** - I would go through the five factors for the second deck.

**Vincent Cestone** - I think that somebody would, do you think everyone of us should go through that

**Adam Rodd** - I mean I would discuss each of the five factors

**Vincent Cestone** - Okay.

**Adam Rodd** - So the first factor

**Vincent Cestone** - Whether it would be an undesirable change to the neighborhood is the first one. It's been there for 20 years. I personally feel that no one from the Village or the neighbors have complained. So, yes it is within the setback, but no one has complained and I don't think the benefit to applicant if he achieved it in another way by taking down the deck or moving the structure.

So I think that would be a substantial imposition. Is it substantial? It is getting close. But I personally would say it is substantial. Whether the proposed variance has an adverse impact on the physical environmental of the neighborhood. I don't see it that way. And whether it is self created. Absolutely. So, with all this I would be in favor of the deck on the right.

**Bill Flaherty** - I am in favor of it, the decks as it is.

**Paula Clair** - I am in favor as well

**Vincent Cestone** - Len?

**Lenny Lim** - I am in favor

**Vincent Cestone** - Bob?

**Robert Dee** - I am against it. I feel that he has one deck and it is self imposed. So I am against it.

**Vincent Cestone** - Okay. Next thing is the shed. Now the shed is within a foot and a half of the rear property line and 2 ½ feet of the side property line. Now this is a steel shed and it's relatively inexpensive. I personally feel that it should be moved. And I think it is undesirable because of its closeness to the property line and it can be achieved in other ways. You can put the shed underneath one of the decks or move it somewhere else and bring it out of the setbacks. And again this is a self created hardship. So I would be opposed to granting the variance for the steel shed.

**Lenny Lim** - Not only is it self created but he admitted himself that it is all falling down and rotting. And he can move it. If it is falling down and rotting, you can replace it

**Robert Dee** - It would be the perfect time to move it

**Lenny Lim** - The perfect time to move it

**Vincent Cestone** - Bob?

**Robert Dee** - I am against it

**Lenny Lim** - I am against it also

**Vincent Cestone** - So am I

**Paula Clair** - Yes, since it is so close to the property line I think it should be moved.

**Bill Flaherty** - I think the shed should be moved.

**Vincent Cestone** - So that was the straw poll Mr. Rossouw. Hopefully at the next meeting we can have a resolution. And at that time we would vote officially. But this is just to give direction to the attorney so he can write the resolution. Okay. Next item on the agenda is the continuation of a public hearing for Ribeiros Construction. Someone here to speak for the applicant? Hi. How are you doing.

**John Zarconi** - Good. Good evening ladies and gentlemen. My name is John Zarconi and I am an attorney and I represent the applicant Mr. Ribeiros. I don't want to waste your time and I will make this as quickly as I can and let you people get on to other business this evening. First I know that there are other applications that are pending out there at this time. I know that for example that the Putnam County Department of Health is waiting on an approval for a variance as well as the wetlands application which hopefully approved. And they will move on with their job. I know that preliminarily right now that they have approved the design of the septic and currently there is an application pending before your Town wetlands board. I spoke to Mr. Cronin today whose engineering firm is handling that. And at the last meeting all documentation was submitted to the board. The board has now requested that the Town wetlands inspector submit an in-depth report back to the wetlands board before making a final vote and decision on that application. I am not anticipating a decision coming this month on that. So according, I understand through your secretary that you do not meet in August. I was going to ask to come back in August. I understand that you meet in September.

**Vincent Cestone** - Right

**John Zarconi** - So I am asking for an adjournment on that basis to see if we have, hopefully an approval for the wetlands permit by September and also I have been having some discussion with opposing counsel who is representing the neighbors. My ex partner, who I happen to be handsomer than him, at least I have a head of hair. But Mr. Tandy, we have been having some good conversations in fact. And I am not at liberty to discuss them here this evening but I would like to keep that dialogue going between he and I. We may come up with a good resolution between the neighbors and ourselves prior to coming back here in September. But in the interim I would respectfully request of your board an adjournment until then

**Vincent Cestone** - And what would you like to do contact the zoning board secretary to get yourself back on the agenda or would you like to have us put you on the agenda for a specific time

**John Zarconi** - No I am just requesting this as of tonight, I am making the

request here in person that I be placed on the agenda for the September meeting as part of the public hearing, a continuation. And that we would come back in September. Hopefully if there is any decisions made by the wetlands board that you will be notified and whatever information of course that I maybe in receipt of prior to that date, I will be more than happy to disseminate to not only to Mr. Tandy but to your board as well as your attorney and your secretary as well to keep you abreast of everything.

**Vincent Cestone** - There is some things that we would like you to bring. An explanation as to why you can't come into conformity without the variance. I want to understand how you came into possession of the land. How was the land obtained. I would like to see the septic system approvals that you have

**John Zarconi** - If I may. Currently we have a review by the Putnam County Board of Health

**Vincent Cestone** - Right

**John Zarconi** - But the Putnam County Board of Health is not going to give us a final approval unless we have a final approval from the wetlands board and a variance through this board

**Vincent Cestone** - But you should have a proposal

**John Zarconi** - Oh we do. But if I may. All I am saying to you is that I don't have a, the Putnam County Board of Health will not

**Vincent Cestone** - You don't have an official document

**John Zarconi** - That's correct. They are not going to issue, I chaired Planning for 10 years in Putnam Valley, and you know, sometimes you know we try to put the cart before the horse and you know again, the Putnam County Board of Health will not always be so cooperative okay. Here is one of those situations where they are not just going to immediately issue us a letter. I would love to have that kind of letter. I can give you as much as I can give you. You know, I can get you whatever you need between the architect and the engineer. Any narratives you might need, that's fine. The history of the property between both the architect and the engineer. They are more in tune with this than I am. I mean I can give you issues pertaining to the septic and the site, but I am the lawyer. I think it would be better put in terms of art best by those two professionals than myself.

**Vincent Cestone** - Okay. Is there anything else the board members would like to see when they return? Okay then what we are going to do since this is a public hearing, anyone who is a citizen who wants to speak on this, they will have an opportunity to speak.

**John Zarconi** - Not a problem

**Paula Clair** - You need to get a proposal

**John Zarconi** - Well there is a drawing that was submitted. I can get whatever was submitted through Cronin engineering. I can get those. Whatever really is in my file, is what really what was submitted to the Town. So whatever is in my file, is the same that is in your file.

**Vincent Cestone** - But usually they say you need X amount of square feet of fields and X amount of square feet

**John Zarconi** - I can tell you at least as far as \_\_\_\_\_ is concerned, they need less than 2 feet of bank run brought in. I can tell you that. Which is not a lot of fill. And again it is going to be bank run that is brought in. I can also tell you, because I have built in the past myself, septic put in on today's standards with the tank and field properly placed and put in, the purpose of the fields is to leach back into the ground water

**Vincent Cestone** - Right

**John Zarconi** - There has been accusations and claims made that it is going to go into the hollow

**Vincent Cestone** - Generally that's the way its been

**John Zarconi** - All right but

**Vincent Cestone** - But that's not saying that's what the plan is

**John Zarconi** - I know and I have a lot of faith in Cronin Engineering. I did a lot of work with this engineering and they did a lot of work for the Put Valley Planning Board, I have seen their work in the past, they are very \_\_\_\_\_ with what they do. This is a simple single family residence.

**Vincent Cestone** - But it is of substantial size

**Lenny Lim** - How much square feet is it

**Audience Member** - 1800

**Lenny Lim** - how much

**Robert Dee** - proposed 3400 square feet. The house is 32 by 40. And you have 2 floors and a basement. It is a lot bigger than 1600 square feet. My question I

guess is when you come back next time is what I would like to see is could you make this house smaller to fit the land.

**John Zarconi** - Okay. And to be honest with you, without talking to the architect since he is the one that handled the plans

**Robert Dee** - This is 32 by 40. That's a big house for that small lot

**John Zarconi** - I can talk to the architect about that and again we can be reasonable about downsizing the home. That's not a problem either. There is a lot of different things to look at and to try to accommodate for the public and fit the lot better. Absolutely.

**Robert Dee** - The other houses in the area are not that big.

**John Zarconi** - I have no problems with trying to do that. Like I said, the architects especially they want to build the biggest mansions for the money. But I have no problem with taking a look to try and downsize that for you.

**Robert Dee** - You have to make the house fit the area

**John Zarconi** - Absolutely. And I can appreciate that sir.

**Vincent Cestone** - Okay. If there are no more questions from the board, I will open this up for comments from the audience. Is there anyone who wishes to speak on this? Sir, introduce yourself.

**Robert Tendy** - Hi. I am Robert Tendy and I represent the neighbors. I wasn't going to speak this evening but based on the conversation that Mr. Zarconi made and conversations I had with him prior to tonight, and in particular a conversation this afternoon that we discussed before, I rather reserve comments for the next meeting.

**Vincent Cestone** - Sure. And the next time we are going to meet on this would be September 8<sup>th</sup>.

**John Zarconi** - And what time would that be Mr. Chairman?

**Vincent Cestone** - Same time 7:30

**John Zarconi** - Okay thanks

**Vincent Cestone** - Anyone else wish to speak on that? With that we will carry this over until September. Next item on the agenda

**John Zarconi** - Ladies and gentlemen have a nice evening and thank you for

your time.

**Vincent Cestone - Is County Line Equities LLC. You're on Adam.**

**Adam Rodd -** Okay just reading the resolution specifically that portion of the resolution up through and including conditions of the variances granted. The Philipstown Zoning Board of Appeals conducted public hearings on January 28, 2008, February 11, 2008, and March 10, 2008 to hear the application of County Line Equities for variances from particular requirements set forth in the Town of Philipstown Zoning Code to construct and maintain various improvements in connection with the development of a gas station/convenience store operation on property located at 1467 Route 9, Philipstown, New York. Those improvements proposed by the applicant, which do not conform with the provisions of the Town of Philipstown Zoning Code are identified and described as follows: (A) Off Street Parking: With respect to the applicant's proposal to place off street parking spaces, the applicant proposes to place same on the street line of New York State Route 9, and 36 feet from the center line of New York State Route 9. These proposed setbacks do not conform with Section 175-39(E)(3) of the Zoning Code which requires that off street parking be set back at least 40 feet from the street line of New York State Route 9, and at least 100 feet from the center line of New York State Route 9. (B) Ground Coverage: The improvements proposed by the applicant for the development of the gas station and convenience store use will result in ground coverage of 86 percent. This proposed ground coverage does not conform with Section 175-39(S) of the Zoning Code, which limits the total ground coverage for buildings and other structures, outside storage areas, and improved paving to 65 percent in the B-2 Zoning District. (C) Canopy: The applicant proposes to maintain a presently existing canopy, over the proposed fuel pumps, which will be set back from the street line of New York State Route 9 by 21 feet, from the center line of New York State Route 9 by a distance of 57 feet, and from the street line of New York State Route 403 by 19 feet. The setbacks do not comply with Section 175-32, Attachment 4, Schedule B, Item 6 of the Zoning Code which requires, respectively, a 50 foot setback from the street line of New York State Route 9, a 100 foot setback from the center line of New York State Route 9, and a 50 foot setback from the street line of New York State Route 403. (D) Sign: The applicant proposes to place a freestanding sign 6 feet in height on the street line of New York State Route 9. The applicant's proposal for the placement of the subject freestanding sign does not comply with Section 175-77(A)(4) of the Zoning Code, which requires that signs be setback at least 10 feet from the street line, with a maximum height of 4 feet. At a public meeting of the Board on June 9, 2008, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to this Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be It Resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: (A) That the balancing of equities weighs in favor of denying the application for a variance



to permit the placement of off street parking on the street line of New York State Route 9 without a setback, and 36 feet from the center line of New York State Route 9, and (B) that the balancing of equities weighs in favor of granting the application for a variance to increase the ground coverage from 65 percent to 86 percent for buildings and other structures, outside storage areas, and improved pavement, and (C) that the balancing of the equities weighs in favor of granting the application for a variance to maintain the existing canopy on the subject property, with a setback from the street line of New York State Route 9 of 21 feet, a setback from the centerline of New York State Route 9 of 57 feet, and a setback from the street line of New York State Route 403 of 19 feet, and (D) that the balancing of the equities weighs in favor of denying the application for a variance to place a freestanding sign 6 feet in height, on the street line on New York State Route 9 without a setback. The grant of the area variances with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variances granted (1) the existing canopy shall be placed, maintained and configured in accordance with the survey map prepared by Badey and Watson Surveying and Engineering PC last revised on October 15, 2007 and printed on October 18, 2007. (2) The existing canopy shall be maintained with a setback of at least 22 feet from the street line of New York State Route 9, 57.8 feet from the center line of New York State Route 9, and 19.8 feet from the street line of New York State Route 403. (3) The total ground coverage by buildings and other structures, outside storage areas and improved paving shall not exceed 86 percent. (4) The variances granted by this Resolution shall not be further enlarged or extended except in accordance with all provisions of the Philipstown Code, and shall remain in the configuration as shown on the survey map of Badey and Watson Surveying and Engineering PC last revised on October 15, 2007, and printed on October 18, 2007. (5) the hours of operation for the convenience store and gas station shall not be earlier than 5:00 am and not later than 11:00 pm. (6) No enlargement, reconfiguration or extension of the subject canopy is authorized without Zoning Board approval. (7) No enlargement, reconfiguration or extension of the ground coverage permitted by the grant of the instant variance is authorized without Zoning Board approval. (8) The applicant is required to obtain site plan approval from the Town of Philipstown Planning Board.

**Vincent Cestone** - Any additions? I make a motion to accept the resolution as read. Do I have a second?

**Bill Flaherty** - I'll second

**Vincent Cestone** - All those in favor?

**All Board Members** – Aye

**Vincent Cestone** - Roll call vote. Len?

**Adam Rodd** - Just, I think if you go to the end of the resolution, we have a roll call for off street parking, ground coverage, canopy,

**Vincent Cestone** - Okay. Off street parking roll call vote. Len?

**Lenny Lim** - Off street parking

**Vincent Cestone** - Let me just clarify this. This is granting

**Adam Rodd** - It is in the affirmative. The resolution calls for granting the variance for off street parking. So if you vote aye you are granting the variance

**Vincent Cestone** - So this is the off street parking that was

**Adam Rodd** - The parking spaces that are not set back a sufficient distance from the street line and the center line of Route 9

**Vincent Cestone** - Okay. In that instance, I would vote no. Okay the next one is the ground coverage. They want to increase the ground coverage from 65 to 86 percent. Len?

**Lenny Lim** - I vote for

**Robert Dee** - I vote in favor

**Bill Flaherty** - I vote in favor

**Paula Clair** - I vote in favor

**Vincent Cestone** - And so do I. Next is granting the variances for the canopy. Len?

**Lenny Lim** - I vote for

**Vincent Cestone** - Bob?

**Robert Dee** - I vote no

**Bill Flaherty** - I vote in favor

**Paula Clair** - I vote yes

**Vincent Cestone** - I vote no. The next is for the freestanding sign. I go with you again Len

**Lenny Lim** - I vote no

**Vincent Cestone - Bob?**

**Robert Dee - I vote no**

**Vincent Cestone - Bill?**

**Bill Flaherty - I think I voted no at the straw poll.**

**Paula Clair - No**

**Vincent Cestone - And I vote no. Do I have it? Are we all set?**

**Adam Rodd - Yep**

**Vincent Cestone - Okay, I am going to go back to old business in case anyone came in. Is Tower Resource Management here? Is Lee Balter here? Is there anyone who wishes to speak? I'll make a motion to close the meeting**

**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:** 7/28/08

Respectfully submitted,

Kim Shewmaker  
Secretary